

**CODE OF THE  
TOWN OF NEW BALTIMORE**

**CODE OF THE**  
**TOWN OF NEW BALTIMORE**

**COUNTY OF GREENE**

**STATE OF NEW YORK**

**REVISION DATE: MAY, 2009**

**TOWN OF NEW BALTIMORE**

**OFFICIAL LISTING**

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<b>2009</b>
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**Town Supervisor**

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**Town Board**

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KEVIN KUENSTER  
ART BYAS  
CHRIS NORRIS

**Town Clerk**

JANET BROOKS

**Attorney for the Town**

DAVID WUKITSCH

# **CERTIFICATION**

## **TOWN OF NEW BALTIMORE**

### **OFFICE OF THE TOWN CLERK**

**I, JANET BROOKS**, Town Clerk of the Town of New Baltimore, hereby certify that the chapters contained in this volume are based upon the original ordinances and local laws of the Town Board of the Town of New Baltimore and that said ordinances and local laws, as revised and codified, renumbered as to sections and rearranged into chapters, constitute the Code of the Town of New Baltimore, County of Greene, State of New York.

Given under my hand and the Seal of the Town of New Baltimore, County of Greene, State of New York, this eleventh day of May, 2009 at Hannacroix, New York.

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Janet A. Brooks  
Town Clerk

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**Chapter 1  
GENERAL PROVISIONS**

**ARTICLE I  
Adoption of Code**

- §1-1. Legislative intent.**
- §1-2. Distribution of local laws, ordinances and resolutions.**
- §1-3. Repeal of enactments not included in Code.**
- §1-4. Enactments saved from repeal; matters not affected.**
- §1-5. Severability.**
- §1-6. Copy of Code-on file.**
- §1-7. Amendments to Code.**
- §1-8. Code book to be kept up-to-date.**
- §1-9. Sale of Code book; supplementation.**
- §1-10. Penalties for tampering with Code.**
- §1-11. Changes in previously adopted legislation.**
- §1-12. Incorporation of provisions into Code.**
- §1-13. When effective.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore: Art. I, 4-8-86 as L.L. No. 2-1986. Amendments noted where applicable.]**

ARTICLE I  
**Adoption of Code**  
**[Adopted 4-8-86 as L.L. No. 2-1986]**

Be it enacted by the Town Board of the Town of New Baltimore as follows:

**§ 1-1. Legislative intent.**

The local laws, ordinances and resolutions of the Town of New Baltimore referred to in § 1-2 of this local law shall be known collectively as the "Code of the Town of New Baltimore," hereafter termed the "Code," and the various parts and sections of such local laws, ordinances and resolutions shall be distributed and designated as provided and set forth in § 1-2 of this local law.

**§ 1-2. Distribution of local laws, ordinances and resolutions.**

Derivation Table

(Sections providing for severability of provisions, repeal of conflicting legislation and effective dates which are covered by provisions of Chapter 1, Article I, or title sections which are not necessary in a codification having chapter and/or Article titles for the various ordinances and local laws included therein have been omitted from the Code, and such sections are indicated as "omitted" in the table which follows.)

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
Ch. 4, Assessors	L.L. No. 1-1971	2-16-71
§ 4-1	Section 1	
§ 4-2	Section 2	
Omitted	Section 3	
Ch. 9, Ethics, Code of	Resolution	12-8-70
§ 9-1	First unnumbered paragraph	
§ 9-2	Second unnum- bered paragraph (1) and (2)	



**Chapter 1****General Provisions**

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ 9-3	Third unnumbered paragraph (1) - (8) and fourth unnum- bered paragraph	
§ 9-4	Fifth unnumbered paragraph	
§ 9-5	Sixth unnumbered paragraph	
Omitted	Seventh unnum- bered paragraph	
Ch. 15, Ordinances, Publication of	L.L. No. 2-1977	6-14-77
§ 15-1	Section 1	
§ 15-2	Section 2	
§ 15-3	Section 3	
Ch. 24, Alcoholic Beverages	L.L. No. 2-1981	12-8-81
§ 24-1	Section 1	
§ 24-2	Section 2	
§ 24-3	Section 3	
§ 24-4	Section 4	
§ 24-5	Section 5	
§ 24-6	Section 6	Amended at time of adoption of Code
Ch. 34, Buildings, Unsafe		6-6-61; amended in its entirety 3-10-81
§34-1	Section 1	
§34-2	Section 2	
§34-3	Section 3	
§34-4	Section 4	
§34-5	Section 5	

## Chapter 1

## General Provisions

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ 34-6	Section 6	
§ 34-7	Section 7	
§ 34-8	Section 8	
§ 34-9	Section 9	
§ 34-10	Section 10	
Omitted	Section 11	
Ch. 42, Dogs and Other Animals		
Art. I, Dog Control		8-14-73
§ 42-1	1	
§ 42-2	2	
§ 42-3	3	
§ 42-4	4	
§ 42-5	5	
§ 42-6	6	
§ 42-7	7	
§ 42-8	8	
§ 42-9	9	
§ 42-10	10	
§ 42-11	11	
§ 42-12	12	
§ 42-13	13	
§ 42-14	14	
§ 42-15	15	
Omitted	16	
Art. II, Animals Running L.L. No. 1-1982 at Large		7-13-82
§ 42-16	SECTION 1	
§ 42-17	SECTION 2	
§ 42-18	SECTION 3	
§ 42-19	SECTION 4	
§ 42-20	SECTION 5	
§ 42-21	SECTION 6	
§ 42-22	SECTION 7	

**Chapter 1****General Provisions**

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
Ch. 50, Freshwater Wetlands		8-26-76
§ 50-1	Section 1	
§ 50-2	Section 2	
§ 50-3	Section 3	
§ 50-4	Section 4	
§ 50-5	Section 5	
§ 50-6	Section 6	
§ 50-7	Subsections 7.1 and 7.2	
§ 50-8	Subsections 7.3 and 7.4	
§ 50-9	Subsections 8.1, 8.2, 8.3 and 8.4	
§ 50-10	Subsection 8.5	
§ 50-11	Section 9	
Omitted	Sections 10, 11 and 12	
Ch. 54, Games of Chance	L.L. No. 2-1983	8-9-83
§ 54-1	Section 1	
§ 54-2	Section 2	
§ 54-3	Section 3	
§ 54-4	Section 4	
§ 54-5	Section 5	
Ch. 58, Hazardous Wastes	L.L. No. 1-1981	12-8-81
§ 58-1	Section 1	
§ 58-2	Section 2	
§ 58-3	Section 3	
§ 58-4	Sections 4 and 5	
§ 58-5	Section 6	

**Chapter 1****General Provisions**

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ 58-6	Section 7	Amended at time of adoption of Code
Ch. 64, Junkyards		2-14-61
§ 64-1	Section 1	
§ 64-2	Section 2	
§ 64-3	Section 3	
§ 64-4	Section 4	
§ 64-5	Section 5	
§ 64-6	Section 6	
§ 64-7	Section 7	
§ 64-8	Section 8	Amended at time of adoption of Code
Omitted	Sections 9, 10 and 11	
Ch. 68, Loitering	L.L. No. 3-1981	12-8-81
§ 68-1	SECTION 1	
§ 68-2	SECTION 2	
§ 68-3	SECTION 3	
§ 68-4	SECTION 4	
Omitted	SECTION 5	
Ch. 73, Mobile Homes	L.L. No. 1-1983	4-12-83
§ 73-1	SECTION 1.0	
§ 73-2	SECTION 2.0	
§ 73-3	SECTION 3.0	
Omitted	SECTION 3.2	
§ 73-4	SECTION 3.3	
§ 73-5	SECTION 3.4	
§ 73-6	SECTION 3.5	
§ 73-7	SECTION 3.6	
§ 73-8	SECTION 4.1	
§ 73-9	SECTION 5.1	
§ 73-10	SECTION 6.1	
§ 73-11	SECTION 7.1	

## Chapter 1

## General Provisions

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ 73-12	SECTION 8.1	Amended at time of adoption of Code
§ 73-13	SECTION 9.1	
§ 73-14	SECTION 9.2	
§ 73-15	SECTION 10.1	
Omitted	SECTIONS 11.1 and 12.1	
Ch. 81, Records, Public Access to	Resolution	10-14-75
§ 81-1	Section 1	Amended 4-8-86
§ 81-2	Section 2	
§ 81-3	Section 3	
§ 81-4	Section 4	
§ 81-5	Section 5	Amended 4-8-86
§ 81-6	Section 6	
§ 81-7	Section 7	
§ 81-8	Section 8	
§ 81-9	Section 9	
Omitted	Section 10	
Ch. 87, Sewers		
Art. I, Individual Sewage Disposal Systems		11-28-62
§ 87-1	Section 1	
§ 87-2	Section 2	
§ 87-3	Section 3, first unnumbered para- graph, a - d	
§ 87-4	Section 3, second unnumbered paragraph	
§ 87-5	Section 4	
§ 87-6	Section 5	
§ 87-7	Section 6	

## Chapter 1

## General Provisions

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ 87-8	Section 7	Amended 6-14-83 by resolution
§ 87-9	Section 8	
§ 87-10	Section 9	
§ 87-11	Section 10	Amended at time of adoption of Code
§ 87-12	Section 11	
§ 87-13	Section 12	
§ 87-14	Section 13	
Omitted	Sections 14 and 15	
Ch. 93, Streets and Sidewalks		
Art. I, Laying Out of Streets	5-15-60	
§ 93-1	SECTION 1, first unnumbered paragraph	
§ 93-2	SECTION 1(a), (b) and (c)	
§ 93-3	SECTION 1(d), (e) and (f)	
§ 93-4	SECTION 2	
§ 93-5	SECTION 3	
§ 93-6	SECTION 4	
§ 93-7	SECTION 5	
§ 93-8	SECTION 6	
§ 93-9	SECTION 7	
§ 93-10	SECTION 8	
§ 93-11	SECTION 9	
§ 93-12	SECTION 10	
§ 93-13	SECTION 11	
§ 93-14	SECTION 12	
§ 93-15	SECTION 13	
Omitted	SECTION 14	

**Chapter 1****General Provisions**

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ 93-16	SECTION 15	
§ 93-17	SECTION 16	
Ch. 98, Taxation		
Art. II, General Business Investment Tax Exemption § 98-1	L.L. No. 1-1977  First paragraph	2-8-77
Art. III, Exemption for Business Certified by State Job Incentive Program § 98-1 § 98-2 Omitted	L.L. No. 2-1982  Section 1 Section 2 Section 3	12-14-82
Ch. 105, Vehicles and Traffic	L.L. No. 4-1981	12-8-81
Art. I § 105-1 § 105-2 § 105-3 § 105-4 § 105-5 § 105-6 § 105-7	ARTICLE I § -1 § -2 § -3 § -4 § -5 § -6 § -7	
Art. II § 105-8 § 105-9 § 105-10 § 105-11 § 105-12 § 105-13 § 105-14 § 105-15	ARTICLE II § -8 § -9 § -10 § -11 § -12 § -13 § -14 § -15	

## Chapter 1

## General Provisions

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ 105-16	§ -16	
§ 105-17	§ -17	
Art. III	ARTICLE III	
§ 105-18	§ -18	
§ 105-19	§ -19	
§ 105-20	§ -20	
§ 105-21	§ -21	
§ 105-22	§ -22	
§ 105-23	§ -23	
§ 105-24	§ -24	
§ 105-25	§ -25	
§ 105-26	§ -26	
Art. IV	ARTICLE IV	
§ 105-27	§ -27	
§ 105-28	§ -28	
§ 105-29	§ -29	
§ 105-30	§ -30	
Art. V	ARTICLE V	
§ 105-31	§ -31	
Art. VI	ARTICLE VI	
§ 105-32	§ -32	
§ 105-33	§ -33	
§ 105-34	§ -34	
§ 105-35	§ -35	
§ 105-36	§ -36	
§ 105-37	§ -37	
§ 105-38	§ -38	
§ 105-39	§ -39	
§ 105-40	§ -40	
§ 105-41	§ -41	
§ 105-42	§ -42	
§ 105-43	§ -43	
§ 105-44	§ -44	
§ 105-45	§ -45	



## Chapter 1

## General Provisions

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
§ 105-46	§ -46	
§ 105-47	§ -47	
§ 105-48	§ -48	
§ 105-49	§ -49	
Ch. 112, Zoning		10-11-77
Art. I	ARTICLE I	
§ 112-1	First unnumbered paragraph	
§ 112-2	ARTICLE II	
Art. II	ARTICLE III	
§ 112-3	Section 300	
§ 112-4	Section 301	
§ 112-5	Section 302	
§ 112-6	Section 303, first and second unnumbered paragraphs	
§ 112-7	Section 303, Rural Residential/ Agricultural	
§ 112-8	Section 303, Commercial	
§ 112-9	Section 303, Hamlet Residential	
§ 112-10	Section 303, Developmental	
§ 112-11	Section 304	
§ 112-12	Section 305	
§ 112-13	Section 306	
Art. III	ARTICLE IV	
§ 112-14	Section 400	
§ 112-15	Section 401	
§ 112-16	Section 402	

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
Art. IV	ARTICLES V and VII	
§ 112-17	Section 500	
§ 112-18	Section 501	
§ 112-19	Section 502	
§ 112-20	Section 503	
§ 112-21	Section 504	
§ 112-22	Section 505	
§ 112-23	Section 700	
§ 112-24	Section 701	
§ 112-25	Section 702	
§ 112-26	Section 703	
§ 112-27	Section 704	
§ 112-28	Section 705	
Art. V	ARTICLE VI	
§ 112-29	Section 600	
§ 112-30	Section 601	
§ 112-31	Section 602	
Art. VI	ARTICLE VIII and IX	
§ 112-32	Section 800	
§ 112-33	Section 900	
Omitted	Section 901	
§ 112-34	Section 902	
Omitted	Section 903	

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

All local laws, ordinances and resolutions of a general and permanent nature of the Town of New Baltimore 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,

resolutions, 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 New Baltimore prior to the effective date of this local law, or any action or proceeding brought for the enforcement of such right or liability.
- B. An offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Town of New Baltimore, 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 New Baltimore.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of New Baltimore.
- E. Any local law, ordinance or resolution of the Town of New Baltimore 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 New Baltimore or any portion thereof.
- F. Any local law, ordinance or resolution of the Town of New Baltimore 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 New Baltimore or other instruments or evidence of the town's indebtedness.
- G. Local laws, ordinances or resolutions 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 dedication of property.
- J. Any local laws, ordinances or resolutions relating to salaries.
- K. Any and all Zoning Map amendments.

L. All legislation adopted subsequent to August 1, 1983.

### **§ 1-5. Severability.**

If any clause, sentence, paragraph, section, Article or part of this local law or of any local law, ordinance or resolution cited in the table in § 1-2 hereof, or any local law, ordinance or resolution included in this Code 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 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 New Baltimore 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 to by the Town Clerk of the Town of New Baltimore by impressing thereon the Seal of the Town of New Baltimore, 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 the said Code is in effect.

### **§ 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 New Baltimore," 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 New Baltimore 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 or local laws, ordinances or resolutions until such changes or 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 New Baltimore upon the payment of a fee to be set by resolution of the Town Board, which 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 New Baltimore, or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Town of New Baltimore to be misrepresented thereby, or who violates any other provision of this local law, shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than two hundred fifty dollars (\$250.) or imprisonment for a term of not more than fifteen (15) days, or both.

**§ 1-11. Changes in previously adopted legislation.**

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of New Baltimore, as distributed and designated in the table in § 1-2 hereof, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one (1) or more of said pieces of legislation. It is the intention of the 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 following changes, amendments or revisions 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.)<sup>1</sup>

**§ 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 New Baltimore, 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.

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<sup>1</sup> Pursuant to §1-11B, the following sections were amended: §§ 24-6, 58-6, 64-8B, 73-15 and 87-14.

**Chapter 4**  
**ASSESSOR; ASSESSMENT PROGRAM**

**§ 4-1. Statutory authority.**

**§ 4-2. Coordinated assessment program.**

**§ 4-3. Appointment of single Assessor.**

**§ 4-4. Uniform assessment of property.**

**§ 4-5. Effect on taxable status date and filing dates.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 12-12-2000 by L.L. No. 2-2000<sup>1</sup>. Amendments noted where applicable.]**

**§ 4-1. Statutory authority.**

This chapter is enacted pursuant to § 579 of the Real Property Tax Law.

**§ 4-2. Coordinated assessment program.**

From and after the effective date of this chapter and the adoption of this chapter, the Town of New Baltimore, together with the Town of Coxsackie, shall establish a coordinated assessment program and approve and jointly enter into a municipal cooperative agreement, dated December 2000, between said towns pursuant to § 576 of the Real Property Tax Law and Article 5-G of the General Municipal Law. Said agreement is the type described in § 579, Subdivision 2 (b) of the Real Property Tax Law as "Coordinated assessment programs without direct county involvement."

**§ 4-3. Appointment of single Assessor.**

A. The Supervisor of the Town of New Baltimore is hereby empowered to enter into an agreement with the Town of Coxsackie pursuant to

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<sup>1</sup> L.L. 2 of 2000 superseded former Ch. 4, Assessors, adopted 6-13-1995 by L.L. No. 1 of 1995.

§ 576 of the Real Property Tax Law, providing that one Assessor shall be appointed to hold the office of Assessor in all the participating assessing units in the coordinated assessment program.

- B. Such cooperative assessment agreement shall provide for the joint conduct of interviews of persons seeking the office of Assessor, and that the appointment of the Assessor must be approved by a majority of each participating assessing unit's Town Boards.
- C. Upon the expiration of the term of the appointed Assessor, or in the event that the Assessor so appointed resigns or is otherwise unable to remain in office, one individual shall be appointed to succeed him or her in all the participating assessing units.

#### **§ 4-4. Uniform assessment of property.**

Effective with the first assessment roll produced in cooperation with the other participating assessing units in the coordinated assessment program, all real property shall be assessed at the same uniform percentage of value in each assessing unit participating in the coordinated assessment program throughout the term of this cooperative assessment agreement.

#### **§ 4-5. Effect on taxable status date and filing dates.**

The dates applicable to the assessment process in each participating assessing unit, including taxable status date, and the dates for the filing of the tentative and the final assessment roll, shall be the same for each assessing unit participating in the coordinated assessment program.



**Chapter 5**

**CLERK**

**ARTICLE I  
Term of Office**

- § 5-1. Statutory authority.**
- § 5-2. Increase in term of office.**
- § 5-3. Mandatory referendum.**
- § 5-4. Supersession of statute.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore: Art. I, 3-12-1996 by L.L. No. 3-1996. Amendments noted where applicable.]**

**ARTICLE I  
Term of Office  
[Adopted 3-12-1996 by L.L. No. 3-1996]**

**§ 5-1. Statutory authority.**

This article is adopted pursuant to the provisions of the Municipal Home Rule Law of the State of New York.

**§ 5-2. Increase in term of office.**

The term of office of the elected Town Clerk shall be four years. Such four-year term shall commence as of the first day of January 1998, and shall apply to the person elected to such office at the biennial town election to be held on November 4, 1997, and to those elected thereafter, provided that a proposition submitted pursuant to § 5-3 below is approved.

**§ 5-3. Mandatory referendum.**

This article is adopted subject to a mandatory referendum and shall be submitted for approval of the qualified voters of the Town of New Baltimore at the biennial town election to

be held on November 5, 1996<sup>1</sup>. A proposition in the following form shall be included on the ballot at such biennial town election, and the increased term of office shall not take effect unless such proposition is approved by a majority vote of the qualified voters voting thereon:

"Shall Local Law No. 3, 1996, entitled a Local Law Increasing the Term of Office of the New Baltimore Town Clerk from Two to Four years be approved?"

#### **§ 5-4. Supersession of statute.**

This article shall supersede Town Law § 24 relating to the term of office for the Town Clerk of the Town of New Baltimore.

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<sup>1</sup> This article received the affirmative vote of a majority of the qualified electors voting thereon.

**Chapter 6**

**COLLECTOR OF TAXES**

**ARTICLE I  
Term of Office**

- § 6-1. Statutory authority.**
- § 6-2. Increase in term of office.**
- § 6-3. Mandatory referendum.**
- § 6-4. Supersession of statute.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore: Art. I, 3-12-1996 by L.L. No. 2-1996. Amendments noted where applicable.]**

**ARTICLE I  
Term of Office  
[Adopted 3-12-1996 by L.L. No. 2-1996]**

**§ 6-1. Statutory authority.**

This article is adopted pursuant to the provisions of the Municipal Home Rule Law of the State of New York.

**§ 6-2. Increase in term of office.**

The term of office of the elected Collector of Taxes shall be four years. Such four-year term shall commence as of the first day of January 1998, and shall apply to the person elected to such office at the biennial town election to be held on November 5, 1997, and to those elected thereafter, provided that a proposition submitted pursuant to § 6-3 below is approved.

**§ 6-3. Mandatory referendum.**

This article is adopted subject to a mandatory referendum and shall be submitted for approval of the qualified voters of the Town of New Baltimore at the biennial town election to be held on

November 5, 1996<sup>1</sup>. A proposition in the following form shall be included on the ballot at such biennial town election, and the increased term of office shall not take effect unless such proposition is approved by a majority vote of the qualified voters voting thereon:

"Shall Local Law No. 2, 1996, entitled a Local Law Increasing the Term of Office of the New Baltimore Collector of Taxes from Two to Four years be approved?"

#### **§ 6-4. Supersession of statute.**

This article shall supersede Town Law § 24 relating to the term of office for the Town Clerk of the Town of New Baltimore.

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<sup>1</sup> This article received the affirmative vote of a majority of the qualified electors voting thereon.

## **Chapter 7**

### **DEFENSE AND INDEMNIFICATION**

**§ 7-1. Adoption of statutory provisions.**

**§ 7-2. Town to provide for defense and indemnification.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 2-11-86 as L.L. No. 1-1986. Amendments noted where applicable.]**

**§ 7-1. Adoption of statutory provisions.**

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

**§ 7-2. Town to provide for defense and indemnification.**

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

**Chapter 9****ETHICS, CODE OF**

- § 9-1. Findings; purpose.**
- § 9-2. Definitions.**
- § 9-3. Standards of conduct.**
- § 9-4. Distribution.**
- § 9-5. Penalties for offenses.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 12-8-70 by resolution. Amendments noted where applicable.]**

**§ 9-1. Findings; purpose.**

Pursuant to the provisions of § 806 of the General Municipal Law, the Town Board of the Town of New Baltimore recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this chapter to promulgate these rules of ethical conduct for the officers and employees of the Town of New Baltimore. These rules shall serve as a guide for official conduct of the officers and employees of the Town of New Baltimore. The rules of ethical conduct of this chapter as adopted shall not conflict with, but shall be in addition to, any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

**§ 9-2. Definitions.**

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

**INTEREST** - A pecuniary or material benefit accruing to a municipal officer or employee, unless the context otherwise requires.

MUNICIPAL OFFICER OR EMPLOYEE - An officer or employee of the Town of New Baltimore, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a "municipal officer or employee" solely by reason of being a volunteer fireman or civil defense volunteer, except a chief engineer or assistant chief engineer.

### **§ 9-3. Standards of conduct.**

- A. Every officer or employee of the Town of New Baltimore shall be subject to and abide by the following standards of conduct:
- (1) Gifts. He shall not, directly or indirectly, solicit any gift or accept or receive any gift having a value of twenty-five dollars (\$25.) or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his official duties or was intended as a reward for any official action on his part.
  - (2) Confidential information. He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interest.
  - (3) Representation before one's own agency. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he is an officer, member or employee or of any municipal agency over which he has jurisdiction or to which he has the power to appoint any member, officer or employee.
  - (4) Representation before any agency for a contingent fee. He shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his municipality, whereby his compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

- (5) Disclosure of interest in legislation. To the extent that he knows thereof, a member of the Town Board and any officer or employee of the Town of New Baltimore, whether paid or unpaid, who participates in the discussion or gives official opinion to the Town Board on any legislation before the Town Board shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he has in such legislation.
- (6) Investments in conflict with official duties. He shall not invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction which creates a conflict with his official duties.
- (7) Private employment. He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or services creates a conflict with or impairs the proper discharge of his official duties.
- (8) Future employment. He shall not, after the termination of service or employment with such municipality, appear before any board or agency of the Town of New Baltimore in relation to any case, proceeding or application in which he personally participated during the period of his services or employment or which was under his active consideration.

B. Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the Town of New Baltimore, or any agency thereof, on behalf of himself or any member of his family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.

#### **§ 9-4. Distribution.**

The Supervisor of the Town of New Baltimore shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the Town of New Baltimore within thirty (30) days after the effective date of this chapter. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment.



**§ 9-5. Penalties for offenses.**

In addition to any penalty contained in any other provision of law, any person who shall knowingly and intentionally violate any of the provisions of this chapter may be fined, suspended or removed from office or employment, as the case may be, in the manner provided by law.

**Chapter 12****HIGHWAY SUPERINTENDENT**

- §12-1. Statutory authority.**
- §12-2. Increase in term of office.**
- §12-3. Mandatory referendum.**
- §12-4. Supersession of statute.**

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

**§ 12-1. Statutory authority.**

This article is adopted pursuant to the provisions of the Municipal Home Rule Law of the State of New York and New York Town Law § 24-a.

**§ 12-2. Increase in term of office.**

The term of office of the elected Highway Superintendent shall be four years. Such four-year term shall commence as of the first day of January 2004, and shall apply to the person elected to such office at the biennial Town election to be held on November 4, 2003, and to those elected thereafter, provided a proposition submitted pursuant to § 12-3 below is approved.

**§ 12-3. Mandatory referendum.**

This article is adopted subject to a mandatory referendum and shall be submitted for approval of the qualified voters of the Town of New Baltimore at the Biennial town election to be held on November 6, 2001<sup>1</sup>. A proposition in the following form shall be included on the ballot at such biennial Town election, and the increased term of office shall not take effect unless such proposition is approved by a majority vote of the qualified voters voting thereon:

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<sup>1</sup> This article received the affirmative vote of a majority of the qualified electors voting thereon.

"Shall Local Law No. 1, 2001, entitled a Local Law Increasing the Term of Office of the New Baltimore Highway Superintendent from Two to Four Years be approved?"

**§ 12-4. Supersession of statute.**

This article shall supersede Town Law § 24 relating to the term of office for the Highway Superintendent of the Town of New Baltimore.

**Chapter 15****ORDINANCES, PUBLICATION OF**

- § 15-1. Summary publication authorized.**
- § 15-2. Effect on statutory provisions.**
- § 15-3. Referendum.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 6-14-77 as L.L. No. 2-1977. Amendments noted where applicable.]**

**§ 15-1. Summary publication authorized.**

Every ordinance and every amendment or supplement to an ordinance hereafter adopted or approved by the Town Board of the Town of New Baltimore which is or may be required to be published in one (1) or more newspapers in order to make such ordinance, amendment or supplement effectual shall not be so published in full, but it shall be sufficient to publish in such newspaper or newspapers a notice setting forth the title thereof, a brief description of the provisions thereof and a statement that the full text thereof is on file and may be inspected in the office of the Town Clerk.

**§ 15-2. Effect on statutory provisions.**

This chapter shall supersede in their application to the Town of New Baltimore the provisions of §§ 133, 264 and 265 of the Town Law relating to publication only of an ordinance, amendment or a supplement to an ordinance adopted or approved by the Town Board.

**§ 15-3. Referendum.**

This chapter shall be subject to referendum on petition pursuant to § 24 of the Municipal Home Rule Law and shall take effect immediately upon filing in the office of the Secretary of State in accordance with § 27 of such law.

**Chapter 24****ALCOHOLIC BEVERAGES**

- § 24-1. Legislative intent.**
- § 24-2. Definitions.**
- § 24-3. Possession of open containers restricted.**
- § 24-4. Discarding of containers.**
- § 24-5. Permits for special events.**
- § 24-6. Penalties for offenses.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 12-8-1981 by L.L. No. 2-1981. Amendments noted where applicable.]**

**§ 24-1. Legislative intent.**

The Town Board of the Town of New Baltimore hereby finds and declares it to be in the public interest and to protect the public welfare and safety to provide for the regulation of certain conduct in public places within the Town of New Baltimore.

**§ 24-2. Definitions.**

For the purpose of this chapter, the following terms used herein shall have the following meanings:

ALCOHOLIC BEVERAGE - Any alcoholic beverage, as so defined by the Alcoholic Beverage Control Law.

CONTAINER - Any bottle, can, cup or glass receptacle suitable for or used to hold any liquid.

PUBLIC PLACE - A place to which the public or a substantial group of persons has access, including but not limited to any highway, street, road, alley, bypass, sidewalk, parking area, shopping area, playground, park or recreation facility located within the Town of New Baltimore, except that the definition of a "public place" shall not include those premises duly licensed for the sale and consumption of alcoholic beverages on the premises or within and on private property

that is not a "public place" as defined in this section.

SPECIAL EVENT - A fair, picnic, block party, sidewalk activity or other community gathering in any public place.

**§ 24-3. Possession of open containers restricted.**

No person shall carry, transport or have in his possession in any public place, other than permitted public places, any open, resealed or partly empty bottle, can, container or similar article containing an alcoholic beverage of any kind or description as defined by the Alcoholic Beverage Control Law.

**§ 24-4. Discarding of containers.**

No person shall break, leave, discard or deposit in any manner any glass, bottle, glassware, crockery, can or container of any kind, make or description in any public place as herein defined in § 24-2, except in proper receptacles.

**§ 24-5. Permits for special events.**

- A. At least 10 calendar days prior to the proposed date of any special event and upon payment of a fee in an amount set by the Town Board by resolution, any person may apply to the Town Clerk, on his own behalf or on behalf of an organization, for a permit to possess and consume any alcoholic beverages described herein during or in the conduct of such special event.

**[Amended 5-8-2001 by L.L. No. 3-2001]**

- B. The application shall contain the following information:

- (1) The name of the applicant(s) and the address and telephone number of each. Where the applicant is an organization, the name and address of the organization and its officers shall be given.
- (2) The purpose of the special event, the date when it is proposed to be held, the approximate times when this event will start and terminate and the location of the assembly area.
- (3) Such other information as the Town Clerk may deem reasonably necessary.

**§ 24-6. Penalties for offenses. [Amended 4-8-1986  
by L.L. No. 2-1986]**

Any person committing an offense against any provision of this chapter shall be guilty of a violation punishable by a fine not exceeding \$250 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

**Chapter 31**

**BUILDING CONSTRUCTION AND FIRE PREVENTION**

**[The New York State Uniform Fire Prevention and Building Code is in effect in the Town of New Baltimore. Information on this topic is available in the Town Offices and available for inspection during regular office hours.]**



## Chapter 32

**BUILDING CODE ADMINISTRATION  
AND ENFORCEMENT****TABLE OF CONTENTS**

<b>Section</b>	<b>Title</b>	<b>Page</b>
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<b>§ 32-2.</b>	<b>Definitions.</b>	<b>32-2</b>
<b>§ 32-3.</b>	<b>Building Inspector.</b>	<b>32-3</b>
<b>§ 32-4.</b>	<b>Building Permits.</b>	<b>32-5</b>
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<b>§ 32-7</b>	<b>Certificates of occupancy and certificates of compliance.</b>	<b>32-12</b>
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<b>§ 32-9</b>	<b>Unsafe building and structures.</b>	<b>32-14</b>
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<b>§ 32-17</b>	<b>Intermunicipal agreements.</b>	<b>32-22</b>
<b>§ 32-18</b>	<b>Partial invalidity.</b>	<b>32-22</b>

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 4-9-2007 by L.L. No. 4-2007.<sup>1</sup>]**

### **§ 32-1. Purpose and intent.**

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

<sup>1</sup> This local law repealed former Ch. 32 Building Inspections and Permits (L.L. 1-1989, as amended)

structures, and premises, regardless of use or occupancy, are subject to the provisions this chapter.

### **§ 32-2. Definitions.**

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

**BUILDING INSPECTOR** - The Building Inspector appointed pursuant to § 32-3B of this chapter.

**BUILDING PERMIT** - A permit issued pursuant to § 32-4 of this chapter. The term "building permit" shall also include a building permit which is renewed, amended or extended pursuant to any provision of this chapter.

**CERTIFICATE OF OCCUPANCY or CERTIFICATE OF COMPLIANCE** - A certificate issued pursuant § 32-7B of this chapter.

**CODE ENFORCEMENT OFFICER** - The Code Enforcement Officer appointed pursuant to § 32-3C of this chapter.

**COMPLIANCE ORDER** - An order issued by the Building Inspector or Code Enforcement Officer pursuant to § 32-15A of this chapter.

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

**OPERATING PERMIT** - A permit issued pursuant to § 32-10 of this chapter. The term "operating permit" shall also include an operating permit which is renewed, amended or extended pursuant to any provision of this chapter.

**PERMIT HOLDER** - The Person to whom a building permit has been issued.

**PERSON** -Includes an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

**STOP-WORK ORDER** - An order issued pursuant to § 32-6 of this chapter.

**TEMPORARY CERTIFICATE** - A certificate issued pursuant to § 32-7E of this chapter.

TOWN - The Town of New Baltimore.

TOWN BOARD - The Town Board of the Town of New Baltimore.

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

### **§ 32-3. Building Inspector.**

- A. There is hereby designated in the Town of New Baltimore a public official to be known as the "Building Inspector", who shall be appointed by the Town Board at compensation to be fixed by the Town Board. The Building Inspector shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Building Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- B. The Building Inspector shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this chapter. The Building Inspector shall have the following powers and duties:
  - (1) To receive, review, and approve or disapprove applications for building permits, Certificates of Occupancy, Certificates of Compliance, temporary certificates and operating permits, and the plans, specifications and construction documents submitted with such applications;
  - (2) Upon approval of such applications, to issue building permits, Certificates of Compliance, temporary certificates and operating permits, and to include in building permits, Certificates of Occupancy, Certificates of Compliance, temporary certificates and operating permits such terms and conditions as the Building Inspector or Code Enforcement Officer may determine to be appropriate;
  - (3) To conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy, Certificates of Compliance, temporary certificates and operating permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other

inspections required or permitted under any provision of this chapter;

- (4) To issue stop-work orders;
  - (5) To review and investigate complaints;
  - (6) To issue orders pursuant to § 32-15A of this chapter;
  - (7) To maintain records;
  - (8) To collect fees as set by the Town Board of this Town; maintain records;
  - (9) To pursue administrative enforcement actions and proceedings;
  - (10) In consultation with the Attorney for the Town, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this chapter, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this chapter;
  - (11) To request and receive the assistance of any other town official exercising any jurisdiction over the construction, use or occupancy of buildings or the installation of equipment therein; and
  - (12) To exercise all other powers and fulfill all other duties conferred upon the Building Inspector by this and any other chapter conveying powers and duties to the Building Inspector.
- C. The Town Board shall also appoint additional Building Inspectors and shall also appoint Code Enforcement Officers as may be required. Any Building Inspector appointed by the Town Board shall exercise all powers and fulfill all duties conferred upon the Building Inspector by this chapter. Any Code Enforcement Officer appointed by the Town Board shall have the same powers and duties conveyed upon the Building Inspector under Subsection A(4), (5) and (6) of this section.
- D. In the absence of all Building Inspectors or in the case of their inability to act for any reason, the Supervisor shall have the authority, with the consent of the Town Board, to designate a person to act in their behalf and to exercise all the powers conferred upon the Building Inspector by this chapter, or any other town law, ordinance, rule or regulation.

**§ 32-4. Building Permits.**

- A. Building permits required. Except as otherwise provided in Subsection B of this section, a building permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. No Person shall commence any work for which a building permit is required without first having obtained a building permit from the Building Inspector.
- B. Exemptions. No building permit shall be required for work in any of the following categories:
- (1) Construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);
  - (2) Construction or installation of nonresidential farm buildings, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes;
  - (3) Repairs and alterations to existing buildings, provided that such repairs do not involve:
    - (a) The removal or cutting away of a load bearing wall, partition, or portion thereof, or of any structural beam or load bearing component;
    - (b) The removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;
    - (c) The enlargement, alteration, replacement or relocation of any building system; or
    - (d) The removal from service of all or part of a fire protection system for any period of time;

- (4) Demolition of a building whose location is greater than 100 feet plus the height of the tallest part of the building from any property line, active right-of-way or easement;
  - (5) Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
  - (6) Installation of swimming pools associated with a one- or two-family dwelling where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
  - (7) Installation of fences which are not part of an enclosure surrounding a swimming pool;
  - (8) Construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;
  - (9) Construction of temporary motion picture, television and theater stage sets and scenery;
  - (10) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
  - (11) Painting, wallpapering, tiling, carpeting, or other similar finish work;
  - (12) Installation of portable electrical, plumbing, heating, ventilation or cooling equipment or appliances; and
  - (13) Replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications.
- C. Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in Subsection B of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code;
- D. Applications for building permits. Applications for a building permit shall be made in writing on a form provided by or otherwise acceptable to the Building Inspector. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as

the Building Inspector deems sufficient to permit a determination by the Building Inspector that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

- (1) A description of the proposed work;
- (2) The Tax Map number and the street address of the premises where the work is to be performed;
- (3) The current and intended use of any affected building or structure;
- (4) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) At least 2 sets of construction documents (drawings and/or specifications) which (i) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines. The Building Inspector may waive certain requirements of this paragraph relating to architectural and engineering drawings for buildings of less than 1,500 square feet.
- (6) Proof of insurance as required by state or federal law.

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

issued. Work shall not be commenced until and unless a building permit is issued.

F. Issuance of building permits.

- (1) An application for a building permit shall be examined for the completeness of the submission and to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code and is in compliance with the Town's Zoning Code.
- (2) The Building Inspector shall issue a building permit if all required documents have been submitted, the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code and the proposed work is in compliance with the Town's Zoning Code.
- (3) The Building Inspector shall complete the review of applications for building permits and approve, disapprove or take other appropriate action on such applications within fifteen (15) days of receipt of all required documentation.
- (4) The Building Inspector may hold any application in abeyance pending the filing of complete documentation, action by any other town board or public official having jurisdiction over the matters relative to such application or where in the judgment of the Building Inspector, there is other good cause shown.
- (5) No approval shall be final until the applicant shall have completed all requirements hereunder and obtained all permits, variances, orders or approvals applicable to the project and to the premises.

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

H. Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall immediately notify the Building Inspector of any change occurring during the course of the work. The building permit shall contain such a directive. If the Building Inspector determines that such change warrants a new or amended building permit, such change



shall not be made until and unless a new or amended building permit reflecting such change is issued.

- I. Time limits. Building permits shall expire one (1) year after the date of issuance or upon the issuance of the certificate of occupancy or certificate of compliance, whichever occurs first. A building permit which has become invalid or which has expired pursuant to this subdivision may be renewed for successive one-year periods upon application by the permit holder, payment of the applicable fee, and approval of the application by the Building Inspector, provided that the permit has not been revoked or suspended at the time the application is made, and the relevant information on the application is current.
- J. Revocation or suspension of building permits. If the Building Inspector determines that a building permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a building permit was issued violates the Uniform Code or the Energy Code, the Building Inspector shall revoke the building permit or suspend the building permit until such time as the permit holder demonstrates that:
  - (1) All work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and
  - (2) All work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.
- K. Payment of fee at time of application submission. The fee specified in or determined in accordance with the provisions set forth in § 32-16 must be paid at the time of submission of an application for a building permit, for an amended building permit, or for renewal of a building permit.

#### **§ 32-5. Construction Inspections**

- A. Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Building Inspector. The permit holder shall notify the Building Inspector when any element of work described in Subsection B of this section is ready for inspection.
- B. Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:

- (1) Work site prior to the issuance of a building permit;
- (2) Footing and foundation;
- (3) Preparation for concrete slab;
- (4) Framing;
- (5) Building systems, including underground and rough-in;
- (6) Fire resistant construction;
- (7) Fire resistant penetrations;
- (8) Solid fuel burning heating appliances, chimneys, flues or gas vents;
- (9) Energy Code compliance; and
- (10) A final inspection after all work authorized by the building permit has been completed.

C. Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

#### **§ 32-6. Stop-work orders.**

A. Authority to issue. The Building Inspector or Code Enforcement Officer is authorized to issue stop-work orders pursuant to this section. The Building Inspector or Code Enforcement Officer shall issue a stop-work order to halt:

- (1) Any work that is determined by the Building Inspector or Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work, or

- (2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Building Inspector or Code Enforcement Officer, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work, or
- (3) Any work for which a building permit is required which is being performed without the required building permit, or under a building permit that has become invalid, has expired, or has been suspended or revoked.

B. Content of stop-work orders. Stop-work orders shall:

- (1) Be in writing;
- (2) Be dated and signed by the Building Inspector or Code Enforcement Officer;
- (3) State the reason or reasons for issuance; and
- (4) If applicable, state the conditions which must be satisfied before work will be permitted to resume.

C. Service of stop-work orders. The Building Inspector or Code Enforcement Officer shall cause the stop-work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit polder, on the permit holder) personally or by certified mail, return receipt requested. The Building Inspector or Code Enforcement Officer shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the stop-work order, personally or by certified mail, return receipt requested; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the validity and efficacy of the stop-work order.

D. Effect of stop-work order. Upon the issuance of a stop-work order, the owner of the affected property, the permit holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the stop-work order.

E. Remedy not exclusive. The issuance of a stop-work order shall not be

the exclusive remedy available to address any event described in Subsection A of this section, and the authority to issue a stop-work order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under §32-15 of this chapter or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a stop-work order.

**§ 32-7. Certificates of occupancy and certificates of compliance.**

- A. Certificates of occupancy or certificate of compliance required. A certificate of occupancy or 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 certificate of compliance.
- B. Use of form for certificate of occupancy or certificate of compliance. The owner of the premises for which a certificate of occupancy or certificate of compliance is sought, or his/her authorized agent, shall make the application for a certificate of occupancy or certificate of compliance upon a form prescribed by the Building Inspector.
- C. Issuance of certificates of occupancy or certificate of compliance. The Building Inspector shall issue a certificate of occupancy or certificate of compliance if the work which was the subject of the building permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code and the use or occupancy classification or subclassification is in compliance with the Town's Zoning Code. The Building Inspector shall inspect the building, structure or work prior to the issuance of a certificate of occupancy or certificate of compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Building Inspector, at the expense of the applicant for the certificate of occupancy or certificate of compliance shall be provided to the Building Inspector prior to the issuance of the certificate of occupancy or certificate of compliance:

- (1) A written statement of structural observations and/or a final report of special inspections, and
- (2) Flood hazard certifications.

D. Contents of certificate of occupancy or certificate of compliance. A certificate of occupancy or certificate of compliance shall contain the following information:

- (1) The building permit number, if any;
- (2) The date of issuance of the building permit, if any;
- (3) The name, address and tax map number of the property;
- (4) If the certificate of occupancy or certificate of compliance is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy or certificate of compliance is issued;
- (5) The use and occupancy classification of the structure;
- (6) The type of construction of the structure;
- (7) The assembly occupant load of the structure, if any;
- (8) If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
- (9) Any special conditions imposed in connection with the issuance of the building permit; and
- (10) The signature of the Building Inspector issuing the certificate of occupancy or certificate of compliance and the date of issuance.

E. Temporary certificate. The Building Inspector shall be permitted to issue a temporary certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a building permit. However, in no event shall the Building Inspector issue a temporary certificate unless the Building Inspector determines (1) that the building or structure, or the portion thereof covered by the Temporary certificate, may be occupied safely, (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. The Building Inspector may include in a temporary certificate such terms and conditions as he or she deems necessary or

appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A temporary certificate shall be effective for a period of time, not to exceed 3 months, which shall be determined by the Building Inspector and specified in the temporary certificate. During the specified period of effectiveness of the temporary certificate, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code. Upon request in writing and for good cause, the Building Inspector may allow a maximum of two (2) extensions of a temporary certificate for periods not exceeding three (3) months each.

- F. Revocation or suspension of certificates. If the Building Inspector determines that a certificate of occupancy or certificate of compliance or a temporary certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Building Inspector within such period of time as shall be specified by the Building Inspector, the Building Inspector shall revoke or suspend such certificate.

#### **§ 32-8. Notification regarding fire or explosion.**

The chief of any fire department providing fire fighting services for a property within this Town shall promptly notify the Building Inspector of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

#### **§ 32-9. Unsafe building and structures.**

Unsafe buildings and structures shall be identified and addressed in accordance with the procedures established by the Unsafe Buildings and Collapsed Structures Law of the Town of New Baltimore (Chapter 34 of the Code of the Town of New Baltimore), as now in effect or as hereafter amended from time to time.

#### **§ 32-10. Operating permits.**

- A. Operating permits required. Operating permits shall be required for conducting the activities or using the categories of buildings listed below:
- (1) 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) in the publication entitled "Fire Code of New York State" and incorporated by

reference in 19 NYCRR section 1225.1;

- (2) 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;
- (3) Use of pyrotechnic devices in assembly occupancies;
- (4) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
- (5) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board.

- B. Operating permit required prior to commencing activity or operation. Any person who proposes to undertake any activity or to operate any type of building listed in Subsection A shall be required to obtain an operating permit prior to commencing such activity or operation.
- C. Applications for operating permits. An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Building Inspector. Such application shall include such information as the Building Inspector deems sufficient to permit a determination by the Building Inspector that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Building Inspector determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Building Inspector, at the expense of the applicant.
- D. Inspections. The Building Inspector shall inspect the subject premises prior to the issuance of an operating permit.
- E. Duration of operating permits. Operating permits shall remain in effect until reissued, renewed, revoked, or suspended.
- F. Revocation or suspension of operating permits. If the Building Inspector determines that any activity or building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code, such operating permit shall be revoked or suspended.
- G. Payment of fee at time of application submission. The fee specified in or determined in accordance with the provisions set forth in § 32-16 must be paid at the time submission of an application for an operating

permit, for an amended operating permit, or for reissue or renewal of an operating permit.

**§ 32-11. Fire safety and property maintenance inspections.**

- A. Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Building Inspector or Code Enforcement Officer at the following intervals:
- (1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly, which are defined under Section 303 of the Building Code, and areas of public assembly with an occupancy load of 50 or more, shall be performed at least once every twelve (12) months.
  - (2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.
  - (3) Fire safety and property maintenance inspections of all multiple dwellings that exceed two families and are not included in Subsection A(1) or (2) of this subsection, and all non-residential buildings, structures, uses and occupancies not included in Subsection A(1) or (2) of this subsection, shall be performed at least once every 36 months.
- B. Inspections permitted. In addition to the inspections required by Subsection A of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Building Inspector or Code Enforcement Officer at any time upon: (1) the request of the owner of the property to be inspected or an authorized agent of such owner; (2) receipt by the Building Inspector or Code Enforcement Officer of a written statement alleging that conditions or activities fail to comply with the Uniform Code or Energy Code exist; or (3) receipt by the Building Inspector or Code Enforcement Officer of any other information, reasonably believed by the Building Inspector or Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities fail to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.



- C. OFPC Inspections. Nothing in this section or in any other provision of this chapter shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator under Executive Law § 156-e and Education Law § 807-b.
- D. Notwithstanding any other provision of this section to the contrary:
- (1) The Building Inspector shall not perform fire safety and property maintenance inspections of a building or structure which contains an area of public assembly if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;
  - (2) The Building Inspector shall not perform fire safety and property maintenance inspections of a building or structure occupied as a dormitory if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;
  - (3) The Building Inspector shall not perform fire safety and property maintenance inspections of a multiple dwelling not included in Subsection A(1) or (2) of this section if OFPC performs fire safety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in Subsection A(3); and
  - (4) The Building Inspector shall not perform fire safety and property maintenance inspections of a non-residential building, structure, use or occupancy not included in Subsection A(1) or (2) of this section if OFPC performs fire safety and property maintenance inspections of such non-residential building, structure, use or occupancy at intervals not exceeding the interval specified in Subsection A(3).
- E. Fee to be paid at the time of inspection. The fee specified in or determined in accordance with the provisions set forth in §32-16 must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

### **§ 32-12. Complaints.**

The Building Inspector or Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this chapter, or any other local law, ordinance or regulation adopted for

administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include any of the following steps as the Building Inspector or Code Enforcement Officer may deem to be appropriate:

- A. Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- B. If a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in §32-15;
- C. If appropriate, issuing a stop-work order;
- D. If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

**§ 32-13. Record keeping.**

- A. The Town Clerk shall keep permanent official records of all transactions and activities conducted by all Building Inspectors, including records of:
  - (1) All applications received, reviewed and approved or denied;
  - (2) All plans, specifications and construction documents approved;
  - (3) All building permits, certificates of occupancy or certificates of compliance, temporary certificates, stop-work orders, and operating permits issued;
  - (4) All inspections and tests performed;
  - (5) All statements and reports issued;
  - (6) All complaints received;
  - (7) All investigations conducted; and
  - (8) All fees charged and collected;
- B. All such records shall be public records open for public inspection

during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by state law and regulation.

**§ 32-14. Program review and reporting.**

- A. The Building Inspectors and Code Enforcement Officers shall periodically, no less frequently than quarterly, submit to the Town Board a written report and summary of all business conducted by the Building Inspectors and Code Enforcement Officers, including a report and summary of the following transactions:
- (1) Applications for building permits received;
  - (2) Building permits issued;
  - (3) Operating permits issued;
  - (4) Certificates of occupancy or certificates of compliance issued;
  - (5) Building Inspections conducted for construction pursuant to issued building permits;
  - (6) Fire safety and property maintenance inspections conducted;
  - (7) Stop-work orders issued; and
  - (8) Complaints received and investigated;
- B. The Building Inspector shall annually submit to the Secretary of State, on behalf of the Town, on a form prescribed by the Secretary of State, a report of the activities of the Town relative to administration and enforcement of the Uniform Code. A copy of this report shall be furnished to the Town Board.
- C. The Building Inspector shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials the Town is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of the Town in connection with administration and enforcement of the Uniform Code.

**§ 32-15. Enforcement; penalties for offenses.**

A. Compliance Orders.

- (1) The Building Inspectors and Code Enforcement Officers are authorized to order in writing the remedying of any condition or

activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this chapter. Upon finding that any such condition or activity exists, the Building Inspector or Code Enforcement Officer shall issue a Compliance Order. The Compliance Order shall:

- (a) Be in writing;
  - (b) Be dated and signed by the Building Inspector or Code Enforcement Officer;
  - (c) Specify the condition or activity that violates the Uniform Code, the Energy Code, or this chapter;
  - (d) Specify the provision or provisions of the Uniform Code, the Energy Code, or this chapter which is/are violated by the specified condition or activity;
  - (e) Specify the period of time which the Building Inspector or Code Enforcement Officer deems to be reasonably necessary for achieving compliance;
  - (f) Direct that compliance be achieved within the specified period of time; and
  - (g) State that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time.
- (2) The Building Inspector or Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail, return receipt requested. The Building Inspector or Code Enforcement Officer shall be permitted, but not required, to cause the Compliance Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by certified mail, return receipt requested; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

B. Appearance Tickets. The Building Inspectors and Code Enforcement Officers are authorized to issue appearance tickets for any violation of the Uniform Code:

C. Civil Penalties. In addition to those penalties proscribed by state law,

any Person who violates any provision of the Uniform Code, the Energy Code or this chapter, or any term or condition of any building permit, certificate of occupancy, certificate of compliance, temporary certificate, stop-work order, operating permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this chapter, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of the Town.

- D. Injunctive Relief. An action or proceeding may be instituted in the name of the Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this chapter, or any term or condition of any building permit, certificate of occupancy, certificate of compliance, temporary certificate, stop-work order, operating permit, Compliance Order, or other notice or order issued by the Building Inspector or Code Enforcement Officer pursuant to any provision of this chapter. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this chapter, or any stop-work order, Compliance Order or other order obtained under the Uniform Code, the Energy Code or this chapter, an action or proceeding may be commenced in the name of the Town or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the Town Board.
- E. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of the other remedies or penalties specified in this section, in §32-6 (stop-work orders) of this chapter, in any other section of this chapter, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in §32-6 (stop-work orders) of this chapter, in any other section of this chapter, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of § 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after

the pursuit of any penalty specified in Subdivision (2) of § 382 of the Executive Law.

**§32-16. Fees.**

A fee schedule has been previously been established by resolution of the Town Board. Such fee schedule may thereafter be amended from time to time by like resolution.

**§32-17. Intermunicipal agreements.**

The Town Board may, by resolution, authorize the Town Supervisor to enter into an agreement, in the name of the Town, with other governments to carry out the terms of this chapter, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

**§32-18. Partial invalidity.**

If any section of this chapter shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this chapter.

**Chapter 34****BUILDINGS, UNSAFE**

- § 34-1. Title.**
- § 34-2. Inspection and report.**
- § 34-3. Consideration of report; determination of building as unsafe or dangerous; issuance of notice.**
- § 34-4. Contents of notice.**
- § 34-5. Service of notice.**
- § 34-6. Filing of notice.**
- § 34-7. Procedure upon refusal to comply.**
- § 34-8. Emergency cases.**
- § 34-9. Assessment of costs and expenses.**
- § 34-10. Proceedings to recover costs and expenses.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 6-6-61; amended in its entirety 3-10-81. Subsequent amendments noted where applicable.]**

**§ 34-1. Title. [Amended 12-28-87 by L.L. No. 7-1987]**

This chapter shall be known as the "Unsafe Buildings and Collapsed Structures Law of the Town of New Baltimore."

**§ 34-2. Inspection and report. [Amended 12-28-87 by L.L. No. 7-1987]**

When, in the opinion of the Building Inspector, any structure located in the Town of New Baltimore shall be deemed to be unsafe or dangerous to the public from any cause, he shall make a formal inspection thereof and report in writing to the Town Board his findings and recommendations regarding its removal or repair.

**§ 34-3. Consideration of report; determination of building as unsafe or dangerous; issuance of notice.**

Said Town Board shall thereafter consider this report and, by resolution, determine, if in its opinion the report so warrants, that 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 a notice shall be given to the following persons or corporations and in the manner herein as provided.

**§ 34-4. Contents of notice.**

The notice shall contain 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 outlining the manner in which the building is to be made safe and secure or demolished and removed.
- D. A statement that the securing or removal of said buildings or structures shall commence within thirty (30) days of the serving of the notice and shall be completed within sixty (60) days thereafter, unless for good cause shown such time shall be extended.
- E. A date, time and place for a hearing before the Town Board in relation to such dangerous or unsafe building, which hearing shall be scheduled not less than five (5) business days from the date of service of the notice.
- F. A statement that, in the event of neglect or refusal to comply with the order to secure or demolish and remove the building, the Town Board is authorized to provide for its demolition and removal, to assess all expenses thereof against the land on which it is located and to institute a special proceeding to collect the costs of demolition, including legal expenses.

**§ 34-5. Service of notice.**

The notice shall be served in the following manner:



- A. By personal service of a copy thereof upon the owner or someone of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the premises as shown by the records of the receiver of taxes and/or in the office of the County Clerk or County Register; or
- B. By registered mail, return receipt requested, upon the owner or someone of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the premises and by securely affixing a copy of such notice upon the building or structure.

#### **§ 34-6. Filing of notice.**

A copy of the notice served as provided herein shall be filed in the Greene County Clerk's office.

#### **§ 34-7. Procedure upon refusal to comply.**

In the event of the neglect or refusal of the persons so notified to comply with said order of the Town Board, and after the hearing; the Town Board shall provide for the demolition and removal of such building or structure either by town employees or by contract. Except in emergency as provided in § 34-8 hereof, any contract for demolition and removal of a building in excess of five thousand dollars (\$5,000.) shall be awarded through competitive bidding.

#### **§ 34-8. Emergency cases.**

Where it reasonably appears that there is present a clear and imminent danger to the life, safety or health of any person or property, unless an unsafe building is immediately repaired and secured or demolished, the Town Board may, by resolution, authorize the Building Inspector to immediately cause the repair or demolition of such unsafe building. The expenses of such repair or demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected as provided in § 34-4F hereof.

**§ 34-9. Assessment of costs and expenses.**

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

**§ 34-10. Proceedings to recover costs and expenses.**

In addition to the assessment of costs and expenses provided for herein, the Town Board may, by resolution authorizing such action, commence a special proceeding pursuant to the General Municipal Law, § 78-b, in a court of competent jurisdiction to collect the costs of demolition, including reasonable and necessary legal expenses incidental to obtaining a court order to demolish, from the owner of any building or structure declared unsafe or dangerous and ordered demolished or removed by the Town Board pursuant to this chapter.

**Chapter 42**

**DOGS AND OTHER ANIMALS**

**ARTICLE I  
Dog Control**

- § 42-1. Purpose.**
- § 42-2. Unlawful to keep dogs disturbing the peace.**
- § 42-3. Notice of warning; determination of violation.**
- § 42-4. Female dogs in season.**
- § 42-5. Dogs to be under control.**
- § 42-6. Security dogs.**
- § 42-7. Dogs found in territory where deer abound.**
- § 42-8. Livestock killers**
- § 42-9. Subsequent offenses.**
- § 42-10. Malicious dogs.**
- § 42-11. Dogs at places of business or public places.**
- § 42-12. Night quarantine.**
- § 42-13. Chasing vehicles or horses.**
- § 42-14. Seizure and confinement; liability for expenses.**
- § 42-15. Abandoning domesticated animals.**
- § 42-15.1. Enforcement officer; registration of complaints.**
- § 42-15.2. Violations and penalties.**

**ARTICLE II  
Animals Running at Large**

- § 42-16. Statement of intent.**
- § 42-17. Definitions.**
- § 42-18. Confinement required.**

- § 42-19. Presumption.**
- § 42-20. Seizure.**
- § 42-21. Disposition of seized animals.**
- § 42-21.1. Damage to property.**
- § 42-22. Penalties for offenses.**

ARTICLE III  
**Removal of Dog Feces from Public Areas**

- § 42-23. Removal required.**
- § 42-24. Enforcement.**
- § 42-25. Penalties for offenses.**

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

ARTICLE I  
**Dog Control**  
**[Adopted 8-13-2002 by L.L. No. 1-2002<sup>1</sup>]**

**§ 42-1. Purpose.**

The purpose of this article is to provide for the control of dogs that create a disturbance by their barking or howling for lengthy periods of time, causing annoyance and discomfort to any person in the Town of New Baltimore.

**§ 42-2. Unlawful to keep dogs disturbing the peace.**

It shall be unlawful to own, harbor or keep in custody any dog which disturbs the peace by barking, howling or making other loud noises to the annoyance and discomfort of any person in the Town of New Baltimore. Continuous barking, howling or the making of other loud noises by any dog for more than any one hour or continuous barking for periods of less than one hour but more than 1/2 hour, which periods occur on two or more consecutive days, shall be deemed to be a disturbance of the peace and a cause of annoyance and discomfort to persons in the Town of New

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<sup>1</sup> This local law also repealed former Article 1, Dog Control, adopted 8-14-1973, as amended.

Baltimore.

**§ 42-3. Notice of warning; determination of violation.**

- A. Any person may request in writing that the New Baltimore Animal Control Officer warn any person who shall own, harbor or keep in custody any dog which disturbs the peace by barking, howling or making other loud noises to the annoyance and discomfort of persons in the Town of New Baltimore.
- B. A warning by the Animal Control Officer shall consist of delivery of a copy of this article and a notice to the residence in the Town of New Baltimore of any such owner, keeper or custodian in person or by registered mail.
- C. Any such notice shall be in writing and shall identify and specify the residence of the owner, keeper or custodian of the dog or other animal.
- D. A violation of this article shall be deemed to have occurred upon a second or subsequent violation of § 42-2 above after the date of delivery of the written warning when the second one-hour disturbance or the second two one-half-hour disturbances take place within 30 days of the delivery of the written notice.

**§ 42-4. Female dogs in season.**

- A. Female dogs in season shall be adequately housed and controlled for a period of not less than 27 days.
- B. Housed or controlled methods shall be a completely enclosed (includes top) wire run with adequate housing for inclement weather, evening hours, etc.

**§ 42-5. Dogs to be under control.**

All dogs shall be leashed, fenced or under control of the owner or caretaker.

**§ 42-6. Security dogs.**

All security dog brought into the Town or now harbored must be

registered with the Town Clerk, who will in turn notify the Animal Control Officer. The purpose and intent of such dog shall be so stated.

#### **§ 42-7. Dogs found in territory where deer abound.**

All dogs found in a territory where deer abound, inhabit or run or gather shall be presumed to be at large and shall forthwith be picked up as such and placed in the pound. This will also be presumed a first offense.

#### **§ 42-8. Livestock killers.**

Any dog so identified as a livestock (rabbits, poultry, sheep, cattle, deer, etc.) molester or killer who has been penalized for one offense, on the second offense the fine shall be multiplied and the dog shall be restricted entirely to the owner's premises by a leash and on leash control at all times.

#### **§ 42-9. Subsequent offenses.**

A third offense by the same dog will mean the fine will be heavy, plus damages, and the dog shall be confiscated.

#### **§ 42-10. Malicious dogs.**

Any dog that is known to be malicious is to be kenneled or leashed on the owner's property. Proper warning shall be so posted on the owner's premises.

#### **§ 42-11. Dogs at places of business or public places.**

No dogs are to be allowed to gather or congregate at any place of business or where the public has access, such as stores, churches, schools or public meeting areas.

#### **§ 42-12. Night quarantine.**

A night quarantine shall be in effect from sunset to sunrise on all dogs. This is to prevent the aimless wandering of dogs after dark and from becoming a nuisance to pedestrians and motorists alike.

**§ 42-13. Chasing vehicles or horses.**

Any owner or harbinger of a dog that habitually chases or barks at bikes, motor vehicles, horses, motorcycles, etc., shall be held fully responsible for the action of such dog. The animal will be subject to seizure if the owner does not properly control same.

**§ 42-14. Seizure and confinement; liability for expenses.**

Any dog seized by the Animal Control Officer shall be confined by said officer for a minimum period of three days. If after three days the owner or harbinger fails to recognize his or her responsibility, the animal shall be removed to the pound, the owner to be liable for all expenses incurred.

**§ 42-15. Abandoning domesticated animals.**

Any person who abandons or drops any domesticated animal within the Town of New Baltimore shall be subject to a fine of not less than \$50 nor more than \$150.

**§ 42-15.1. Enforcement officer; registration of complaints.**

- A. The Animal Control Officer appointed by the Town Board of the Town of New Baltimore shall be empowered to carry out the contents of this article in conjunction with the Town Justice of said Town.
- B. All complainants shall be sure of the offender before registering a complaint; proof of a violation shall consist of a witness in the form of a neighbor, the Animal Control Officer himself or herself, camera or any such means that will positively identify the offender.

**§ 42-15.2. Violations and penalties.**

Any person violating any provision, or knowingly permits the violation of this article or any of the provisions thereof shall, upon conviction thereof, be sentenced to pay a fine of not less than \$50 nor more than \$600, plus costs of prosecution, or to imprisonment in the county jail for not more than 30 days, or both. Each day's continuance of violation shall constitute a separate offense.

ARTICLE II  
**Animals Running at Large**  
**[Adopted 7-13-1982 by L.L. No. 1-1982]**

**§ 42-16. Statement of intent.**

The Town Board of the Town of New Baltimore recognizes that the failure to properly confine livestock so that said livestock trespasses upon the public or private highways or lands without permission is injurious to the health, safety and welfare of the residents of the Town of New Baltimore.

**§ 42-17. Definitions.**

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

ANIMALS — Horses, cattle, swine, sheep, goats, mules, fowl, and similar livestock.

HIGHWAY — Any road of any kind, whether public or private.

OWNER — Any person claiming or having title or any interest in any animals, and shall also mean any person having any animals under his/her control, whether as bailee or other agent of the actual owner.

PERSON — Individuals, corporations, partnerships, unincorporated associations or other entities. The use of the singular shall include the plural, and vice versa.

**§ 42-18. Confinement required.**

Every owner shall keep animals confined securely and safely upon the owner's own or leased lands by adequate fencing or other lawful restraints, and shall not allow such animals to roam unattended on public or private lands or highways.

**§ 42-19. Presumption.**

If any animals are found unattended on public or private highways, or upon public or private lands other than lands owned or leased by the owner, it shall be presumed that the owner failed to confine or restrain such animals in a proper manner as specified herein. The burden of proving proper confinement or restraint shall be upon the owner of such animals.



**§ 42-20. Seizure.**

Any agent or officer of the Town may lawfully take possession of any animals found unattended on any public or private highway or upon any public or private lands after the owner has been notified by any reasonable means and has failed within a reasonable time to properly restrain such animals, and/or after using due diligence to notify such owner for the purpose of having the owner restrain such animals and said animals remain unattended and constitute a threat to the health, safety and welfare of the residents of the Town of New Baltimore.

**§ 42-21. Disposition of seized animals.**

At the discretion of the agent or officer of the Town, said animals, upon seizure, shall be transported to a Society for the Prevention of Cruelty to Animals and/or placed in the custody of an approved livestock auction house and/or placed in the custody of an approved caretaker. Within 24 hours of such seizure, said agent or officer shall send written notice by registered mail, return receipt requested, to the owner that such animals are in custody and that such animals shall be sold at auction or otherwise disposed of with any proceeds thereof used to pay all costs in connection with the seizure, transporting, care, custody and sale thereof unless the owner has claimed his/her animals and pays all charges in connection therewith within 10 days of the date of said notice.

**§ 42-21.1. Damage to property. [Added 7-12-1994 by L.L. No. 1-1994]**

If any domestic animal, as defined in this article, enters upon any public or private property and destroys or damages any bars, gates and/or fence or any part thereof, or defaces or damages any vehicle, building, lawn, shrub, tree, plant, crop, ornamental fixture or appurtenances to the land, the owner or person harboring the domestic animal, as defined in this article, shall pay for all damages incurred.

**§ 42-22. Penalties for offenses.**

Each violation shall be deemed an offense against this article, punishable by a fine not to exceed \$250 or imprisonment not to exceed 15 days, or both.

ARTICLE III  
**Removal of Dog Feces from Public Areas**  
**[Adopted 9-10-2007 by L.L. No. 7-2007]**

**§ 42-23. Removal required.**

It shall be the duty of each dog owner or person having possession, custody or control of a dog to remove any feces left by his or her dog in any Town park, or on any street or other public area.

**§ 42-24. Enforcement.**

The provisions of this article shall be enforced by the Animal Control Officer, Code Enforcement Officer, any law enforcement official with peace officer status, or any other Town agent or employee hereafter designated by the Town Board for that purpose.

**§ 42-25. Penalties for offenses.**

Each violation shall be deemed an offense against this article, punishable by a fine not to exceed \$250.

**Chapter 45****EXCAVATIONS**

- § 45-1. Statement of policy.**
- § 45-2. Permit required.**
- § 45-3. Application for permit.**
- § 45-4. Pavement; general restoration; access devices.**
- § 45-5. Culverts.**
- § 45-6. Standards; approval; inspections; acceptance.**
- § 45-7. Insurance; performance bond.**
- § 45-8. Notice of commencement; safety precautions; liability; indemnification of town.**
- § 45-9. Fees.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 5-2-89 as L.L. No. 4-1989. Amendments noted where applicable.]**

**§ 45-1. Statement of policy.**

This chapter is enacted pursuant to provisions of the Town Law of the State of New York to regulate the manner in which excavations may be made in, upon or under the streets, roads, highways and other public places in the Town of New Baltimore, to protect the health, safety and welfare of the public during periods of excavations and to ensure the quality and safety of town thoroughfares.

**§ 45-2. Permit required.**

No person, partnership, joint venture, firm, corporation, other legal entity or agent of any thereof shall open or cause to be opened by cutting, digging, excavating, tunneling or otherwise disturbing the surface or soil of any town street, road, highway or other public place without first obtaining an excavation permit therefor issued by the Town Superintendent of Highways or his designee.

**§ 45-3. Application for permit.**

- A. An application for an excavation permit for any town street, road, highway or other public place shall be made to the Superintendent of Highways upon a form to be provided for that purpose. The application shall require the following:
- (1) The name, address and telephone number of the applicant.
  - (2) The name, address and telephone number of the party on whose behalf the work is to be performed, if different from the applicant.
  - (3) The name, address and telephone number of the contractor to be performing the work.
  - (4) The location of the property, including the Tax Map number, street address and the name or names of the current owner.
  - (5) The purpose of the excavation.
  - (6) A copy of the applicant's insurance policy rider and performance bond, if required, in accordance with § 45-7 hereof.
- B. Such permit shall be valid for a period of not more than thirty (30) days after the date of its issuance, after which period said permit shall lapse and be null and void.

**§ 45-4. Pavement; general restoration; access devices.**

- A. All excavations shall be filled with approved bank-run gravel containing no stones in excess of four (4) inches in diameter. All fill shall be fully compacted prior to the installation of topping material. The topping material shall be at least six (6) inches of approved blacktop, rolled and finished.
- B. All driveways, private roads, entrances, exits or other ways of ingress and egress to town streets, roads, highways or other public places shall be finished in accordance with the instructions of the Town

Superintendent of Highways. Approved blacktop of at least four (4) inches in depth after compaction shall be installed from the edge of the existing town street, road, highway or other public inward place to a point at least eight (8) feet therefrom along such driveway, private road, entrance, exit or way of ingress and egress.

- C. All manholes, valve boxes or any other such access devices shall be set at road level.

#### **§ 45-5. Culverts.**

- A. Culvert pipe under all streets, roads or highways shall extend from the toe of the slope and shall be set with a minimum of two (2) feet of approved cover over the top of said culvert pipe, unless specifically waived by the Town Highway Superintendent.
- B. Where side ditches exist, culverts of sufficient size and type to carry the amount of water anticipated from sources flowing therein shall be installed beneath driveways, private roads and all accessways. Culverts in side ditches shall be not less than twenty (20) feet nor more than thirty (30) feet in length.
- C. Culverts shall have a minimum diameter of twelve (12) inches and shall be laid on a minimum grade line slope of five-tenths percent (0.5%). In general, the grade line shall coincide with the existing stream bed or ditch grade. All culvert pipe shall be at least fourteen-gauge or its equal.

#### **§ 45-6. Standards; approval; inspections; acceptance.**

- A. All work performed and materials used in connection with the excavations and improvements permitted hereunder shall be in accordance with accepted industry practices and standards and shall be approved by the Town Superintendent of Highways.
- B. For the purposes hereunder, the Town Superintendent of Highways shall be given access at all reasonable times to the construction site(s) for which a permit has been issued for the purpose of inspecting the same, the work being performed, including the manner thereof, compliance with safety standards and for such other purposes as will effectuate this chapter. The Superintendent shall record all such inspections on suitable inspection reports to be filed in his office.

- C. Before any improvements, including all restorations and repairs, may be used by the owners or others, a certificate of acceptance of improvement shall be obtained from the Town Superintendent of Highways.

**§ 45-7. Insurance; performance bond.**

- A. No excavation permit shall be issued hereunder unless the person to whom said permit is to be issued shall have first filed a copy of his insurance policy and/or certificate of insurance naming the Town of New Baltimore as an additional insured as against all claims of any kind whatsoever in an amount as follows:
  - (1) Combined single limits bodily injury and property damage liability: five hundred thousand dollars (\$500,000.).
- B. Where deemed necessary by the Town Superintendent of Highways, the holder of the permit may be required to post a performance bond or such other bond or security in an amount as will insure that the work intended to be performed shall be completed in the manner and within the time as required by the terms of this chapter.

**§ 45-8. Notice of commencement; safety precautions; liability; indemnification of town.**

- A. The applicant shall give the Superintendent of Highways of said town at least twenty-four (24) hours' notice of the time such work is to be commenced, unless such notice is waived by the Superintendent.
- B. All trenches, cuts and work sites shall be properly protected by necessary guards, sheathing, braces and necessary safety devices, including lighting devices, all as required by current state, federal and local laws and as shall protect the public and workers alike.
- C. The holder of the permit hereunder, including the contractor and applicant, if different, shall be jointly and severally liable and responsible for all claims of any kind whatsoever brought in connection with any of the work related to or to be performed or performed in connection with the excavation permit on, under or upon any town street, road, highway or other public place and shall indemnify and hold the Town of New Baltimore harmless for all claims and costs relating to such claims.

**§ 45-9. Fees.**

- A. The Town Board shall from time to time establish appropriate fees for the issuance of the excavation permit, certificate of acceptance, inspections and issuance of inspection reports and such other fees as shall be required to properly administer and enforce this chapter. Such fees shall be filed in the office of the Superintendent of Highways and forwarded to the Town Clerk and shall be effective immediately thereafter.
- B. All fees shall be collected by the Superintendent of Highways, who shall record the amounts thereof and forward them to the Town Clerk.

**Chapter 46**

**FARMING**

**ARTICLE I  
Right to Farm**

- § 46-1. Purpose and intent.**
- § 46-2. Definitions.**
- § 46-3. Right to farm declaration.**
- § 46-4. Notification of real estate buyers of property within or near an agricultural district.**
- § 46-5. Resolution of disputes.**
- § 46-6. Severability clause.**
- § 46-7. Precedence.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 4-9-2007 by L.L. No. 5-2007]**

**§ 46-1. Purpose and intent.**

- A. The Town Board of the Town of New Baltimore hereby recognizes that farming is an essential enterprise and an important industry which enhances the economic base, natural environment and quality of life in the town. The Town Board hereby also declares that its policy is to promote effective communication between farm and non-farm neighbors, greater consideration by each of the other's needs and a shared understanding of the value of agricultural enterprises to the town of New Baltimore.
- B. It is the general purpose and intent of this article to maintain and preserve the rural traditions and character of the town, to permit the continuation of agricultural practices, to protect the existence and operation of farms, to encourage the initiation and expansion of farms and agribusinesses, and to promote new ways to resolve disputes concerning agricultural practices and farm operations. In order to maintain a viable farming economy in the town of New Baltimore, it is



necessary to limit the circumstances under which farming may be deemed to be a nuisance and to allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.

## **§ 46-2. Definitions.**

For purposes of this article, the following terms used herein shall have the following meanings:

**AGRICULTURAL PRACTICES** - Those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of such practices include, but are not limited to, operation of farm equipment, proper use of agricultural chemicals and other crop protection methods, and construction and use of farm structures. This term also includes those practices necessary for commercial horse boarding and breeding operations.

**AGRICULTURAL PRODUCTS** - Those products as defined in § 301(2) of Article 25-AA of the State Agriculture and Markets Law, including but not limited to:

- A. Field crops, including corn, wheat, rye, barley, hay, potatoes, and dry beans.
- B. Fruits, including apples, peaches, grapes, cherries and berries.
- C. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
- D. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
- E. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, milk and milk products, eggs and furs.
- F. Maple sap and products.
- G. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.

- H. Aquaculture products, including fish, fish products, water plants and shellfish.
- I. Woody biomass, which means short rotation woody crops raised for bioenergy.
- J. Farm woodland includes land used for production and sale of woodland products, including but not limited to logs, lumber, posts and firewood.
- K. Racehorses and horses kept at commercial horse boarding operations.

FARMER - Any person, organization, entity, association, partnership, Limited Liability Company, or corporation engaged in the business of agriculture, whether for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock.

FARMLAND - Land used in agricultural production, as defined in subdivision (4) of § 301 of Article 25-AA of the State Agriculture and Markets Law.

FARM OPERATION - The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision (13) of § 301 of Article 25-AA of the State Agriculture and Markets Law, and "timber processing" as defined in subdivision (14) of § 301 of Article 25-AA of the State Agriculture and Markets Law. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

### **§ 46-3. Right to farm declaration.**

- A. Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within this town at all such times and all such locations as are reasonably necessary to conduct the business of agriculture. For any agricultural practice, in determining the reasonableness of the time, place and methodology of such practice, 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. Agricultural

practices conducted on farmland shall not be found to be a public or private nuisance if such agricultural practices are:

- (1) Reasonable and necessary to the particular farm or farm operation;
- (2) Conducted in a manner which is not negligent or reckless;
- (3) Conducted in conformity with generally accepted and sound agricultural practices;
- (4) Conducted in conformity with all local, state and federal laws and regulations;
- (5) Conducted in a manner which does not constitute a threat to public health and safety or cause injury to health or safety of any person; and
- (6) Conducted in a manner that does not reasonably obstruct the free passage or use of navigable waters or public roadways.

B. Nothing in this article shall be construed to prohibit an aggrieved party from recovering from damages for bodily injury or wrongful death due to a failure to follow sound agricultural practices, as outlined in this section.

**§ 46-4. Notification of real estate buyers of property within or near an agricultural district.**

In order to promote harmony between farmers and their neighbors, the town requires land holders and/or their agents and assigns to comply with § 301 of Article 25-AA of the State Agriculture and Markets Law and provide notice to prospective purchasers and occupants as follows: "It is the policy of New York State and The Town of New Baltimore to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products and also for its natural and ecological value. This notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust, and odors." This notice shall be provided to prospective purchasers of property within an agricultural district or of property with boundaries within 500 feet of a farm operation located in an agricultural district. A copy of this notice shall be

included by the seller or seller's agent as an addendum to the purchase and sale contract at the time an offer to purchase is made.

**§ 46-5. Resolution of disputes.**

- A. Should any controversy arise regarding any inconveniences or discomfort occasioned by agricultural operations which cannot be settled by direct negotiation between the parties involved, either party may submit the controversy to a dispute resolution committee as set forth below in an attempt to resolve the matter prior to the filing of any court action and prior to a request for determination by the Commissioner of Agriculture and Markets about whether the practice in question is sound pursuant to § 308 of Article 25-AA of the State Agriculture and Markets Law.
- B. Any controversy between the parties shall be submitted to the Town Supervisor within thirty (30) days of the last date of occurrence of the particular activity giving rise to the controversy or the date the party became aware of the occurrence.
- C. The Town Supervisor shall form a Dispute Resolution Committee within thirty (30) days which shall be composed of three (3) members, including two representatives from the Town Board, and one person from a community dispute resolution center, such as Common Ground or FarmNet.
- D. The effectiveness of the Dispute Resolution Committee as a forum for the resolution of disputes is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy.
- E. Once formed, the Dispute Resolution Committee may investigate the facts of the controversy but must, within 25 days, hold a meeting at a mutually agreed upon place and time to consider the merits of the matter and within five days of the meeting render a written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present what each considers to be pertinent facts. No party bringing a complaint to the Dispute Resolution Committee for settlement or resolution may be represented by counsel unless the opposing party is also represented by counsel. The time limits provided in this subsection for action by the Dispute Resolution

Committee may be extended upon the written stipulation of all parties in the dispute.

F. Records of the Dispute Resolution Committee shall be maintained by the Town Clerk of the Town of Baltimore.

G. Any reasonable costs associated with the functioning of the dispute resolution process shall be borne by the participants.

**§ 46-6. Severability clause.**

If any part of this article is for any reason held to be unconstitutional or invalid, such decision shall not effect the remainder of this article. The Town Board hereby declares that it would have passed this article and each section and subsection thereof, irrespective of the fact that any one or more of these sections, subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

**§ 46-7. Precedence.**

This article and its provisions are in addition to all other applicable laws, rules and regulations.

**CHAPTER 48  
FLOOD DAMAGE PREVENTION**

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**[Amended in its entirety on 4-14-2008 by L.L. 3 of 2008]**

**§ 48-1. Findings and purpose.**

- A. The Town Board of the Town of New Baltimore finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of New Baltimore 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.
- B. 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:
  - (1) 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;
  - (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
  - (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
  - (4) Control filling, grading, dredging and other development which may increase erosion or flood damages;

- (5) Regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) Qualify and maintain for participation in the National Flood Insurance Program.

C. The objectives of this chapter are:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) To 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;
- (7) To provide that developers are notified that property is in an area of special flood hazard; and,
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

#### **§ 48-2. Definitions.**

- A. Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

- B. To the extent that the terms set forth below are defined elsewhere in the Town Code, the definitions set forth below shall control for purposes of this chapter.

**"Appeal"** means 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 special flood hazard"** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area is designated as Zone A. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this chapter, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

**"Base flood"** means the flood having a one percent chance of being equaled or exceeded in any given year.

**"Basement"** means that portion of a building having its floor subgrade (below ground level) on all sides.

**"Building"** see "Structure"

**"Cellar"** has the same meaning as "Basement".

**"Crawl Space"** means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

**"Development"** means 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"** means a non-basement building (i) built to have the top 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 (ii) 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. "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 flood waters.

**"Federal Emergency Management Agency"** means the Federal agency that administers the National Flood Insurance Program.

**"Flood"** or **"Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

"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 (1) above.

**"Flood Boundary and Floodway Map (FBFM)"** means 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 water courses studied in detail in the Flood Insurance Study.

**"Flood Elevation Study"** means 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)"** means 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)"** means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

**"Flood Insurance Study"** see "flood elevation study".

**"Floodplain"** or **"Flood-prone area"** means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

**"Floodproofing"** means any combination of structural and non-structural 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"** - has the same meaning as "Regulatory Floodway".

**"Functionally dependent use"** means 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"** means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

**"Historic structure"** means 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"** is the Building Inspector appointed by the Town Board who is responsible for administering and implementing this chapter by granting or denying development permits in accordance with its provisions.

**"Lowest floor"** means 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 non-elevation design requirements of this chapter.

**"Manufactured home"** means 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"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"Mean sea level"** means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

**"Mobile home"** - has the same meaning as "Manufactured home".

**"New construction"** means 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.

**"One hundred year flood"** or **"100-year flood"** has the same meaning as "Base Flood".

**"Principally above ground"** means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

**"Recreational vehicle"** means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (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"** means 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 §48-4 D.(2).

**"Start of construction"** means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of

accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**"Structure"** means 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"** means 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 percent of the market value of the structure before the damage occurred.

**"Substantial improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent 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 a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

**"Variance"** means 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.

### **§ 48-3. General provisions; penalties for offenses.**

- A. This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of New Baltimore, Greene County.
- B. The areas of special flood hazard for the Town of New Baltimore,

Community Number 360295, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map Panel Numbers 36039C0079F, 36039C0085F, 36039C0090F, 36039C0095F, 36039C0105F, 36039C0110F, 36039C0114F, 36039C0115F, 36039C0118F, 36039C0120F, whose effective date is May 16, 2008, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.
- (2) A scientific and engineering report entitled "Flood Insurance Study, Greene County, New York, All Jurisdictions" dated May 16, 2008.

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 New Baltimore Town Hall, 3809 County Route 51, Hannacroix, NY.

C. Interpretation and conflict with other laws.

- (1) This chapter includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention, including Local Law 3 of 1992 known as the "Flood Damage Prevention Law of the Town of New Baltimore".
- (2) 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 local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.
- (3) The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.

D. Penalties for noncompliance. 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 local law 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 New Baltimore from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under §48-6 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

- E. Warning and disclaimer of liability. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards 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 New Baltimore, 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 there under.

#### **§ 48-4. Administration.**

- A. 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.
- B. Floodplain development permit.
  - (1) 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 insuring 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 §48-3B., 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.

- (2) Fees. All applications for a floodplain development permit shall be accompanied by an application fee as may be set by Resolution of the Town Board. In addition, the applicant shall be responsible for reimbursing the Town of New Baltimore for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$500.00 to cover these additional costs.

C. Application. The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) A site diagram documenting that the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zone A will be at least three feet above the highest adjacent grade.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential 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.
- (3) Documentation on building and/or development plans that any utility floodproofing will meet the criteria in §48-5 B., UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in §48-5 E., NON-RESIDENTIAL STRUCTURES.
- (5) 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 §48-3B., 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.

- (6) 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.
- (7) 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 involve 5 acres or more of site disturbance.

D. Duties and responsibilities of the Local Administrator. Duties of the Local Administrator shall include, but not be limited to the following:

- (1) Permit application review. The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:
  - (a) Review all applications for completeness, particularly with the requirements of §48-4 C., APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
  - (b) 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 §48-5, CONSTRUCTION STANDARDS and, in particular, §48-5B., SUBDIVISION PROPOSALS.
  - (c) 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 §48-5, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

- (d) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.
- (2) Use of other flood data.
- (a) 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 §48-4 C.(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.
  - (b) 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.
- (3) Alteration of watercourses.
- (a) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Re-

gional Director, Region II, Federal Emergency Management Agency.

- (b) 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.
- (4) 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.
- (5) Stop work orders.
  - (a) 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 §48-3 D.
  - (b) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in §48-3 D.
- (6) Certificate of compliance.
  - (a) In areas of special flood hazard, as determined by documents enumerated in §48-3 B., 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.

- (b) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
  - (c) Issuance of the certificate shall be based upon the inspections conducted as prescribed in §48-4 D., 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.
- (7) Information to be retained. The Local Administrator shall retain and make available for inspection, copies of the following:
  - (a) Floodplain development permits and certificates of compliance;
  - (b) Variances issued pursuant to §48-6, VARIANCE PROCEDURES; and,
  - (c) Notices required under §48-4 D.(3), ALTERATION OF WATERCOURSES.

#### **§ 48-5. Construction standards.**

##### **A. 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 §48-3 B.

##### **B. 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; and,
- (3) Adequate drainage shall be provided to reduce exposure to flood damage.

C. Standards for all structures.

- (1) 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.
- (2) Construction materials and methods.
  - (a) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
  - (b) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
  - (c) For enclosed areas below the lowest floor of a structure within Zone A, if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable 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 flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
    - (i) 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; and
    - (ii) The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

- (iii) Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

(3) Utilities.

- (a) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;
- (b) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (c) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the highest adjacent grade 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; and,
- (d) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Residential structures.

Elevation. The following standards apply to new and substantially improved residential structures located in areas of special flood

hazard, in addition to the requirements in §48-5 B., SUBDIVISION PROPOSALS, and §48-5 C., STANDARDS FOR ALL STRUCTURES.

Within Zone A, when no base flood elevation data are available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.

E. Non-residential structures.

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in §48-5 B., SUBDIVISION PROPOSALS, and §48-5 C., STANDARDS FOR ALL STRUCTURES.

- (1) 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 the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of §48-5 C.(2)(c)(ii), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- (2) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

F. Manufactured homes and recreational vehicles.

The following standards in addition to the standards in §48-5 A., B. and C. 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.

Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.

**§ 48-6. Variance procedure.****A. Appeals board.**

- (1) The Zoning Board of Appeals shall hear and decide appeals and requests for variances from the requirements of this chapter.
- (2) The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this chapter.
- (3) 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.
- (4) 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 local law and:
  - (a) The danger that materials may be swept onto other lands to the injury of others;
  - (b) The danger to life and property due to flooding or erosion damage;
  - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (d) The importance of the services provided by the proposed facility to the community;
  - (e) The necessity to the facility of a waterfront location, where applicable;
  - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (g) The compatibility of the proposed use with existing and anticipated development;



- (h) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
  - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (j) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
  - (k) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
  - (l) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of §48-6 A.(4) and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) 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.

**B. Conditions for variances.**

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a)-(l) in §48-6 A.(4) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:

- (a) The proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and
  - (b) The variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) 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:
  - (a) The criteria of §48-6 B.(1), B.(4), B.(5) and B.(6) are met; and
  - (b) 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.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
  - (a) A showing of good and sufficient cause;
  - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) 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:

- (a) The issuance of a variance to construct a structure below the minimum height of three feet above the highest adjacent grade will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
- (b) Such construction below the minimum height of three feet above the highest adjacent grade increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in §48-4 D.(7).

**Chapter 50**

**FRESHWATER WETLANDS**

- § 50-1. Legislative intent.**
- § 50-2. Title.**
- § 50-3. Definitions.**
- § 50-4. Availability of technical services.**
- § 50-5. Regulated activities.**
- § 50-6. Application for permit to conduct regulated activity; contents.**
- § 50-7. Action on permit application.**
- § 50-8. Availability of approved permit; inspection of operations.**
- § 50-9. Bond and insurance requirements; liability of town.**
- § 50-10. Right to require permit for uses in certain areas.**
- § 50-11. Penalties for offenses; corrective action.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 8-26-76. Amendments noted where applicable.]**

**§ 50-1. Legislative intent.**

- A. The Town of New Baltimore finds that freshwater wetlands are invaluable resources for flood protection, wildlife habitat, open space, water resources and recreation and other benefits associated therewith which, if preserved and maintained in an undisturbed, natural condition, constitute important assets to existing and future residents of the town.
- B. It is the intent of the Town Board to protect the citizens of the Town of New Baltimore by preserving, protecting and conserving freshwater wetlands and the benefits derived therefrom, to prevent the despoilation and destruction of freshwater wetlands and to regulate use and development of such wetlands consistent with the general welfare and beneficial economic, social and agricultural development of the town.

**§ 50-2. Title.**

This chapter shall be known and may be cited as the "Freshwater Wetlands Ordinance of the Town of New Baltimore."

**§ 50-3. Definitions.**

The following terms, phrases, words and their derivatives shall have the meanings given herein:

**ADJACENT AREA** - All lands within one hundred (100) feet, horizontally, of the vegetative boundary of any freshwater wetland.

**ALTER** - Any form of draining, dredging, excavation, removal of soil, mud, sand, shells, gravel or other aggregate, or any form of dumping, filling or depositing of any soil, stones, sand, gravel, mud, rubbish or fill of any kind, either directly or indirectly; erecting any structures, roads, the driving of pilings or placing of any other obstructions, whether or not changing the ebb and flow of the water; any form of pollution; and any other activity which substantially impairs any of the several functions served by freshwater wetlands or the benefits derived therefrom which are set forth in § 24-0105. of the New York State Environmental Conservation Law.

**APPLICANT** - Any person who files an application for any permit issued by the town pursuant to this chapter, and shall include the agent of the owner or a contract vendee.

**FRESHWATER WETLANDS** - Lands and waters of the town, as shown on the Freshwater Wetlands Map prepared by the State of New York and filed with the Town Clerk, which contain any or all of the following:

A. Lands and submerged lands commonly called "marshes," "swamps," "sloughs," "bogs" and "flats" supporting aquatic or semiaquatic vegetation of the following vegetative types:

(1) Wetland trees which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other trees, including, among others, red maple (*Acer rubrum*), willows (*Salix* spp.), black spruce (*Picea mariana*), swamp white oak (*Quercus bicolor*), red

ash (*Fraxinus pennsylvanica*), American elm (*Ulmus americana*), and Larch (*Larix laricina*).

- (2) Wetland shrubs which depend upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other shrubs, including, among others, alder (*Alnus* spp.), buttonbush (*Cephalanthus occidentalis*), bog rosemary (*Andromeda glaucophylla*), and leatherleaf (*Chamaedaphne calyculata*).
- (3) Emergent vegetation, including, among others, cat tails (*Typha* spp.), pickerelweed (*Pontederia cordata*), bulrushes (*Scirpus* spp.), arrow arum (*Peltandra virginica*), arrowheads (*Sagittaria* spp.), reed (*Hragmites communis*), wild rice (*Zizania aquatica*), bur reeds (*Sparganium* spp.), purple loosestrife (*Lythrum salicaria*), swamp loosestrife (*Decodon verticillatus*), and water plantain (*Alisma plantago aquatica*).
- (4) Rooted, floating leaved vegetation, including, among others, water lily (*Nymphaea odorata*), water shield (*Brasenia schreberi*), and spatterdock (*Nuphar* spp.).
- (5) Free-floating, vegetation, including among others, duckweed (*Lemna* spp.), big duckweed (*Spirodels polyrhiza*), and watermeal (*Wolffia* spp.).
- (6) Wet meadow vegetation which depends upon seasonal or permanent flooding or sufficiently waterlogged soils to give them a competitive advantage over other open land vegetation, including, among others, sedges (*Carex* spp.), rushes (*Juncus* spp.), cattails (*Typha* spp.), rice cut-grass (*Leersia oryzoides*), reed canary grass (*Phalaris arudinaceae*), swamp loosestrife (*Decodon verticillatus*), and spike rush (*Eleocharis* spp.).
- (7) Bog mat vegetation, including, among others, sphagnum mosses (*Sphagnum* spp.), bog rosemary (*Andromeda glaucophylla*), leatherleaf (*Chamaedaphne calyculata*), pitcher plant (*Sarracenia purpurea*), and cranberries (*Vaccinium macrocarpon* and *Vaccinium oxycoccus*).
- (8) Submergent vegetation, including, among others, pondweeds (*Potamogeton* spp.), navads (*Najas* spp.), bladderworts (*Utricularia* spp.), wild celery (*Vallisneria americana*), coontail (*Ceratophyllum demersum*), water milfoils (*Myriophyllum* spp.),

muskgrass (Chara), stonewort (Nitella spp.), waterweeds (Elodea spp.), and water smartweed (Polygonum amphibium).

- B. Lands and submerged lands containing remnants of any vegetation that is not aquatic or semiaquatic that has died because of wet conditions over a sufficiently long period, provided that such wet conditions do not exceed a maximum seasonal water depth of six (6) feet, and provided further that such conditions can be expected to persist indefinitely, barring human intervention.
- C. Lands and waters enclosed by aquatic or semiaquatic vegetation as set forth herein in Subsection A above and dead vegetation as set forth in Subsection B above, the regulation of which is necessary to protect and preserve the aquatic and semiaquatic vegetation.
- D. The waters overlying the areas set forth in Subsections A and B and the lands underlying the areas set forth in Subsection C.

**PARTY IN INTEREST** - Any person who files an application pursuant to this chapter, is permitted to intervene pursuant to this chapter, or any official within whose area is located the freshwater wetland or adjacent area which is the subject of an application for a freshwater wetlands permit.

**PERMIT** - That form of town approval required by this chapter for the carrying on of a regulated activity.

**PERSON** - Any corporation, firm, partnership, association, trust, estate, one (1) or more individuals, and any unit of government or agency or subdivision thereof.

**POLLUTION** - The presence in the environment of man-induced conditions or contaminants in quantities or characteristics which are injurious to humans, vegetation, wildlife or property.

**PROJECT** - Any action resulting in direct or indirect physical impact on a freshwater wetland, including but not limited to any regulated activity.

**REGULATED ACTIVITY** - Any activity within a freshwater wetland or on an adjacent area which directly or indirectly may substantially alter or impair the natural condition of any freshwater wetland, including any form of pollution, including but not limited to installing a septic tank, running a sewer outfall, discharging sewage treatment effluent or

other liquid wastes into or so as to drain into a freshwater wetland; and any other activity which substantially impairs any of the several functions served by freshwater wetlands or the benefits derived therefrom.

#### **§50-4. Availability of technical services.**

The technical services of the New York State Department of Environmental Conservation shall be made available to municipalities, on a fee basis, in the implementation of the freshwater wetlands program.

#### **§ 50-5. Regulated activities.**

- A. Except as hereinafter provided, it shall be unlawful for any person without obtaining a written permit therefor issued by the Town of New Baltimore to alter any freshwater wetland.
- B. The deposition or removal of the natural products of freshwater wetlands by recreational or commercial fishing, shellfishing, aquaculture and hunting or trapping shall be exempt from the regulated activities.
- C. Each farmer or landowner who intends to conduct a regulated activity that includes grazing and watering livestock, making reasonable use of water resources, harvesting natural products of the wetlands, selectively cutting timber, draining land or wetlands for growing agricultural products and otherwise engaging in the use of wetland or other land for growing agricultural products shall be excluded from regulated activities and shall not require a permit. Such individual shall, however, notify the appropriate local agent in writing of the proposed activity. (Any farmer who has filed a plan with the Soil and Water Conservation District is exempt from this notification requirement.)
- D. Public health activities, orders and regulations of the Department of Health shall be excluded from regulated activities. Such agency shall, however, notify the appropriate local agent in writing of the proposed activity.
- E. The Commissioner of the New York State Department of Environmental Conservation may exempt from local implementation those freshwater wetlands which, by reason of their size or special characteristics of



unique environmental value or by reason of common characteristics, are appropriately to be administered by the New York State Department of Environmental Conservation alone.

**§ 50-6. Application for permit to conduct regulated activity; contents.**

- A. Any person proposing to conducted a regulated activity upon any freshwater wetland shall file an application for a permit with the local government agent. Determination of the application shall be made by the Town Planning Board in accordance with applicable law. Such application shall include a detailed description of the proposed activity and a map showing the area of freshwater wetland directly affected, with the location of the proposed activity thereon.
- B. A permit approved by the town does not relieve the applicant of the necessity to obtain authorization from other agencies which have jurisdiction over the project proposal.

**§ 50-7. Action on permit application.**

- A. Preparation for public hearing.
  - (1) No sooner than thirty (30) days and not later than sixty (60) days after the receipt of such application, and after notice of application has been published by the applicant at least once in at least two (2) newspapers having a general circulation in the area, the Town Board shall authorize a public hearing on such application. The Board shall cause notice of such hearing to be published at least once in at least two (2) newspapers having a general circulation in the area where the affected freshwater wetland is located. The notice of hearing shall be published not more than twenty-eight (28) days nor less than fourteen (14) days prior to the date set for the hearing. The applicant shall also notify all owners of record of adjacent lands and known claimants to water rights by registered mail not less than fifteen (15) days prior to the date set for the hearing.
  - (2) The town may dispense with a public hearing if no notice of objection has been filed or if it finds that the proposed activity is of such a minor nature as not to affect or endanger the balance of systems within the freshwater wetland. If the town finds that a hearing is not necessary, the town shall publish its decision setting forth its reasons therefor.

- (3) The applicant shall pay the costs of the public hearing, including the reporter's fees and the costs of the Department for two (2) copies of the transcript of the hearing and for physical accommodations for the holding of the hearing, if not held in Department facilities. The applicant shall be required, unless waived by the Commissioner, to file, prior to publishing a notice of hearing pursuant to Subsection A(1) of this section, an undertaking in an amount fixed by the regional permit administrator to guarantee payment for the costs of the public hearing.

B. If the permit application is denied or approved:

- (1) Any decision of the Town Board regarding a permit application shall be judicially reviewable by any person wishing to be deemed a party in interest.
- (2) If a permit is approved, approved with conditions or denied and the decision is unacceptable to any person after public hearing, an appeal may be made to the New York State Freshwater Wetlands Board of Appeals. Subsequent appeal and review may be made in accordance with Article 78 of the New York State Civil Practice Law and Rules.

**§ 50-8. Availability of approved permit; inspection of operations.**

- A. The permit applicant or his agent proceeding with approved operations shall carry on his person or have readily available the approved permit and shall show same to any agency or agent of the Town Board whenever requested.
- B. Operations conducted under a permit shall be open to inspection at any time by any agency or agent designated by the Town Board.

**§ 50-9. Bond and insurance requirements; liability of town.**

- A. The permit applicant, upon approval of a permit, shall file with the Town Board a performance bond, if required, in an amount and with sureties and in a form approved by the Town Board.
- B. The bond and sureties shall be conditioned on compliance with all

provisions of this chapter and conditions imposed on permit approval.

- C. The applicant shall certify that he has public liability insurance against liability which might result from proposed operations or use covering any and all damages which might occur within three (3) years of completion of such operations.
- D. The applicant shall also submit to the Town Board an affidavit which indemnifies and saves harmless the town or agency or agent thereof from any claims arising out of or connected with operations under the permit and from all acts, omissions, commissions or negligence on the part of the applicant, his agents or employees.

#### **§ 50-10. Right to require permit for uses in certain areas.**

The Town Board shall reserve the right to require a permit or license for any operation or use permitted in the watercourses, floodplain lands, watershed lands, water recharge areas or natural drainage systems of the town.

#### **§50-11. Penalties for offenses; corrective action.**

##### **A. Administrative sanctions.**

- (1) Any person, firm, corporation or entity found violating any provision of this chapter or conditions imposed by the Town Board upon an approved permit shall be served with a written notice at the direction of the Town Board stating the nature of the violation and providing a specified time within which the violation shall cease, and satisfactory corrective action shall be taken by the violator.
- (2) Any person who violates, disobeys or disregards any provision of this chapter shall be liable to the people of the town for a civil penalty of not to exceed three thousand dollars (\$3,000.) for every such violation, to be assessed after a hearing or opportunity to be heard upon due notice and with the rights to specification of the charges and representatives by counsel at such hearing.
- (3) The Town Board shall have the power, following a hearing, to

direct the violator to cease his violation of this chapter and satisfactorily restore the affected freshwater wetland to its condition prior to the violation.

- (4) Any civil penalty or order issued by the town shall be reviewable pursuant to the Civil Practice Law and Rules.

B. Criminal sanctions.

- (1) Any person who violates any order of the Town Board regulating freshwater wetlands shall, in addition, for the first offense be guilty of a violation punishable by a fine of not less than five hundred dollars (\$500.) nor more than one thousand dollars (\$1,000.).
- (2) For a second and each subsequent offense, he shall be guilty of a misdemeanor punishable by a fine of not less than one thousand dollars (\$1,000.) nor more than two thousand dollars (\$2,000.) or a term of imprisonment of not less than fifteen (15) days nor more than six (6) months, or both.
- (3) The Town Attorney shall prosecute persons alleged to have violated the provisions of this chapter and shall seek equitable relief to restrain any violation or threatened violation of its provisions.

**Chapter 54****GAMES OF CHANCE**

**§ 54-1. Title.**

**§ 54-2. Definitions.**

**§ 54-3. Conducting of games authorized.**

**§ 54-4. Enforcement official.**

**§ 54-5. When effective; referendum.**

**[HISTORY: Adopted by the Town Board of New Baltimore 8-9-83 as L.L. No. 2-1983. Amendments noted where applicable.]**

**§ 54-1. Title.**

This chapter shall be known as the "Games of Chance Law of the Town of New Baltimore."

**§ 54-2. Definitions.**

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

AUTHORIZED ORGANIZATION - An authorized organization as defined in Paragraph 4 of § 186 of the General Municipal Law.

GAME OF CHANCE - A game of chance as defined in Paragraph 3 of § 186 of the General Municipal Law.

TOWN - The Town of New Baltimore.

**§ 54-3. Conducting of games authorized.**

Authorized organizations may, upon the issuance of a license from the Clerk of the town, conduct games of chance within the Town of New Baltimore as provided in Article 9-A of the General Municipal Law and as provided further in this chapter. Such games of chance shall be conducted in accordance with the general state law, the rules and regulations of the New York State Racing and Wagering Board and this chapter.

**§ 54-4. Enforcement official.**

The chief law enforcement officer, the Town of New Baltimore Police Chief, shall exercise control over and supervision of all games of chance conducted under a properly issued license. Such officer shall have all those powers and duties set forth in Article 9-A of the General Municipal Law.

**§ 54-5. When effective; referendum.**

This chapter shall take effect immediately upon filing with the Secretary of State's office, following its approval at a referendum by a majority of qualified voters voting thereon at the general election held pursuant to provisions of the Municipal Home Rule Law, § 23<sup>1</sup>.

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<sup>1</sup> Local Law 2-1983 was approved by the affirmative vote of a majority of the qualified electors voting thereon at the general election held on November 8, 1983.

**Chapter 58****HAZARDOUS WASTES**

- § 58-1. Legislative intent.**
- § 58-2. Definitions.**
- § 58-3. Compliance and special permit required.**
- § 58-4. Disposal of industrial and sewage wastes.**
- § 58-5. Disposal of silt.**
- § 58-6. Penalties for offenses.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 12-8-81 as L.L. No. 1-1981. Section 58-6 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]**

**§ 58-1. Legislative intent.**

It is hereby declared that to preserve the public health and welfare of the citizens of the Town of New Baltimore and to ensure a safe environment for them, for their future generations and for life in general, that immediate and effective measures for controlling the disposal of hazardous wastes and other wastes be enacted, pursuant to Town Law § 130.

**§ 58-2. Definitions.**

Unless the context specifically indicates otherwise, the meanings of the terms used in this chapter shall be as follows:

**HAZARDOUS WASTE:**

- A. A solid waste, or combination of solid wastes, which because of its quantity, concentration or physical, chemical or biological characteristics, may:
  - (1) Cause or significantly contribute to an increase in serious, irreversible or incapacitating reversible illness; or

(2)Cause or significantly contribute to a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

B. Such wastes shall include but not be limited to wastes which are bioconcentrative, highly flammable, explosive, highly reactive, toxic, poisonous, radioactive, irritating, sensitizing or infectious, and shall include wastes that are solid, semisolid, liquid or contain gases. Final determination of whether or not a waste is "hazardous" shall be made by the New York State Environmental Conservation Department.

INDUSTRIAL WASTE - Wastes in semisolid or solid form generated by industrial or commercial processes of any nature by any person, including but not limited to residue, sludges, greases, oils, solvents, spent chemicals, acids, clay, cinders and similar wastes, but does not include wood, paper and packaging materials.

PERSON - Any individual, public or private corporation, political subdivision, government agency, department of the state or United States, partnership, industry, association, firm, trust, estate or any other legal entity.

SEWAGE WASTE - Any liquid, solid or semisolid waste from septic tanks, cesspools, domestic sewer systems and sewage treatment facilities, whether such wastes are treated or-untreated.

SILT - The sediment, alluvial deposit, mud, gravel, sand, rock, clay or other sedimentary material of a river, stream, creek, lake, pond or other body of water.

TOWN - The Town of New Baltimore.

### **§ 58-3. Compliance and special permit required.**

No person shall cause or permit the generation, disposal, dumping, depositing, burial, transportation, treatment or storage of any hazardous wastes in the town, except in complete compliance with all current and applicable laws, rules and regulations of the New York State Department of Environmental Conservation, New York State and the federal government, and further except by special permit of the Town Board.



**§ 58-4. Disposal of industrial and sewage wastes.**

- A. No person shall cause or permit the disposal, dumping, depositing, burial or storage of any industrial waste products or sewage wastes from any source whatsoever originating outside the town on any land within the town, except by special permit issued by the Town Board, and except in complete compliance with all applicable state and federal laws, rules and regulations.
- B. Upon issuance of a special permit by the Town Board, industrial waste products or sewage wastes originating within the town may be disposed, dumped, deposited and buried in a sanitary landfill approved and operated in accordance with the New York State Environmental Conservation Department rules and regulations; provided, however, that in the event that the town does not operate its own sanitary landfill and contracts with another municipality for use of its facilities by town citizens, any additional laws, rules or regulations applicable to any such facilities shall apply.

**§ 58-5. Disposal of silt.**

No person shall cause or permit the disposal, depositing or dumping or burial of any silt on any land within the town, except upon permit issued by the Town Board and in accordance with all applicable state and federal laws, rules and regulations.

**§ 58-6. Penalties for offenses.<sup>1</sup>**

- A. Any violation of this chapter shall render the owner of this land and the person or persons disposing of said material subject to a fine not to exceed the sum of two hundred fifty dollars (\$250.) or imprisonment for not more than fifteen (15) days, or both, for each and every offense. The commission of a single act prohibited by this chapter shall constitute a separate violation hereof, and each day of such violation shall constitute a separate offense, punishable as such.
- B. In addition to any criminal actions as stated herein, the town may subject such violator to a civil penalty or fine payable to the town in an amount of fifty dollars (\$50.) per day for each offense.

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<sup>1</sup> Amended at time of adoption of Code; see Ch. 1. General Provisions, Art. 1

- C. The town may seek an injunction to restrain any activities in violation of this chapter in a court of competent jurisdiction.

**Chapter 64****JUNKYARDS**

- § 64-1. Legislative intent.**
- § 64-2. Definitions.**
- § 64-3. License required.**
- § 64-4. License application; contents.**
- § 64-5. Fees; duration, transferability and revocation of license.**
- § 64-6. Regulations.**
- § 64-7. Existing businesses.**
- § 64-8. Penalties for offenses.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 2-14-61. Section 64-8B amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]**

**§ 64-1. Legislative intent.**

By the adoption of this chapter, the Town Board of the Town of New Baltimore declares its intent in so doing to be to regulate, control and license the activities or businesses known as "auto graveyards," "junkyards," "secondhand parts collection areas," the "processing of used metals for resale" and the "dumping, storage and disposal of waste, secondhand or used materials" of whatever composition. Said Town Board hereby declares that such activities or businesses can constitute a hazard to property and persons and a public nuisance. Such materials may be highly flammable and sometimes explosive. Gasoline tanks on old autos often contain in some quantity combustible gasoline; the engine and other parts of such autos are frequently covered with grease and oil which is also flammable. The tires, plastic seats, tops and other elements of such autos are also flammable. Batteries and other elements of such autos can contain acids and other matter potentially harmful to humans. These autos frequently contain sharp metal or glass edges or points upon which a human could receive serious cuts and abrasions. These autos can constitute attractive nuisances to children and certain adults. The presence of such junkyards even in areas

zoned for business or industry is unsightly and tends to detract from the value of surrounding land and property unless such areas are properly maintained and operated.

### **§ 64-2. Definitions.**

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

AUTO - Passenger auto, truck, tractor-truck, trailer, bus, motorcycle or other vehicle, however propelled, as well as tractors, bulldozers, machinery and equipment.

PERSON - Any individual, an association, a partnership or a corporation.

### **§ 64-3. License required.**

No person shall engage in or conduct on real property within the Town of New Baltimore, either for himself or for and on behalf of any other person directly or indirectly as agent, employee or otherwise, any activity or business either for profit or otherwise, at wholesale or retail, which involves the collection, storage, burning, dumping, disassembling, dismantling, salvaging, sorting or otherwise handling or arranging for sale, storage or disposal or otherwise of bodies, engines or parts of autos, or of any other secondhand or used property of whatever material it is composed or any waste material, whether composed of wood, paper, cloth, cardboard, plastics, metals, stone, cement or otherwise, without first obtaining a license therefor as hereinafter provided.

### **§ 64-4. License application; contents.**

- A. Each applicant for a license hereunder shall execute under oath an application therefor to be supplied to him by the Town Clerk, which shall contain the following information:
  - (1) That the applicant is over 21 years of age, that he is a citizen of the United States, whether he has ever been convicted of a felony or misdemeanor and such other facts or evidence as is deemed necessary to establish that he is a person fit and capable of properly conducting the activity or business for which the license is sought.

- (2) A description of the exact type of business he intends to conduct and the nature of the materials he intends to handle.
  - (3) The number of employees he intends to engage.
  - (4) The name and address of the owner or owners of the land and the nature of the right of occupancy of the applicant to the use of such land.
- B. At the time of making the application, the applicant shall submit to and file with the Town Clerk a map or plan of the real property upon which he intends to conduct the activity or business for which he is making application for a license hereunder with the area of such real property which it is proposed to use for such purposes, the location of the fence required hereunder indicated thereon as well as the location of any buildings on such land and the location of any streets or highways abutting or passing through such land and the location of any water, sewer or gas mains or laterals available thereto as well as the general drainage pattern of such land.
- C. In the application, the applicant shall agree that if granted the license applied for, he will conduct the activity or business pursuant to the regulations set forth in § 64-6 of this chapter and that, upon his failure to do so, such license may be revoked.

**§ 64-5. Fees; duration, transferability and revocation of license.**

- A.** The fee for the license is hereby fixed in an amount set by the Town Board by resolution, which sum covers not only the cost of issuing the license itself, but also the cost of making the necessary inspections of the premises to ascertain compliance with the regulations hereinafter prescribed. **[Amended 5-8-2001 by L.L. No. 3-2001]**
- B.** Such license shall be effective from the date of its issuance until the 31st day of December of the year of such issuance, after which a new application for a license must be made yearly if the licensee desires to continue such activity or business.
- C.** Such license is personal with the licensee. It does not go with the title of the land, nor may it be sold, assigned, transferred or disposed of.
- D.** Such license may be revoked by the Town Board after a public hearing thereon at which the licensee shall have an opportunity to be heard. Upon revocation of a license, the Town Board may require the removal

of autos, parts and materials left as above provided in the case of an applicant for a temporary license who fails to qualify for a license.

- E. In the event that an applicant for a license as provided herein shall have been duly issued a valid and effective junk dealer's license by the Supervisor of this Town, pursuant to the provisions of Article 6 of the New York State General Business Law, then such applicant shall be entitled to and allowed a credit against the above provided license fee in the amount of \$5, such junk dealer's license fee actually paid by such applicant; otherwise, this chapter shall be fully binding upon and applicable to the holder of any such junk dealer's license.

#### **§ 64-6. Regulations.**

- A. The licensee must personally manage or be responsible for the management of the activity or business for which the license is granted.
- B. The licensee must maintain an office and a sufficient number of employees on the premises to assure the proper and safe conduct of such activity or business, to minimize the fire hazard therefrom and to prevent improper trespass thereon by children and others.
- C. The licensee must erect and maintain a six-foot wire fence of close mesh or one made of wood or of other material, adequate to prohibit the entrance of children and others into the area of the activity or business and to contain within such fence the materials dealt in by the licensee, and if such area abuts a residential area or public street or highway, such fence shall be twenty-five (25) feet from the boundary line thereof. All the materials dealt in by the licensee shall be kept within such fence at all times.
- D. Inside and adjacent to and contiguous with such fence a strip of land at least ten (10) feet in width shall be kept free of all dry grass or other growth or other combustible material so as to provide a fire lane or line around the whole area where the activity or business of the licensee is being conducted.
- E. The autos, parts and materials dealt in by the licensee shall be disassembled or dismantled by means other than by burning, except when it is done at a distance of three hundred (300) feet or more from any street or highway or adjacent property, and even in that event no burning of tires, tubes or other rubber substances shall be allowed or

permitted. They shall be piled or arranged in neat rows so as to permit easy, clear passage through the area.

- F. There shall be maintained at each such place of activity or business for which a license is issued at least one (1) fire extinguisher of approved design and capacity for each forty thousand (40,000) square feet of area. Each fire extinguisher shall be hung or mounted in a conspicuous place, clearly marked and available.
- G. When the area is not supervised by the licensee or his employees, the fence shall be locked at a secure gate in a secure manner.
- H. Suitable sanitary facilities shall be available, connected to approved public sewers or septic tanks, for the use and convenience of the employees of the licensee as well as the general public visiting the area.
- I. The area of the licensee's activity or business shall not be used as a dump area nor as a place for the burning and disposal of junk or trash.
- J. The town police, the Town Clerk or the Town Board or any of its representatives shall be granted access to the area of the activity or business of the licensee at all reasonable hours to inspect the same for compliance herewith.

#### **§ 64-7. Existing businesses.**

- A. A person presently engaged in or conducting an activity or business such as described herein on real property within the Town of New Baltimore must, within thirty (30) days after the effective date of this chapter, make an application to the Town Clerk of the Town of New Baltimore for a license, and at the same time must file a map or plan of the real property upon which he is conducting such activity or business.
- B. In the application, such applicant shall agree that, if granted the license applied for, he will conduct the activity or business pursuant to the regulations set forth in this section and that, upon his failure to do so, such license may be revoked.
- C. The special provisions provided in this section applicable to a person presently engaged in or conducting an activity or business as described hereinabove are personal, and they may not be enjoyed by any person to whom the licensee may transfer such business or

activity nor the land upon which it is situated by gift, sale, devise or otherwise, nor may such licensee make any substantial changes in the area or scope of such activity or business without complying with all the provisions of §§ 64-4 and 64-6 of this chapter.

- D. The fee for the license in the case of a person presently engaged in or conducting an activity or business such as is described herein shall be ten dollars (\$10.) annually, and all other provisions in relation to such license as are contained in § 64-5 hereof shall be applicable to such licensee.
- E. If the person conducting such activity or business is not the sole owner thereof, he shall state such fact at the time of making application to the Town Clerk as above provided, and the Town Clerk at the time of issuing a license to such person shall send the owners or each of them a notice of the issuance of such license to such person together with a copy of this chapter.
- F. Persons issued a license pursuant to this section shall operate their activity or business pursuant to the following regulations:
  - (1) The autos, parts and materials dealt in by the licensee shall be disassembled or dismantled by means other than by burning, except when it is done at a distance of three hundred (300) feet or more from any street or highway or adjacent property, and even in that event no burning of tires, tubes or other rubber substances shall be allowed or permitted. They shall be piled or arranged in neat rows so as to permit easy, clear passage through the area.
  - (2) Inside and adjacent to and contiguous with the boundary lines of adjoining properties owned by others, a strip of land at least ten (10) feet in width shall be kept free from all dry grass or other growth or other combustible materials so as to provide a fire lane or line around the whole area where the activity or business of the licensee is being conducted.
  - (3) All materials handled or dealt in by the licensee shall be kept at a distance of not less than twenty-five (25) feet from the edge of any public street or highway on which it abuts.
  - (4) The area of the licensee's activity or business shall not be used as a dump area or a place for the burning and disposal of junk or trash.



**§ 64-8. Penalties for offenses.**

- A. The owner or licensee of any such place of business who commits or permits any acts in violation of any of the provisions of this chapter shall be deemed to have committed an offense against such chapter and also shall be liable for any such violation or the penalty therefor. Each day such violation shall continue or be permitted to exist shall constitute a separate violation.
- B. For every violation of any provisions of this chapter, the person violating the same shall be subject to a fine of not more than two hundred fifty dollars (\$250.) or imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment.<sup>1</sup>
- C. Conviction for any above-mentioned violations shall constitute and effect an immediate forfeiture of this license.
- D. Any person violating this chapter shall be subject to a civil penalty enforceable and collectible by the town in the amount of one hundred dollars (\$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 violations of such chapter.

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<sup>1</sup> Amended at time of adoption of Code; see Ch. 1. General Provisions, Art. 1

**Chapter 67**

**LITTERING**

**§ 67-1. Title.**

**§ 67-2. Legislative intent.**

**§ 67-3. Definitions.**

**§ 67-4. Prohibited acts.**

**§ 67-5. Penalties for offenses.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 6-11-85 as L.L. No. 3-1985. Amendments noted where applicable.]**

**§ 67-1. Title.**

This chapter shall be known and may be cited as the "Litter or Dumping Control Law."

**§ 67-2. Legislative intent.**

The legislative intent of this chapter is to safeguard the health, safety and welfare of the inhabitants of the Town of New Baltimore; to safeguard their material rights against unwarrantable invasion; to protect, preserve or maintain property values; and to minimize nuisance, as well as to protect against health hazards.

**§ 67-3. Definitions.**

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

ABANDON - The relinquishment of any item of personal property and/or litter with the intention of not reclaiming it nor resuming its ownership or enjoyment; and intent shall be presumed at the expiration of forty-eight (48) hours from the time of abandonment.

LITTER - Includes:

- A. Garbage, refuse, trash or rubbish or any nauseous or offensive matter, such as material from a kitchen, store, restaurant, food stand, etc.
- B. All waste materials customarily handled or collected by refuse collectors or junk dealers.
- C. Items known as "junk," regardless of size, discarded or abandoned by reason of obsolescence, age or state of repair or intended to be discarded, abandoned or junked.
- D. Discarded reading material, newspapers, magazines or similar paper goods.
- E. Cans, bottles, containers, boxes, cartons or wrappers, with or without contents.

THROWING or DEPOSITING or ABANDONING - Includes throwing from a vehicle of any type or from an aircraft or a boat.

TOWN - The Town of New Baltimore, New York.

#### **§ 67-4. Prohibited acts.**

- A. No person shall throw, deposit or abandon litter on any property within the Town of New Baltimore, whether public or private and whether or not owned by such person, nor shall any property owner use his land for the dumping of litter or permit such dumping or accumulation of litter on his property by others, except that the owner or person in control of private property shall maintain private receptacles for the collection of litter in such manner that litter will not be carried or deposited by the elements upon the yards or yard or premises of others or upon the streets, roads, highways or public place or places.
- B. Litter not contained in receptacles as aforesaid shall not be stored or piled on land within the town, except to facilitate delivery to the vehicle of a refuse collector, salvage dealer, licensed junk dealer or a person, firm or charitable organization customarily engaged in the removal, purchase, collection or salvage of discarded articles, and, in such case, shall not be so stored in anticipation of such collection for a period in excess of forty-eight (48) hours.

- C. No person shall throw or deposit or abandon litter upon any open or vacant property within the town, regardless of the ownership thereof.
- D. No person shall throw or deposit or abandon litter in or upon any street, highway, walk, park, parking area or other public place within the town, except in public receptacles; provided, however, that no litter defined as garbage shall at any time be thrown or deposited in public receptacles unless such receptacles are specifically designated and marked for the reception of such garbage.
- E. No person shall throw or deposit or abandon any litter or foreign matter of any kind whatsoever in any pool, pond, lake, stream, culvert, reservoir, or its tributaries, or watershed, or any body of water in a park or elsewhere within the town, except that this provision shall not prohibit the authorized treatment and control of pools or reservoirs to control or regulate water purity or aquatic vegetation by persons or corporations having all required permits issued by state, county, town or watershed authorities having jurisdiction over such treatment.
- F. The prohibitions contained herein against the deposit of litter shall include activities such as dumping, the maintenance of dumps for any purpose, including landfill operations, or the use of any property in the town as a dumping ground for the benefit of the owner or any other person. **[Amended 10-14-86 by L.L. No. 3-1986]**

#### **§ 67-5. Penalties for offenses.**

Each and every violation of this chapter shall constitute and shall be a violation as defined in Article 10, § 10.00, Subdivision 3, of the Penal Law and shall be punishable as follows:

- A. By a fine not to exceed one hundred dollars (\$100.) or by imprisonment for a term not to exceed fifteen (15) days.
- 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 such chapter.

**Chapter 68****LOITERING**

**§ 68-1. Legislative intent.**

**§ 68-2. Definitions.**

**§ 68-3. Prohibitions.**

**§ 68-4. Penalties for offenses.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 12-8-81 as L.L. No. 3-1981. Amendments noted where applicable.]**

**§ 68-1. Legislative intent.**

The Town of New Baltimore recognizes that loitering in public places must be adequately controlled so as to prevent public disorder, nuisances, littering and other acts and conditions detrimental to the health, safety and welfare of the residents of the town, and this chapter is intended to provide such control and regulation.

**§ 68-2. Definitions.**

As used herein, the following words shall have the meanings below set forth:

LOITERING Shall encompass, but shall not be necessarily limited to, one (1) or more of the following acts:

- A. Obstruction of the free, unhampered passage of pedestrians or vehicles.
- B. Obstructing, molesting or interfering with any person or persons who are lawfully upon any road, park, school grounds or other public place.
- C. Remaining idle in essentially one (1) location without being able to

establish having a legitimate purpose in so remaining idle or, by general conduct, exhibiting the absence of a lawful purpose in so remaining idle. In determining whether or not a legitimate or lawful purpose for remaining idle has been established, consideration shall be given to the fact that the person takes flight upon appearance of a police officer, refuses to identify himself or manifestly endeavors to conceal himself or any object. Unless flight by the person or other circumstances makes it impracticable, a police officer shall, prior to any arrest for an offense under this section, afford the person an opportunity' to dispel any alarm or immediate concern which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct. No person shall be convicted of an offense under this section if the police officer did not comply with this procedure or if it appears at trial that the explanation given by the person is true and, if believed by the officer at the time, would have dispelled the alarm or immediate concern.

- D. Refusing to move from a place when so requested by a police officer, provided that such officer has exercised his discretion reasonably under the circumstances in order to preserve or promote public peace and order.
- E. Loitering or remaining in a public place for the purpose of gambling with cards, dice or other gambling paraphernalia.

OTHER PUBLIC PLACE - Includes the quasi-public area in front of or adjacent to any store, shop, restaurant, tavern, bar, inn, luncheonette or other place of business, and shall include also any parking lots or other vacant property not owned by or under the dominion of the person charged with a violation of this chapter. Enforcement of this chapter as it relates to "other public places" as herein defined shall be conditioned upon a request for such enforcement by the owner or agent of said "other public place" sent by certified mail, return receipt requested, to the attention of the Police Chief of the Town of New Baltimore. In addition to the name of the owner and a description of the property involved, said request shall include a certification stating that the provisions of this chapter relating to the posting of a notice have been complied with.

PUBLIC PLACE - A place to which the public or a substantial group of persons has access, including but not limited to any highway, street, road, alley, bypass, sidewalk, parking area, shopping area, playground, park or recreation facility located within the Town of New

Baltimore, except that the definition of a "public place" shall not include those premises duly licensed for the sale and consumption of alcoholic beverages on the premises or within and on private property that is not a "public place" as defined in this section.

### **§ 68-3. Prohibitions.**

- A. It shall be unlawful for any person to idly assemble, loiter, lounge or sleep in or upon any street, sidewalk or public place or in any public building, or in a park during those hours it is closed to the public, or obstruct the access to any public building or any part thereof, or obstruct passage through or upon any public street or park.
- B. It shall be unlawful for any person to idly assemble, loiter, lounge or sleep in other public places, as hereinbefore defined, provided that the owner or his agent thereof has posted a sign in such place and in such a manner as is reasonably calculated to afford notice of the prohibition to all interested parties.

### **§ 68-4. Penalties for offenses.**

Any person committing an offense against any provision of this chapter shall be guilty of a violation punishable as follows: by imprisonment for a term not exceeding fifteen (15) days or by a fine not exceeding two hundred fifty dollars (\$250.), or by both such fine and imprisonment.

**Chapter 77**

**PARKS AND RECREATION AREAS**

**ARTICLE I  
Parks and Trails**

**§ 77-1. Purpose.**

**§ 77-2. Prohibited activities.**

**§ 77-3. Penalties for offenses.**

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

**ARTICLE I  
Parks and Trails  
[Adopted 11-27-2001 by L.L. No. 4-2001]**

**§ 77-1. Purpose.**

The Town wishes to preserve the peaceful and tranquil setting of all Town parks, the Hudson River Interpretive Trail and Paper Mill Trail and to protect Town residents using said property. The purpose of this chapter is to prohibit certain types of activity on these properties.

**§ 77-2. Prohibited activities.**

It shall be unlawful for any person to engage in certain activities on the Town property described in § 77-1 above. These activities include:

- A. Hunting;
- B. Use of firearms;
- C. Use of motorized vehicles including, but not limited to, automobiles,



snowmobiles and all terrain vehicles (ATV's), excepting motorized vehicles used solely to transport individuals-with disabilities;

- D. Annoying, loud and unruly conduct;
- E. Damage or destruction to Town property; and
- F. Camping and fires without a Town permit.

**§ 77-3. Penalties for offenses.**

Any person who is found to have committed a prohibited activity as set forth in § 77-2 above shall be guilty of a violation and punishable by a fine of up to \$500.

**Chapter 81**

**RECORDS, PUBLIC ACCESS TO**

- § 81-1. Purpose and scope.**
- § 81-2. Records access officer.**
- § 81-3. Fiscal officer.**
- § 81-4. Location of records.**
- § 81-5. Hours for public inspection.**
- § 81-6. Requests for public access to records.**
- § 81-7. Denial of access to records.**
- § 81-8. Fees.**
- § 81-9. Public notice of information regarding records access.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 10-14-75 by resolution. Amendments noted where applicable.]**

**§ 81-1. Purpose and scope.**

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

**§ 81-2. Records access officer.**

- A. The Town Supervisor is responsible for ensuring compliance with the regulations herein and designates the following persons as records access officers.<sup>1</sup>
- B. Records access officers are responsible for ensuring appropriate agency response to public requests for access to records. However, the public shall not be denied access to records through officials who have in the past been authorized to make records or information available.
- C. Records access officers shall assure that personnel:
  - (1) Maintain an up-to-date subject matter list.
  - (2) Assist the requester in identifying requested records, if necessary.
  - (3) Upon locating the records, take one (1) of the following actions in accordance with § 81-6B:
    - (a) Make records promptly 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:
    - (a) Make a copy available upon payment of or offer to pay established fees, if any, in accordance with § 81-8; or
    - (b) Permit the requester to copy those records.
  - (5) Upon request, certify that a transcript is a true copy of records copied.
  - (6) Upon failure to locate records, certify that:
    - (a) The Town of New Baltimore is not the legal custodian for such records; or

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<sup>1</sup> The name(s) of the designated records access officer(s) is on file in the Office of the Town Clerk.

- (b) The records of which the Town of New Baltimore is a legal custodian, after diligent search, cannot be found.

### **§ 81-3. Fiscal officer.**

- A. The Town Supervisor is designated the fiscal officer, who shall certify the payroll and respond to requests, in accordance with § 81-6B, for an itemized record setting forth the name, address, title and salary of every officer or employee of the agency. **[Amended 4-8-86]**
- B. The fiscal officer shall make the payroll items listed above available to any person, including bona fide members of the news media as required under § 88, Subdivision 1g and i and Subdivision 10, of the Freedom of Information Law.<sup>2</sup>

### **§ 81-4. Location of records. [Amended 4-8-86]**

Records shall be available for public inspection and copying at the Town Clerk's office or at the location where they are kept.

### **§ 81-5. Hours for public inspection.**

Requests for public access to records shall be accepted and records produced during all hours regularly open for business.

These hours are: 9:00 a.m. to 12:00 noon and 1:00 p.m. to 4:00 p.m. (NOTE: Agencies and municipalities which do not have daily regular business hours should consult Section 5 of the Appendix.<sup>3</sup>)

### **§ 81-6. Requests for public access to records.**

- A. Where a request for records is required, such request may be oral or in writing. However, written requests shall not be required for records that have been customarily available without written request.
- B. Time for response to request.

- (1) Except under extraordinary circumstances, officials shall respond

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<sup>2</sup> Former §88 of the Public Officers Law was repealed by L. 1977, c. 933. See now §§ 87 through 89 of the Public Officers Law

<sup>3</sup> Section 5 of the Appendix to this resolution is on file in the office of the Town Clerk

to a request for records no more than five (5) business days after receipt of the request, whether the request is oral or in writing.

- (2) If, because of extraordinary circumstances, more than five (5) business days are required to respond to a request, receipt of the request shall be acknowledged within five (5) business days after the request is received. The acknowledgment shall state the reason for delay and estimate the date when a reply will be made.

C. A request for access to records should be sufficiently detailed to identify the records. Where possible, the requester should supply information regarding dates, titles, file designations or other information which may help identify the records. However, a request for any or all records falling within a specific category conforms to the standard that records be identifiable.

D. Subject matter list.

- (1) A current list, by subject matter, of all records produced, filed or first kept or promulgated after September 1, 1974, shall be available for public inspection and copying. The list shall be sufficiently detailed to permit the requester to identify the file category of the records sought.
- (2) The subject matter list shall be updated periodically, and the date of the most recent updating shall appear on the first page. The updating of the subject matter list shall not be less than semiannually.

NOTE: To assist requesters, a copy of the subject matter list may be filed with regulations governing access to records.

E. No records may be removed by the requester from the office where the record is located without the permission of the Town Board.

### **§ 81-7. Denial of access to records.**

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 § 81-6B of this chapter, such failure shall also be deemed a denial of access.
- C. The following person or persons or body shall hear appeals for denial of access to records under the Freedom of Information Law.<sup>4</sup>
- 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 requests for records.
  - (3) The records to which the requester was denied access.
  - (4) Whether the denial of access was in writing or was by failure to provide records promptly as required by § 81-6B.
  - (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 seven (7) business days of receipt of an appeal.
- F. A final denial of access to a requested record, as provided for in Subsection E of this section, shall be subject to court review, as provided for in Article 78 of the Civil Practice Law and Rules.

### **§ 81-8. Fees.**

- A. There shall be no fee charged for:
  - (1) Inspection of records.
  - (2) Search for records.
  - (3) Any certification pursuant to this chapter.
- B. The fee for photocopies not exceeding eight and one-half by fourteen

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<sup>4</sup> The person, persons or body to hear appeals for denial of access to records was not set forth in the original resolution.

(8% x 14) inches is twenty-five cents (\$0.25) per page.

- C. The fee for copies of records other than photocopies which are eight and one-half by fourteen (8% x 14) inches or less in size shall be the actual copying cost, excluding fixed agency costs such as salaries.

**§ 81-9. Public notice of information regarding records access.**

A notice containing the job title or name and business address of the records access officers and fiscal officer, the name, job title, business address and telephone number of the appeal person or persons 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.

**Chapter 87**

**SEWERS**

**ARTICLE I**

**Individual Sewage Disposal Systems**

- § 87-1. Compliance required.**
- § 87-2. Application required; filing of additional information.**
- § 87-3. Sewerage Inspector.**
- § 87-4. Procedure upon approval or disapproval of project.**
- § 87-5. Appeals.**
- § 87-6. Location of systems.**
- § 87-7. Exposure of sewage to atmosphere or discharge into drains or bodies of water restricted; permit required for scavengers.**
- § 87-8. Settling or septic tanks.**
- § 87-9. Subsurface tile system.**
- § 87-10. Seepage pits.**
- § 87-11. Pit privies.**
- § 87-12. Watertight systems.**
- § 87-13. Inadequate facilities.**
- § 87-14. Penalties for offenses.**

**ARTICLE II**

**Sewer Use Regulations**

- § 87-15. Definitions.**
- § 87-16. Use of public sewers required.**
- § 87-17. Private wastewater disposal.**
- § 87-18. Building sewer connections.**
- § 87-19. Discharge restrictions.**



- § 87-20. Tampering with wastewater facilities prohibited.
- § 87-21. Powers and duties of Superintendent and other authorized employees.
- § 87-22. Industrial waste disposal requirements.
- § 87-23. Fees.
- § 87-24. Penalties for offenses.

### ARTICLE III Sewer Use Charges

- § 87-25. Purpose.
- § 87-26. Determination of cost of operation and debt service.
- § 87-27. Surcharge for discharge of high-strength waste.
- § 87-28. Point system determination of charge.
- § 87-29. Review of rates.
- § 87-30. Payment of charges; collection of unpaid bills.
- § 87-31. Prohibited discharges.
- § 87-32. Increased costs for certain discharges.
- § 87-33. Precedence over other agreements.

### Point Assessment System and Schedule

[HISTORY: Adopted by the Town Board of the Town of New Baltimore: Art. I, 11-28-62; Art. II, 3-24-87 as L.L. No. 2-1987; Art. III, 3-24-87 as L.L. No. 3-1987. Section 87-14 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

ARTICLE I  
**Individual Sewage Disposal Systems**  
**[Adopted 11-28-62]**

**§ 87-1. Compliance required. [Amended 8-20-1991 by L.L.No. 2-1991]**

No septic tank, tile field, seepage pit, chemical toilet, privy, pipe or other means for the disposal or discharge of sewage or sink wastes shall be installed anywhere in the Town of New Baltimore except as herein provided. The provisions of § A115-8<sup>1</sup>, which pertain to improvements to subdivisions which may be required by the Planning Board, shall apply in addition to the requirements of this Article.

**§ 87-2. Application required; filing of additional information.**  
**[Amended 8-20-1991 by L.L. No. 2-1991]**

No installation of a septic tank, tile field, seepage pit, chemical toilet, privy, pipe or other means for the disposal or discharge of sewage or sink wastes shall be begun, nor shall the construction, location or alteration of any structure intended for human occupancy be commenced, until an application duly filled out on forms supplied by the Town Clerk and a plot plan showing the intended location of the disposal system proposed to be used in connection with such structure shall have been filed in the Town Clerk's office along with the septic permit application fee as established by the Town Board. In the case of subdivisions, temporary residences or other premises requiring New York State Health Department approval, such approval must be on file with the Town Clerk before an application can be accepted.

**§ 87-3. Sewerage Inspector.**

- A. The Town Board of Health shall appoint a competent Sewerage Inspector, who shall be responsible to the Town Board of Health for the performance of the duties hereinafter mentioned, and whose appointment shall be held at the pleasure of the Town Board of Health.
- B. It shall be the duty of the Sewerage Inspector to:
  - (1) Receive applications filed with the Town Clerk.

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<sup>1</sup> Improvements to subdivisions now covered under §115-9 of the Town Code

- (2) Promptly investigate, when requested by the applicant before installation, any proposed disposal devices indicated in said application; when the proposed installation meets the requirements of this Article, approve for issuance a permit to proceed with such installation.
- (3) See that the provisions of this Article are observed and inspect the installation after it is completed but before the system is covered.
- (4) Approve for issuance a certificate of compliance permitting the use of such installations that conform to the provisions of this Article.

**§ 87-4. Procedure upon approval or disapproval of project.**

- A. One (1) copy of the application shall be returned to the Town Clerk after approval or disapproval of the completed project by the Sewerage Inspector.
- B. When the project is approved, a certificate of compliance shall be issued by the Town Clerk.
- C. Should a project be disapproved, the reason(s) for declining a certificate of compliance shall be noted on two (2) copies of the application, one (1) of which shall be given to the applicant.

**§ 87-5. Appeals.**

If the Sewerage Inspector declines to approve any proposed installation, the applicant may appeal to the Town Board of Health, whose approval or rejection shall be final.

**§ 87-6. Location of systems.**

No septic tank, tile field, seepage pit, chemical toilet, privy or other device for the storage or disposal of human excreta shall be installed unless every part of such installation shall be more than ten (10) feet from the boundary line of the property on which it is located and more than twenty-five (25) feet from any lake, reservoir, stream or watercourse not protected

by rules enacted by the State Commissioner of Health; nor shall the leaching parts of such installation be located on the direct line of drainage to, nor less than one hundred (100) feet in a horizontal direction from, any source of domestic water supply. Systems which are located on watersheds of public water supplies must comply with the rules and regulations enacted by the State Department of Health for the protection of such supplies.

**§ 87-7. Exposure of sewage to atmosphere or discharge into drains or bodies of water restricted; permit required for scavengers.**

- A. No person, firm or corporation, either as owner, lessee or tenant of any property, dwelling, building or place, shall construct or maintain any privy, cesspool, sewage disposal system, pipe or drain so as to expose or discharge, the contents or other liquid or matter therefrom to the atmosphere or on the surface of the ground nor so as to endanger any source of drinking water; nor shall any such person, firm or corporation discharge into any watercourse, storm sewer, drain or body of water any sewage or sewage effluent from a cesspool, sewage disposal system, pipe or drain, or any excreta from a privy vault or other receptacle for the storage of excreta unless a permit for such discharge shall have been issued therefor by the State Commissioner of Health, and such discharge shall be made in accordance with the requirements thereof.
- B. Scavengers who clean septic tanks and cesspools must have a permit from the Town Clerk, and the place of disposal used by them must be approved by the Sewerage Inspector.

**§ 87-8. Settling or septic tanks.**

- A. Settling or septic tanks for single- or two-family -dwellings -shall have capacities below the flow line of not less than one (1) day's flow of sewage, based on the rate of one hundred fifty (150) gallons per bedroom for small dwellings, farmhouses and summer cottages, and seventy-five (75) gallons per person for large dwellings, boardinghouses and hotels.
- B. The minimum size of approved septic tank is to be seven hundred fifty (750) gallons' working capacity. **[Amended 6-14-83 by resolution]**
- C. Septic tanks must be at least ten (10) feet outside the foundations of

buildings.

- D. Drains from buildings to septic tanks must be watertight and equipped with a house trap and fresh-air vent. They must have a diameter of not less than four (4) inches.
- E. No roof leaders or floor or cellar drains are to drain into septic tanks.
- F. Septic tank effluents shall be disposed of by discharging to subsurface tile systems, leaching cesspools or by such other means as may be approved in writing by the Sewerage Inspector.

**§ 87-9. Subsurface tile system.**

- A. A "subsurface tile system" is hereby defined as a field of perforated pipe or open joint farm tile laid with proper slope and alignment below the ground surface in such a fashion as to permit an even flow from the septic tank into all parts of the tile field. Main distributors should have diameters of not less than four (4) inches and be laid with tight joints on uniform slopes not greater than one percent (1%) or approximately one-eighth ( $\frac{1}{8}$ ) inch per foot. Lateral distributors comprising the tile field should be laid in trenches twenty-four (24) inches wide when the soil test indicates a rate of one (1) inch in seven (7) minutes or less, and in widths up to thirty-six (36) inches when the rate is slower. Trench depth should be between eighteen (18) inches and thirty (30) inches; depths of less than twenty-four (24) inches are preferred. Individual laterals shall not be longer than sixty (60) feet. The minimum distance between walls of adjacent trenches should be five (5) feet, although greater separations are desirable. Laterals of the tile field should be kept twenty (20) feet from cellar walls.
- B. Laterals should have diameters of not less than four (4) inches and be laid on uniform slopes not greater than one-sixteenth ( $\frac{1}{16}$ ) inch per foot. Farm tile should be laid with open joints one-fourth ( $\frac{1}{4}$ ) inch wide, protected by strips of tar paper laid over the top and two-thirds ( $\frac{2}{3}$ ) around the circumference of pipe. The entire pipe should be surrounded by gravel or broken stone three-fourths ( $\frac{3}{4}$ ) to one and one-half ( $1 \frac{1}{2}$ ) inches in size, from a level of six (6) inches below the bottom of the tile to a level two (2) inches above the top of the tile.
- C. Perforated pipe with split couplings or vitrified clay pipe with open joints may be substituted for farm tile laterals, but when perforated pipes are used, care must be taken to place the holes so the liquid will escape at an equal rate along the entire lateral. The top layer of stone

should be covered with hay, straw or untreated building paper, before placing the earth backfill. The placing of laterals over water service lines is prohibited. Curtain drains of suitable depth and location shall be provided to intercept surface and ground water where necessary. Laterals must not be nearer than twenty-five (25) feet from any lake, stream or other watercourse or body of water, and must not be laid in swampy soil or in soil that cannot take care of drainage. The length of the four-inch tile required should be determined by results of soil percolation tests and in accordance with the table given below, except that the minimum amount of tile which will be approved will be one hundred (100) feet.

D. Result of percolation test, or time for water to fall one (1) inch:

Minutes	2 B. R. Trench	3 B. R. Trench	Additional B. R. Trench
5	100 ft. 24 in.	100 ft. 24 in.	32 ft. 24 in.
10	100 ft. 36 in.	100 ft. 36 in.	30 ft. 36 in.
30	100 ft. 36 in.	150 ft. 36 in.	50 ft. 36 in.
60	250 ft. 36 in.	375 ft. 36 in.	125 ft. 36 in.

More

Than

60

-----Soil is unsuitable-----

E. To make a percolation test, dig a hole approximately one (1) foot square, and a depth equal to that at which it is proposed to lay the tile drain. Fill with water to ensure thorough moistening of the soil and allow the water to seep away. Then, while the bottom of the hole is still moist, fill to a depth of six (6) inches and observe the time for the water level to fall one (1) inch.

### § 87-10. Seepage pits.

A. Seepage pits or cesspools may be permitted where the topsoil is underlaid with sand or gravel. They should be preceded by a septic tank. Such pits should be made of durable material and construction and of such proportions that the side area is approximately three (3) times the bottom area. The bottom of a seepage pit shall be at least two (2) feet above the groundwater table. The seepage area of a pit or cesspool shall be calculated as the area of the walls below the flow line plus the area of the bottom. The effective seepage area of the walls in square feet is three (3) times the diameter of the pit multiplied by its depth below the flow line. The seepage area required for such

installations shall be determined by the results of percolation tests in accordance with the table given below, but no permit will be issued for a seepage pit or cesspool unless the character of the soil in which it is to be located is such that groundwater flow appears to be away from any adjoining property within fifty (50) feet and at least twenty-five (25) feet from any lake, stream or other watercourse or body of water. Such installation shall not be located closer than one hundred (100) feet from a source of water supply. No permit shall be issued for a seepage pit or cesspool where, in the judgment of the Sewerage Inspector, such installation would be dangerous to the adjoining property. A minimum of eighty (80) square feet of seepage area must be provided for any such system.

B. Result of percolation test, or time for water to fall one (1) inch:

Minutes	1 B.R. (square feet)	2 B.R. (square feet)	3 B.R. (square feet)
5	80	100	150
10	80	140	210
30	135	270	405
60	300	600	900

More  
Than  
60

-----Soil is unsuitable-----

C. To make a percolation test, dig a pit or sink a test hole to one-half (1/2) the depth of the proposed seepage pit. The bottom of the test hole should be one (1) foot square. Fill the test hole with water to thoroughly moisten the soil, and allow to drain. While the bottom of the test hole is still moist, fill with water to a depth of six (6) inches and observe the time required for the water level to lower one (1) inch. If more than one (1) seepage pit or cesspool is required in order to obtain adequate seepage area, a distribution box must be used to equalize the flow to them. The minimum distances between centers of pits must be at least three (3) times the diameter of the larger pit.

### § 87-11. Pit privies.

Outdoor pit privies are permissible only in porous sandy soils where the groundwater level is at least two (2) feet below the bottom of the pit. They shall be flytight, properly ventilated and otherwise constructed so as to facilitate maintenance in a sanitary condition.

**§ 87-12. Watertight systems.**

When the nearby groundwater must be protected or seepage systems cannot be utilized, a watertight vault privy, a removable receptacle privy or a chemical toilet can be used if approved by the Sewerage Inspector and adequate facilities are available for proper sanitary maintenance and disposal of wastes.

**§ 87-13. Inadequate facilities.**

Nothing contained in this article shall be construed to permit the installation or maintenance of disposal facilities which are or may become a nuisance. The Town Health Officer may, at any time, by personal inspection, determine that existing sewage disposal facilities on a property are inadequate or do not function properly or that there is not available an adequate supply of water for use in connection therewith. In such cases, he shall notify the owner of said premises in writing of such fact, and a copy of such notice shall be sent to the Town Clerk. Upon receipt of such notice, it shall be the duty of the owner, within 10 days, to make application to the Town Clerk for a permit to reconstruct or alter such disposal system and to complete such reconstruction or alteration within 30 days after receipt of said notice. Unless such reconstruction or alteration as is required shall have been completed within said 30 days, it shall be unlawful and improper to use said premises for human occupancy until such reconstruction or alteration is completed and approved in the manner provided for new installations.

**§ 87-14. Penalties for offenses. [Amended 4-8-1986 by L.L. No. 2-1986]**

- A. Any violation of this article, either by the occupancy of a structure without a duly authorized certificate of compliance or by the installation or use of a septic tank, tile field, seepage pit, chemical toilet, privy or discharge pipe without compliance with the terms and provisions aforesaid or any violation of any of the terms or provisions of this article is hereby declared to be an infraction and shall render the owner of the land whereon the same was installed, or the tenant or the person so installing same, or any other person guilty of a violation thereof, to a fine not to exceed the sum of \$250 or imprisonment for not to exceed 15 days, or both.
- B. If a fine is imposed and is not paid within 30 days or such other time



period established by the court, then following mailing of the notice described herein, the unpaid fines shall be assessed by the Town and added to the current tax roll by the Town as an unpaid charge attributable to the real property. Prior to assessing this charge for unpaid fines, the Town shall mail a notice to the fine debtor at his/her last known address by regular first-class mail stating that unless the fines are paid within 15 days of the notice date, they will be assessed and collected as an unpaid charge attributable to the real property. **[Added 11-13-2006 by L.L. No.3-2006]**

ARTICLE II  
**Sewer. Use Regulations**  
**[Adopted 3-24-1987 by L.L. No. 2-1987]**

**§ 87-15. Definitions.**

- A. Unless the context specifically indicates otherwise, the meanings of terms used in this article shall be as follows:

BIOCHEMICAL OXYGEN DEMAND (BOD) - The quantity of oxygen utilized in biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in milligrams per liter.

BOARD - The governing board or council of the municipality.

BUILDING DRAIN - That part of the lowest horizontal piping of a drainage system which receives discharge from soil, waste and other drainage pipes inside walls of the building and conveys it to the building sewer beginning five feet outside the inner face of the building wall.

BUILDING SEWER - The extension from the building drain to the public sewer or other place of disposal; also called "house connection."

COMBINED SEWER - A sewer intended to receive both wastewater and storm- or surface water.

EASEMENT - An acquired legal right for the specific use of land owned by others.

FLOATABLE OIL - Oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved

pretreatment facility- Wastewater shall be considered free of floatable fat if it is properly pretreated and does not interfere with the collection system.

GARBAGE - Animal and vegetable waste resulting from handling, preparation, cooking and serving of foods.

INDUSTRIAL WASTES - Wastewater from industrial processes, trade or business, as distinct from domestic or sanitary wastes.

INFLOW - Water other than wastewater that enters a sewerage system, including sewer service connections, from sources such as roof leaders, cellar drains, yard drains, area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross-connections between storm sewers and sanitary sewers, catch basins, cooling towers, stormwaters, surface runoff, street wash waters or drainage. "Inflow" does not include and is distinguished from infiltration.

MUNICIPALITY - The political entity as set forth in this Article.

NATURAL OUTLET - Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or ground water.

NYSDEC - New York State Department of Environmental Conservation or any duly authorized representative of said agency.

OPERATOR - The chief operator of the wastewater treatment plant of the municipality.

PERSON - Any individual, firm, company, association, society, corporation or group.

pH - The reciprocal of the logarithm of hydrogen-ion concentration. The concentration is the weight of hydrogen ions in grams per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of  $10^{-7}$ .

PROPERLY SHREDDED GARBAGE - Waste from the preparation, cooking and dispensing of food, that has been shredded to such degree that all particles will be carried freely under flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

**PUBLIC SEWER** - A common sewer controlled by a governmental agency or public utility.

**SANITARY SEWER** - A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground- , storm- and surface waters that are not admitted intentionally.

**SEWAGE** - The spent water of a community. The preferred term is "wastewater."

**SEWER** - A pipe or conduit that carries wastewater or drainage water.

**SEWER INSPECTOR** - Any person appointed by the Board to act as the Board's authorized agent in matters falling under this Article and who shall exercise those powers delegated to him by the Board.

**SLUG** - Any discharge of water or wastewater which, in concentration of any given constituent or in quantity of flow for any period of duration longer than fifteen (15) minutes, exceeds more than five (5) times the average twenty-four-hour concentration of flows during normal operation and which shall adversely affect the collection system and/or performance of the wastewater treatment works.

**STORM DRAIN** (sometimes termed "storm sewer") - A drain or sewer conveying water, groundwater, subsurface water or unpolluted water from any source.

**SUPERINTENDENT** - The Superintendent of Public Works or other person designated to take responsible charge of wastewater facilities of the municipality or his authorized deputy, agent or representative within the specific authority established by the Board.

**SUSPENDED SOLIDS** - Total suspended matter which either floats on the surface of or is suspended in water, wastewater or other liquids and is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater and referred to as "nonfilterable residue."

**UNPOLLUTED WATER** - Water of quality equal to or better than the effluent criteria in effect or water which would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities

provided.

USEPA - United States Environmental Protection Agency or any duly authorized representative of said Agency.

WASTEWATER - Spent water of a community. From the standpoint of source, it may be a combination of liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with any groundwater, surface water and stormwater that may be present.

WASTEWATER FACILITIES - Structures, equipment and processes required to collect, carry away and treat domestic and industrial wastes and dispose of the effluent.

WASTEWATER TREATMENT WORKS - An arrangement of devices and structures for treating wastewater, industrial wastes and sludge; sometimes used as synonymous with "water treatment plant" or "wastewater treatment plant" or "water pollution control plant."

WATERCOURSE - A natural or artificial channel for passage of water either continuously or intermittently.

B. "May" is permissive; "shall" is mandatory.

#### **§ 87-16. Use of public sewers required.**

- A. It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the New Baltimore Sewer District, hereinafter referred to as the "municipality," or in any area under the jurisdiction of said municipality any human or animal excrement, garbage or any other objectionable waste.
- B. It shall be unlawful to discharge to any natural outlet within the municipality or in any area under the jurisdiction of said municipality any wastewater or other polluted waters except where suitable treatment has been provided in accordance with subsequent provisions of this Article.
- C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic. tank, cesspool or other facility intended or used for disposal of wastewater.

- D. The owner(s) of any house, building or property used for human occupancy, employment, recreation or other purposes, situated within the municipality and abutting on any street, alley or right-of-way in which there is now located or may be located in the future a public sanitary or combined sewer of the municipality, is hereby required, at the owner's expense, to install suitable toilet facilities therein, including wastewater and other polluted water facilities and to connect such facilities directly with the proper public sewer in accordance with provisions of this Article, within ninety (90) days after the date of official notice to do so, provided that said public sewer is within one hundred (100) feet of the property line. The Town Board, upon presentation of evidence and a finding that practical difficulty and/or extraordinary and unnecessary hardship may result from strict compliance with the requirement to connect such facilities to the public sewer, may vary such requirement so that substantial justice may be done and the public health and welfare protected.

**§ 87-17. Private wastewater disposal.**

- A. Where a public sanitary or combined sewer is not available under provisions of § 87-16D, the building sewer shall be connected to a private wastewater disposal system complying with provisions of this section and the provisions of Article I of this chapter. **[Amended 8-20-1991 by L.L. No. 2-1991]**
- B. Before commencing construction of a private wastewater disposal system, the owner(s) shall first obtain a written permit signed by the Superintendent. Application for such permit shall be on a form furnished by the municipality, which the applicant shall supplement by any plans, specifications and other information deemed necessary by the Superintendent.
- C. A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection and before any underground portions are covered.
- D. Type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations of the New York State Department of Environmental Conservation. No septic tank or cesspool

shall be permitted to discharge to any natural outlet.

- E. At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in § 87-16D, a direct connection shall be made to the public sewer within ninety (90) days in compliance with this Article, and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of sludge and filled with suitable material.
- F. The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the municipality.
- G. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Health Officer of the municipality or the New York State Department of Environmental Conservation.

#### **§ 87-18. Building sewer connections.**

- A. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.
- B. There shall be two (2) classes of building sewer permits for residential and commercial service and for service to establishments producing industrial wastes. In either case, the owner(s) or his agent shall make application on a special form furnished by the municipality. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent.
- C. All costs and expenses incidental to installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the municipality from any loss or damage that may directly or indirectly be occasioned by installation of the building sewer.
- D. A separate and independent building sewer shall be provided for every building, except that where one building stands at the rear of another on an interior lot and private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended

to the rear building and the whole considered as one (1) building sewer. The municipality does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

- E. Old building sewers may be used to connect with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this Article.
- F. Size, slope, alignment, materials of construction of a building sewer and the methods used in excavating, placing the pipe, jointing, testing and backfilling the trench shall all conform to requirements of the Building and Plumbing Code or other applicable rules and regulations of the municipality. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing and Materials (ASTM) and Water Pollution Control Federation (WPCF) Manual of Practice No. 9 shall apply.
- G. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary wastewater carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- H. No person(s) shall make connection of roof downspouts, foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which, in turn, is connected directly or indirectly to a public sanitary sewer unless such connection is approved by the Superintendent for purposes of disposal of polluted surface drainage.
- I. Connection of the building sewer into the public sewer shall conform to requirements of the Building and Plumbing Code or other applicable rules and regulations of the municipality or the procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
- J. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be

under the supervision of the Superintendent or his representative.

- K. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the municipality.

**§ 87-19. Discharge restrictions.**

- A. No person(s) shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage or cooling water to any sewer, except that stormwater runoff from limited areas, which stormwater may be polluted at times, may be discharged to the sanitary sewer by permission of the Superintendent.
- B. Stormwater other than that exempted under Subsection A and all other unpolluted drainage shall be discharged to sewers specifically designated as combined sewers or storm sewers or to a natural outlet approved by the Superintendent and other regulatory agencies. Unpolluted industrial cooling or process waters may be discharged, on approval by the Superintendent, to a storm sewer, combined sewer or natural outlet and may be subject to a State Pollutant Discharge Elimination System permit issued by NYSDEC.
- C. No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
  - (1) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
  - (2) Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in receiving waters of the wastewater treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter, as CN in wastes discharged to the public sewer.
  - (3) Any waters or wastes having a pH lower than five point five (5.5) or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the



wastewater works.

- (4) Solid or viscous substances in quantities or sizes capable of causing obstruction to the flow in sewers or other interference with proper operation of the wastewater facilities, such as but not limited to ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, either whole or ground by garbage grinders.
  - (5) Heat in such quantities as to cause the temperature at the wastewater treatment works to exceed one hundred four degrees Fahrenheit (104° F.) [forty degrees Celsius (400 C.)].
  - (6) Any pollutant, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/ or pollutant concentration which will cause interference in the wastewater treatment works.
  - (7) Waters or wastes containing substances not amenable to treatment or reduction by the wastewater treatment processes employed or amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet requirements of other agencies having jurisdiction over discharge to receiving waters.
- D. The following described substances, materials, waters or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, have an adverse effect on the receiving stream or otherwise endanger lives, limb, public property or constitute a nuisance. The Superintendent and/or operator may set lower limitations than those established in the regulations below if, in his opinion, such more severe limitations are necessary to meet the above objectives. In forming his opinion as to acceptability, the Superintendent and/or operator will consider such factors as quantity of subject waste in relation to flows and velocities in the sewer, materials of construction of the sewers, wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant and other pertinent factors. Limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated without approval of the

Superintendent are as follows:

- (1) Wastewater having a temperature higher than one hundred fifty degrees Fahrenheit (150° F.)[sixty-five degrees Celsius (65° C.)].
- (2) Wastewater containing more than twenty-five (25) milligrams per liter of petroleum oil, nonbiodegradable cutting oils or product of mineral oil origin.
- (3) Wastewater from industrial plants which contains floatable oils, fat or grease.
- (4) Any garbage not properly shredded. (See § 87-15.) Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments or similar places where garbage originates from preparation of food in kitchens for consumption on the premises or when served by caterers.
- (5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances to such degree that such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Superintendent and/or operator for such materials.
- (6) Any waters or wastes containing phenols or other taste- or odor-producing substances exceeding limits established by the Superintendent and/or operator.
- (7) Radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent and/or operator in compliance with applicable state or federal regulations.
- (8) Quantities of flow or concentrations or both, which constitute a "slug." (See § 87-15.)
- (9) Waters or wastes containing substances not amenable to treatment or reduction by the wastewater treatment process employed or amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet requirements of other agencies having jurisdiction over discharge to receiving waters.

- (10) Water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system or create a condition deleterious to structures and treatment processes.
- E. Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent and/or operator, they are necessary for proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in § 87-19D(3), or any flammable wastes, sand or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent and located so as to be readily and easily accessible for cleaning and inspection. In maintaining these interceptors, the owner(s) shall be responsible for proper removal and disposal, by appropriate means, of the captured material and shall maintain records of dates and means of disposal, which shall be subject to review by the Superintendent. Any removal and hauling of collected materials which is not performed by the owner's personnel must be done by waste disposal firms approved by the municipality.
- F. Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his expense.
- G. When required by the Superintendent and/or operator, the owner of property serviced by a building sewer carrying industrial wastes shall install a suitable structure, together with necessary meters and other appurtenances, in the building sewer to facilitate observation, sampling and measuring of the wastes. Such structure, when required, shall be accessibly and safely located and constructed in accordance with plans approved by the Superintendent. The structure shall be installed by the owner at his expense and maintained by him so as to be safe and accessible at all times.
- H. Measurements, tests and analyses of characteristics of waters and wastes, as referred to in this Article, shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association. Sampling methods, location, times, durations and frequencies shall be determined on an individual basis, subject to

approval by the Superintendent and/or operator.

- I. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the municipality and any industrial concern whereby an industrial waste of unusual strength or character may be accepted for treatment by the municipality, subject to payment therefor by the industrial concern, but in no case shall such agreement circumvent federal categorical pretreatment standards or national pretreatment standards.

#### **§ 87-20. Tampering with wastewater facilities prohibited.**

No person(s) shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person(s) violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

#### **§ 87-21. Powers and duties of Superintendent and other authorized employees.**

- A. The Superintendent, NYSDEC, USEPA and other duly authorized employees of the municipality, bearing proper credentials, shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing pertinent to discharge to the community system in accordance with provisions of this Article.
- B. The Superintendent and/or operator or other duly authorized employees are authorized to obtain information concerning industrial processes having direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential but must establish that revelation to the public of the information in question might result in an advantage to competitors. Effluent discharge data shall not be considered confidential.
- C. While performing necessary work on private properties referred to in Subsection A above, the Superintendent or duly authorized employees of the municipality shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the municipal employees. The

municipality shall indemnify the company against loss or damage to its property by municipal employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as may be caused by negligence or failure of the company to maintain safe conditions as required in § 87-19E.

- D. The Superintendent and other duly authorized employees of the municipality, bearing proper credentials and identification, shall be permitted to enter all private properties through which the municipality holds a duly negotiated easement for the purposes of but not limited to inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with terms of the duly negotiated easement pertaining to the private property involved.

**§ 87-22. Industrial waste disposal requirements.**

- A. No person or persons shall discharge or cause to be discharged any pollutant into the sewer system unless such discharge shall be in compliance with the Federal Water Pollution Control Act Amendments of 1972, or later revisions thereof, and any more stringent state or local standards.
- B. No person or persons shall discharge any pollutant into the sewer system before receiving approval of an industrial sewer connection and discharge application.
- C. The approved industrial sewer connection and discharge application shall be deemed as authorization to discharge only those wastes defined and described within such application. Authorization shall be valid for a term of one (1) year from the date of application and permit approval. Permits are automatically renewed unless there are changes in the discharge and/or requirements of the municipality, in which event a new application for permit shall be required.
- D. Prohibited discharges. Wastes as defined in 40 CFR 128.131 of the Federal Register shall be prohibited from discharging into the sewer system.
- E. Pretreatment standards.

- (1) The Superintendent and/or operator or other duly designated personnel are authorized to enforce compliance of contributing industries with federal pretreatment standards and any other applicable requirements promulgated by the Environmental Protection Agency in accordance with Section 307 of the Federal Water Pollution Control Act Amendments of 1972.
- (2) The Superintendent and/or operator or other duly authorized personnel shall have authority to require compliance with any future more stringent pretreatment standards necessitated by local conditions. When pretreatment regulations are adopted by USEPA or NYSDEC for any industry, then that industry must immediately conform to the USEPA or NYSDEC timetable for adherence to federal or state pretreatment requirements promulgated by USEPA or NYSDEC in accordance with Section 307 of P.L. 95-217. Additionally, such industries shall comply with any more stringent standards necessitated by local conditions as determined by the municipality.

F. Inspection and entry. Where required by the municipality, contributing industries shall construct and maintain a control manhole or other approvable facility through which all wastes entering the sewer system must flow. This manhole or facility shall be constructed so as to provide safe and ready access for the purposes of inspection, observation, measurement, sampling and testing.

G. Reporting and self-monitoring.

- (1) Contributing industries shall file an annual report containing a complete description of constituents and character of each waste contributed, daily volume and maximum rates of discharge and representative analyses.
- (2) Industries regulated by this Article shall maintain sufficient records and analyses to substantiate data supplied in annual reports. If not previously installed, adequate flow-measuring equipment or devices approved by the municipality shall be installed.

H. Enforcement.

- (1) Fines and other penalties for violations shall be imposed in accordance with provisions of this Article. Violations of the regulations set forth in this Article may result in termination of

the sewer connection and discharge permit.

- (2) An industrial user shall notify the municipality immediately upon accidentally discharging wastes in violation of this Article. This notification shall be followed, within fifteen (15) days of the date of occurrence, by a detailed written statement describing the causes of the accidental discharge and the measures being taken to prevent future occurrences. Such notification will not relieve users of liability for any expense, loss or damage to the sewer system, treatment plant or treatment process or for any fines imposed upon the municipality under applicable state and federal regulations.
- (3) A notice shall be furnished and permanently posted on the industrial user's bulletin board advising employees whom to call in case of an accidental discharge in violation of this Article. Also, copies of this Article are to be made available to user's employees.
- (4) The municipality reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in this Article.
- (5) No user shall ever increase the use or process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards or in any other pollutant-specific limitation developed by the town or state unless authorized by state or federal regulation.

**§ 87-23. Fees. [Amended 8-20-1991 by L.L. No. 2-1991]**

- A. A permit and inspection fee shall be paid to the municipality in the amount established by the Town Board at the time the application is filed for a private wastewater disposal system permit under § 87-17B of this Article.
- B. A permit and inspection fee shall be paid to the municipality in the amount established by the Town Board at the time the application is filed for a residential or commercial building sewer under § 87-18B of this Article.

**§ 87-24. Penalties for offenses.**

- A. Any person found violating any provision of this Article, except § 87-20, shall be served by the municipality with written notice stating the nature of the violation and providing a reasonable time limit for satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- B. Any person who shall continue any violation beyond the time limit provided for in Subsection A above shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in the amount set forth separately and made a part of this Article for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.
- C. Any person violating any of the provisions of this Article shall become liable to the municipality for any expense, loss or damage occasioned the municipality by reason of such violation.
- D. Any person found guilty, as defined in Subsection B above, shall be fined the sum of one hundred dollars (\$100.). Upon being found guilty on the fourth and subsequent days after the initial violation, such person shall be fined twenty-five dollars (\$25.) for each such day of violation.
- E. The municipality may immediately suspend the wastewater treatment service and/or a wastewater contribution permit when such suspension is necessary, in the opinion of the municipality, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, causes interference to the publicly owned treatment works (POTW) or causes the municipality to violate any condition of its National Pollutant Discharge Elimination System (NPDES) permit.
- F. Any person notified of a suspension of the wastewater treatment service and/or wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the municipality shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The municipality shall reinstate the wastewater contribution permit and/or wastewater



treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful condition and the measures taken to prevent any future occurrence shall be submitted to the municipality within fifteen (15) days of the date of occurrence.

- G. If any person discharges sewage, industrial waste or other waste into the municipality's wastewater disposal system contrary to the provisions of this Article, federal or state pretreatment requirements or any order to the municipality, the Town Attorney may commence an action for appropriate legal and/or equitable relief in the court of the county.

ARTICLE III  
**Sewer Use Charges**  
**[Adopted 3-24-87 as L.L. No. 3-1987]**

**§ 87-25. Purpose.**

The purpose of this Article shall be to generate sufficient revenue to pay all costs for operation and maintenance and debt service for the New Baltimore Sewer District. The costs shall be distributed to each specific property in proportion to the usage of the wastewater system.

**§ 87-26. Determination of cost of operation and debt service.**

- A. The Town of New Baltimore, on behalf of the New Baltimore Sewer District, shall determine the total annual costs of operation and maintenance of the wastewater system which are necessary to maintain the capacity and performance, during the service life of the treatment works, for which such works were designed and constructed. The total annual costs of operation and maintenance shall include but not be limited to labor, repairs, equipment replacement, maintenance, necessary modifications, power, sampling, laboratory tests and a reasonable contingency fund.
- B. The town shall also determine the total annual costs of principal and interest payments which constitute the debt service.

**§ 87-27. Surcharge for discharge of high-strength waste.  
[Amended 12-28-87 by L.L. No. 5-1987]**

The town, in consultation with its engineer, will assess a surcharge rate for all nonresidential users discharging wastes with BOD and suspended solids strengths greater than three hundred (300) milligrams per liter. Such users will be assessed a surcharge sufficient to cover the costs of treating such users' above-normal-strength waste. The surcharge rate structure for such above normal-strength waste will be:

- A. Twenty-five percent (25%) for concentrations from three hundred one (301) to four hundred (400) milligrams per liter.
- B. Fifty percent (50%) for concentrations from four hundred one (401) to five hundred (500) milligrams per liter.
- C. Seventy-five percent (75%) for concentrations of five hundred (500) or greater milligrams per liter.

**§ 87-28. Point system determination of charge.**

- A. Charges for system operation and maintenance costs will be based on a point system, a "point" being defined as one-tenth (0.1) the flow contribution from a single-family residence, or a single-family residence equals ten (10) points. [One (1) point represents an average daily flow of twenty (20) gallons of pollutant material at normal domestic sewage concentrations.] All other flow contributions will be converted to points on this basis by proportion. Debt service charges will be similarly based, with all benefited properties assessed, whether or not using the system. In both cases, the total points for users will be divided into the total cost for a per-point charge. Then the per-point charge will be multiplied by the user point assessment to determine the service charge.
- B. The schedule of point assessments for various user categories are included on the Schedule of Point Assessments<sup>2</sup>. Any category not included will be defined by the Town Board upon application for service, using the schedule and estimated flow contribution to establish a point assessment for each category.

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<sup>2</sup> The schedule of Point Assessments is included at the end of this Article.

**§ 87-29. Review of rates.**

The town shall review the total annual cost not less often than every two (2) years and will revise the system as necessary to assure equity of the service charge system. If it is determined that excess revenues have been collected from a class of users, the excess revenues from that class of users shall be applied to the costs of operation and maintenance attributable to that class for the next year, and the rate charged to such users shall be adjusted accordingly.

**§ 87-30. Payment of charges; collection of unpaid bills.**

- A. The town shall submit a semiannual statement to the user for the user's semiannual service charge. This statement shall include a charge for operation and maintenance and a charge for debt service as separate items. Any payments not received within thirty (30) days from the billing date will be charged a late payment fee at the same rate as charged for late payment of town taxes. **[Amended 12-28-87 by L.L. No. 5-1987]**
- B. Pursuant to § 452, Subdivision 4, of the New York State General Municipal Law, unpaid sewer users' annual service charges shall be levied against the real property liable for the same at the same time and in the same manner as town taxes and shall be included in the town tax bill for the following town fiscal year, and such amount shall be collected and enforced in the same manner and at the same time as is provided by law for the collection and enforcement of town taxes.

**§ 87-31. Prohibited discharges.**

The discharge of any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate sludge of any municipal systems or to injure or interfere with any sewage treatment process or constitute a hazard in or have an adverse effect on the waters receiving any discharge from the treatment works is prohibited. (Section 87-19 of Article II of this chapter contains additional requirements covering the use of the New Baltimore Sewer District public sewers.)

**§ 87-32. Increased costs for certain discharges.**

Each user which discharges any toxic pollutant which causes an increase in the cost of managing the effluent or the sludge of the wastewater treatment works shall pay for such increased costs.

**§ 87-33. Precedence over other agreements.**

This system of service charges shall take precedence over any terms or conditions of agreements or contracts between the grantee and users, including industrial users, special districts, other municipalities or state or federal agencies or installations, which are inconsistent with 204(b)(1)(A) of the Clean Water Act (33 U.S.C. § 1251 et seq., as amended) or the 40 CFR 35 rules and regulations.

## POINT ASSESSMENT SYSTEM AND SCHEDULE

### Point Assessment System

All properties in the New Baltimore Sewer District will be assessed charges in proportion to usage of the sanitary sewer system by each specific property. Charges for system operation and maintenance costs will be based upon a point system, a point being defined as one-tenth (0.1) the flow contribution from a single-family residence, or a single-family residence equals ten (10) points. All other flow contributions will be converted to points on this basis by proportion. Debt service charges will be similarly based, with all benefited properties assessed, whether or not using the system.

The schedule of point assessments for various user categories is given below. Any category not included will be defined by the Town Board upon application for service, using the schedule and estimated flow contribution to establish a point assessment for such category. This point assessment will apply to all further such establishments in the future.

### Schedule of Point Assessments

**[One (1) point represents an average daily flow of twenty (20) gallons of pollutant material at normal domestic sewage concentrations.]**

Units	Points	
	For O&M	For Debt Service
Single-family residence	10	10
Multiple-family house, per dwelling unit	10	10
Mobile home	10	10
Apartment developments, per dwelling unit	10	10
Apartments in commercial building, in addition to charges for commercial establishment	7	7

Units	Points	
	For O&M	For Debt Service
Schools, per pupil and employee	1	1
Churches (no school), library,		
Firehouse, nonprofit organization		
or lodge building:		
No food service	10	10
With bar or food service	20	20
Motel:		
Owner's unit and building, no food	10	10
Per unit (if food service, additional	2	2
Charge per restaurants)		
Service		
Commercial:		
Small (4 employees or less)	10	10
Large, per employee (based on	2.5	2.5
8 hour day		
Restaurants:		
Per seat	0.5	0.5
Owner's apartment on site (additional)	10	10
Tavern:		
Per seat	0.5	0.5
Owner's apartment on site (additional)	10	10
Nursing homes, per bed	15	15
Rooming house (no food service) 10 pts,	16	16
Plus 2 for each rental bedroom. Minimum		
Boardinghouse 10 pts, Plus 2 for each	22	22
rental bedroom. Minimum		
Self-service Laundromat, per	15	15
washing machine		
Commercial laundry (use meter rate	---	---
Schedule)		
Theaters:		
Movies (each 7 seats)	1	1
Seasonal (each 70 seats per calendar	1	1
month of operation)		

Units	Points	
	For O&M	For Debt Service
Car Wash:		
Self-service; no recirculation, per car stall	10	10
Self service with recirculation, Per car stall	5	5
Attended, automatic (use industrial rate schedule)	---	---
Service station:		
Self service, no public rest room	10	10
Self service with public rest rooms	20	20
Full service	20	20
Vacant land:		
Building lot with sewer service within 100 feet	---	5
Building lot more than 100 feet from sewers	---	1
Bulk acreage suitable for development and not in active use as farmland	---	2.5
Farmland in active agricultural use:		
Developable, per acre	---	1
Nondevelopable, per acre	---	Exempt
Existing building (within village but More than 100 feet from sewer lines and requiring extension of sewer system for service	---	2

**Chapter 91**

**SOLID WASTE**

**ARTICLE I**

**Waste Management Facilities**

- § 91-1. Title.**
- § 91-2. Findings.**
- § 91-3. Purpose.**
- § 91-4. Applicability.**
- § 91-5. Definitions.**
- § 91-6. Exemptions.**
- § 91-7. Coordination with state law.**
- § 91-8. Facilities prohibited.**
- § 91-9. Penalties for offenses; enforcement.**

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

**ARTICLE I**

**Waste Management Facilities**

**[Adopted 9-28-1999 by L.L. No. 4-1999]**

**§ 91-1. Title.**

This article shall be known as and may be cited as the "Waste Management Facilities Law of the Town of New Baltimore. "

**§ 91-2. Findings.**

The Town Board finds that environmental science is presently inadequate to satisfactorily evaluate and control pollution from waste disposal sites or solid and liquid waste management facilities such as landfills, ashfills,



resource recovery or incineration facilities. Among other factors, the Board finds as follows:

- A. The inability of geological science to precisely ascertain the existence and flow of groundwater and to map subterranean geology makes it impossible to determine the extent to which solid and liquid waste disposal may, or may not be, contaminating water.
- B. Moreover, the accumulated extent of hazardous waste disposal in solid and liquid waste disposal facilities cannot be measured or accurately determined because of state and federal regulations permitting disposal of residential or small user quantities of hazardous wastes.
- C. The town's need for solid and liquid waste disposal is being met.
- D. Future correction of pollution from solid or liquid waste management facilities, including sanitary landfills and incineration facilities, may be very expensive or impossible to achieve.
- E. The town's existing community character will be adversely and unalterably impacted by the location and operation of any solid or liquid waste management facilities or waste disposal sites within the town.
- F. Waste disposal facilities may pose a risk to underground wells, the town's drinking water source.
- G. Substantial scientific opinion questions the environmental and health effects of both resource-recovery facilities that incinerate or burn solid waste and of the handling and disposal of ash residue from such facilities, and the containment methods for liquid waste.
- H. Solid and liquid waste regulation under the New York Environmental Conservation Law (ECL) is inadequate to relieve the foregoing concerns.

### **§ 91-3. Purpose.**

The town intends by this article to:

- A. Prohibit the operation of solid waste disposal sites and waste management facilities within the Town of New Baltimore in order to promote a clean, wholesome and attractive environment for the community.

- B. Ensure that accurate, current information is available to public officials and citizens concerning prohibited solid waste disposal operations within the town.
- C. Protect the residents of the town from undesirable effects of solid waste disposal operations, including:
  - (1) Unaesthetic results, including odors, blowing litter and increased traffic, dust and noise.
  - (2) Deterioration in property values associated with adjacent or proximate waste management operations that may interfere with the orderly development of properties.
  - (3) Threats to public health or the environment by contamination of air, surface water or groundwaters.
- D. To exercise the town's police powers under the Municipal Home Rule Law and §§ 130 and 136 of the Town Law for the physical and mental well-being and safety of its citizens and to restrict waste disposal operations within the town that might otherwise be permitted under the ECL. Section 27-0711 of the ECL specifically recognizes and authorizes the right and authority of a town to legislate stricter controls on solid waste management operations than state law requires.

#### **§ 91-4. Applicability.**

This article shall apply to all areas within the Town of New Baltimore.

#### **§ 91-5. Definitions.**

- A. Unless defined below or the context otherwise requires, the terms and words used in this article shall have the same meanings as those defined in Article 27 of the ECL and Title 6, Sections 360 to 364 and 617, of the New York Codes, Rules and Regulations.
- B. As used in this article, these terms and words shall be defined as follows:

COMMERCIAL WASTE - Liquid or solid waste generated by factories,

stores, offices, warehouses and restaurants.

**COMPOSTING** - Aerobic decomposition of solid organic constituents of solid waste to produce humus-like material used for fertilizing and conditioning land.

**CONSTRUCTION AND DEMOLITION DEBRIS** -Inert solid waste resulting from the construction, remodeling, repair and demolition of structures and from road building and land clearing. Such waste includes, but is not limited to, wood, wall coverings, plaster drywall, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes and metals that are incidental to any of the above.

**DEC** - The New York State Department of Environmental Conservation.

**DISPOSAL** - The placement, distribution, storage, removal or transportation of solid or liquid wastes.

**HAZARDOUS WASTE** - Waste meeting the definition set forth in 6 NYCRR Section 371.

**MANURE** - Refuse of stables and barnyards consisting of livestock and avian excreta with or without litter used for fertilizing land.

**PERSON** - Includes any individual; firm; partnership; corporation, public or private; company, public or private; municipality or other public or governmental body; professional or other association; trust; business trust; joint venture; and any combination thereof.

**RECYCLING** - The reuse of solid waste recovered from the solid waste stream into goods or materials suitable for reuse in original or changed form.

**RESIDENTIAL SOLID WASTE** - Liquid or solid waste from residential sources.

**SOLID OR LIQUID WASTE MATERIAL** - All putrescible and nonputrescible materials or substances that are discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including, but not limited to, liquids, garbage, refuse, industrial, commercial and household waste, sludges from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator ash and residue and construction and

demolition debris. In addition:

- (1) A material is "discarded" if it is abandoned by being:
  - (a) Disposed of;
  - (b) Burned or incinerated, including being burned as a fuel for the purpose of recovering usable energy; or
  - (c) Accumulated, stored or physically, chemically or biologically treated (other than burned or incinerated) instead of being disposed of.
- (2) A material is "disposed of" if it is discharged, deposited, injected, dumped, spilled, leaked or placed into or on any land or water.

**SOLID WASTE MANAGEMENT FACILITY** - Any facility employed beyond the initial solid or liquid waste collection process and managing solid or liquid waste, including, but not limited to, storage areas or facilities, transfer stations, rail-haul facilities, landfills, ashfills, disposal facilities, solid waste incinerators, resource recovery facilities, recycling facilities and waste tire storage facilities, containment ponds or pools and storage tanks or containers or any other facility of any kind designated a solid waste management facility by the DEC.

**WASTE DISPOSAL SITE** - Includes, without limitation, a place or facility used for the storage, dumping, discharge, deposit, injection, spilling, discarding, disposal, leaking, burying, burning or abandonment by the public or by any person of any solid or liquid waste material discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, radioactive material, pathological or medical waste, toxic or hazardous material, industrial and commercial waste, residential solid waste, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris and discarded automobiles.

#### **§ 91-6. Exemptions.**

A. The following are not subject to this article:

- (1) Any disposal and storage of manure in farming operations following sound agricultural practices, but not including sewage

sludge processing and spreading.

- (2) Operations or facilities which receive or collect only nonputrescible, nonhazardous solid waste and beneficially use or reuse or legitimately recycle or reclaim such waste. Such exempt facilities are limited to citizen recycling programs, town recycling operations, composting, farming operations, town highway operations and bona-fide salvage dealers.
- (3) The Town of New Baltimore sewage treatment facility, but not including any other municipal or nonmunicipal sewage sludge spreading facility.
- (4) Any bona-fide solid waste management facility previously in existence on the effective date of this article shall remain exempt under the current terms and conditions of their DEC operating permit.
- (5) Any disposal by the owner or the owner's contractor on the owner's property of any residential construction and demolition debris from the owner's property permitted under state law.

B. None of the above exemptions shall be construed to permit any activity contrary to existing building codes or other laws or as exempting any other permit required by state or local law.

#### **§ 91-7. Coordination with state law.**

- A. All relevant sections of Article 27 of the ECL and 6 NYCRR, Sections 360 to 364 and 617, are deemed to be included within and as part of this article, and any violation thereof shall be considered to constitute a violation of this article.
- B. The provisions of this article shall be interpreted in such a manner as being consistent with state law, except that the more stringent requirements of this article shall apply.

#### **§ 91-8. Facilities prohibited.**

No waste disposal site or solid waste management facility shall be constructed or allowed to commence operation.

**§ 91-9. Penalties for offenses; enforcement.**

- A. All violations of this article or any of its regulations or provisions shall be deemed Class A misdemeanors, punishable by a fine not exceeding \$5,000 or imprisonment not exceeding one year, or both. Each and every day that a violation of this article is permitted to exist shall constitute a separate offense.
- B. Any violation of this article or regulations or provisions thereof shall create a liability to the people of the town for civil penalty not to exceed \$5,000 after a hearing or opportunity to be heard upon due-notice and with the right to specification of the charges and representation by counsel at such hearing. Each and every day that a violation of this article occurs or continues shall constitute a separate violation for purposes of civil liability.
- C. Upon any violation of this article by any person, the town shall be entitled to obtain an injunction against such persons prohibiting further violations and, in addition, ordering that any solid or liquid waste disposed of in violation hereof be removed from the town and ordering that any land on which solid or liquid waste is disposed of in violation of this article be restored as nearly as possible to its former condition by the removal of any waste illegally disposed of and by such other restorative measures as are available, and further ordering that the operator remedy any effects of the violation of surrounding or adjacent properties or resources, including, without limitation, air, trees, crops, water bodies, wetlands and groundwaters.

**Chapter 93**

**STREETS AND SIDEWALKS**

**ARTICLE I**

**Laying Out of Streets**

- § 93-1. Purpose.**
- § 93-2. Definitions and word usage.**
- § 93-3. Applications for approval of plans or for dedication of streets.**
- § 93-4. Conformance required; survey and maps.**
- § 93-5. Arrangement of streets.**
- § 93-6. Minimum width.**
- § 93-7. Reserve strips.**
- § 93-8. Culs-de-sac.**
- § 93-9. Street grades.**
- § 93-10. Angles at intersections.**
- § 93-11. Planting of street trees.**
- § 93-12. Monuments.**
- § 93-13. General grading and surfacing requirements; drainage.**
- § 93-14. Conditions to be met prior to town's taking over of highway.**
- § 93-15. Required approvals.**
- § 93-16. Right to refuse to accept title.**
- § 93-17. Title.**

**ARTICLE II**

**Prior Notice of Defects**

- § 93-18. Written notice of defects required prior to civil actions.**
- § 93-19. Contents of notice.**

**§ 93-20. Service of notice.**

**§ 93-21. Submission of notices to Clerk.**

**§ 93-22. Record of notices.**

**§ 93-23. Interpretation.**

**§ 93-24. Effect on state law.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore: Art. I, 5-15-60; Art. II, 3-7-89 as L.L. No. 3-1989. Amendments noted where applicable.]**

**ARTICLE I**  
**Laying Out of Streets**  
**[Adopted 5-15-60]**

**§ 93-1. Purpose.**

The purpose of this Article is to regulate the laying out of streets, thoroughfares and/or highways in the Town of New Baltimore, Greene County, New York.

**§ 93-2. Definitions and word usage.**

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

STREET - Shall also be construed to mean a thoroughfare or highway.

B. Word usage.

(1) Wherever used in this Article, words in the singular number include the plural, and words in the plural number include the singular.

(2) The word "shall" is mandatory and not directory.



- (3) Words used in the present tense include the future.

**§ 93-3. Applications for approval of plans or for dedication of streets.**

- A. All applications for approval of plans shall be made in writing to the Town Board.
- B. All applications shall be accompanied by three (3) copies of the subdivision or street plan and profiles of each street showing existing and proposed grades.
- C. All applications for the dedication of a street to the Town of New Baltimore shall be accompanied by a proposed warranty deed conveying said street to the town, with all necessary releases from mortgagees or other claimants, together with a proper title search covering at least thirty (30) years up to the time the application is made and also a tax search. Such deed shall describe the street to be conveyed as shown on the map and shall state the date on which said map was filed in the Greene County Clerk's office and the number thereof.

**§ 93-4. Conformance required; survey and maps.**

- A. No street laid out after the date of the passing of this Article shall be accepted as a town street, except if it shall conform to the regulations hereinafter provided.
- B. The owner or all the owners shall have had the land comprising the street surveyed and mapped, and a map thereof shall have been filed in the Greene County Clerk's office.

**§ 93-5. Arrangement of streets.**

The arrangement of streets or highways hereinafter laid out shall, wherever possible, provide for the continuation of the principal streets existing in the adjoining subdivisions, or of their proper projection when the adjoining property is not subdivided, and shall be of a width as great as that of such existing streets, but in no case less than sixty (60) feet.

**§ 93-6. Minimum width.**

The minimum width of streets or highways hereinafter laid out shall be sixty (60) feet. These widths shall be measured from lot line to lot line. Said widths shall be measured normal to the lot lines on tangents, and on the radial lines on curves.

**§ 93-7. Reserve strips.**

There shall be no reserve strips controlling access to streets except where control of such strips is definitely placed in the town under the offer to dedicate.

**§ 93-8. Culs-de-sac.**

Streets designed to have one (1) end permanently closed shall be provided at the closed end with a turnaround roadway having a minimum diameter for the outside property line of at least sixty-six (66) feet.

**§ 93-9. Street grades.**

Street grades shall not exceed ten percent (10%) for main thoroughfares and fourteen percent (14%) for minor streets, nor be less than one-half percent (1/2 %) at the gutter.

**§ 93-10. Angles at intersections.**

As far as practical, acute angles between streets at their intersections are to be avoided, and where a deflection angle of more than ten degrees (10°) in a street line occurs at any point between two (2) intersecting streets, a curve of reasonably long radius is to be introduced.

**§ 93-11. Planting of street trees.**

The planting of street trees is optional with the subdivider, but if done, planting plans in duplicate shall be submitted to the Town Board and receive its approval before planting is begun.

**§ 93-12. Monuments.**

- A. Sufficient monuments shall be placed to properly reproduce each and any street laid out.
- B. Monuments shall be either granite with a crosscut in the top or of concrete.
- C. Monuments shall be three inches by three inches at the top, four feet long.

**§ 93-13. General grading and surfacing requirements; drainage.  
[Amended 7-11-1989; 12-11-2001 by L.L. No.7-2001]**

- A. Prior to being offered for dedication to the town, all streets shall be graded and surfaced as follows:
  - (1) All streets or roads offered for dedication shall be suitably and properly graded and shall meet with the approval of the Town Superintendent of Highways.
  - (2) Requirements.
    - (a) There shall be a carriageway of at least 24 feet in width.
    - (b) All trees, stumps and brush shall be cleared within the entire fifty-foot right-of-way width. On curves, an additional amount shall be cleared on the inside of the curve wherever necessary to maintain minimum visibility of 150 feet at the paving edge. On roads where curbs, catch basins and storm drains have been installed, specimen trees and shrubs may remain within the right-of-way. All stumps shall be removed.
    - (c) All topsoil and sod shall be stripped from areas to be paved, excavated or filled. Topsoil shall be stored in stockpiles during construction and replaced in planting areas between drainage ditches, woods and the right-of-way line.
    - (d) Soft areas in subgrades shall be removed and replaced with crushed stone, shale or gravel. Rough subgrades, including slopes and ditches, shall be formed and

maintained to provide proper drainage. Shaping and compacting of subgrade shall be done with a bulldozer or grader, and if a grader is used, compacting of crush run (stone), shale, or gravel shall be done with an eight- or ten-ton roller. The finished surface shall be smooth and even and true to grade within 1/2 inch of the finished grade.

- (e) The gravel, shale, crush run or stone base shall consist of four compacted layers, each five inches thick to a compacted finish thickness of 20 inches of gravel, crush run or stone; it shall meet the approval of the Superintendent of Highways and contain not more than 10% soil (dirt) binder. The top five inches shall be either crush run or item 4. Each layer shall be compacted by a roller weighing eight to 10 tons.
  - (f) The same gravel and soil binder used for the gravel base shall be used to construct a gravel shoulder compacted to a four-inch thickness and firm against the pavement. Shoulders shall be five feet wide and have a uniform slope of 1/2 inch per foot.
  - (g) Finish-grade all nonpaved surfaces within the right-of-way with a minimum of four inches of topsoil and sow with an approved grass seed. A good stand of permanent grass shall be required prior to the acceptance of the deed of the road by the Town Board.
- B. Proper drainage shall be installed where required. Reinforced pipe or corrugated plastic pipe shall be used throughout for all culverts or surface drains. When used, culvert pipes shall have a minimum size of 12 inches by 50 feet. Said pipe is to conform to the standard usage adopted by the Town Superintendent of Highways.
- C. The developer or owner laying out said street or highway shall obtain all necessary easements or rights-of-way to take care of any surface water caused by reason of development of said street or highway and by reason of the installation of culverts or surface drains. No street or highway will be taken over by the Town of New Baltimore nor approved by the Town Superintendent of Highways before such necessary easements or rights-of-way have been obtained and passed upon by the Attorney for the Town of New Baltimore.

- D. The grading and surfacing provisions set forth herein establish minimum requirements. The Town Superintendent of Highways, in his discretion and consistent with state law, may impose additional requirements in the public interest and for safety reasons.

**§ 93-14. Conditions to be met prior to Town's taking over of highway.**

No street or highway shall be taken over by the Town unless it meets all of the above requirements and the approval of the Town Superintendent of Highways. No special district improvements shall be placed or installed in any street or highway of the Town until such street or highway has been properly graded and drained as provided in this article and approved by the Superintendent of Highways.

**§ 93-15. Required approvals.**

- A. Approval in writing shall be obtained by the owners and/or developers from the New York State Department of Public Works<sup>1</sup> regarding drainage where proposed streets or highways intersect state roads and its permission to connect said streets with such roads.
- B. Approval in writing shall be obtained by the owners and/or developers from the Greene County Superintendent of Highways regarding drainage where proposed streets or highways intersect county roads and his permission to connect said street with such roads.
- C. Approval in writing shall be obtained by the owners and/or developers from the Town Superintendent of Highways regarding drainage where proposed streets or highways intersect Town roads and his permission to connect said streets with said roads.

**§ 93-16. Right to refuse to accept title.**

The Town Board may, in the exercise of its best judgment, refuse to accept title to any street, roadway or highway in said Town, notwithstanding that all of the foregoing rules and regulations have been performed and

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<sup>1</sup> The State entity now vested with this responsibility is the NYS Department of Transportation.

complied with.

**§ 93-17. Title.**

This article shall be known and may be cited as the "Street or Highway Resolution of the Town of New Baltimore."

ARTICLE II  
**Prior Notice of Defects**  
**[Adopted 3-7-89 as L.L. No. 3-1989]**

**§ 93-18. Written notice of defects required prior to civil actions.**

No civil action shall be maintained against the Town of New Baltimore, hereinafter referred to as the "town," or the Superintendent of Highways of the town or against any improvement district of the town for damages or injuries to any person or property sustained by reasons of any highway, bridge, culvert, highway marking, sign or device or any other property owned, operated or maintained by the town or any property owned, operated or maintained by any improvement district therein being defective, out of repair, unsafe, dangerous or obstructed unless proper written notice as specified herein of such defective, unsafe, dangerous or obstructed condition of such highway, bridge, culvert, highway marking, sign or device or of any property owned, operated or maintained by the town or of any property owned, operated or maintained by an improvement district therein was actually given to the Town Clerk or the Town Superintendent of Highways and there was a failure or neglect within a reasonable time after the giving of said written notice to repair or remove the defect, danger or obstruction complained of. No such action shall be maintained for damages or injuries to a person or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, culvert or any other property owned by the town or upon 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 or the Town Superintendent of Highways and there was a failure or neglect to cause said snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of said notice.

**§ 93-19. Contents of notice.**

The notice required by this Article shall contain the following:

- A. The full name, address and telephone number of the claimant.
- B. The particular property of the town or any improvement district thereof claimed to be defective, out of repair, unsafe, dangerous, obstructed and/or having snow or ice thereon, including the specific location of such property and/or condition described with such particulars as will provide the town with identification as to the whereabouts of such property and/or condition.
- C. The time such condition was first observed or made known to the claimant.
- D. A statement of the particulars in which property is defective, out of repair, unsafe, dangerous or obstructed or as to the condition complained of.

**§ 93-20. Service of notice.**

The written notice provided for by this Article shall be served by personal service within the town upon the Town Clerk or upon the Town Superintendent of Highways.

**§ 93-21. Submission of notices to Clerk.**

The Town Superintendent of Highways shall promptly transmit to the Town Clerk all written notices received pursuant to this Article.

**§ 93-22. Record of notices.**

The Town Clerk shall keep an indexed record, in a separate file, of all written notices received pursuant to this Article. The record shall state the date of receipt of said notice, the nature and location of the property, the condition stated to exist and the name and address of the person from whom the notice is received. The record of said notice shall be preserved for a period of five (5) years from the date it is received. The Town Clerk, upon receipt of such a written notice, shall immediately notify the Town Superintendent of Highways and the Town Board.

**§ 93-23. Interpretation.**

Nothing contained in this Article shall be held to repeal or modify or waive any existing requirement or statute of limitations which is applicable to these classes of actions but, on the contrary, shall be held to be additional requirements to the right to maintain such action, nor shall anything herein contained be held to modify any existing rules of law relative to the question of comparative negligence nor to impose upon the town any greater duty or obligation than that imposed by law.

**§ 93-24. Effect on state law.**

It is the purpose of this Article to supplement provisions of § 65-a of the Town Law and §§ 50-g and 50-f of the General Municipal Law of the State of New York.



## CHAPTER 98 TAXATION

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#### ARTICLE II

#### General Business Investment Tax Exemption

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**For Reconstruction, Alterations or Improvements**  
**Made To One and Two Family Residential Buildings**

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**ARTICLE I****Tax Exemption for Persons Sixty-Five (65) Years of Age or Over and Persons with Disabilities and Limited Incomes**

**[Last amended in its entirety on 2-9-09 by L.L. No. 2 of 2009]**

**§ 98-1. Statutory authority.**

This Article is adopted pursuant to the authority of Real Property Tax Law §459(c) and §467. All definitions, terms and conditions of such statute shall apply to this Article and are incorporated herein.

**§ 98-2. Real property tax exemptions for persons sixty-five (65) years of age or over and persons with disabilities and limited incomes.**

The Town Board of the Town of New Baltimore does hereby establish the following sliding scale of property tax exemptions for real property owned by persons sixty-five (65) years of age or over and for real property owned by a person with a disability whose income is limited by such disability, and used as the legal residence of such person, based on the income limits set forth below:

<b><u>Maximum Income Limit</u></b>	<b><u>Property Tax Exemption</u></b>
\$19,500.00 or less	50%
\$19,500.01-\$20,499.99	45%
\$20,500.00-\$21,499.99	40%
\$21,500.00-\$22,499.99	35%
\$22,500.00-\$23,399.99	30%
\$23,400.00-\$24,299.99	25%
\$24,300.00-\$25,199.99	20%
\$25,200.00-\$26,099.99	15%
\$26,100.00-\$26,999.99	10%
\$27,000.00-\$27,899.99	5%

**§ 98-3. Eligibility limited.**

Any person who qualifies for a property tax exemption as a person with a disability shall not be eligible for a property tax exemption as a person who is sixty five (65) years of age or over.

**§ 98-4. Medical and prescription expenses.**

The maximum income limit set forth in § 98-2. above shall be offset by medical and prescription drug expenses actually paid which are not reimbursed or paid for by insurance.

**ARTICLE II**  
**General Business Investment Tax Exemption**  
**[Adopted 3-12-1985 by L.L. No. 1-1985]**

**§ 98-5. Exemption granted.**

Pursuant to the authority of Subdivision 7 of § 485-b of the Real Property Tax Law, the partial exemption from taxation, special ad valorem levies and service charges provided by Subdivision 2 of such § 485-b to eligible real property assessed for town purposes is reduced herein. The exemption granted for the first year shall be to the extent of 50%. Thereafter such exemption shall be reduced and computed for the number of years set forth herein as follows:

<b>Year of Exemption</b>	<b>Percentage of Exemption</b>
2	45%
3	40%
4	35%
5	30%
6	25%
7	20%
8	15%
9	10%
10	5%

**ARTICLE III**  
**Exemption for Business Certified by State Job**  
**Incentive Program**  
**[Adopted 12-14-1982 by LL. No. 2-1982]**

**§ 98-6. Statutory authority.**

The Board of Assessors of the Town of New Baltimore shall have the power and is hereby directed and charged, within the purview of its jurisdiction, with the duty to carry out the purpose and intent of Article 4-A of the Commerce Law of the State of New York, § 485 of the Real Property Tax Law of the State of New York and the other applicable laws of the state, to grant to business facility owners or operators exemption from taxes and special ad valorem levies to the extent provided in the aforesaid mentioned New York State laws.

**§ 98-7. Determination of assessed value and grant of exemption.**

The Board of Assessors shall determine the assessed value of the exemption pursuant to such state laws and shall grant an exemption of 100% thereof for a maximum of 10 years for each eligible business facility. Such business facilities shall be exempt from taxes and special ad valorem levies imposed by or on behalf of the town for said period of time.

**ARTICLE IV**  
**Veterans Exemption**  
**[Adopted 3-14-2000 by L.L. No. 1-2000]**

**§ 98-8. Purpose.**

The purpose of this article is to maintain the ratio of the amount of the veterans' exemption to the assessed valuation of property on which the exemption was granted when the ratio may change as a result of a revaluation or update of assessments, as authorized by § 458, Subdivision 5, Paragraph (a) and to permit veterans to reapply for the exemption under Real Property Tax Law § 458, as authorized by Paragraph (b) of Subdivision 5 of § 458 of the Real Property Tax Law.

**§ 98-9. Increase or decrease in exemption based on revaluation of property.**

- A. If the total assessed value of real property, for which an exemption has been granted pursuant to § 458 of the Real Property Tax Law, has been increased or decreased as a result of a revaluation or update of assessments in the Town of New Baltimore, and a material change in level of assessment has been certified by the State Board of Real Property Services for the assessment roll on which such property is assessed, the Assessor shall increase or decrease the amount of such exemption by multiplying the amount of such exemption by such change in level of assessment.
- B. In accordance with Paragraph (a) of Subdivision 5 of such § 458, if the Assessor receives the certification from the State Board after the final assessment roll has been filed, the Assessor shall certify the amount of the recomputed exemption to the officer having custody and control of the roll who is directed and authorized by such statute to enter the recomputed exemption on the roll.

**§ 98-10. Option to reapply for exemption under § 458; time limit.**

A veteran who had received an exemption under such § 458, and who had opted for the alternate exemption of § 458-a of such law, may reapply for the exemption under § 458 as authorized by Paragraph (b) of Subdivision 5 of such § 458, if such veteran applies within one year from the adoption of this article.

**ARTICLE V**  
**Alternative Veterans Exemption**  
**[Adopted 4-10-2006 by L.L. No. 2-2006]**

**§ 98-11. Increase in exemption.**

The Town Board of the Town of New Baltimore hereby increases the maximum exemptions allowable from Town real property taxation pursuant to § 458-a of the Real Property Tax Law to \$18,000, \$12,000 and \$60,000, for veterans with service during wartime, service in a combat zone, and service-connected disabilities, respectively.

**§ 98-12. When effective.**

Any such real property tax exemption will apply on assessment rolls completed based upon the taxable status date March 1, 2006, and after.

**§ 98-13. Gold Star Parents. [Added 1-8-2007 by L.L. No. 2-2007]**

- A. This section is enacted pursuant to the authority set forth in and in accordance with the New York State Real Property Tax Law (RPTL) § 458-a, as amended by Chapter 326 of the Laws of 2000. All terms and definitions of RPTL § 458-a shall be equally applicable in this section.
- B. As authorized by Subdivision 7 of RPTL § 458-a, the Town of New Baltimore hereby includes a Gold Star Parent (i.e., parent of a child who died in the line of duty while serving in the United States Armed Forces during a period of war) within the definition of "qualified owner" set forth in RPTL § 458-a(1)(c), and property owned by a Gold Star Parent within the definition of "qualifying residential real property" set forth in RPTL § 458-a(1)(d), provided that such property shall be the primary residence of the Gold Star Parent. The additional exemption provided for in RPTL § 458-a(2)(c) shall not apply to real property owned by a Gold Star Parent.

**§ 98-14. Cold War Veterans. [Added 12-10-2007 by L.L. No. 10-2007]****A. Legislative Intent.**

The New York State Legislature has enacted a new tax exemption for veterans of the Cold War who served for more than one year, active duty in the United States armed forces between September 2, 1945 and December 26, 1991. The purpose of this section is to provide the benefit allowable under the State Law to veterans of the Cold War. These limits are granted pursuant to Section 458-b of the New York State Real Property Tax Law.

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

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.

- C. Pursuant to Real Property Tax Law § 458-b, qualifying residential real property owned by a Cold War Veteran shall be exempt from taxation to the extent of 10% of the assessed value of such property; provided however, that such exemption shall not exceed \$8,000 or the product of \$8,000 multiplied by the latest final state equalization rate, whichever is less.
- D. In addition to the exemption provided by paragraph C. of this section, where the Cold War Veteran received a compensation rating from the United States Veteran's Affairs or from the United States Department of Defense because of a service connected disability, the qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property, multiplied by 50% of the cold war veteran disability rating; provided, however, that such exemption shall not exceed \$40,000 or the product of \$40,000 multiplied by the latest final state equalization rate, whichever is less.
- E. If a Cold War Veteran receives the exemption provided under section 458 or 458-a of the Real Property Tax Law, the Cold War Veteran shall not be eligible to receive the exemption under section 458-b of the Real Property Tax Law. The exemption provided by paragraph C. of this section shall be granted for a period of ten years. The commencement of such ten year period shall be governed pursuant to Real Property Tax Law §458-b(2)(c)(iv).

**ARTICLE VI**  
**Partial Real Property Tax Exemption**  
**For Reconstruction, Alterations or Improvements**  
**Made To One and Two Family Residential Buildings**  
**[Adopted 2-11-2008 by L.L. No. 2-2008]**

**§ 98-15. Title.**

This Article shall be known as the "Real Property Tax Exemption for Capital Improvements to Residential Property Law".



**§ 98-16. Legislative intent.**

The Town Board of the Town of New Baltimore, Greene County, New York hereby finds that it is necessary and desirable to authorize a partial exemption from real property taxation of the increase in assessed value attributable to reconstruction, alterations, or improvements made to one and two family residential buildings. This authorization for exemption is set forth in Section 421-f of the New York State Real Property Tax Law.

**§ 98-17. Eligibility for exemption.**

- A. Eligibility for such an exemption is set forth in § 421-f of the New York State Real Property Tax Law. This exemption is limited to a minimum increase of \$3,000 in market value and a maximum increase of \$80,000 in market value. The market value of the new construction is calculated by dividing the increase in assessed value attributable to the new construction by the latest state equalization rate or special equalization rate, unless such rate is 95% or more, in which case the increased assessed value will be deemed to equal market value.
- B. Property must be used as a residence for not more than two families. In the event that a building granted such exemption ceases to be used as a residence for one or two families, or if title to the property is transferred to other than heirs or distributees of the owner, the granted exemption shall cease.
- C. In order to obtain the exemption, the greater portion of the residence, as measured by square footage, after the capital improvement, must be at least five years old.
- D. This exemption applies to reconstruction, alterations, or improvements; it does not apply to ordinary maintenance or repairs.
- E. Provided all eligibility requirements are met, such exemption shall be granted only upon application by the owner of such property on a form prescribed by the New York State Board of Real Property Services, to be made available by the Sole Assessor. The application shall be filed with the Sole Assessor on or before the March 1st taxable status date.

**§ 98-18. Exemption percentages.**

The value of an improvement qualifying for an exemption shall receive the following exemption percentages:

Year	Exemption Percentage
1	100%
2	87.5%
3	75%
4	62.5%
5	50%
6	37.5%
7	25%
8	12.5%
9	0%

**§ 98-19. Required construction start date or other time requirements.**

Reconstruction, alteration, or improvement of the property must have begun after the effective date of this Article.

**§ 98-20. Validity.**

The validity of any word, section, clause, paragraph, sentence, part, or provision of this Article shall not affect the validity of any other part of this Article, which can be given effect without such invalid part of parts.

**§ 98-21. Interim suspension of other laws.**

All ordinances, local laws or provisions of the Code of the Town of New Baltimore and any and all parts thereof which may be in conflict with the provisions of this Article are hereby suspended to the extent necessary to give this Article full force and effect during its effective period. This Article is intended to invoke the supersession provisions of Section 10(1)(ii)(d)(3) of the Municipal Home Rule Law and to supersede, during the effective period of this Article any inconsistent provisions of the Town Law, including Article 16 thereof and Sections 276(5), 274-a(8), 267-a(4) through (9) and 274-b(6), and 278 thereof.

**Chapter 100**

**TELECOMMUNICATIONS**

**ARTICLE I**

**Title; Purpose**

**§ 100-1. Title.**

**§ 100-2. Purpose.**

**ARTICLE II**

**Building Inspector Review**

**§ 100-3. Definitions.**

**§ 100-4. New telecommunications towers; restrictions.**

**§ 100-5. Shared usage of existing tower for new tower.**

**§ 100-6. Shared use of existing tall structures or existing or approved towers.**

**§ 100-7. Future shared use of new towers.**

**§ 100-8. Site plan review: submission requirements.**

**ARTICLE III**

**Guidelines for Towers**

**§ 100-9. Lot size; setbacks; new tower design.**

**§ 100-10. Vegetation; fencing.**

**§ 100-11. Discontinuance and removal.**

**§ 100-12. Notification of nearby landowners.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 7-28-1998 by L.L. No. 5-1998. Amendments noted where applicable.]**

ARTICLE I  
**Title; Purpose**

**§ 100-1. Title.**

This chapter shall be referred to as the "Telecommunications Tower Law of 1998." The purpose of this chapter is to regulate the laying out of and siting of towers in the Town of New Baltimore.

**§ 100-2. Purpose.**

- A. The Town Board of the Town of New Baltimore finds a growing need for personal wireless service facilities and commercial mobile radio service facilities, as defined in § 704 of the Telecommunications Act of 1996, based on an increase in demand to locate these facilities in the town. Accordingly, the town finds that a local law is necessary to control and direct the location, construction, maintenance and removal of these facilities within the town.
- B. The purpose of this chapter is to promote the health, safety and general welfare of the residents of the town through the establishment of minimum standards to protect property values, to avoid potential damage to adjacent properties from tower failure through proper engineering and careful siting of structures, to ensure that the residents of the town are adequately served by personal wireless services and commercial mobile radio service facilities technology, to protect a. citizens ability to receive communication signals without interference from other communication providers while preserving competition among communication providers and to maximize the use of existing towers or antenna host sites so as to minimize the number and visual impact of towers needed to serve the town.

ARTICLE II  
**Building Inspector Review**

**§ 100-3. 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 specifically designed for receiving and/or transmitting signals (for the purpose of communications).

**§ 100-4. New telecommunications towers; restrictions. [Amended 3-12-2007 by L.L. No. 3-2007<sup>1</sup>]**

The Planning Board may consider a new telecommunications tower when the applicant demonstrates that shared use of existing tall structures or approved towers is impractical. New telecommunications towers require a special use permit. Documentation and conditions shall be in accordance with the building permit application submitted to the Building Inspector.

**§ 100-5. Shared usage of existing tower for new tower.**

Where shared use of existing 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 the building permit application submitted to the building inspector.

**§ 100-6. Shared use of existing tall structures or existing or approved towers. [Amended 3-12-2007 by L.L. No. 3-2007<sup>1</sup>]**

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, where practical, is preferred to the construction of new towers.

- A. An applicant proposing to share use of an existing tall structure or existing or approved tower shall be required to submit a report of a licensed professional engineer certifying that the proposed shared use will not diminish the structural integrity and safety of the existing tall structure, or existing or approved tower, and explaining what modifications, if any, will be required in order to certify to the above. This report is to be submitted to the Building Inspector and the Planning Board.
- B. If an applicant proposing to share use of an existing tall structure, or

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<sup>1</sup> This local law also provided that it shall apply to all new special use permit applications filed on or after 3-1-2007

existing or approved tower, submits complete and satisfactory documentation, and if modifications indicated are deemed insignificant by the Building Inspector, the Building Inspector shall grant approval without further review. If the Building Inspector determines that any modifications indicated according to Subsection A are significant, or the applicant proposes a new telecommunications tower, the applicant must first obtain further review according to §§ 100-7 through 100-8 below, and, in the case of a new tower, the applicant must obtain a special use permit.

#### **§ 100-7. Future shared use of new towers.**

The applicant may be required to design a proposed new telecommunications tower to accommodate future demand for reception and transmitting facilities, where financially feasible. The applicant shall submit to the Building Inspector a letter of intent committing the new tower owner, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunications providers or users in the future. This letter, which shall be filed with the Planning Board prior to issuance of a building permit (provided that the telecommunications tower is approved according to this section), shall commit the new tower owner and his/her successors in interest to:

- A. Respond in a timely, comprehensive manner 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 or users.
- C. Allow shared use of the new tower if another telecommunications provider or user agrees, in writing, to pay charges.
- D. Make no more than a reasonable charge for shared use, based on generally accepted accounting principles- 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.
- E. Make shared use available at no charge to local public safety and service agencies.

**§ 100-8. Site plan review: submission requirements.**

An applicant must apply for site plan approval under § 90-11<sup>2</sup>. An applicant shall be required to submit a site plan in accordance with § 90-12<sup>2</sup>. The site plan shall include 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. All other applicable sections of Chapter 90, Site Plan Review, shall apply<sup>2</sup>.

ARTICLE III  
**Guidelines for Towers**

**§ 100-9. Lot size; setbacks; new tower design.**

**[Amended 3-12-2007 by L.L. No. 3-2007]**

- A. Lot size and setbacks. All proposed telecommunications towers and accessory structures shall be set back from abutting parcels, recorded rights-of-way and street lines a distance sufficient to substantially contain on site all ice-fall or debris from tower failure. In no case shall the setback from any property line be less than the height of the tower plus 25 feet.
- B. New tower design. Alternative designs shall be considered for new towers, including lattice and single-pole structures. The design of proposed new towers shall comply with the following:
  - (1) The Planning Board may request, at the expense of the applicant, a review of the application by a professional engineer licensed in New York State in order to evaluate the need for, and the design of, any new tower.
  - (2) 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.
  - (3) Maximum height shall be 180 feet in commercial and developmental zones and 100 feet in all other zones.

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<sup>2</sup> Pursuant to L.L. 4 of 2008, site plan review provisions are now found in Chapter 112, Zoning, Article VII

**§ 100-10. Vegetation; fencing.**

- A. Existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible.
- B. Fencing. Sites of proposed new towers and sites where modifications to existing telecommunications towers are proposed shall be adequately enclosed by a fence, design of which shall be approved by the Planning Board. The Planning Board may require signage to be placed upon said fence identifying the owner and/or operator of the facility, its business address, telephone numbers (business number and emergency number) and that no trespassing upon the site is allowed.

**§ 100-11. Discontinuance and removal.**

The applicant shall submit to the Planning Board a letter of intent committing the tower owner, and his/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 Planning Board prior to issuance of a building permit (assuming the telecommunications tower is approved according to this section). Obsolete or unused towers and accessory structures shall be removed from any site within six months of such notification. Failure to notify and/or to remove the obsolete or unused tower in accordance with these regulations shall be a violation of this chapter and shall be punishable according to § 112-28 of the Town Zoning Code<sup>3</sup>. If the tower owner or his/her successor refuses to remove the tower, then the Town Board may require the owner of the land on which the tower is located to remove the tower at the owner's expense.

**§ 100-12. Notification of nearby landowners.**

**[Amended 3-12-2007 by L.L. No.3-2007<sup>4</sup>]**

The applicant shall be required to mail notice of the public hearing before the Planning Board directly to all landowners whose properties are abutting or located within 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.

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<sup>3</sup> Pursuant to L.L. 4 of 2008, Enforcement of the Town Zoning Code is now covered under Chapter 112, Article XIV.

<sup>4</sup> This local law also provided that it shall apply to all new special use permit applications filed on or after 3-1-2007.



Documentation of this notification shall be submitted to the Planning Board prior to the public hearings.

**Chapter 105**

**VEHICLES AND TRAFFIC**

**ARTICLE I**

**General Provisions**

- § 105-1. Definitions; interpretation.**
- § 105-2. Authority to install traffic control devices.**
- § 105-3. Highway markings.**
- § 105-4. Penalties for offenses.**
- § 105-5. Repealer.**
- § 105-6. Severability.**
- § 105-7. When effective.**

**ARTICLE II**

**Traffic Regulations**

- § 105-8. Traffic control signals.**
- § 105-9. One-way streets.**
- § 105-10. Prohibited turns at intersections.**
- § 105-11. U-turns.**
- § 105-12. Prohibited turns on red signal.**
- § 105-13. Through highways.**
- § 105-14. Stop intersections.**
- § 105-15. Yield intersections.**
- § 105-16. School stop intersections.**
- § 105-17. Truck exclusions.**

ARTICLE III  
**Parking, Standing and Stopping**

- § 105-18. Applicability of Article; manner of parking.**
- § 105-19. No parking at any time.**
- § 105-20. No parking certain hours.**
- § 105-21. Limited-time parking.**
- § 105-22. Standing prohibited.**
- § 105-23. Stopping prohibited.**
- § 105-24. Angle parking.**
- § 105-25. Bus stops.**
- § 105-26. Taxi stands.**

ARTICLE IV  
**Removal and Storage of Vehicles**

- § 105-27. Definitions.**
- § 105-28. Impounding of vehicles.**
- § 105-29. Storage and charges.**
- § 105-30. Notice of removal.**

ARTICLE V  
**Traffic Regulations at Shopping Centers  
and Other Semipublic Areas**

- § 105-31. Parking prohibited.**

ARTICLE VI  
**Schedules**

- § 105-32. Schedule I: Traffic Control Signals.**
- § 105-33. Schedule II: One-Way Streets.**
- § 105-34. Schedule III: Prohibited Turns at Intersections.**

- § 105-35. Schedule IV: U-Turns.
- § 105-36. Schedule V: Prohibited Turns on Red Signal.
- § 105-37. Schedule VI: Through Highways.
- § 105-38. Schedule VII: Stop Intersections.
- § 105-39. Schedule VIII: Yield Intersections.
- § 105-40. Schedule IX: School Stop Intersections.
- § 105-41. Schedule X: Truck Exclusions.
- § 105-42. Schedule XI: No Parking at Any Time.
- § 105-43. Schedule XII: No Parking Certain Hours.
- § 105-44. Schedule XIII: Limited-Time Parking.
- § 105-45. Schedule XIV: Standing Prohibited.
- § 105-46. Schedule XV: Stopping Prohibited.
- § 105-47. Schedule XVI: Angle Parking.
- § 105-48. Schedule XVII: Bus Stops.
- § 105-49. Schedule XVIII: Taxi Stands.

[HISTORY: Adopted by the Town Board of the Town of New Baltimore 12-8-81 as L.L. No. 4-1981. Amendments noted where applicable.]

## ARTICLE I General Provisions

### § 105-1. Definitions; interpretation.

- A. The words and phrases used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them by Article 1 of the Vehicle and Traffic Law of the State of New York.
- B. Interpretation.
  - (1) Official time standard. Whenever certain hours are named herein or on traffic control devices, they shall mean the time standard which is in current use in this state.

- (2) Measurements. Any linear measurements specified for various orders, rules and/or regulations contained in or adopted and/or issued pursuant to this chapter shall be deemed to be approximate, and such measurements, and the order, rule and/or regulation to which they pertain shall not be affected or altered in any way by the widening of a street, by the construction of curbs, gutters or sidewalks or by any other action which might tend to obliterate the point from which such measurements were originally made. Unless otherwise indicated, measurements shall be made from the nearest curbline of the street(s) referred to in a location description or, if there is no curbline, from the nearest pavement edge.

#### **§ 105-2. Authority to install traffic control devices.**

The Superintendent of Highways shall install and maintain traffic control devices when and as required under the provisions of this chapter to make effective the provisions of this chapter and may install and maintain such additional traffic control devices as the Town Board may deem necessary to regulate, warn or guide traffic under the Vehicle and Traffic Law of the State of New York, subject to the provisions of §§ 1682 and 1684 of that law.

#### **§ 105-3. Highway markings.**

The system of traffic markings upon the New York State highways is hereby made applicable to - the town roads in the Town of New Baltimore. Said markings, when placed upon town roads, shall have the same meanings and effect as similar markings upon state roads in this town, and violations of such markings upon said town roads shall be subject to the same penalties as violations of such markings on state roads.

#### **§ 105-4. Penalties for offenses.**

Every person convicted of a traffic infraction for a violation of any provision of this chapter which is not a violation of any provision of the Vehicle and Traffic Law of the State of New York shall, for a first conviction thereof, be punished by a fine of not more than fifty dollars (\$50.) or by imprisonment for not more than fifteen (15) days, or by both such fine and imprisonment; for a second such conviction within eighteen (18) months thereafter, such person shall be punished by a fine of not more than one

hundred dollars (\$100.) or by imprisonment for not more than forty-five (45) days, or by both such fine and imprisonment; upon a third or subsequent conviction within eighteen (18) months after the first conviction, such person shall be punished by a fine of not more than two hundred fifty dollars (\$250.) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

#### **§ 105-5. Repealer.**

All prior local laws, ordinances, orders, rules and/or regulations, or parts of such, of this town regulating traffic and parking are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any local law, ordinance, order, rule and/or regulation hereby repealed prior to the taking effect of this chapter.

#### **§ 105-6. Severability.**

If any Article, section, subsection, paragraph, sentence, clause or provision of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the Article, section, subsection, paragraph, sentence, clause or provision thereof directly involved in the controversy in which such judgment shall have been rendered.

#### **§ 105-7. When effective.**

- A. Except those parts, if any, which are subject to approval under § 1684 of the Vehicle and Traffic Law of the State of New York, this chapter and any orders, rules and/or regulations adopted and/or issued hereunder shall take effect as provided by law.
- B. Any part or parts of this chapter and any orders, rules and/or regulations adopted and/or issued hereunder which are subject to approval under § 1684 of the Vehicle and Traffic Law of the State of New York shall take effect from and after the day on which approval in writing is received from the New York State Department of Transportation.

## ARTICLE II Traffic Regulations

### **§ 105-8. Traffic control signals.**

Traffic control signals shall be installed, maintained and operated at the intersections and locations described in Schedule I (§105-32).

### **§ 105-9. One-way streets.**

The streets or parts of streets described in Schedule II (§ 105-33) are hereby designated as one-way streets during the periods indicated, and vehicles shall proceed along those streets or parts of streets only in the direction indicated during the periods indicated.

### **§ 105-10. Prohibited turns at intersections.**

No person shall make a turn of the kind designated (left, right, all) at any of the locations described in Schedule III (§ 105-34).

### **§ 105-11. U-turns.**

The turning of vehicles so as to proceed in the opposite direction (otherwise known as a "U-turn") is hereby prohibited on any of the streets or parts of streets described in Schedule IV (§105-35).

### **§ 105-12. Prohibited turns on red signal.**

In accordance with the provisions of § 1111(d)(2) of the Vehicle and Traffic Law, no person shall make a right turn on a steady red signal at the locations designated in Schedule V (§ 105-36).

### **§ 105-13. Through highways.**

The streets or parts of streets described in Schedule VI (§ 105-37) are hereby designated as through highways, and stop or yield signs shall be erected on entrances thereto as indicated in said schedule.

**§ 105-14. Stop intersections.**

The intersections described in Schedule VII (§ 105-33) are hereby designated as stop intersections, and stop signs shall be erected as indicated.

**§ 105-15. Yield intersections.**

The intersections described in Schedule VIII (§ 105-39) are hereby designated as yield intersections, and yield signs shall be erected as indicated.

**§ 105-16. School stop intersections.**

The intersections described in Schedule IX (§ 105-40) are hereby designated as school stop intersections, and traffic shall stop as indicated at such times as "Full Stop - School Crossing" signs are displayed.

**§ 105-17. Truck exclusions.**

- A. All trucks, tractors and tractor-trailer combinations in excess of the indicated maximum gross weights are hereby excluded from the streets and highways, or parts thereof, described in Schedule X (§ 105-41).
- B. The regulations established in this section shall not be construed to prevent local home delivery or pickup of merchandise or other property along such highways described in Schedule X (§ 105-41).

ARTICLE III  
**Parking, Standing and Stopping**

**§ 105-18. Applicability of Article; manner of parking.**

- A. The provisions of this Article shall apply except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.



- B. Wherever a space shall be marked off on any street for the parking of an individual vehicle, every vehicle there parked shall be parked within the lines bounding such space.
- C. Except where angle parking is authorized, every vehicle stopped, standing or parked upon a highway where there are no adjacent curbs shall be so stopped, standing or parked parallel to the edge of the roadway headed in the direction of lawful traffic.

**§ 105-19. No parking at any time.**

The parking of vehicles is prohibited at all times in those streets or parts of streets described in Schedule XI (§105-42).

**§ 105-20. No parking certain hours.**

The parking of vehicles is hereby prohibited in the locations described in Schedule XII (§ 105-43) during the hours indicated.

**§ 105-21. Limited-time parking.**

The parking of vehicles is hereby prohibited in the locations described in Schedule XIII (§ 105-44) for a longer period of time than that designated, during the hours indicated.

**§ 105-22. Standing prohibited.**

The standing of vehicles is hereby prohibited in the locations described in Schedule XIV (§ 105-45) during the hours indicated.

**§ 105-23. Stopping prohibited.**

The stopping of vehicles is hereby prohibited in the locations described in Schedule XV (§ 105-46) during the hours indicated.

**§ 105-24. Angle parking.**

No person shall park a vehicle upon any of the streets or parts thereof

described in Schedule XVI (§ 105-47) attached to and made a part of this chapter except at the angle designated and only within the painted white stall lines.

#### **§ 105-25. Bus stops.**

The locations described in Schedule XVII (§ 105-48) are hereby designated as bus stops, and the parking or standing of vehicles other than buses is hereby prohibited in such locations.

#### **§ 105-26. Taxi stands.**

The locations described in Schedule XVIII (§ 105-49) are hereby designated as taxi stands, and the standing or parking of vehicles other than taxis is hereby prohibited in such locations. Taxis using such stands shall not be left unattended and shall be subject to all other vehicles and traffic regulations of the town.

### **ARTICLE IV Removal and Storage of Vehicles**

#### **§ 105-27. Definitions.**

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

VEHICLE - Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

#### **§ 105-28. Impounding of vehicles.**

Any vehicle parked or abandoned on any highway within the Town of New Baltimore during a snow storm, flood, fire or other public emergency or found unattended where it constitutes an obstruction to traffic, or any place where stopping, standing or parking is prohibited, may be removed by the Town Police or by the Town Highway Superintendent.

**§ 105-29. Storage and charges.**

After removal of any vehicle, as provided in this Article, the Town Police or the Town Highway Superintendent, whichever authority may have effectuated said removal, may provide for the storage of such vehicle in a suitable place at the expense of the owner. Such owner or person in charge of the vehicle may redeem same upon payment of all expenses and charges actually and necessarily incurred for such removal and storage.

**§ 105-30. Notice of removal.**

The Town Superintendent of Highways shall without delay report the removal and the disposition of any vehicle removed by him, as provided in this Article, to the Town Police, and it shall be the duty of said Town Police to ascertain to the extent possible the owner or person in charge of any vehicle removed and stored pursuant to this Article and to notify said person of the removal and disposition of such vehicle and of the amount which will be required to redeem same.

ARTICLE V  
**Traffic Regulations at Shopping Centers  
and Other Semipublic Areas**

**§ 105-31. Parking prohibited.**

No driver shall stop, park or stand any vehicle in any part of an area designated as a no-parking zone in any of the parking areas designated below:

<b>Name of Semipublic Area</b>	<b>Location of No-Parking Zone</b>
--------------------------------	------------------------------------

**(RESERVED)**

**ARTICLE VI  
Schedules****§ 105-32. Schedule I: Traffic Control Signals.**

In accordance with the provisions of § 105-8, traffic control signals shall be installed, maintained and operated at the following intersections and locations:

**Intersection (Location)  
(RESERVED)****§ 105-33. Schedule II: One-Way Streets.**

In accordance with the provisions of § 105-9, the following described streets or parts of streets are designated as one-way streets in the direction indicated:

<b>Name of Street</b>	<b>Direction</b>	<b>Hours</b>	<b>Limits</b>
<b>(RESERVED)</b>			

**§ 105-34. Schedule III: Prohibited Turns at Intersections.**

In accordance with the provisions of § 105-10, no person shall make a turn of the kind designated below at any of the following locations:

<b>Name of Street</b>	<b>Direction of Travel</b>	<b>Prohibited Turn</b>	<b>Hours</b>	<b>At Intersection of</b>
<b>(RESERVED)</b>				

**§ 105-35. Schedule IV: U-Turns.**

In accordance with the provisions of § 105-11, no person shall make a U-turn at any of the following locations:

Name of Street

Location

(RESERVED)

**§ 105-36. Schedule V: Prohibited Turns on Red Signal.**

In accordance with the provisions of § 105-12, no person shall make a right turn at a steady red signal at the following locations:

Sign Facing  
Traffic onDirection  
of TravelAt Intersection  
of

(RESERVED)

**§ 105-37. Schedule VI: Through Highways.**

In accordance with the provisions of § 105-13, the following streets or parts of streets are designated as through highways, and stop or yield signs or traffic control signals shall be erected at entrances thereto as indicated below:

Name of Street

Limits

Entrance

Direction  
of TravelTraffic  
Device

(RESERVED)

**§ 105-38. Schedule VII: Stop Intersections.**

In accordance with the provisions of § 105-14, the following described intersections are designated as stop intersections:

Stop Sign on

Direction  
of TravelAt Intersection  
Of

(RESERVED)

**§ 105-39. Schedule VIII: Yield Intersections.**

In accordance with the provisions of § 105-15, the following described intersections are designated as yield intersections:

<b>Yield Sign on</b>	<b>Direction of Travel</b>	<b>At Intersection of</b>
<b>(RESERVED)</b>		

**§ 105-40. Schedule IX: School Stop Intersections.**

In accordance with the provisions of § 105-16, the following intersections or locations are designated as school stop intersections:

<b>Sign on</b>	<b>At Intersection of (or Location)</b>
<b>(RESERVED)</b>	

**§ 105-41. Schedule X: Truck Exclusions.**

In accordance with the provisions of § 105-17, all trucks, tractors and tractor-trailer combinations in excess of the indicated maximum gross weights are hereby excluded from the following streets:

<b>Name of Street</b>	<b>Maximum Weight</b>	<b>Location</b>
<b>(RESERVED)</b>		

**§ 105-42. Schedule XI: No Parking at Any Time.**

In accordance with the provisions of § 105-19, No person shall park a vehicle at any time upon the following streets or parts of streets:

<b>Name of Street</b>	<b>Side</b>	<b>Location</b>
Main Street	West	From Church Street north for 200 feet

Old Route 9W <b>[Amended 6-12-84]</b>	Both	From the boundary on the North with the Town of Coeymans to where Old Route 9W adjoins State Highway 9W
Town Road 23	Both	From State Highway 9W to Town Road No. 24
Town Road No. 107	Both	From State Highway 9W to

### **§ 105-43. Schedule XII: No Parking Certain Hours.**

In accordance with the provisions of § 105-20, the parking of vehicles is prohibited in the following locations during the hours indicated:

<b>Name of Street</b>	<b>Side</b>	<b>Hours</b>	<b>Location</b>
<b>(RESERVED)</b>			

### **§ 105-44. Schedule XIII: Limited-Time Parking.**

In accordance with the provisions of § 105-21, the parking of vehicles is prohibited in the locations described below for a longer period of time than that designated, during the hours indicated:

<b>Name of Street</b>	<b>Side</b>	<b>Time Limit</b>	<b>Hours</b>	<b>Location</b>
<b>(RESERVED)</b>				

### **§ 105-45. Schedule XIV: Standing Prohibited.**

In accordance with the provisions of § 105-22, the standing of vehicles is prohibited in the following locations during the hours indicated:

<b>Name of Street</b>	<b>Side</b>	<b>Hours</b>	<b>Location</b>
<b>(RESERVED)</b>			

**§ 105-46. Schedule XV: Stopping Prohibited.**

In accordance with the provisions of § 105-23, the stopping of vehicles is prohibited in the following locations during the hours indicated:

Name of Street	Side	Hours	Location
(RESERVED)			

**§ 105-47. Schedule XVI: Angle Parking.**

In accordance with the provisions of § 105-24, no person shall park a vehicle while upon any of the following streets or parts of streets, except at the angle indicated:

Name of Street	Side Angle	Location
(RESERVED)		

**§ 105-48. Schedule XVII: Bus Stops.**

In accordance with the provisions of § 105-25, parking or standing is prohibited, excluding buses, at the following locations hereby designated as bus stops:

Name of Street	Side	Location
(RESERVED)		

**§ 105-49. Schedule XVIII: Taxi Stands.**

In accordance with the provisions of §105-26, parking or standing is prohibited, except for taxis, at the following locations:

Name of Street	Side	Location
(RESERVED)		



**Chapter 107**

**VEHICLES, JUNK**

**§ 107-1. Title.**

**§ 107-2. Legislative intent.**

**§ 107-3. Definitions.**

**§ 107-4. Restriction on open storage.**

**§ 107-5. Permit required; application; issuance.**

**§ 107-6. Abandonment or storage of vehicles.**

**§ 107-7. Penalties for offenses.**

**§ 107-8. Injunctive relief.**

**§ 107-9. Removal.**

**§ 107-10. Authority to inspect.**

**§ 107-11. Construal of provisions.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 6-11-85 as L.L. No. 2-1985. Amendments noted where applicable.]**

**§ 107-1. Title.**

This chapter shall be known as the "Junk Vehicle Law of the Town of New Baltimore."

**§ 107-2. Legislative intent.**

A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants, and such an environment is deemed essential to the economy of the town and the general welfare of its citizens. The unrestrained accumulation of motor vehicles not in operating condition is a hazard to such health, safety and welfare of the citizens of the town, necessitating the regulation and restraint thereof.

**§ 107-3. Definitions.**

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

COMMERCIAL GARAGE - Any business repairing motor vehicles or any part thereof.

ENFORCEMENT OFFICER - The Building Inspector of the town, unless the Town Board, by resolution, designates some other town officer as "enforcement officer" or, by resolution, establishes the position of "enforcement officer" for the town and appoints some qualified person thereto at a salary specified in such resolution.

JUNK VEHICLE - Any motor vehicle, whether automobile, bus, truck, tractor, mobile home, motorcycle, motor bicycle, minibicycle or snowmobile, or any other contraption originally intended for travel on the public highways, which is abandoned, stored, left or located by its owner or any other person on public or private property in the Town of New Baltimore.

- (1) Any motor vehicle which is not registered by the State of New York for operation on the public highways and which has not been registered for the preceding twelve (12) months or is not in a condition to meet the requirements for the New York State vehicle inspection sticker shall be defined as a "junk vehicle."
- (2) For the purposes of this chapter, a motor vehicle registered as a farm vehicle or which is operable and used by the owner on his own property for the transport of wood, snowplowing or similar uses shall not be considered a "junk vehicle."
- (3) For the purposes of this chapter, "abandoned," "stored" or "located" shall mean when the "junk vehicle" is visible from a public highway or a dwelling unit on a neighboring property.

LEGAL OCCUPANT - Any person who, singularly or together with other persons, is in possession of real property pursuant to an agreement with the owner thereof. The term shall include tenants, contract vendees and licensees.

OPEN STORAGE - Storage other than in a completely enclosed structure, such as a garage constructed of wood, brick or metal.

OWNER - A person owning real property in the town. A parcel of real property owned by more than one (1) person shall be considered as having each such person be an "owner."

PARCEL OF PROPERTY - Real property appearing on the tax rolls of the town as one (1) unit.

PERSON - Includes natural persons, corporations, copartnerships, unincorporated associations or any other organization of two (2) or more persons.

TOWN - The Town of New Baltimore and its officers and agents; also public and private areas within the town.

- B. The term "shall" is always mandatory. Words used in the singular shall include the plural and vice versa.

#### **§ 107-4. Restriction on open storage.**

Open storage of one (1) or more junk vehicles shall not be permitted on private or public property within the town, except as permitted by this chapter.

#### **§ 107-5. Permit required; application; issuance.**

- A. Any person wishing to store or locate a junk vehicle on a parcel of property must first obtain a permit from the town's enforcement officer allowing such storage.
- B. That permit may be granted after an application has been made showing:
- (1) The make, model and year of the vehicle.
  - (2) The name and address of the last registered owner and last registration plate number as issued by the appropriate Department of Motor Vehicles.
  - (3) The vehicle identification number.

- (4) The nature of the applicant's ownership or title to such vehicle.
  - (5) The purpose(s) for which the junk vehicle(s) are being stored or located.
- C. Purposes for which junk vehicles can be stored or located are as follows:
- (1) Antique or classic car restoration for vehicles twenty-five (25) or more years old. A permit will be issued on an annual basis, renewable for a year at a time.
  - (2) Restoration. A permit will be issued for a one-year period, renewable for an additional one-year period. The renewal shall be granted only if the junk vehicle has been substantially improved since the issuance of the original permit. "Substantially improved" shall mean that the vehicle meets fifty percent (50%) of the standards for highway use, i.e., a license inspection sticker.
  - (3) Removal of parts or components. A permit will be issued for a sixty-day period, renewable for one (1) sixty-day period only.
  - (4) A permit for a commercial garage will be issued to an applicant who is registered with the New York State Department of Motor Vehicles as a motor vehicle repair shop and whose parcel of property upon which the junk vehicles are to be stored is in an area designated as a Commercial District pursuant to the Town Zoning Ordinance, or who has a special permit issued by the Town Zoning Board of Appeals to operate a motor vehicle repair shop in any other district, or who has a nonconforming use which predated the adoption of the Town Zoning Ordinance.
  - (5) Permits shall not be granted under this chapter for dealers in secondhand junk and auto parts. Such dealers must comply with the Town ordinance licensing and regulating dealers in secondhand junk and auto parts activities and businesses.

#### **§ 107-6. Abandonment or storage of vehicles.**

Any owner or legal occupant of a parcel of property in the Town who shall abandon, store, locate, leave or allow or condone any other person to abandon, store, locate or leave a junk vehicle upon a parcel of property owned or occupied by him within said town, contrary to the provisions

hereof, shall be guilty of a violation hereof. Any person, whether as owner or driver of a vehicle or an operator of a towing vehicle or carrier, who shall abandon, store, locate or leave a junk vehicle upon a parcel of property in the Town of which he is not either the owner or legal occupant, without the written permission of the legal occupant, shall be guilty of a violation hereof.

#### **§ 107-7. Penalties for offenses.**

- A. A violation of this chapter shall be punishable by a fine of up to \$100 for each violation and by imprisonment for up to 30 days, or by both such fine and imprisonment. A violation of this chapter shall also subject the violator to a civil penalty of \$100 for each violation, less any criminal monetary fine which may have been imposed. Each junk vehicle abandoned, stored, left or located in violation of this chapter shall constitute a separate violation. Each week of a continuous violation shall constitute a separate and distinct violation.
- B. If a fine is imposed and is not paid within 30 days or such other time period established by the court, then following mailing of the notice described herein, the unpaid fines shall be assessed by the Town and added to the current tax roll by the Town as an unpaid charge attributable to the real property. Prior to assessing this charge for unpaid fines, the Town shall mail a notice to the fine debtor at his/her last known address by regular first-class mail stating that unless the fines are paid within 15 days of the notice date, they will be assessed and collected as an unpaid charge attributable to the real property. **[Added 11-13-2006 by L.L. No.3-2006]**

#### **§ 107-8. Injunctive relief.**

In addition to the penalties set forth above, the Town may commence an action in its own name against any person in any civil court of competent jurisdiction to seek an injunction to enforce compliance with this chapter. Such an action for injunctive relief may be independent of or a part of an action to collect the civil penalties as hereinabove provided.

#### **§ 107-9. Removal.**

In addition to any penalty or fine as provided in § 107-7 hereof or the remedy provided in § 107-8 hereof, any junk vehicle may be removed from the premises upon which it is located by the Town in the manner hereinafter provided:

- A. The enforcement officer, upon detecting a junk vehicle, shall serve written notice on the person owning the parcel of property on which the same is located, ordering such person to remove the same or cause the same to be removed therefrom within 30 days of the date of such service. Such notice shall contain a description of the parcel of property, a statement as to the location thereon of a junk vehicle and a reference to this chapter and to the fact that the location of such junk vehicle on such parcel of property is in violation of this chapter. If such parcel of property is owned by more than one person, personal service on any one of such owners shall suffice; however, as to any owner not personally served with such notice, or if no owner can be located upon whom to make personal service, the enforcement officer shall mail such notice to owners not personally served, or to the owner and to all owners if no owner was personally served, by registered mail to their or his last known address as shown on the latest completed assessment roll of the town. In addition, the enforcement officer shall post conspicuously a copy of such notice on the parcel of property upon which said junk vehicle is located.
- B. At the expiration of thirty (30) days after the service or mailing and posting of such notice, if such junk vehicle has not been removed, the enforcement officer shall report such fact to the Town Board in writing. Such report shall cite the violation, the notices given as required hereunder and the failure to comply therewith and may include or refer to photographs of such junk vehicle and of the parcel of property upon which it is located. Such report shall be entered in the official minutes of the Town Board by the Town Clerk, and any such photographs shall be filed in the Town Clerk's office. The Town Board shall thereafter hold a public hearing on ten (10) days' prior notice published in the official newspaper of the town and posted on the signboard of the town. Such notice of hearing shall include a statement that the purposes of the hearing are.. to give the person owning such junk vehicle an opportunity to be heard as to why the same has not been removed and also for the Town Board to receive proposals for the removal of such junk vehicles.
- C. After the hearing, the Town Board may contract for the removal of such junk vehicle. Any expense to the town in accomplishing the removal of such junk vehicle may be assessed by the. Town Board on the real property from which said junk vehicle was removed, and the expense so assessed shall constitute a lien and charge upon the real property on which it is levied until paid or otherwise satisfied or discharged as other town charges.

- D. Any junk vehicle found to have been abandoned in the town in violation of § 1224 of the Vehicle and Traffic Law of the State of New York shall be removed and disposed of in the manner and as provided in said § 1224. The enforcement officer is authorized as the proper person to execute all notices and documents required to be given, mailed or filed with the Department of Motor Vehicles or any person.
- E. Any junk vehicle released to the town by its owner shall be disposed of at a public auction to the highest bidder, and the proceeds shall be added to the general fund of the town. Any junk vehicle released to the town by the owner or legal occupant of the , parcel of property from which it is removed, who is not the owner of the junk vehicle, shall be disposed of by the procedure set forth in Subsections A, B, C and D hereof. In the event that the junk vehicle is released to the town by the owner or legal occupant of the parcel of property who is not the owner of the junk vehicle, there shall be no expense for the removal thereof chargeable to the person so releasing said junk vehicle.

#### **§ 107-10. Authority to inspect.**

The town's enforcement officer shall have and is hereby given the authority to go upon any parcel of real property in the town, public or private, exclusive of enclosed structures or buildings, at any time during daylight hours, to examine and inspect any vehicles or parts or components thereof to determine whether a violation of this chapter has been committed or to determine the condition of any vehicle or parts or components thereof. The officer shall notify the property owner, in writing, prior to entering on such property.

#### **§ 107-11. Construal of provisions.**

Nothing herein contained shall be interpreted as amending or abrogating the effect or provisions of the Zoning Ordinance or the Junkyard Ordinance of the Town of New Baltimore, or any amendments to such ordinances.

**Chapter 109**

**WATER RESOURCES PROTECTION**

**§ 109-1. Findings; purpose.**

**§ 109-2. Title.**

**§ 109-3. Definitions.**

**§ 109-4. Restrictions and requirements.**

**§ 109-5. Moratorium on new mining.**

**§ 109-6. Penalties for offenses; liability for damage and costs.**

**§ 109-7. Existing development and land use.**

**[HISTORY: Adopted by the Town Board of the Town of New Baltimore 1-14-1992 as L.L. No. 1-1992. Amendments noted where applicable.]**

**§ 109-1. Findings; purpose.**

The Town Board finds that protection of the town's groundwater, surface waters, wetlands, watersheds, creeks, ponds, lakes, streams, rivers, aquifers and other water resources from degradation and pollution is in the best interest of the town because of present or projected use of such water resources. The safeguarding of the town's water resources will help protect the public health, safety and welfare of the inhabitants of the town. The Town Board further determines that it is in the best interest of its inhabitants to protect and conserve the character, the clean and attractive environment, the stability and the value of all parts of the town by enacting this chapter.

**§ 109-2. Title.**

This chapter shall be known and may be cited as the "Water Resources Protection Law of the Town of New Baltimore."



**§ 109-3. Definitions.**

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

**ABANDON** (and its derivatives) - Includes to stop, to suspend or to leave unsupervised for thirty (30) days or longer.

**PERSON** - Includes any individual; firm; partnership; corporation, public or private; company, public or private; municipality or other public or governmental body; professional or other association; trust; business trust; joint venture; and any combination thereof.

**TOWN** - The Town of New Baltimore, Greene County, New York.

**TOWN BOARD** - The Town Board of the Town of New Baltimore.

**WASTE DISPOSAL SITE** - Includes, without limitation, a place or facility used for the storage, dumping, discharge, deposit, injection, spilling, discarding, disposal, leaking, burying, burning or abandonment by the public or by any person of any solid or liquid waste material discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, radioactive material, pathological or medical waste, toxic or hazardous material, industrial and commercial waste, rubbish, tires, ashes, contained gaseous material, incinerator residue, construction and demolition debris and discarded automobiles. Materials which are being beneficially used, including compost, wood chips used for mulch, landscaping, agricultural or erosion control purposes, manure or crop residuals resulting from normal farming operations, and facilities at which recyclables are collected are specifically excluded from this definition.

**WATER RESOURCES** - Includes groundwater, surface waters, wetlands, watersheds, creeks, ponds, lakes, streams, including intermittent, rivers, tributaries, aquifers and other water resources found within, flowing through or flowing under the town and all plant and animal life associated therewith.

**WETLANDS** - Includes all areas defined as wetlands by state or federal law or regulation.

**§ 109-4. Restrictions and requirements.**

No person shall engage in any of the following prohibited actions or activities:

- A. Disposal or injection wells. The installation or use of disposal or injection wells is prohibited, except for heat pumps used for residential purposes.
- B. Hazardous substances or wastes. Without all required state or federal permits, the storage for use of hazardous substances or wastes, as defined by the United States Environmental Protection Agency or the New York Department of Environmental Conservation, is prohibited.
- C. Wastewater lagoons and pits. Use of industrial wastewater lagoons and pits for storage of industrial wastewater is prohibited. Lagoons or pits for the temporary storage of agricultural wastewater or for manure shall be either under permit by the New York State Department of Environmental Conservation or constructed and managed in accordance with best management practices.
- D. Disposal. Disposal of any hazardous substance or waste or of radioactive material is prohibited.
- E. Fertilizer storage. All bulk storage of fertilizers for commercial use must be within a completely enclosed building or structure that will prevent any seepage or runoff and that is constructed and managed in accordance with best management practices.
- F. Pesticide use. Use, storage or application of all pesticides shall be under permit as provided by the New York State Environmental Conservation Law or in accordance with best management practices.
- G. Salt and coal stockpiles. The storage of salts or coal is prohibited except in a completely enclosed building or structure that will prevent any seepage or runoff containing such materials.
- H. Waste disposal sites. The siting, operation and/or maintenance of all waste disposal sites is prohibited within two thousand five hundred (2,500) feet of a water resource.
- I. Abandoned wells. All abandoned wells shall be sealed in accordance with the requirements of the New York State Department of Health or with best management practices. For purposes of this subsection, an

"abandoned well" means a well whose use has been permanently discontinued or a well which is in such a state of disrepair that continued use for the purpose of obtaining a satisfactory groundwater supply is impracticable.

#### **§ 109-5. Moratorium on new mining.**

In accordance with § 109-1 of this chapter, the Town Board hereby declares a moratorium on all new mining of sand, gravel, topsoil, rock, shale, clay and/or other natural mineral deposits which require a permit pursuant to the provisions of § 23-2711 of the Environmental Conservation Law of the State of New York. For purposes of this section, "mining" shall be defined as in § 23-2705 of the Environmental Conservation Law of the State of New York. Said moratorium shall remain in force and effect for a period of twelve (12) months from the effective date of this chapter and may be extended by the Town Board if deemed necessary by said Board.

#### **§ 109-6. Penalties for offenses; liability for damage and costs.**

- A. Violation of this chapter shall give rise to appropriate enforcement action and may give rise to civil action.
- B. Any person who permits, takes part in or assists in the violation of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punished by a fine of not less than the sum of five hundred dollars (\$500.) and not more than the sum of fifty thousand dollars (\$50,000.), by up to fifteen (15) days' imprisonment, or by both. When a violation of this chapter is continuous, each twenty-four hour period shall constitute a separate and distinct offense.
- C. In the event that a convicted violator is a corporation, company or professional association, that entity may be assessed a fine double the maximum amount hereunder. If the convicted violator is a corporation, company or professional association, in addition to the fine that may be assessed, each corporate officer of said entity and the entire Board of Directors of said entity may be prosecuted hereunder as individual violators above and beyond any conviction and/or sentencing against the entity with which such individual is associated.
- D. Any person who violates this chapter shall be liable to the town for any expense, loss or damage, including damage to the environment, resulting from such violation and shall be required, at the violator's

sole expense, to remedy any effects of the violation on surrounding or adjacent properties or water resources.

- E. Should the town deem it necessary for the protection of the health and well-being of its inhabitants, the Town Board or its legally authorized representatives may enter upon the premises or land of any person or legal entity in violation of this chapter or suspected to be in violation of this chapter for purposes of monitoring, cleanup and controlling in any way necessary any existing or potential threat to the town's water resources located on or beneath said premises or land. The expenses and costs associated with said monitoring, cleanup and/or control shall be assessed against the offending person, person holding legal title, owner and/or occupant of said premises or land and/or shall be assessed against the real property and shall constitute a lien and charge against said real property until fully and completely discharged.
- F. The Town board in the name of the town may maintain a legal or equitable action or proceeding in any court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provision of this chapter.

#### **§ 109-7. Existing development and land use.**

Existing development and land use are not subject to the requirements of this chapter and are considered permitted nonconforming uses. Any abandonment for three (3) months or longer of or change in a permitted nonconforming use will be subject to the requirements of this chapter. Notwithstanding the foregoing, if any permitted nonconforming use is found to pose a potential or imminent health hazard or threat to the town's water resources, it shall be deemed a violation of this chapter.

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**[HISTORY: Zoning adopted by the Town Board of the Town of New Baltimore 10-11-1977 and subsequently amended. Prior Ordinance repealed and replaced by Local Law 4 of 2008 adopted by Town Board on 11-10-2008. Subsequent amendments noted where applicable.]**

**ARTICLE I**  
**Introductory Provision**

**§ 112-1. Short title.**

This chapter shall be known as the "Town of New Baltimore Zoning Code."

**§ 112-2. Authority.**

Enactment of this chapter by the Town is pursuant to Article 16 of the Town Law of the State of New York.

**§ 112-3. Purpose and objective of the chapter.**

The purpose of this chapter is to broadly protect the public health, safety, and welfare of the residents of the Town of New Baltimore and to protect their property through the land use regulations under the authority of the New York State Town Law and in accordance with the Town of New Baltimore Comprehensive Plan.

**§ 112-4. Application of regulations.**

Except as hereinafter provided, no new building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with this chapter.

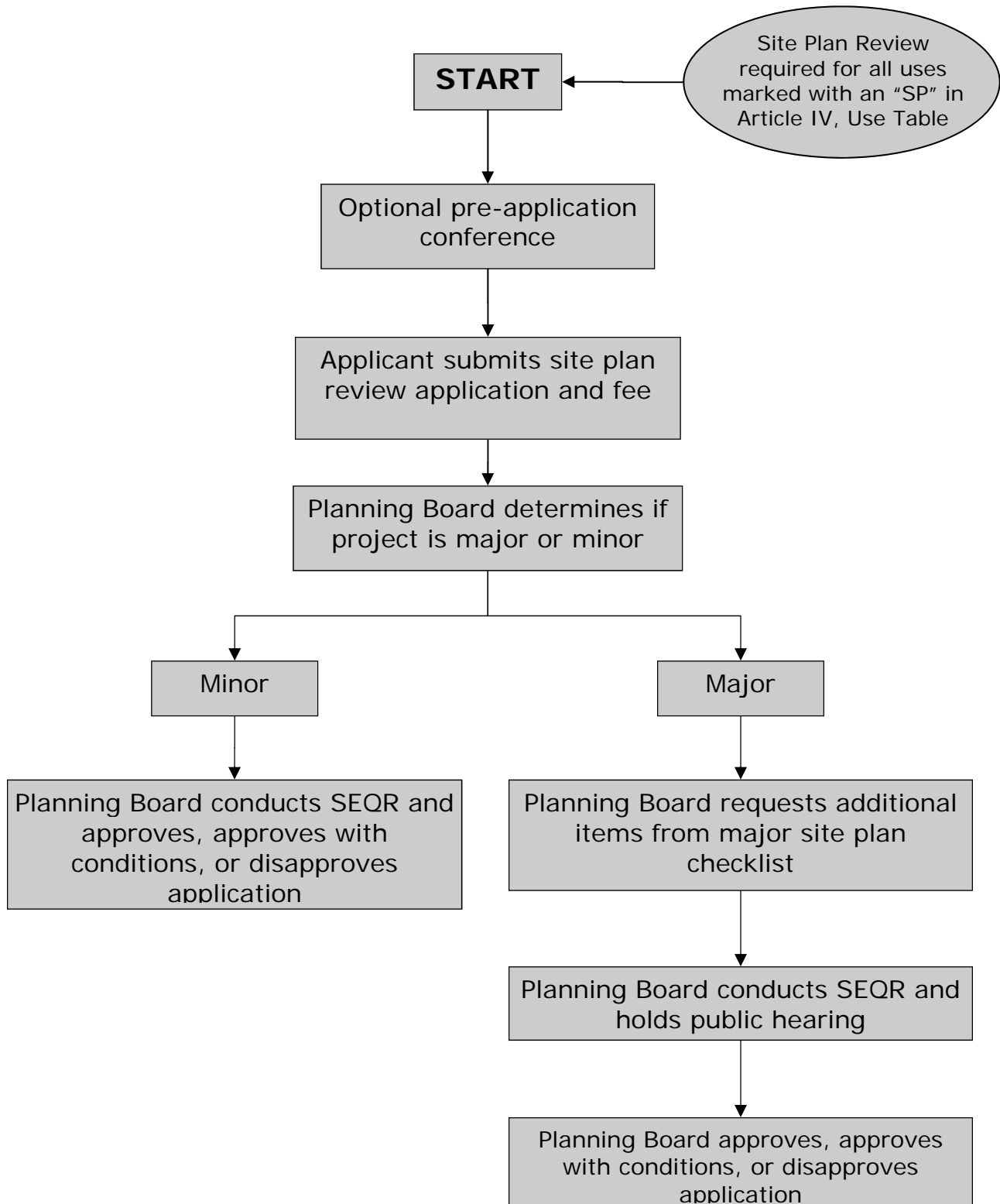
**ARTICLE II**  
**Permit and Approval Process**

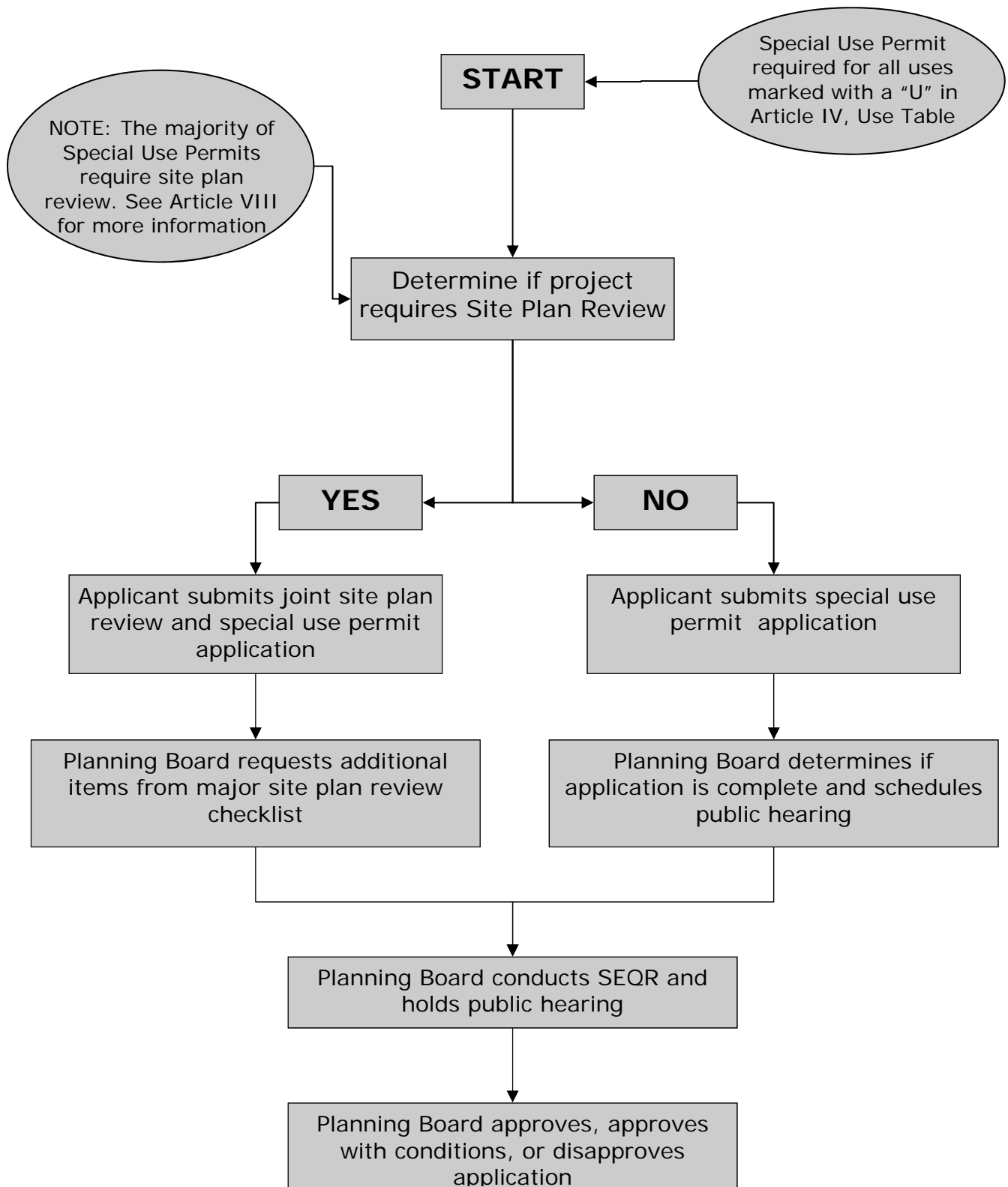
**§ 112-5. Review and approval.**

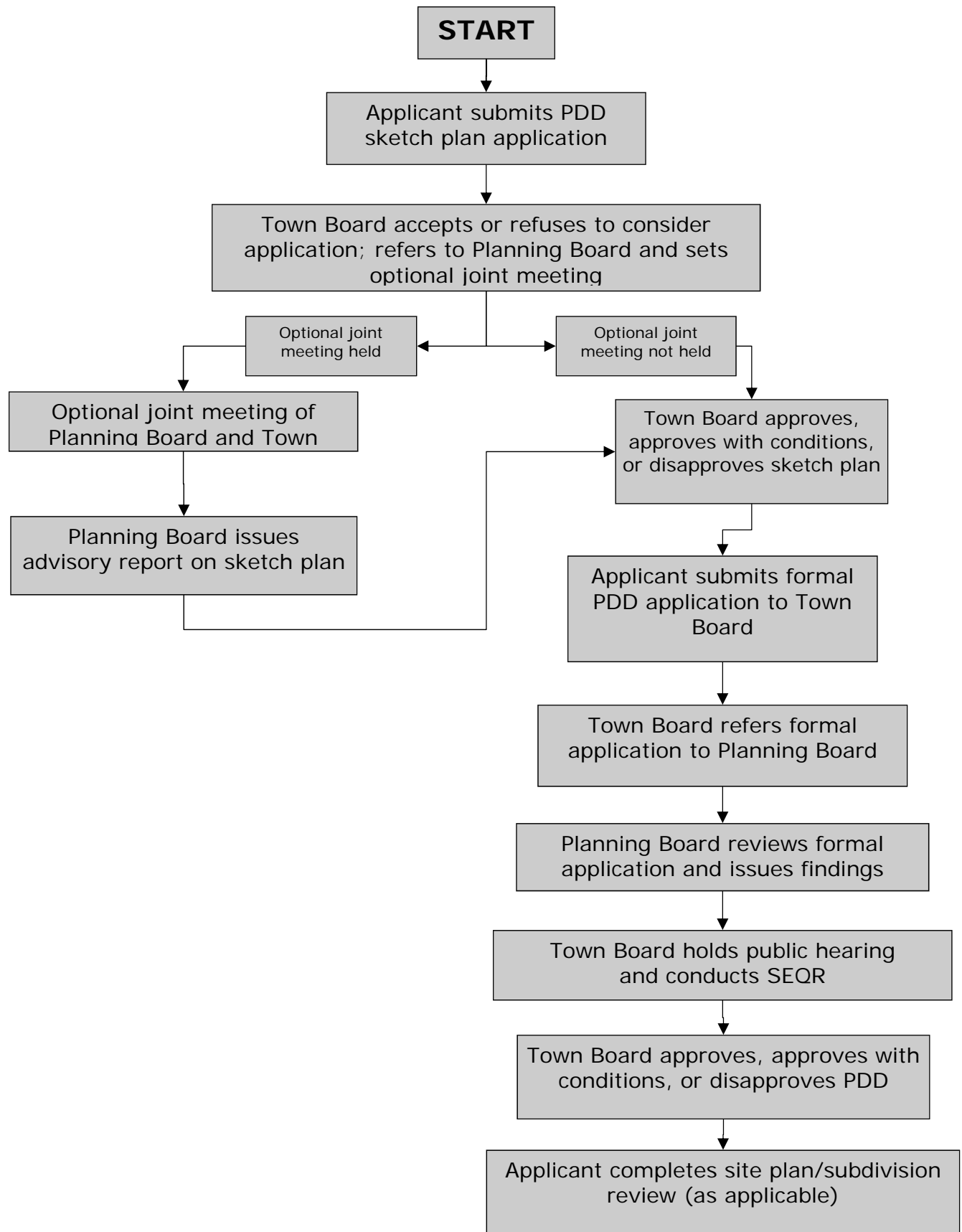
A. Approval Required - No development may be commenced within the Town prior to the issuance of the relevant permit or approval.

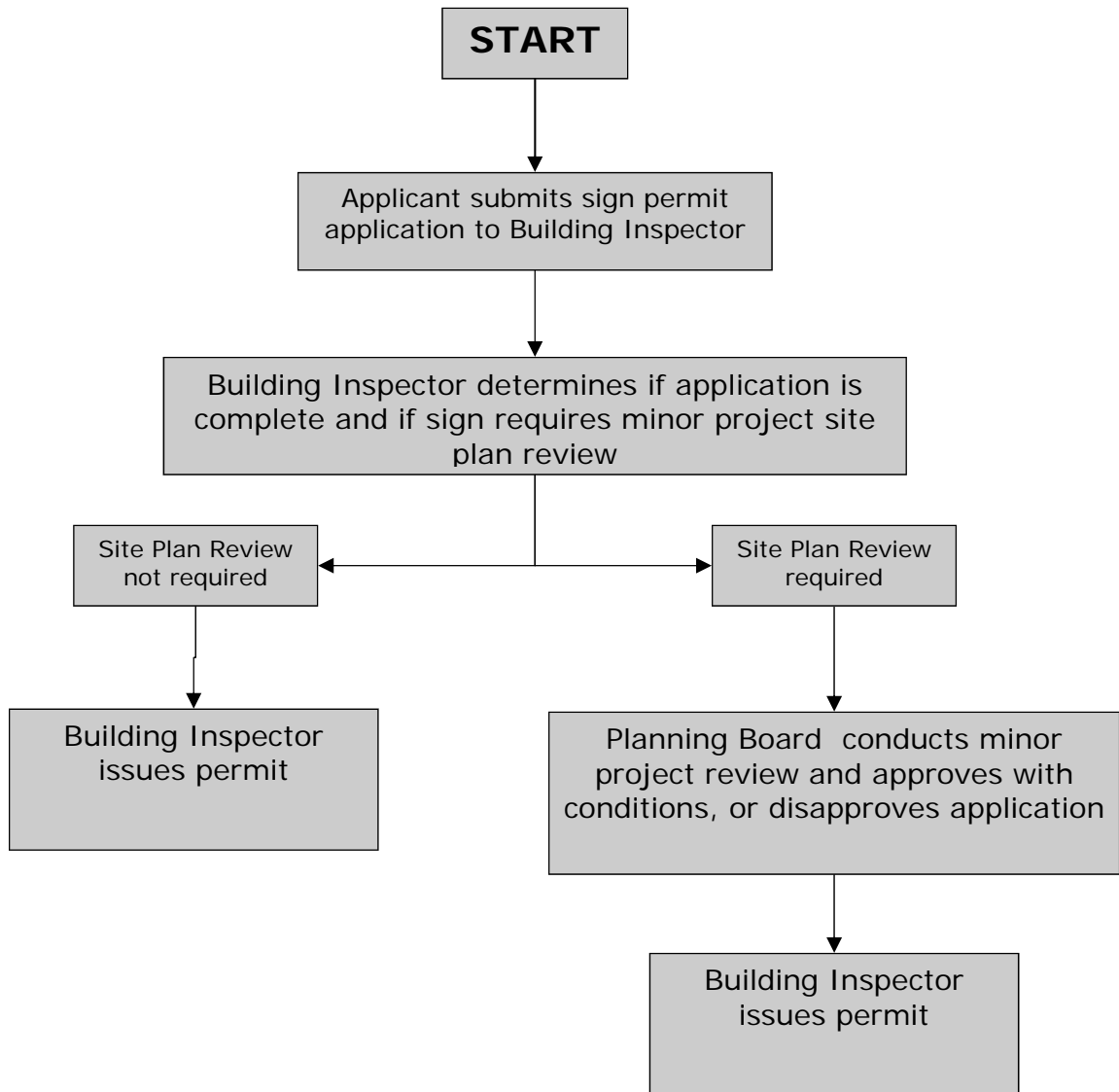
B. Types of Approval

- (1) SITE PLAN REVIEW -- All site plan review applications shall be subject to the Site Plan Review provisions of Article VII.
- (2) SPECIAL USE PERMITS -- All special use permit applications shall be subject to the Special Use Permit provisions of Article X and may be subject to the Site Plan Review provisions of Article VII.
- (3) SIGN PERMIT – All sign permit applications shall be subject to the sign regulations contained in Article VI, Supplemental Regulations.
- (4) PLANNED DEVELOPMENT DISTRICT – All Planned Development District applications shall be subject to the provisions of Article VIII.
- (5) VARIANCES – All area and use variances shall be subject to the provisions of Article XIII.

***Site Plan Review***

***Special Use Permit***



***Sign Permit***

**ARTICLE III**  
**Zoning Districts and Map**

**§ 112-6. Establishment of districts and purposes.**

The zoning districts established by this chapter shall be as follows:

**A. RA – Rural Residential/Agricultural District**

The Rural Residential/Agricultural District comprises most of the town. With some exceptions, the land conditions are characterized by poor drainage, impermeable soil, rock outcroppings and steep slopes. There is little likelihood of ever serving this district with public water or sewer.

The present nature of the town is rural, with a few farms, and many residents who do some farming, i.e. raise horses, chickens, cows, garden, etc.

No central commercial area has really been developed, but there are some small pockets in this zone which historically were home to small businesses. Development of some small businesses along state and county highways in this zone should not be discouraged, but it should be permitted in such a way as to blend with the location and surrounding land uses. By using a special permit process, neighbors can be given a say at a public hearing about the proposed commercial use. Consideration can be given to building design, landscaping, traffic problems, signs, and parking.

**B. CC – Center Commercial**

This zone is centrally located along the Route 9W transportation corridor. The intent of the Center Commercial District is to acknowledge its central location along the Town's major commercial and transportation corridor, and to provide for a mix of current and future business and commercial uses that would be of appropriate scale to conform to the smaller parcel sizes and landscape character. Where possible, future development should attempt to create a safe and inviting local business area that can accommodate pedestrians, and encourage the design of buildings that provide visual interest and fit the character of the landscape and the community.



**C. C -- Commercial**

The Route 9W corridor contains the majority of the commercial enterprises in the town. Some of the area is now served by public water or can be served by public water in the near future. This area is characterized by a major state highway, NYS Route 9W, railroad access, and proximity to a New York State Thruway exchange.

Because of the potential for development of this area to provide a tax base and employment, these areas should be given special consideration for encouraging commercial development there.

**D. HR – Hamlet Residential**

These areas are characterized by already densely developed land with steep slopes and poor drainage, and the presence of a National Historic District. Restoration of existing buildings should be encouraged, because these areas are built out.

**E. LC - Light Commercial**

This district is located along areas of Route 9W where residences are co-located with some local businesses. These current conditions provide some constraints to the development of large scale commercial business, but still offer opportunities for appropriately sized commercial development. The intent of this district is to acknowledge and encourage commercial development of a scale that is appropriate to these physical conditions. These businesses can include many types of small businesses, including offices, smaller scale retail, and industrial services. These businesses may develop in new buildings or be located in converted residential structures; where possible, new construction or redevelopment should take into account rural character in terms of architectural style, scale, parking, landscaping, and signage.

**F. SC – Service Commercial**

This district is located along Route 9W in an area with a high concentration of existing local businesses. The intent is to continue to allow small-scale commercial, service, and light industrial uses in this area, as a way to encourage local business development in a manner consistent with the existing character

of the area.

G. D - Developmental District

Industry or large-scale commercial uses should be encouraged because of the excellent access to roads and the possibility of service by nearby water and sewerage facilities.

H. DMR – Development/Multifamily Residential District

Multifamily residential and/or large-scale commercial uses should be encouraged due to the road access and the potential for service from nearby water and sewerage facilities. Industrial uses should also be allowed.

**§ 112-7. Zoning map. [Amended 1-05-2009 by L.L. No. 2 of 2009]**

The above districts are shown on the Official Zoning Map of the Town of New Baltimore, adopted by the Town Board, which is herewith and which is in all respects part of this chapter. <sup>1</sup>

**§ 112-8. Interpretation of boundaries. [ Amended 1-05-2009 by L.L. No. 2 of 2009]**

Where uncertainty exists as to the boundaries of districts as shown on the Zoning Map, the following rules shall apply:

A. Boundaries for the northern Hamlet Residential District are as follows:

- (1) North: the Albany-Greene County Line
- (2) South: South Main Street, at a distance of 2,250 feet southeast of the intersection of South Main Street and Church Street, as measured along the center line of South Main Street: then due east to the Hudson River.

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<sup>1</sup> Note: The Zoning Map is on file in the town offices and available for inspection during regular office hours.

- (3) East: the Hudson River
  - (4) West: the Albany-Greene County line at a distance of 500 feet west of Route 144; then southerly to Madison Avenue, at a distance of 1,000 feet west of the intersection of Madison Avenue and Route 144, as measured along the center line of Madison Avenue; then southwesterly to a distance of 200 feet north of that point of the center line of New Baltimore Road which is 900 feet west of the intersection of New Baltimore Road and Baldwin Terrace, as measured along the center line of New Baltimore Road; then southerly to New Baltimore Road, at a distance of 900 feet west of the intersection of New Baltimore Road and Baldwin Terrace as measured along the center line of New Baltimore Road; then southerly to a distance of 500 feet northwest (as measured by a line which is perpendicular to Route 144) of that point of the center line of Route 144 which is 1,100 feet southwest of the intersection of Route 144 and Baldwin Terrace, as measured along the center line of Route 144; then southeasterly to South Main Street, at a distance of 2,250 feet southwest of the intersection of South Main Street and Church Street, as measured along the center line of South Main Street.
- B. Boundaries indicated as approximately following the center lines of streets or highways shall be construed to follow such center lines.
  - C. Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.
  - D. Boundaries indicated as following shorelines of ponds and lakes shall be construed to follow such shorelines and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline.
  - E. Boundaries indicated as following center lines of streams shall be construed to follow such center lines and, in the event of change in the center line, shall be construed as moving with the actual center line.
  - F. Where district boundaries are not indicated as approximately following the items above, or is not designated on the Zoning

Map, the boundary line shall be determined by the use of the scale designated on the Town Zoning Map.

- G. In the event that none of the above rules are applicable, or in the event that further clarification or definition is considered necessary or appropriate, the location of a district boundary shall be determined by the Zoning Board of Appeals.

**ARTICLE IV**  
**Use Regulations**

**§ 112-9. Use regulations.**

A. Permitted uses.

All uses listed shall be permitted in the zoning district where the use is listed, provided that all other requirements of this chapter are met. All permitted uses are indicated in the table below with "P". All permitted uses requiring Site Plan Review are indicated with "S". All permitted uses requiring a Special Permit are indicated with "U".

B. Prohibited uses.

Any use not listed in the following table is deemed prohibited unless such principal or accessory uses are expressly permitted elsewhere by this chapter or a use variance is granted in accordance with the provisions of this chapter.

C. Permitted accessory uses.

All uses permitted for each district shall be permitted as accessory uses provided the combination of uses shall meet all of the other provisions of this chapter.

Supp. Regs.	Uses	District							
		RA	C	CC	LC	SC	HR	D	DMR
Residential Uses									
✓	Dwellings, Manufactured Homes	P							
✓	Dwellings, Multiple Family		U/S		U/S	U/S			U/S
	Dwellings, Single and Two-family	P		P <sup>1</sup>	P	P	P		
Commercial Uses									
	Agriculture, Field crops	P	P	P	P	P	P	P	P
	Agriculture, Livestock	P							
	Agriculture, Personal Accessory	P	P	P	P	P		P	P
	Agricultural Sales and Service	U/S	S	S	S	S		S	S
	Art Gallery	U/S	S	S	S	S	U/S	S	S
✓	Assisted Living Facility		S		S	S			S
	Automobile repair		U/S	S		S			
	Automobile service stations		S	U/S				S	S
	Automobile rental or sales		S			S			
	Boat Storage, Commercial	U/S	S			S			
	Campgrounds	U/S	S		S				
	Car washes		S			S			
	Cemetery	U/S							
	Commercial Horse Boarding	P	P		P			P	P
	Commercial Vehicle Repair		U/S			S			
	Community Facilities	U/S	S	S	S	S	U/S	S	S
	Contracting Business	U/S	S		U/S	S			

<sup>1</sup> For Accessory apartments located above retail uses

P = Permitted Use

S = Use Permitted through Site Plan Review

U = Use Permitted through Special Permit Use

■ = Use Not Permitted in this district

Supp. Regs.	Uses	District							
		<i>RA</i>	<i>C</i>	<i>CC</i>	<i>LC</i>	<i>SC</i>	<i>HR</i>	<i>D</i>	<i>DMR</i>
	Day Care Center	U/S	S	S	S	S			
✓	Entertainment, Adult Business		U/S						
	Equipment Repair and Rental	U/S	S	S	S	S	U/S	S	S
	Extraction, Private	P	P	P	P	P	P	P	P
	Funeral Home		S	S	S				
	Game Preserves	P	P		P	P		P	P
✓	Home Occupations	P	P	P	P	P	P		
✓	Kennels	U/S	U/S		U/S	U/S			
	Laundromats		S	S					
	Lodging, Motels/Hotels		S	S				S	S
	Lodging, Bed & Breakfast	P	S	S	S	S	U/S		
	Lodging, Inns	U/S	S	S	S	S			
	Lumber Yards, Sawmills	U/S				S		S	S
	Marina	U/S					U/S		
	Nursery	S	S	S	S	S			
	Offices, Professional		S	S	S	S			
	Offices, Medical		S	S	S	S			
	Personal Service Establishments		S	S	S	S			
	Places of Worship	U/S	S	S	S	S	U/S		
	Recreation, Club	S	S	S	S	S		S	S
	Recreation, Firing Ranges	U/S							
	Recreation, Indoor		S	U/S		S		S	S
	Recreation, Open Space	U/S	S	S	S	S			
	Restaurants, Drive-Thru		S					S	S
	Restaurants, Full Service	U/S	S	S	S	S	U/S	S	S

P = Permitted Use

S = Use Permitted through Site Plan Review

U = Use Permitted through Special Permit Use

■ = Use Not Permitted in this district

Supp. Regs.	Uses	District							
		<i>RA</i>	<i>C</i>	<i>CC</i>	<i>LC</i>	<i>SC</i>	<i>HR</i>	<i>D</i>	<i>DMR</i>
	Retail, General		S					S	S
	Retail, Neighborhood	U/S	S	S	S	S	U/S	S	S
	Retail, Service	U/S	S	S	S	S	U/S	S	S
	Retail, shopping center		S					S	S
	Riding Academies	S	S		S	S		S	S
	Roadside Stand	P	P	P	P	P	P	P	P
	Taverns		S	S	U/S				
	Telecommunications Towers	U/S	U/S				U/S	U/S	U/S
	Theaters		S	U/S	U/S			S	S
✓	Veterinary clinics and animal hospitals		S	U/S	U/S	S			
	Windmills	U/S	U/S		U/S	U/S		U/S	U/S
Light Industrial Uses									
✓*	Cold Storage		S			S		S	S
✓*	Distribution Center							S	S
✓*	Fuel Distribution		S	S	S	S		S	S
✓*	Fuel Storage		U/S			S		S	S
✓*	Industrial Services		S	S	S	S		S	S
✓*	Light manufacturing		U/S			U/S		S	S
✓*	Office Park		U/S					S	S
✓*	Research and development		U/S		U/S	U/S		S	S
✓*	Self-storage					S			
✓*	Truck Terminals					S		S	
✓*	Warehousing		U/S					S	S

\* See Article VI, Supplemental Regulations, for requirements which apply to all Light Industrial uses

P = Permitted Use

S = Use Permitted through Site Plan Review

U = Use Permitted through Special Permit Use

■ = Use Not Permitted in this district



## ARTICLE V Dimensional Regulations

### § 112-10. Dimensional table.

District		Minimum				Minimum Setbacks (ft.)			Max Building Height (ft.)	Max % Lot Coverage
		Density	Lot Size	Lot Width (ft.)	Lot Depth (ft.)	Front <sup>5</sup>	Rear	Side		
Rural Residential/ Agricultural - Primary	RA	2 acres	See B. on next page	80	250	60	25	25	35	20
Rural Residential/ Agricultural - Accessory		--	--	--	--	40	15	15	35	--
Commercial	C	--	0.5 Acres <sup>1</sup>	150	100	50	15	15	35	30
Center Commercial	CC	--	0.5 Acres <sup>2</sup>	50	100	20	15	0 <sup>4</sup>	35	50
Service Commercial	SC	2 Acres	2 Acres	100	100	50	15	15	35	30
Light Commercial	LC	2 Acres	2 Acres	100	100	50	15	15	35	30
Hamlet Residential - Primary	HR	0.5 Acres <sup>1</sup>	0.5 Acres <sup>1</sup>	60	100	15 <sup>3</sup>	15	15	35	50
Hamlet Residential – Accessory		--	--	--	--	15	15	15	35	--
Development	D	--	1 acre <sup>1</sup>	50	150	80	20	50	35	50
Development/ Multifamily Residential	DMR	--	1 acre <sup>1</sup>	50	150	80	20	50	35	50

<sup>1</sup>With public water or sewer. Without water or sewer the minimum lot size is 2 acres.

<sup>2</sup>With public sewer. Without public sewer the minimum lot size is 2 acres.

<sup>3</sup>Or the average footage of immediately surrounding properties

<sup>4</sup>All structures must be set back a minimum of fifteen (15) feet from any adjacent lot with an existing single family use.

<sup>5</sup>Measured from road right-of-way

**§ 112-11. Minimum lot size and density in RA district.**

- A. Density Calculation. The maximum potential density of a parcel shall be determined by dividing the gross acreage of the parcel by the density as set forth on the dimensional table.

The resulting density is the maximum number of lots which may be proposed, not a guarantee of development potential. The maximum number of lots may be affected by on-site conditions, such as constrained land, or by the feasibility of providing water, sewerage, or other infrastructure to the units.

- B. Minimum Lot Size.

- (1) Conservation Subdivisions. There shall be no minimum lot size in conservation subdivisions, except as required to fulfill setback requirements for the State Department of Health regarding wells and septic systems, as required in Article IX.
- (2) Conventional Subdivisions. Minimum lot sizes for conventional subdivisions in the RA district shall be determined by the number of lots created.
  - (a) For subdivisions which create 2-4 lots (minor subdivisions), the minimum lot size shall be 2 acres.
  - (b) For subdivisions which create 5-7 lots (major subdivisions), the minimum lot size shall be 5 acres.
  - (c) For subdivisions which create 8 or more lots (major subdivisions), the minimum lot size shall be 10 acres.
  - (d) For subdivisions which receive a waiver as set forth in §112-56 (B.), the minimum lot size shall be 2 acres.

**§ 112-12. Number of principal structures on a lot.**

- A. In all districts, only one single- or two-family building may be located on each lot.
- B. In all districts, more than one non-residential building may be placed on a lot, such that the maximum lot coverage for the district is not exceeded.

## ARTICLE VI Supplemental Regulations

### § 112-13. Off-street parking and loading.

A. Off-street parking shall be provided as follows.

Uses	District							
	RA	C	CC	LC	SC	HR	D	DMR
<b>Residential Uses</b>								
Dwellings, Manufactured Homes	2/unit							
Dwellings, Multiple Family		1/unit			1/unit			1/unit
Dwellings, Single and Two-family	2/unit				2/unit			
<b>Commercial Uses</b>								
Agriculture, Field crops					none			
Agriculture, Livestock	none							
Agriculture, Personal Accessory			none				none	
Agricultural Sales and Service			Per SPR				Per SPR	
Art Gallery					1/500 GLA			
Assisted Living		Per SPR			Per SPR			Per SPR
Automobile repair		Per SPR			Per SPR			
Automobile service stations		Per SPR					Per SPR	
Automobile rental or sales		Per SPR						
Boat Storage, Commercial		1/1,500 GLA						
Campgrounds		Per SPR		Per SPR				
Car washes		Per SPR			Per SPR			
Cemetery	Per SPR							
Commercial Horse Boarding		None		None			None	
Commercial Vehicle Repair		Per SPR			Per SPR			
Community Facilities					1 per 1,000 GLA			
Contracting Business		Per SPR			Per SPR			
Day Care Center					1 per 5 clients + 1 per employee			
Entertainment, Adult Business		Per SPR						
Equipment Repair and Rental					Per SPR			
Extraction, Private					None			
Fuel Distribution			Per SPR				Per SPR	
Fuel Storage		Per SPR			Per SPR		Per SPR	
Funeral Home			1 per 5 seats					
Game Preserves		1 per employee		1 per employee			1 per employee	
Home Occupations			1 per employee					
Kennels		1 per 10 boarders		1 per 10 boarders				
Laundromats		Per SPR						
Lodging, Motels/Hotels		1 per room + 1 per 2 employees					1 per room + 1 per 2 employees	
Lodging, Bed & Breakfast			1 per guest + 2					
Lodging, Inns			1 per room + 1 per 2 employees					
Lumber Yards, Sawmills	Per SPR				Per SPR		Per SPR	
Marina	1 per slip + 1 per employee					1 per slip + 1 per employee		
Nursery			Per SPR					
Offices, Professional			1 per 500 GLA					
Offices, Medical			1 per employee + 2 per treatment room					
Personal Service Establishments			Per SPR					
Places of Worship			Per SPR					
Recreation, Club			Per SPR				Per SPR	
Recreation, Firing Ranges	Per SPR							
Recreation, Indoor		Per SPR			Per SPR		Per SPR	
Recreation, Open Space			Per SPR					
Restaurants, Drive-Thru		1 per 100 GLA					1 per 100 GLA	
Restaurants, Full Service					1 per 200 GLA			
Retail, General		1 per					1 per 200 GLA	

Uses	District							
	RA	C	CC	LC	SC	HR	D	DMR
		200 GLA						
Retail, Neighborhood	Per SPR	1 per 200 GLA	Per SPR				1 per 200 GLA	
Retail, Service	Per SPR	1 per 200 GLA	Per SPR				1 per 200 GLA	
Retail, shopping center		1 per 200 GLA					1 per 200 GLA	
Riding Academies	Per SPR			Per SPR			Per SPR	
Roadside Stand	2 per stand							
Taverns		1 per 4 seats						
Telecommunications Towers	none					none		
Theaters		1 per 5 seats					1 per 5 seats	
Veterinary clinics/animal hospitals		1 per employee + 2 per treatment room						
Windmills	None			None			None	
Light Industrial Uses								
Cold Storage		Per SPR			Per SPR		Per SPR	
Distribution Center							1 per employee	
Industrial Services		Per SPR					Per SPR	
Light manufacturing		1 per employee					1 per employee	
Office Park		Per SPR					Per SPR	
Research and development		Per SPR					Per SPR	
Self-storage					Per SPR			
Truck Terminals					Per SPR		Per SPR	
Warehousing		1.5 per 1000 GLA					1.5 per 1000 GLA	

B. Public or Shared Parking. The Planning Board shall have the authority to vary the above standards to allow public or shared parking to be counted towards the minimum parking requirements. In varying the standards set above, the Board shall have a reasonable basis given the conditions and context of the proposed project, and shall state the basis for the decision to allow public or shared parking in the site plan approval.

C. Off-street loading shall be required for all commercial and light industrial uses.

### § 112-14. Home occupations.

A. Home occupations are permitted as indicated in the Use Table, subject the following criteria and standards.

B. All home occupations shall:

- (1) Be conducted by a resident of the lot;
- (2) Be compatible with the other uses allowed in the district;
- (3) Maintain the character of the neighborhood;
- (4) Ensure the peace, privacy, quiet, and dignity of the area; and
- (5) Avoid excessive noise, traffic, nuisance, fire hazard, and other adverse effects of business uses.

- C. Home occupations shall be conducted in a manner which does not give the outward appearance of a business.
- D. Home occupations shall be conducted within the home or accessory structure. Such use shall not alter the external appearance from a residential character.
- E. Home occupations shall be incidental and secondary to the use of a dwelling unit for residential purposes. The space occupied by the home occupation itself does not necessarily have to be located in the habitable area of the dwelling unit.
- F. Home occupations shall have no more than two (2) non-resident employees.

**§ 112-15. Veterinary clinics and kennels.**

A. Performance Criteria.

- (1) Adequate landscaping and/or fencing shall be provided to create a visual, sound, and odor buffer between such facility and adjacent properties.
- (2) All animal and medical wastes shall be disposed of in a sanitary and environmentally safe manner, consistent in all respects with all state and federal requirements. On-site incineration must be in compliance with all state and federal requirements.
- (3) No burial site shall be located closer than 100 feet to any lot line, nor shall any such site be within 200 feet of any residence, stream, water body, or source of private or public water supply, and must comply with all state and federal requirements.

B. Setbacks.

- (1) All veterinary clinics, animal training facilities, animal hospitals, and kennels with unenclosed exercise pens or kennels shall be located no closer than 150 feet to any adjoining property line.
- (2) All veterinary clinics, animal training facilities, animal hospitals, and kennels with enclosed exercise pens or kennels shall be located no closer than 75 feet to any adjoining property line.

**§ 112-16. Light industry standards.**

- A. In addition to any and all other applicable provisions of this chapter, light industrial uses shall:
  - (1) Not store materials outside of any structure, unless screened from public view by opaque fencing or vegetative buffers.
  - (2) Conduct all activities associated with the industry in an enclosed structure.
  - (3) Not store or manufacture hazardous materials, as defined by the

State of New York.

- (4) Not undertake any process that is or will become noxious or offensive due to the emission of noise, smoke, dust, odors, gas or light.

B. For all Industrial Services and Research and Development uses in the LC and SC zones, the maximum gross floor area shall be 15,000 square feet.

**§ 112-17. Accessory structures.**

- A. Applicability. The requirements regarding accessory structures apply to non-residential or non-agricultural uses and lots only.
- B. Accessory structures larger than 1,500 square feet of Gross Floor Area are subject to Site Plan Review.
- C. All accessory structures shall comply with the dimensional requirements for the zone in which it is located.

**§ 112-18. Multiple-family dwellings.**

A. Lot requirements

- (1) A minimum lot size of three acres is required for all multifamily developments.
- (2) Density of development over the entire site shall not exceed 8 units/acre with public water and sewer, or 4 units/acre without water and sewer.
- (3) No building or structure will be located closer than 30 feet to the edge of pavement of any public street or roadway.
- (4) No building or structure will be located closer than 40 feet to any side or rear property line.
- (5) No building or structure will be located closer than 20 feet to the edge of the pavement of any interior access drive, except where such drive is designed for loading or maintenance purposes.
- (6) No building or structure will be located closer than 30 feet to any other building or structure.

B. Building Requirements

No apartment or other multifamily dwelling unit will be constructed which contains less than 500 square feet of net floor area.

**§ 112-19. Assisted living facilities.**

Density of development for Assisted Living facilities shall not exceed 20 units/acre in any Zoning district.

**§ 112-20. Fence regulations.**

- A. Fences shall be permitted without a principal use and may be located within setbacks.
- B. The finished side of the fence shall face neighboring properties or the street.
- C. Fences and walls shall not encroach on any public right-of-way.

**§ 112-21. Lighting standards.**

- A. General. No lights shall be installed, located, or aimed so as to cause a danger or hazard to public safety or nuisance.
- B. Outdoor lighting for commercial uses, structures, and lots shall meet the following criteria and standards. These standards do not apply to residential or agricultural uses, structures, or lots.
  - (1) Light levels at property line shall not exceed 0.1 footcandles.
  - (2) Spotlights shall be aimed and/or shielded to reduce glare and prevent light trespass on to neighboring properties.
  - (3) No light shall be emitted from the source in an upward direction. All lights shall conform to the standards for cutoff fixtures, as set by the Illuminating Engineering Society of North America (IESNA).
  - (4) Public spaces and sidewalks shall feature pedestrian-scaled lighting. Poles shall be no higher than 14'.
  - (5) Parking lot light poles shall be no higher than 20'.

**§ 112-22. Signs.****A. General Provisions**

Permit Required. Except as specifically exempted or prohibited herein, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign in the town or cause the same to be done without first obtaining a sign permit for each sign.

These directives shall not be construed to require any permit for a change of copy of any sign, provided that the person, place, establishment, business or service identified remains the same, nor the repainting, cleaning and the normal maintenance or repair of the sign or sign structure for which a permit has previously been issued under this chapter, so long as the sign or the sign structure is not modified in any way.

- (1) The sign size limits in this chapter are maximums and may be reduced during the site plan approval process by the Planning

Board.

- (2) No permanent sign, other than an official traffic sign, shall be erected within the right-of-way of any public street or highway.
- (3) No sign shall be permitted which causes a traffic, health or safety hazard or creates a nuisance due to its placement, display or manner of construction. No sign shall be located so as to obstruct views of traffic.

B. Exempt signs. Signs which do not require a permit are as follows:

- (1) Residential identification or street number identification and house number identification.
- (2) Home occupation signs, one (1) sign not to exceed four (4) square feet in area.
- (3) Private meeting halls.
- (4) Temporary signs, including but not limited to garage sale, political, and real estate signs, not to exceed six (6) square feet, which are removed within five (5) days after the associated event has concluded
- (5) "No trespassing" signs and Posted signs ("no hunting, fishing or trapping").
- (6) Utility line identification and location signs.
- (7) Rest room signs.
- (8) Handicapped parking and access signs.
- (9) "Vacancy/no vacancy" signs which do not exceed three square feet.
- (10) Accessory signs identifying such uses as "parking," "no parking" or "office," "Open/Closed" business signs, fuel signs, or banners, flags which do not exceed two square feet each.
- (11) Holiday decorations erected for and during the particular holiday they relate to or symbolize.
- (12) Official public information signs, memorial signs, building names, erection dates or similar information cut into masonry or other permanent surface or constructed of bronze or other noncombustible material, not to exceed sixteen square feet.
- (13) Signs associated with a primary agricultural use.
- (14) Non-commercial Signs, including, but limited to, historical tablets, memorial plaques, transportation signs, "No Trespassing" signs, or bulletin boards customarily incidental to places of worship, libraries, governmental agencies, museums,



social clubs or societies.

C. Prohibited signs.

- (1) Abandoned signs.
- (2) Roof signs.
- (3) Rotating signs.
- (4) Projecting signs that project more than four feet from the structure to which they are attached.
- (5) Animated signs except public service information.
- (6) A-Frame signs (that are left in place permanently).
- (7) Any sign or part thereof on a vehicle parked on a public right-of-way, on public property or private property so as to be intended to be viewed from a motorized vehicular public right-of-way, which has for its basic purpose the providing of advertisement of products or directing people to a business or activity located on the same or nearby property or 'any other premises. This subsection is not intended to prohibit any form of vehicular signage, such as a sign attached to a bus or lettered on a motor vehicle, or signs that are part of a vehicle such as a construction trailer, whose primary purpose is not advertising to the public right-of-way.
- (8) Any sign other than a permitted sign placed on any curb, sidewalk, hydrant, utility pole or tree.
- (9) Any sign erected or maintained which might be confused with any traffic control device or which might interfere with the vision or discernment of any traffic sign or which might cause danger to public travel.
- (10) Any sign not properly maintained, such as, but not limited to, signs that are structurally unsound or are hazardous or unsafe.

D. Non-conforming signs.

- (1) Signs in existence prior to adoption of this chapter which do not conform to the requirements contained herein are deemed non-conforming signs.
- (2) Amortization. Signs in existence at the date of adoption of this chapter which do not conform to the provisions herein for the number of signs allowed on a parcel, and which are not otherwise regulated by the provisions of §74-c of the NYS General Municipal Law or §88 of the NYS Highway law, shall be discontinued and removed on or before five (5) years from date

of adoption of this chapter, and the failure to discontinue or remove such nonconforming signs on or before the aforesaid date shall constitute a violation of the provisions of this chapter.

- (3) All other signs nonconforming due to the size, location, material, or other respect not addressed above may be maintained, but if any major change, modification, structural repair or replacement thereof is hereafter made, such sign shall thereafter conform to the provisions herein, provided that a legal nonconforming sign may not be replaced by another nonconforming sign.

E. Construction.

- (1) All sign fabrication, erection and attachment shall conform to the requirements of the latest edition of the New York State Uniform Fire Prevention and Building Code and other applicable chapters and regulations.
- (2) Transformers, wires and similar items shall be concealed.
- (3) All signs, sign finishes, supports and electrical work shall be kept in good repair and safe condition, including the replacement of defective parts, painting, repainting, cleaning and other acts required for the maintenance of said sign.

F. Illumination.

All signs permitted pursuant to this chapter shall comply with the following requirements:

- (1) Illumination of signs shall be accomplished by means of shielded light sources, or in such other manner that no glare shall extend beyond the property lines of the property upon which such signs are located, and no glare shall disturb the vision of passing motorists or constitute a hazard to traffic.
- (2) All lights associated with signage shall conform to the standards for cutoff fixtures, as set by the Illuminating Engineering Society of North America (IESNA).
- (3) No flashing, non-constant or moving light sources shall be permitted or constitute a part of any sign, with the exception of public service information signs.

G. Sign permit.

- (1) Permit Process. All sign permit applications shall be made to the building inspector.
- (2) Within 10 business days after receipt of a complete application by the Building Inspector, a sign permit shall be issued, provided that the proposed sign meets all requirements of this chapter.
- (3) If a sign authorized by a permit is not completed and in place

within one year from the date the permit was issued, said permit shall become null and void, except that the Building Inspector may grant one extension for a period not to exceed one year.

- (4) Design, size, construction and placement of a sign shall not deviate from the plans approved for issuance of the permit.
- (5) After the issuance of a permit for a sign under this chapter and within 10 days after the installation of such sign, the applicant shall submit a photograph of the sign as completely installed, which shall be filed with the original application.
- (6) Contents of application.
  - (a) Application for a sign permit shall be made, in writing, by the owner, lessee, occupant or agent for whom the sign is intended and shall be accompanied by two sets of plans of the design.
  - (b) Sign plans shall include size.
  - (c) Two plot plans of the parcel on which the sign is to be placed shall be submitted, delineating property lines, street lines, building locations, parking areas, location of all other signs on the parcel, exact location of the proposed sign, including dimensions of setbacks from property lines, and any obstructions in relation to the designated location of the proposed sign. Where a parcel has more than one frontage, the primary frontage shall be designated on the plan with other frontage noted.
  - (d) Sign plans shall include a statement that the proposed sign as shown on the plan is structurally sound and will withstand wind loads as prescribed by the New York State Uniform Fire Prevention and Building Code. Plans shall bear the signature of the owner, applicant or the person responsible for design of the sign.
  - (e) The application shall be made to the Building Inspector or on forms prescribed and provided by the Town. At the time of filing the application, the applicant shall pay the required fee in accordance with the fee schedule in effect.
- (7) Coordination with Site Plan Review.
  - (a) Applicants for Site Plan Review projects shall submit details regarding the size, location, materials, and design of associated signage as part of the Site Plan Review application package.
  - (b) The signage shall be approved by the Planning Board, which may integrate conditions for the size, colors,

location, design, or materials of the signage into the Site Plan Review approval.

- (c) The building inspector shall issue only those sign permits which comply fully with the approved site plan review package, including any conditions set by the Planning Board.
- (d) Sign permits for signs associated with site plan review uses, which were not previously approved by the Planning Board, shall require minor project review according to Article VII of this chapter before a permit may be issued.

#### H. Measurement of sign display area.

- (1) The area of a sign shall be computed from the algebraic sum of the actual sign configuration, be it a square, rectangle, circle, oval or other polygon shape. The area shall be measured from the outer dimensions of the frame, trim, or molding by which the sign is enclosed, where such features exist, or from the outer edge of the signboard where none exist.

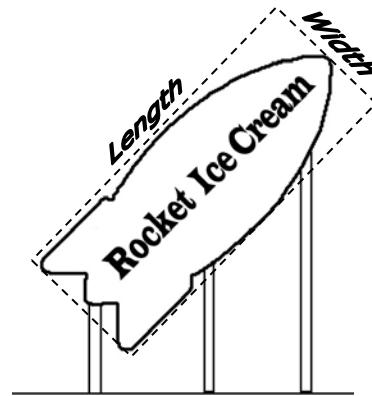


Figure 1

- (2) When a sign consists of individual letters, symbols or characters, or where the overall shape of the sign is irregular, the area shall be computed as the area of the smallest rectangle which encloses all of the letters, symbols, characters or sign area. (Fig. 1)
- (3) Only one (1) side of double faced signs shall be measured when determining the area.

#### I. Sign Removal

- (1) Any new sign or temporary sign which does not comply with the regulations established pursuant to this chapter or which permit is revoked or which is deemed to be an abandoned sign; or which is not maintained in good and complete condition with lettering and graphics clean, legible, in true alignment and finishes in good repair, is prohibited and shall be brought into compliance.
- (2) The business, property and/or sign owner of any non-compliant sign shall be in violation until such sign(s) is removed or repaired. The Town may, with thirty (30) days prior written notice to the property and/or sign owner(s), remove such sign without further notice or further proceedings at the expense of

the property and/or sign owner. The expense may be recovered by the Town in an action instituted in a court having competent jurisdiction.

- (3) In the case of an unsafe sign which, in the opinion of the Building Inspector, is an immediate peril to persons or property, the Building Inspector may order and arrange for the removal of such sign, without notice to the owner thereof.

J. Number and Size of permitted signs

- (1) In the RA and HR Districts, one building or one freestanding sign shall be permitted, provided such sign does not exceed twelve (12) square feet in area. Any freestanding sign shall not stand any higher than six (6) feet from the ground to the highest point on the sign.
- (2) In the LC, SC, and CC Districts, one (1) building sign, which shall not exceed twenty (20) square feet in size, and one (1) freestanding sign not exceeding thirty (30) square feet in size shall be permitted. Any freestanding sign shall not stand any higher than ten (10) feet from the ground to the highest point on the sign.
- (3) In the C, DMR, and D Districts, one (1) building sign not to exceed fifty (50) square feet in size shall be permitted for each commercial or office use. In addition, one (1) freestanding sign not to exceed forty-two (42) square feet in size shall be permitted for each principal structure, and such sign may be used to identify any or all business uses in such structure. Any freestanding sign shall not stand any higher than twelve (12) feet from the ground to the highest point on the sign. One (1) awning adhered to the building for each principal business office or use shall also be allowed.
- (4) If two or more businesses are located upon one or more contiguous lots or parcels, only one freestanding sign is permitted. The owner of such real property or business may elect how the allowable signage is allocated among the various businesses.
- (5) In all districts, where the principal building is located with frontage on more than one street or public highway, one building sign or one projecting sign or one freestanding sign located along each frontage shall be permitted.
- (6) In all districts, off-premises signs shall not exceed twenty-eight (28) square feet in area and shall not stand any higher than six (6) feet from the ground to the highest point on the sign. Only one off-premises sign shall be allowed per lot.

- K. Materials and Appearance. For all signs associated with a Site Plan Review Use, the sign material, color, design, and aesthetics should match or complement the overall design scheme of the primary structure to the greatest extent possible.

**§ 112-23. Manufactured homes.**

- A. Purpose. The purpose of this section is to promote the health, safety, and general welfare of the community, including the protection and preservation of the property of the Town of New Baltimore and of its inhabitants by establishing specific requirements and regulations governing the occupancy and maintenance of manufactured homes, travel trailers and pickup campers.
- B. Not more than one manufactured home shall be placed on any one parcel of land.
- C. Parking on streets prohibited. No occupied manufactured home, travel trailer or pickup camper shall be parked or allowed to remain upon any street, highway or other public place, except that emergency stopping or parking when caused by mechanical failure shall be permitted upon the shoulder of any street or highway for a period of not more than 72 hours; subject, however, to any prohibition or limitation imposed by other regulations or laws.
- D. Building Permit Required.
- (1) The installation of the manufactured home shall conform to the requirements of the NYS Building Code and the United States Department of Housing and Urban Development, including, but not limited to, regulations concerning installation warranty, electrical supply and utilities, foundation/supports, and skirting.
  - (2) All manufactured homes shall have an adequate supply of pure water for drinking and domestic purposes and a sewage disposal system. Both systems shall satisfy the requirements of the New York State Department of Health, the Town of New Baltimore, and any other requirements of the NYS Building Code.
- The manufactured home sewage disposal site and water supply shall be staked out on the site for examination by the Building Inspector.
- E. HUD data plate required.

All manufactured homes shall have affixed a data plate required pursuant to 24 CFR section 3280.5, as currently in effect and as hereafter amended from time to time, or any similar regulation that may hereafter be promulgated by the United States Department of

Housing and Urban Development;

F. Approval of requirements required.

No occupants shall occupy any manufactured home or dwelling until all requirements of this chapter have been approved by the Town Building Inspector.

G. Travel trailers and pickup campers.

- (1) Prohibition of travel trailers and pickup campers. No occupied travel trailer or pickup camper shall hereafter be parked or otherwise placed within the Town of New Baltimore unless a temporary permit at no cost is issued to the applicant, which permit shall be for a period not to exceed 45 days from its date of issuance.
- (2) In the case where a dealer of manufactured homes, travel trailers and/or pickup campers locates a manufactured home in the Town of New Baltimore or parks any travel trailer and/or pickup camper in the Town without a permit having been secured, both the manufactured home dealer and owner of the manufactured home, travel trailer or pickup camper shall be considered to be in violation of this Article.
- (3) The storage or garaging of travel trailers and/or pickup campers is permitted as an accessory use to a primary residential use. No unoccupied travel trailer and/or pickup camper shall be parked or located between the street line and the front building line, directly in front of the primary structure.
- (4) A manufactured home, travel trailer and/or pickup camper shall be permitted on the site of a construction project, survey project or other similar work project, provided that it is used solely as a field office, work or tool house in connection with such project, and provided that such manufactured home, travel trailer and/or pickup camper is removed from such site within 30 days after the completion of such project.

H. Temporary Living Quarters. If the owner of the land desires to place a manufactured home on such land for the sole purpose as temporary living quarters during the construction of a permanent dwelling thereon, temporary permit will be issued in accordance with the following:

- (1) The provisions of this chapter shall apply.
- (2) Upon issuance of a Certificate of Occupancy, the use of the manufactured home as temporary living quarters shall be discontinued and the manufactured home removed within 60 days.

**§ 112-24. Adult uses.****A. Purposes and considerations.**

- (1) In the execution of this article it is recognized that there are some uses which, due to their very nature, have serious objectionable characteristics. The objectionable characteristics of these uses are further heightened by their concentration in any one area, thereby having deleterious effects on adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhoods or land uses.
- (2) It is further declared that the location of these uses in regard to areas where minors may regularly assemble and the general atmosphere encompassing their operation is of great concern to the town.
- (3) The town has conducted a study of the impact of adult entertainment facilities and adult uses and intends to use its zoning powers to prevent a concentration of these uses in any one area and to restrict their accessibility to minors.

**B. Location restrictions.**

Adult uses shall be allowable in Commercial or Developmental Districts by special permit subject to the following restrictions:

- (1) Any of the above uses shall not be located within a one-thousand-foot radius of any area zoned for residential use.
- (2) Any of the above uses shall not be located within a one-thousand-foot radius of another such use.
- (3) Any of the above uses shall not be located within a one-thousand-foot radius of any school, church or other place of religious worship, park, cemetery, playground, playing field or day-care/child-care facility.

**C. Waiver of restrictions.**

The restrictions enumerated above may be waived by the Town Zoning Board of Appeals if the applicant shows and the Board finds that the following conditions have been met in addition to the general conditions contained in this article:

- (1) That the proposed use will not be contrary to the public interest or injurious to nearby properties and that the spirit and intent of this article will be observed;
- (2) That the establishment of an additional use of this type in the area will not be contrary to any program of neighborhood conservation or improvement, either residential or



nonresidential; and

- (3) That 51% or more of the property owners within the restricted area as defined in B.(1), B.(2), and B.(3) above have signed a petition stating that they have no objection to the establishment of one of the uses defined above.

D. Limitation of number of adult uses.

No more than one adult use shall be located on any lot.

E. Amortization.

By amortization, the right to maintain a legal nonconforming adult use shall terminate in accordance with the following schedule:

<b>Amount of Capital investment as of Effective Date of this Article</b>	<b>Date Before Which Use Shall Terminate</b>
--	--

0 to \$5,000	January 1, 2000
\$5,001 to \$8,000	January 1, 2001
\$8,001 to \$15,000	January 1, 2002
\$15,001 to \$22,000	January 1, 2003
\$22,001 or more	January 1, 2004

NOTE: The term "capital investment," as used above, is defined to mean the initial outlay by the owner and/or operator to establish the business as of the date of the enactment of the chapter, exclusive of the fair market value of the structure in which the use is located.

**§ 112-25. Design guidelines and standards. [Amended 1-05-2009 by L.L. 2 of 2009]**

- A. Applicability. The Design Guidelines are applicable to all new development projects requiring site plan review located within the C, LC, SC, CC, D and DMR zones.
- B. Guidelines and standards. The use of "shall" indicates a standard which will be required by the Planning Board. The use of "may", "should" or "encouraged/discouraged" indicate voluntary guidelines, which, although not mandatory, provide guidance to applicants for the design of applicable site and architectural features.
- C. Purpose. The purpose of the Design Guidelines is to:
- (1) Promote site and building designs with enduring aesthetic appeal.
  - (2) Encourage attractive, inviting, and safe pedestrian-friendly spaces that evoke a character appropriate to the Town of New Baltimore.

- (3) Cultivate development patterns that further the recommendations of the Comprehensive Plan.

#### D. Site Guidelines and Standards

##### (1) Commercial and Service Commercial Zones

###### (a) Site Organization

- (i) The natural topography and site features shall be the primary dictating factor in the organization of the built elements of the site.
- (ii) Parking shall not be located in front of new buildings. Parking may be located on the side of buildings, or between buildings and internal access roadways. Existing buildings undertaking projects which require site plan review may retain existing front yard parking areas when redeveloped, but the areas should be improved to include other relevant landscape plantings, vehicular connections, and pedestrian amenities as recommended in these design guidelines.
- (iii) Consider varying the building location from lot to lot so that not all buildings are lined up in a row, to minimize the appearance of "strip" development. For projects which propose more than one structure, consider grouping buildings together, to simulate the siting of agricultural buildings.
- (iv) Buildings may be placed so as to maximize passive solar benefit and do not need to be perpendicular or parallel to the street.
- (v) Maintain natural site integrity and avoid sensitive natural resources to the greatest extent possible.

###### (b) Vehicular and Pedestrian Circulation

- (i) Connections between adjacent parking areas and interior access roads shall be made as often as possible. New development which has no immediate commercial neighbors shall indicate a provision for future connections on the site plan if appropriate. Development adjacent to commercial areas shall integrate any previously approved connections into the site plan.
- (ii) Entrance/exit drives (curb cuts) should be limited to one per building frontage or shared between lots.

- (iii) Spacing and dimensions of all curb cuts, including modifications to existing curb cuts, shall comply with current NYSDOT regulations for entrances to a state highway.
  - (iv) Vegetation, signage, and/or structures shall not interfere with vehicle sightlines.
  - (v) Pedestrian facilities in parking lots should be clearly demarcated from parking areas, with treatments such as, but not limited to, concrete sidewalks or striped crosswalks.
  - (vi) Neighboring sites shall be connected with pedestrian sidewalks or pathways whenever possible. Consider future connections when laying out the location of pedestrian features. Development adjacent to commercial areas shall integrate any previously approved connections into the site plan.
- (c) Landscaping
- (i) Consider adding structural or vegetative buffer between paved areas and street. Structural buffers include fences and stone walls. Vegetative buffers include widely spaced street trees or naturalized groupings of trees and shrubs.
  - (ii) Maintain a minimum 8'-wide vegetated area between building face and paved areas on all sides of the structure, not including entrances and loading docks.
  - (iii) The integration of any significant existing vegetation into the site plan is strongly encouraged.
  - (iv) Use native/non-invasive species whenever possible. Landscaping plans should avoid using plants known to be invasive, such as those plants listed on Invasive Plants of the Eastern United States: Identification and Control, published by The University of Georgia, USDA APHIS PPQ and USDA Forest Service Forest Health Technology Enterprise Team. The most current list can be accessed at: <http://www.invasive.org/eastern/>.
  - (v) Consider integrating the design of stormwater facilities into the overall site/landscaping plan whenever possible.
  - (vi) Integrate landscaping within parking areas to reduce heat island effect and provide visual interest to large

expanses of pavement. A minimum of 10% of the total parking area should be devoted to interior landscape islands for all lots with more than two rows of parking. Interior landscape islands should be evenly distributed throughout the parking area.

- (vii) The landscaping plan should indicate snow storage areas; locate snow storage to avoid damage to plant material.

(d) Signage, Lighting, and Utilities

- (i) The materials, colors, and design of signage should relate to the architecture and present an attractive, cohesive appearance. Wood, metal, and externally illuminated signs are encouraged. Signage must conform to the requirements of Article VI, Section J of this chapter.
- (ii) The light fixture should complement the architectural style of the structure. At a minimum, "semi-cutoff" fixtures must be used. The use of cutoff or full-cutoff fixtures is preferred. Lighting must conform to the requirements of Article VI, Section I of this chapter.
- (iii) The minimum amount of light levels necessary to insure safety should be used. General guidelines include:

Walkways:	0.5 - 2 foot candles
Parking areas:	0.5 – 2 foot candles
Local streets:	Varies: 0.5 – 3 foot candles
Building entrances:	5 foot candles
- (iv) Buffers for loading areas/trash storage/utilities shall be provided which create sufficient visual screening and complement the overall architecture. Similar/complementary materials as those used for the building façade, vegetation, or a combination of both should be used.

(2) Center Commercial Zone

(a) Site Organization

- (i) The natural topography and site features shall be the primary dictating factor in the organization of the built elements of the site.

- (ii) The buildings shall be located at or close to the front setback line where appropriate.
  - (iii) Parking shall not be located in front of new buildings. Existing buildings may retain front yard parking areas when redeveloped, but the areas should be improved to include other relevant landscape plantings, vehicular connections, and pedestrian amenities as recommended in these design guidelines.
  - (iv) The area between the building and the street shall be largely devoted to pedestrian amenities, landscaped features, or outdoor retail/dining areas.
  - (v) Buildings may be placed so as to maximize passive solar benefit and do not need to be perpendicular or parallel to the street.
  - (vi) Maintain natural site integrity and avoid sensitive natural resources to the greatest extent possible.
- (b) Vehicular and Pedestrian Circulation
- (i) Connections between adjacent parking areas and interior access roads shall be made as often as possible. New development which has no immediate commercial neighbors shall indicate a provision for future connections on the site plan if appropriate. Development adjacent to commercial areas shall integrate any previously approved connections into the site plan.
  - (ii) Entrance/exit drives (curb cuts) should be limited to one per building frontage or shared between lots.
  - (iii) Spacing and dimensions of all curb cuts, including modifications to existing curb cuts, shall comply with current NYSDOT regulations for entrances to a state highway.
  - (iv) Vegetation, signage, and/or structures shall not interfere with vehicle sightlines.
  - (v) Pedestrian facilities in parking lots should be clearly demarcated from parking areas, with treatments such as, but not limited to, concrete sidewalks or striped crosswalks.
  - (vi) Neighboring sites shall be connected with pedestrian sidewalks or pathways whenever possible. The provision of future connections for pedestrian

features between sites is strongly encouraged. Development adjacent to commercial areas shall integrate any previously approved connections into the site plan.

- (vii) Provide a buffer between Route 9W and the sidewalk with a grassy tree lawn at least 5' wide.
  - (viii) Provide a buffer between interior roads and sidewalks. Grassy areas containing trees must be at least 5' wide. Narrower buffers may be used between interior roads and sidewalks with the provision of non-vegetated treatments such as decorative pavement.
- (c) Landscaping
- (i) Use native/non-invasive species whenever possible. Landscaping plans should avoid using plants known to be invasive, such as those plants listed on Invasive Plants of the Eastern United States: Identification and Control, published by The University of Georgia, USDA APHIS PPQ and USDA Forest Service Forest Health Technology Enterprise Team. The most current list can be accessed at: <http://www.invasive.org/eastern/>.
  - (ii) Consider integrating the design of stormwater facilities into the overall site/landscaping plan whenever possible.
  - (iii) Integrate landscaping within parking areas to reduce heat island effect. For parking areas with more than two bays, a minimum of 10% of the total parking area should be devoted to interior landscape islands. Interior landscape islands should be evenly distributed throughout the parking area. Perimeter landscape plantings should be used if no interior islands are necessary.
  - (iv) The landscaping plan should indicate snow storage areas; avoid locating snow storage so that it damages plant material.
- (d) Signage, Lighting, and Utilities
- (i) The materials, colors, and design of signage should relate to the architecture and present an attractive, cohesive aesthetic appearance. Wood signs and externally illuminated signs are encouraged. Signage must conform to the requirements of Article VI,

Section J of this chapter.

- (ii) Light fixtures and poles should be Sternberg Ripon luminaires and Louisville 12' straight poles, black finish, or equivalent. Lighting must conform to the requirements of Article VI, Section I of this chapter.
- (iii) The minimum amount of light levels necessary to insure safety should be used. General guidelines include:
  - Walkways: 0.5 - 2 foot candles
  - Parking areas: 0.5 – 2 foot candles
  - Local streets: 0.5 – 3 foot candles
  - Building entrances: 5 foot candles
- (iv) The spacing of pedestrian-scale lighting along 9W should be determined by on-site conditions rather than a pre-set dimension. Evenly spaced light poles which are too close together can create a "runway" effect which is not conducive to hamlet character.
- (v) Buffers for loading areas/trash storage/utilities shall be provided which create sufficient visual screening and complement the overall architecture. Similar/complementary materials as those used for the building façade, vegetation, or a combination of both should be used.

(3) Light Commercial Zone

(a) New Construction

For all new construction in the LC zone, the site design guidelines for the C zone, as noted above, shall apply to the site organization, vehicular and pedestrian organization, landscaping, signage, lighting, and utilities for all new construction in the LC zone.

- (b) Adaptive Reuse. For adaptive reuse or redevelopment of residential structures, the following guidelines shall apply in the LC zone:

(i) Site Organization

1. Locate all parking at the side or rear of the building. No parking is allowed in front of buildings. Parking areas or driveways should allow cars to turn around, so that vehicles do not need to back out on to Route 9W.

2. The front yard setback shall be maintained as a landscaped area.

(ii) Vehicular Circulation

Driveways should resemble residential driveways in design and construction and should be no greater than 14' wide. Each lot should have no more than one driveway. The use of shared driveways is encouraged.

(iii) Signage, Lighting, and Utilities

1. No internally illuminated signs are allowed. The use of metal, stone, wood or wood-appearance signs is encouraged.
2. Light fixtures should be residential scale. Pole height is to be no higher than 12'. At a minimum, "semi-cutoff" fixtures must be used. One light is permitted at the driveway, and the minimum number of fixtures necessary to promote safety should be used at parking areas and building entrances.

(4) Developmental District

(a) Site Organization

- (i) The natural topography and site features shall be the primary dictating factor in the organization of the built elements of the site.
- (ii) Consider varying the building location from lot to lot so that not all buildings are lined up in a row, to minimize the appearance of "strip" development. For projects which propose more than one structure, consider grouping buildings together, to simulate the siting of agricultural buildings.
- (iii) Buildings may be placed so as to maximize passive solar benefit and do not need to be perpendicular or parallel to the street.
- (iv) Maintain natural site integrity and avoid sensitive natural resources to the greatest extent possible.

(b) Vehicular and Pedestrian Circulation

- (i) Connections between adjacent parking areas and interior access roads shall be made as often as possible. New development which has no immediate commercial neighbors shall indicate a provision for



future connections on the site plan if appropriate. Development adjacent to commercial areas shall integrate any previously approved connections into the site plan.

- (ii) Entrance/exit drives (curb cuts) should be limited to one per building frontage or shared between lots.
  - (iii) Spacing and dimensions of all curb cuts, including modifications to existing curb cuts, shall comply with current NYSDOT regulations for entrances to a state highway.
  - (iv) Vegetation, signage, and/or structures shall not interfere with vehicle sightlines.
  - (v) Pedestrian facilities in parking lots should be clearly demarcated from parking areas, with treatments such as, but not limited to, concrete sidewalks or striped crosswalks.
  - (vi) Neighboring sites shall be connected with pedestrian sidewalks or pathways whenever possible. Consider future connections when laying out the location of pedestrian features. Development adjacent to commercial areas shall integrate any previously approved connections into the site plan.
- (c) Landscaping
- (i) Consider adding structural or vegetative buffer between paved areas and street. Structural buffers include fences and stone walls. Vegetative buffers include widely spaced street trees or naturalized groupings of trees and shrubs.
  - (ii) Maintain a minimum 8'-wide vegetated area between building face and paved areas on all sides of the structure, not including entrances and loading docks.
  - (iii) The integration of any significant existing vegetation into the site plan is strongly encouraged.
  - (iv) Use native/non-invasive species whenever possible. Landscaping plans should avoid using plants known to be invasive, such as those plants listed on Invasive Plants of the Eastern United States: Identification and Control, published by The University of Georgia, USDA APHIS PPQ and USDA Forest Service Forest Health Technology Enterprise Team. The most current list can be accessed at:

<http://www.invasive.org/eastern/>.

- (v) Consider integrating the design of stormwater facilities into the overall site/landscaping plan whenever possible.
  - (vi) Integrate landscaping within parking areas to reduce heat island effect and provide visual interest to large expanses of pavement. A minimum of 10% of the total parking area should be devoted to interior landscape islands for all lots with more than two rows of parking. Interior landscape islands should be evenly distributed throughout the parking area.
  - (vii) The landscaping plan should indicate snow storage areas; locate snow storage to avoid damage to plant material.
- (d) Signage, Lighting, and Utilities
- (i) The materials, colors, and design of signage should relate to the architecture and present an attractive, cohesive appearance. Wood, metal, and externally illuminated signs are encouraged. Signage must conform to the requirements of Article VI, Section J of this chapter.
  - (ii) The light fixture should complement the architectural style of the structure. At a minimum, "semi-cutoff" fixtures must be used. The use of cutoff or full-cutoff fixtures is preferred. Lighting must conform to the requirements of Article VI, Section I of this chapter.
  - (iii) The minimum amount of light levels necessary to insure safety should be used. General guidelines include:

Walkways:	0.5 - 2 foot candles
Parking areas:	0.5 – 2 foot candles
Local streets:	Varies: 0.5 – 3 foot candles
Building entrances:	5 foot candles
  - (iv) Buffers for loading areas/trash storage/utilities shall be provided which create sufficient visual screening and complement the overall architecture. Similar/complementary materials as those used for the building façade, vegetation, or a combination of both should be used.

## (5) Development/Multifamily Residential Zone:

## (a) Site Organization

- (i) The natural topography and site features shall be the primary dictating factor in the organization of the built elements of the site.
- (ii) Parking shall not be located in front of new buildings. Parking may be located on the side of buildings, or between buildings and internal access roadways. Existing buildings undertaking projects which require site plan review may retain existing front yard parking areas when redeveloped, but the areas should be improved to include other relevant landscape plantings, vehicular connections, and pedestrian amenities as recommended in these design guidelines.
- (iii) Consider varying the building location from lot to lot so that not all buildings are lined up in a row, to minimize the appearance of "strip" development. For projects which propose more than one structure, consider grouping buildings together, to simulate the siting of agricultural buildings.
- (iv) Buildings may be placed so as to maximize passive solar benefit and do not need to be perpendicular or parallel to the street.
- (v) Maintain natural site integrity and avoid sensitive natural resources to the greatest extent possible.

## (b) Vehicular and Pedestrian Circulation

- (i) Connections between adjacent parking areas and interior access roads shall be made as often as possible. New development which has no immediate commercial neighbors shall indicate a provision for future connections on the site plan if appropriate. Development adjacent to commercial areas shall integrate any previously approved connections into the site plan.
- (ii) Entrance/exit drives (curb cuts) should be limited to one per building frontage or shared between lots.
- (iii) Spacing and dimensions of all curb cuts, including modifications to existing curb cuts, shall comply with current NYSDOT regulations for entrances to a state highway.

- (iv) Vegetation, signage, and/or structures shall not interfere with vehicle sightlines.
  - (v) Pedestrian facilities in parking lots should be clearly demarcated from parking areas, with treatments such as, but not limited to, concrete sidewalks or striped crosswalks.
  - (vi) Neighboring sites shall be connected with pedestrian sidewalks or pathways whenever possible. Consider future connections when laying out the location of pedestrian features. Development adjacent to commercial areas shall integrate any previously approved connections into the site plan.
- (c) Landscaping
- (i) Consider adding structural or vegetative buffer between paved areas and street. Structural buffers include fences and stone walls. Vegetative buffers include widely spaced street trees or naturalized groupings of trees and shrubs.
  - (ii) Maintain a minimum 8'-wide vegetated area between building face and paved areas on all sides of the structure, not including entrances and loading docks.
  - (iii) The integration of any significant existing vegetation into the site plan is strongly encouraged.
  - (iv) Use native/non-invasive species whenever possible. Landscaping plans should avoid using plants known to be invasive, such as those plants listed on Invasive Plants of the Eastern United States: Identification and Control, published by The University of Georgia, USDA APHIS PPQ and USDA Forest Service Forest Health Technology Enterprise Team. The most current list can be accessed at: <http://www.invasive.org/eastern/>.
  - (v) Consider integrating the design of stormwater facilities into the overall site/landscaping plan whenever possible.
  - (vi) Integrate landscaping within parking areas to reduce heat island effect and provide visual interest to large expanses of pavement. A minimum of 10% of the total parking area should be devoted to interior landscape islands for all lots with more than two rows of parking. Interior landscape islands should be evenly distributed throughout the parking area.

- (vii) The landscaping plan should indicate snow storage areas; locate snow storage to avoid damage to plant material.
- (d) Signage, Lighting, and Utilities
  - (i) The materials, colors, and design of signage should relate to the architecture and present an attractive, cohesive appearance. Wood, metal, and externally illuminated signs are encouraged. Signage must conform to the requirements of Article VI, Section J of this chapter.
  - (ii) The light fixture should complement the architectural style of the structure. At a minimum, "semi-cutoff" fixtures must be used. The use of cutoff or full-cutoff fixtures is preferred. Lighting must conform to the requirements of Article VI, Section I of this chapter.
  - (iii) The minimum amount of light levels necessary to insure safety should be used. General guidelines include:

Walkways:	0.5 - 2 foot candles
Parking areas:	0.5 – 2 foot candles
Local streets:	Varies: 0.5 – 3 foot candles
Building entrances:	5 foot candles
  - (iv) Buffers for loading areas/trash storage/utilities shall be provided which create sufficient visual screening and complement the overall architecture. Similar/complementary materials as those used for the building façade, vegetation, or a combination of both should be used.

#### E. Architectural Guidelines.

- (1) Purpose. Unlike the site guidelines, which are very specific, these architectural guidelines do not dictate precise styles, materials, or design choices for buildings in New Baltimore. Rather, the following discussions are intended to be a starting point to assist architects and developers beginning the design process. Specific architectural goals and guidelines have been prepared for each zone.

## (2) Commercial and Service Commercial Zone:

- (a) General. Create high-quality commercial structures which relate to and enhance the landscape, rather than detracting from it. Larger buildings should have a distinctive style and interesting facades, and smaller buildings should provide a visual transition between rural residential forms and the more commercial uses. Reliance on pre-fabricated or pre-determined building forms, materials, and colors is discouraged.
- (b) Building Form and Facades:
  - (i) Facades should be designed with features which reduce the large scale and the uniform, impersonal appearances of commercial buildings. Facades should be consistent with the Town's identity, character, and scale. This design of the facade should be integral to the building, and not superficially applied trim, graphics, paint, etc.
  - (ii) First floor height should be 15' minimum. Upper stories are not required to be functional; however, second story windows are encouraged.
  - (iii) All facades of a building which are visible from adjoining properties, public streets and/or on-site roadways should have similar features and amenities as the front façade.
- (c) Rooflines:
  - (i) Variations in rooflines should be used to add character to smaller buildings, and reduce the massive scale of large buildings.
  - (ii) Features such as eaves, parapets, and sloped rooflines should be integrated into the overall design of the structure.
  - (iii) The use of green or living roofs is encouraged. The guidelines above should not be construed to preclude the use of innovative green technologies.
- (d) Entrances. The design of entrances should be attractive and welcoming, using features such as outdoor patios, recessions/projections, arcades, peaked rooflines or gables, canopies, arches, or display windows.
- (e) Materials and Colors:
  - (i) High-quality, durable materials such as brick, stone, wood, and concrete clapboard are encouraged.

- (ii) Avoid using unfinished masonry units or synthetic stucco, especially at entrances and areas which receive up-close scrutiny from pedestrians.
  - (iii) Building colors shall reflect the intended architectural style rather than pre-determined corporate or business colors.
- (3) Center Commercial Zone:
  - (a) General. Design of structures shall promote a comfortable, pedestrian-scaled environment. Historic residential building forms (such as Victorian, Colonial, Huguenot, and Shaker) are appropriate points of reference for new construction.
  - (b) Windows:
    - (i) The size, shape, and proportion of the windows should be appropriate to the architecture and to the community character.
    - (ii) Promote transparency on the ground floor with appropriately scaled windows. Divide large, ground-floor windows with architectural elements, consistent with the style of the building.
    - (iii) For two-story structures, relate second-story windows to first-story windows in shape, form, and pattern. Second-story windows should be proportional to the style of the structure.
  - (c) Entrances:
    - (i) The configuration of the building entrance is determined by the style of the structure, the design of the facade elements, and the building placement on the site.
    - (ii) Doors should not open directly into the sidewalk right-of-way. Buildings without setbacks should therefore feature recessed entrances. Some buildings may be set back from the street. In these cases, a recessed entrance is not necessary, although it may be desirable for the business.
  - (d) Materials and Colors:
    - (i) Areas that are on the ground floor and receive up-close scrutiny from pedestrians and customers should be high-quality and durable, such as wood, brick, and stone. If less expensive materials are necessary, such as synthetic stucco, contain them to upper floors in order to minimize the visual impact.

- (ii) Building colors shall reflect the intended architectural style rather than pre-determined corporate or business colors.
- (4) Light Commercial Zone:
  - (a) General. The look and feel of residential character shall be maintained. Adaptive reuse of homes and farm buildings is encouraged. New construction should blend seamlessly into the rural residential character along 9W.
  - (b) Renovations. When renovating a residential structure for use as a commercial building, maintain the residential character to the greatest extent possible. Windows and entrances may need to be redesigned, but the overall residential character should be maintained.
  - (c) New Construction. New structures shall complement traditional residential and agricultural architecture. The guidelines for architecture in the C zone above shall apply to new construction in the LC zone. In addition, the following guidelines apply:
    - (i) Existing historic buildings along Route 9W should form the reference point for new construction. Appropriate architectural styles include Colonial, Victorian, Craftsman, and Cape Cod.
    - (ii) Flat roofs are discouraged, while sloped and gabled rooflines are encouraged.
    - (iii) Windows and entrances should be residentially-scaled and in proportion to the proposed façade.
  - (d) Finish Materials. Relate the material choice to the intended style of the building.
- (5) Developmental and Development/Multifamily Residential Zones
  - (a) General. Create high-quality commercial structures which relate to and enhance the landscape, rather than detracting from it. Larger buildings should have a distinctive style and interesting facades, and smaller buildings should provide a visual transition between rural residential forms and the more commercial uses. Reliance on pre-fabricated or pre-determined building forms, materials, and colors is discouraged.
  - (b) Building Form and Facades:
    - (i) Facades should be designed with features which reduce the large scale and the uniform, impersonal appearances of commercial buildings. Facades should



be consistent with the Town's identity, character, and scale. This design of the facade should be integral to the building, and not superficially applied trim, graphics, paint, etc.

- (ii) All facades of a building which are visible from adjoining properties, public streets and/or on-site roadways should have similar features and amenities as the front façade.
- (c) Rooflines:
  - (i) Variations in rooflines should be used to add character to smaller buildings, and reduce the massive scale of large buildings.
  - (ii) Features such as eaves, parapets, and sloped rooflines should be integrated into the overall design of the structure.
  - (iii) The use of green or living roofs is encouraged. The guidelines above should not be construed to preclude the use of innovative green technologies.
- (d) Entrances. The design of entrances should be attractive and welcoming.
- (e) Materials and Colors:
  - (i) High-quality, durable materials such as brick, stone, wood, and concrete clapboard are encouraged.
  - (ii) Building colors shall reflect the intended architectural style rather than pre-determined corporate or business colors.

#### **§ 112-26. Regulation of steep slopes.**

- A. Intent. Steep slopes in the Town of New Baltimore are environmentally sensitive land forms and valuable natural resources which are of benefit to the entire Town and the surrounding region. The environmental sensitivity of steep slopes often results from such features as rock outcrop, shallow soils over bedrock, bedrock fractures, groundwater seeps, watercourses and other wetlands found on or immediately adjacent to steep slopes. In addition, these areas of steep slopes, especially along the Route 9W corridor, are an integral component of the visual character of the Town. The intent is not to restrict general development in the Town, but to guide land use proposals into areas where they best preserve and enhance these natural resources and preserve and protect the visual and environmental character of the land.

- B. Applicability. The following regulations apply to all development and

other land disturbing activities within the LC, SC, CC, C, DMR, and D zones.

- C. Measurement of steep slopes. For purposes of determining the location of steep slope areas, only slopes containing at least 2,000 square feet of contiguous steep slope area at least ten feet in width shall be considered.
- D. Limitation of area disturbed. All land disturbing activities, including but not limited to clearing, grading, excavation, building construction, construction of driveways and roads, cutting, and filling, shall be limited to the minimum land area necessary to accommodate the proposed use or activity.
- E. Limits on Changing Natural Grade. The original, natural grade of a lot shall not be raised or lowered more than four (4) feet at any point for the construction of any structure or improvements, except that:
  - (1) These standards limiting change of natural grade shall not apply to grading required to construct or excavate a foundation or basement.
  - (2) The Planning Board may approve modifications to these standards if it finds that such modifications would result in less total site disturbance and visual impact than would compliance with the maximum limits on changing natural grade stated in this subsection.
- F. Revegetation Required. Any slope exposed or created in new development on very steep or moderately steep slope areas shall be revegetated or landscaped with non-invasive species as soon as possible after land disturbance occurs and such landscaping shall be properly maintained to prevent erosion.
- G. Disturbance of moderately steep slopes (between 15% and 20%).
  - (1) Permitted Uses and Activities. All uses and activities allowed in the zoning district shall be allowed on moderately steep slopes, subject to applicable review procedures and standards.
  - (2) Any such development and uses on moderately steep slope areas shall minimize disturbance to soil geology, hydrology, and environmental features, including visual impact.
- H. Disturbance of very steep slopes (greater than 20%).
  - (1) General Prohibition on Land Disturbance. Land disturbing activities, including but not limited to clearing, excavation, grading, construction, reconstruction, and investigative land disturbing activities such as test wells, are prohibited on slope areas greater than 20% except as allowed below.
  - (2) Permitted Uses and Activities. The following are permitted on

very steep slope areas, subject to criteria set forth in this chapter:

- (a) Passive recreation uses, including trails not exceeding ten feet in width
  - (b) Open space and other conservation uses
  - (c) Land surveying or study
  - (d) Uses permitted as-of-right according to Article 4 of this chapter.
- (3) Any such development and uses on very steep slope areas shall minimize disturbance to soil geology, hydrology, and environmental features, including visual impact.

## **ARTICLE VII Site Plan Review**

### **§ 112-27. Intent and purpose.**

- A. It is the intent of this chapter to promote the health, safety, and general welfare of the Town with regards to Town-wide commercial development. A clean, attractive environment as well as the promotion of sustainable design techniques are declared to be of importance to the health and safety of the inhabitants of the Town and such an environment is deemed essential to the maintenance and continued development of the economy of the Town and the general welfare of its inhabitants.
- B. It is further the intent of this chapter to ensure the reasonable overall conservation, protection, preservation, development and use of the human and natural resources of the Town through review and approval of site plans. Toward this end, these regulations establish standards for preserving water quality, controlling air quality and traffic congestion, ensuring site access for emergency services (e.g. fire/police protection and ambulance services), providing adequate water supply and safe and proper means for sewage and solid waste disposal and guarding neighboring properties against intrusive excessive impacts.

### **§ 112-28. Applicability.**

- A. Development projects requiring site plan approval.
  - (1) A new use or development designated as requiring site plan review in the Use Table of this chapter, shall not be undertaken unless and until the Planning Board has conducted Site Plan Review.
  - (2) Any uses designated as requiring site plan review in the Use Table of this chapter, shall not be expanded or intensified beyond the exceptions laid out below, such that changes to the site or exterior of the building are necessary, unless and until the Planning Board has conducted Site Plan Review.
  - (3) A change in use from a use designated as requiring site plan review to one designated as requiring a Special Use Permit shall require site plan review, as required in Article X. A change from one site plan review use to another shall not require site plan approval if no physical changes to the structure or site are necessary beyond the exceptions laid out in (B.) below.
- B. Exceptions. The following development projects do not require Site Plan Review, regardless of whether the use is designated as a Site Plan Review use in this chapter:

- (1) Exterior alterations or additions that will not increase the gross floor area of the existing structure within any 5 year period by more than 10,000 square feet or 25% of the gross square feet of the building, whichever is less.
- (2) Additions or alterations to existing outdoor parking or storage areas that do not increase the total area by more than 1,500 square feet

C. Designation of Major and Minor Projects

All development projects requiring Site Plan Review shall be designated by the Planning Board as a Minor or Major project.

- (1) Minor projects are those projects deemed by the Planning Board as not likely to create significant impact on the community according to the Site Development Standards set forth in §112-35, and therefore may be approved with a less intensive review.
- (2) Major projects are those projects deemed by the Planning Board as likely to create significant impact on the community, and therefore require more intensive review.
- (3) Projects are presumed to be minor unless they meet any of the following thresholds:
  - (a) Any action meeting the definition of a Type I action according to SEQRA
  - (b) Any new construction of freestanding structures over 2,500 square feet
  - (c) Any construction activity required by the NYS Department of Environmental Conservation to prepare a Stormwater Pollution Prevention Plan

**§ 112-29. Application procedure.**

- A. Pre-application conference. Applicants have the option to have an informal meeting with the Planning Board, prior to submitting a formal application package. The purpose of this meeting is to allow applicants and Board members to begin a dialogue about the approval process and project concepts. Although this meeting is optional, it is recommended for applicants with complex site plan review projects.
- B. Preliminary site plan review and designation of major/minor project status.
  - (1) All applicants are required to submit 10 copies of the application at least 10 days prior to the scheduled Planning Board meeting date. The minimum required information for this application shall be that needed for a minor project, as described herein.
  - (2) Applicants may submit more than the minimum application

content for minor projects. However, it is recommended that applicants undergo the preliminary review with the Planning Board prior to preparing a detailed application.

- (3) At the preliminary site plan review meeting, the Planning Board shall designate the project as major or minor.

**§ 112-30. Minor project site plan review application content.**

Minor project applications shall include, but not be limited to, the following:

- A. A brief narrative and preliminary concept showing the locations and uses of principal and accessory structures, parking areas, and other planned features and any significant anticipated changes to the existing topography and natural features.
- B. A location map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features within the project area.
- C. A topographic or contour map of adequate scale and detail to show site topography if applicable.
- D. A completed Short Environmental Assessment Form
- E. The completed application form and fee

**§ 112-31. Planning Board action for minor projects.**

- A. Minor projects may be approved at the preliminary review meeting with no further review.
- B. At the preliminary review meeting the Planning Board may determine that the applicant must submit additional information in order to complete its review of the project. Additional information may include, but not be limited to, any item listed in the Major Site Plan Checklist below.
- C. No public hearing is required for a minor project. However, the Planning Board, at its sole discretion, may hold a public hearing according to the procedures set herein.

**§ 112-32. Major site plan application content.**

The Planning Board is not limited to this list and may, within reason, request any additional information it deems necessary or appropriate. In determining the amount of information it will require, the Planning Board will consider the use, location, and the size and potential impact of the project.

**A. Legal Information**

- (1) Title of site plan, including the name and address of applicant and owner, if different, and the person responsible for preparing

such drawing.

- (2) North arrow, scale, and date. Scale should be no greater than one inch per fifty feet.
- (3) Boundaries of property plotted to scale.
- (4) Location and ownership identification of all adjacent lands as shown on the latest tax records.
- (5) Location, width and identification of all existing and proposed rights-of-way, easements, setbacks, reservations and areas dedicated to public use on or adjoining the property.

#### B. Existing Conditions

- (1) Location, type of construction, exterior dimensions, and existing use of all buildings on the premises.
- (2) Location, name and width of existing adjacent roads.
- (3) Existing contours. Areas with slopes greater than 15% shall also be indicated.
- (4) Bedrock less than five feet from the surface and areas of frequent rock outcrops.
- (5) Existing areas of high groundwater (seasonal or permanent).
- (6) Soils with excessively slow or fast percolation. (Refer to soil survey reports available from the Soil Conservation Service).
- (7) Flood hazard areas.
- (8) State or federally regulated freshwater wetlands.
- (9) Existing waterbodies or watercourses.
- (10) Existing flora and fauna, including wooded areas, significant isolated trees, and habitat areas.

#### C. Proposed Conditions

- (1) Grading and drainage plan showing proposed contours.
- (2) Location, type of construction and exterior dimensions of all buildings to be constructed or altered on the site.
- (3) Identification of the amount of gross floor area proposed for retail sales and services, offices and other commercial or industrial facilities.
- (4) Location, type of construction and area of all parking and truck loading areas, showing access and egress.
- (5) Provision for pedestrian access, including Americans with Disabilities Act (ADA) criteria and including public and private sidewalks, if applicable.

- (6) Location of outdoor storage, if any.
  - (7) Location of all existing or proposed site improvements, including drains, culverts, retaining walls and fences, with the proposed construction material noted.
  - (8) Description of the method of sewage disposal and the location of such facilities.
  - (9) Description of the method of securing water, location of such facilities and approximate quantity of water required.
  - (10) Location of fire lanes and other emergency zones, including the location of fire hydrants, if required.
  - (11) Location, design and construction materials of all energy generation and distribution facilities, including electrical, gas and solar energy.
  - (12) Location, size, design and type of construction of all proposed permanent signs.
  - (13) Location and development of all proposed buffer areas, including indication of existing and proposed vegetative cover.
  - (14) Location and design of existing and proposed outdoor lighting fixtures.
  - (15) General landscaping and planting schedule.
  - (16) Record of applications and approval status of all necessary permits from federal, state, county and local offices.
  - (17) Estimated project construction schedule.
  - (18) Future plans for undeveloped portion of property, if known.
- D. Any materials needed to undergo SEQR review, including a Short or Long Environmental Assessment Form or Draft Environmental Impact Statement.
- E. The completed application form and fee.

**§ 112-33. Planning Board action for major projects.**

- A. Applicants for major projects must submit 10 copies of a complete major site plan review application 10 days in advance of the Planning Board meeting.
- B. Acceptance of major project site plan application.

The Planning Board shall, within 30 days of a major site plan application being filed, determine whether to accept the application as complete or to reject the application as incomplete. Incomplete applications shall be returned to the applicant, without prejudice, with a letter noting application deficiencies.



## C. Referral to other agencies and boards.

- (1) Coordinated review. The Planning Board may refer the site plan for review and comment to local and county officials or their designated consultants and to representatives of federal, state and county agencies, including but not limited to the Soil Conservation Service, the New York State Department of Transportation, the New York State Department of Environmental Conservation and the New York State Department of Health.
- (2) Required referral. Prior to taking final action on the site plan and where applicable, the Planning Board shall refer the plan to the Greene County Planning Board and adjacent municipalities pursuant to § 239-m, -n, and -nn of the General Municipal Law.
- (3) Special Use Permit. If the applicant requires a special use permit, the Planning Board shall refer to Article X.
- (4) Public hearing on site plan.
  - (a) The Planning Board will conduct a public hearing on all major site plan applications. Such hearing shall be held within 62 days of the Planning Board's acceptance of the complete site plan application.
  - (b) The Planning Board shall advertise notice of the public hearing in the town's official newspaper at least five and not more than 30 days before the hearing.
  - (c) Such notice of hearing shall also be mailed directly by the applicant to all land owners of all parcels located directly adjacent to and across a street or public right-of-way at least ten (10) days prior to the hearing date.
- (5) Planning Board approval.

Following conclusion of the SEQRA review process and/or within 62 days of the close of the site plan review public hearing, the Planning Board shall render its decision to either approve, approve with conditions or disapprove the site plan.

- (a) Approval. Upon approval of the site plan and payment by the applicant of all related fees and reimbursable costs due the town, the Planning Board Chairman shall endorse the approval on a copy of the site plan and immediately shall file the site plan and a resolution of approval with the Town Clerk. The Town Clerk shall mail a copy of the resolution of approval to the applicant by certified mail

with a copy to the Building Inspector.

- (b) Approval with conditions. The Planning Board may approve the site plan and make that approval contingent upon specific conditions being met.
- (c) A copy of a written statement of approval containing the conditions required by the Planning Board shall be mailed to the applicant by certified mail. A copy of the approval with conditions will also be provided to the Building Inspector.
- (d) Upon approval and after payment by the applicant of all related fees and reimbursable costs due the town, the Planning Board shall endorse its conditional approval on a copy of the site plan and shall file the site plan and a resolution of conditional approval with the Town Clerk.
- (e) Upon approval with conditions, applicants shall fulfill such conditions and requirements as requested by the Planning Board within the approval period set forth in this Article. The Planning Board shall empower the Chairperson of the Planning Board to endorse the site plan upon compliance with such conditions and requirements as may be stated in its resolution of approval with conditions.
- (f) Extensions may be granted by the Planning Board for three consecutive six-month periods.

D. Disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall be filed with the Town Clerk and a copy thereof mailed to the applicant by certified mail, together with a resolution stating the Planning Board's reasons for disapproval. A copy will also be provided to the Building Inspector.

E. Extension of time to render decision; approval by default.

The period of time in which the Planning Board must render its decision on a completed site plan application may be extended by mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within the time period specified above or agreed upon between the applicant and Board shall constitute Planning Board approval of the site plan application as submitted or as most recently last amended.

#### **§ 112-34. Professional assistance.**

The Planning Board, subject to the approval of the Town Board, may require an applicant for major or minor projects undergoing Site Plan Review to deposit in an escrow account an amount established by the Planning Board to pay the fees and/or costs of any consultant, engineer, or attorney

designated by the Town Board to review the application. The fees and/or costs charged by such consultant, engineer, or attorney in connection with such review will be charged against the sum deposited in escrow. If specific circumstances warrant it, additional funds will be required to be deposited in order to cover reasonable expenses incurred beyond the original estimate. Any amount remaining shall be returned to the applicant within 45 days of final action on the application. Payment to the escrow account, if required, is a prerequisite to a complete application, and no review will be initiated until payment is received. The deposit specified above does not include all approvals or fees required from or by agencies other than the town, costs associated with extensions to districts to provide necessary services to the proposal nor fees charged by town departments or boards for permits, approvals, hearings, or other actions, except as noted above.

### **§ 112-35. Project standards.**

#### **A. General objectives.**

- (1) Sites shall be of such character that they can be developed safely without danger to health or peril from fire, flood or other menace.

- (2) Site Development Standards

Site development shall comply with the following objectives:

- (a) Adequate and safe vehicular circulation between the site and public thoroughfare(s), including any necessary curb-cut permits from the jurisdictional authority, e.g. state, county or town highway departments.
- (b) Safe and adequate interior site circulation, including parking and loading areas.
- (c) Accessibility, with particular attention to access for emergency vehicles during periods of operation.
- (d) Adequacy of stormwater and drainage facilities.
- (e) Compatibility with and protection of adjacent uses, particularly residential uses, through landscaping, vegetative and other screening, buffering, planting, setbacks and method of construction.
- (f) Mitigation of any adverse effects of smoke, noise, glare, vibration, odors and/or other noxious and offensive conditions.
- (g) Mitigation of any adverse effects on historic properties listed on the National, State or Greene County Historical Registers and other cultural and historical resources of the town.

- (h) Adequate accommodation of on-site waste treatment and water facilities unless central sewer and/or water service is provided.
- (i) The provisions of any applicable Design Guidelines
- (3) Natural resource standards.

The Town finds that certain natural resources are worthy of conservation. The Town further finds that these resources may not be suited to development. Site plans for lots which contain these resources should avoid or mitigate any physical impacts which may result from construction. These resources include:

- (a) Slopes greater than 15% or other areas subject to erosion.
- (b) Bedrock less than five feet from the surface and areas of frequent rock outcrops.
- (c) Areas of high groundwater (seasonal or permanent).
- (d) Soils with excessively slow or fast percolation. (Refer to soil survey reports available from the Soil Conservation Service).
- (e) Flood hazard areas.
- (f) State or federally regulated freshwater wetlands.
- (g) Shorelines of waterbodies or watercourses.
- (h) Important habitat areas, based on designations made in open space plans, natural resource surveys, or other such studies conducted by local, regional, or state agencies and as adopted by resolution of the Town Board.

**§ 112-36. Expiration of approval; extension.**

- A. Unless otherwise specified or extended by the Planning Board, site plan approvals shall expire after 1 year of the approval filing date if the applicant has not obtained a building permit or started actual construction as defined in Article XVI of this chapter.

If a building permit for the site is obtained within the one-year period, the site plan approval shall be valid for two (2) additional years from the date of the permit issuance.

- B. In the event that a building permit has not been obtained or actual construction has been started, the applicant must resubmit either a preliminary or final site plan for Planning Board review and approval, as directed by the Board. Any developed use of the parcel, lot, and building after the termination of such approval hereto shall be a violation hereof.
- C. The Planning Board may, at the applicant's written request and at least

30 days prior to the expiration of the initial one-year approval, grant the applicant an extension of the approval for up to one additional year.

**§ 112-37. Certificate of occupancy; inspections.**

A certificate of occupancy shall be issued when all improvements shown on the site plan are installed and deemed in conformance with the approved site plan by the Building Inspector. Inspections during the installation of improvements shall be made by the Building Inspector to ensure conformity with the approved plans and specifications as contained in the contract and this chapter. The applicant shall notify the Building Inspector when the improvements are ready for inspection.

**ARTICLE VIII**  
**Planned Development District (PDD) Provisions**

**§ 112-38. Findings and purpose.**

- A. When coordinated with the municipal comprehensive plan, a Planned Development District can be an effective tool for guiding development in ways that support community goals and priorities.
- B. A Planned Development District provides a means by which different land uses within an area covered by a single development plan may be combined to achieve compatibility among such uses. Unattainable with traditional municipal zoning techniques, a Planned Development District provides flexibility in the regulation of land use development in order to:
  - (1) Encourage innovation in land use variety and design, in the layout and type of new structures and in their integration with existing structures;
  - (2) Enhance efficiency in the use of land, natural resources, energy, community services and utilities;
  - (3) Encourage open space preservation and protection of natural resources, historic sites and structures;
  - (4) Facilitate the provision of housing and improved residential environments;
  - (5) Enhance the ability of municipalities to promote business and employment opportunities.

**§ 112-39. Objectives.**

In order to realize the purpose of this section, a Planned Development District (PDD) shall achieve the following objectives:

- A. A development pattern which preserves outstanding natural topography and geological features, scenic vistas, trees, and prevents the disruption of natural drainage patterns.
- B. An efficient use of land resulting in smaller networks of utilities and streets.
- C. A development pattern in harmony with the land use intensity, transportation facilities, and community facilities objectives of the Comprehensive Plan.

- D. The preservation, renovation and/or adaptive reuse of existing structures of historic and/or local significance.
- E. A creative use of land and related physical development which allows an orderly transition of land from rural to urban character and uses.
- F. A more desirable environment than would be possible through the strict application of other articles of this chapter.
- G. More usable open space and recreation areas and, if permitted as part of a project, more convenience in location of commercial and service uses.
- H. The maintenance and creation of commercial services at varying scales and intensities essential to the economy of New Baltimore.
- I. A symbiotic relationship with residential units, both integral with and adjoining the project, creating a mutually beneficial functional interchange.
- J. Adherence to any applicable economic conditions, post-development agreements, or environmental mitigation which may be required.

**§ 112-40. General requirements for planned development districts (PDD).**

- A. Minimum project area. The minimum project area of a Planned Development District shall be ten (10) contiguous acres of land undivided by roads, utility rights of ways or similar barriers. The Town Board may consider projects of lesser acreage where the applicant can demonstrate that the characteristics of his holdings meet the purpose and objectives of this section.
- B. Project ownership. The project land may be owned, leased or represented either by a single person, or corporation, or by a group of individuals or corporations. Such ownership may be a public or private corporation. The approved project plan shall be binding on the project land and owner(s).
- C. Location of Planned Development Districts. The PDD District shall be available in all zones, where the applicant can demonstrate that the characteristics of the land holdings meet the purpose and objectives of this chapter and the objectives of the Comprehensive Plan.

- D. In no case shall a PDD be approved if, in the judgment of the Town Board, the objectives of this section are not realized in the PDD design.
- E. In no case shall a PDD be approved unless a common water supply and/or sanitary sewer system are available or proposed to serve the development.
- F. Permitted uses. All uses within a PDD District may be determined by the following provisions:
  - (1) Residences may be of a variety of types, including single- and two-family dwellings, and multifamily dwellings.
  - (2) Commercial uses. Commercial uses may be a variety of scales, types and orientation from commercial recreation to general retail business to commercial retail services to wholesale commercial uses, except that the highway "strip" orientation of such uses shall be discouraged by the town.
- G. Common property in Planned Development Districts.
  - (1) Common open space totaling not less than 50% of the total Planned Development District shall be provided in perpetuity. This land shall be exclusive of any land area used primarily for vehicular modes of transportation, including parking areas, garages, carports and other features.
  - (2) A property owners' association or similar mechanism for the long-term ownership and maintenance of this common open space shall be provided, subject to the approval of the Town Board, and the grant of a Conservation Easement to further ensure the protection of this open space may be required.

**§ 112-41. Planned development district application procedure and approval process.**

- A. General. Whenever a PDD is proposed, before any zoning and building permit shall be granted, and before any subdivision plat may be filed in the Office of the County Clerk, the prospective developer or his authorized agent shall apply for and secure approval of such Planned Development District in accordance with the following procedures.



**B. Sketch Plan Review Procedure.**

- (1) Prior to the formal filing of a PDD application, the applicant shall submit a sketch plan of the proposal.
- (2) During Sketch Plan Review, the Town Board, in its legislative capacity, establishes the boundaries of the proposed PDD and set limits on the nature and range of uses, geometric and site controls and overall project planning. Specifically, the Town Board shall review the sketch plan according to the following criteria:
  - (a) The proposal conforms to the Comprehensive Plan.
  - (b) The proposal meets local and area-wide needs.
  - (c) The proposal meets the intent and objectives and general requirements of this section.
- (3) The Town Board has the authority to accept or refuse to consider any PDD proposal. Once the Town Board has accepted a PDD sketch plan for consideration, it shall refer the sketch plan to the Planning Board. Such refusal or acceptance and referral shall take place within 30 days of the submittal of the PDD sketch plan.
- (4) The Town Board may also schedule an optional Joint Meeting with the Planning Board, to be held within 45 days of the date of referral to the Planning Board.
- (5) The Planning Board, upon receipt of the referral, shall have 45 days to issue an advisory report to the Town Board on the PDD sketch plan. Failure to issue an advisory report within 45 days shall be equivalent to a neutral recommendation. The advisory report shall make a recommendation as to whether the sketch plan, as submitted, meets the following sketch plan review criteria:
  - (a) The proposal is conceptually sound in that it conforms to accepted design principles in the proposed functional roadway and pedestrian systems, land use configuration, open space system, drainage system, and scale of the elements both absolutely and to one another.
  - (b) There are adequate services and utilities available or proposed to be made available in the construction of the development.

- (6) Within 45 days of the receipt of the advisory report, the Town Board may act or schedule an optional public hearing, with such notice as is required by this chapter for a zoning amendment and applicable provisions of the Town Law of the State of New York.
  - (7) Within 45 days of the Planning Board action or close of the sketch plan public hearing, the Town Board shall take action to approve, with or without conditions, or disapprove the proposed PDD sketch plan, based on the criteria set forth above.
  - (8) If approved or approved with conditions and accepted, the applicant may proceed to formal PDD application.
- C. Sketch Plan Contents. The applicant shall submit to the Town Board, with copies to the Planning Board, a sketch plan of the proposed development. Such sketch plan shall be approximately to scale and shall clearly show the following information.
- (1) The location of the various uses and their areas in acres.
  - (2) The general outlines of the interior roadway system and all existing rights-of-way and easements, whether public or private.
  - (3) The interior open space system.
  - (4) The overall drainage system.
  - (5) A topographic map showing pre and post contour intervals of not more than five feet with an overlay showing the proposed grading concept.
  - (6) An aerial photo, if available.
  - (7) Principal ties to the community at large with respect to transportation, water supply, and sewage disposal.
  - (8) General description of the provision of other community facilities, such as schools, fire protection services, and cultural facilities, if any, and some indication of how these needs are proposed to be accommodated.
  - (9) A location map showing uses and ownership of abutting lands.
  - (10) Preliminary use and dimensional requirements, including:
    - (a) Permitted uses, conditional and accessory uses;
    - (b) Maximum development intensity of residential uses;

- (c) Floor area ratio for non-residential uses;
  - (d) Lot coverage;
  - (e) Build-to distances from public and private ways;
  - (f) Setbacks for structures and parking areas;
  - (g) Minimum lot size;
  - (h) The number, size and location of automobile parking areas and loading areas and the proposed access to such areas;
  - (i) Minimum lot frontages and building massing;
- (11) In addition, the following documentation shall accompany the sketch plan:
- (a) Evidence of how the developer's particular mix of land uses meets existing community demands to include area-wide as well as local considerations.
  - (b) Evidence that the proposal is compatible with the goals of local and area-wide Plans.
  - (c) General statement as to how common open space is to be owned and maintained.
  - (d) If the development is to be phased, a general indication of how the staging is to proceed. Whether or not the development is to be staged, the sketch plan of this section shall show the entire project.
  - (e) Description of ownership, or other demonstration of compliance with §112-40 (B.) above.
  - (f) Evidence of any sort in the applicant's own behalf to demonstrate his competence to carry out the plan and his awareness of the scope of such a project, both physical and financial.

**§ 112-42. Formal application.**

- A. After sketch plan review is complete a formal application for establishment of a Planned Development District shall be made in writing to the Town Board and shall be accompanied by the applicable fee.
- B. The Town Board shall refer the application to the Planning Board within 30 days of the receipt of the application. The Town Board shall also refer the application according to the requirements of General Municipal Law 239 -m, -n, and -nn and SEQRA.

C. Application Content. The formal application shall describe the proposed physical changes to the project area in a report that includes graphics and a supporting narrative. The application shall contain sufficient facts and information for the Planning Board to make the findings required under this section. However, fully engineered plans and construction details are not required at this stage in the process. The following information is required; however, the level of detail shall be sufficient to provide the Planning Board with enough information to understand the proposed PDD:

- (1) The desirability of the proposed land use in the proposed location;
- (2) The existing character of the neighborhood;
- (3) Access, circulation, parking, and transportation management;
- (4) Proposed location, type and size of signs and driveways;
- (5) Existing State, County or Town highways that provide access to the area;
- (6) Vehicular traffic circulation features, including proposed highways and roadways within the PDD;
- (7) Mobility (bicycles, pedestrians, etc.) through the district.
- (8) The general location of principal and accessory buildings in relation to one another and to other structures in the vicinity;
- (9) The conceptual footprint, height and bulk of buildings and the intended use for such buildings;
- (10) Other site improvements;
- (11) Phasing program if phases are proposed;
- (12) General landscaping concept and features;
- (13) Preservation of open space and natural areas including the amount and location of open space, recreation area and pedestrian circulation areas and provisions for permanent protection;
- (14) Infrastructure improvement preliminary plans including water source and delivery, drainage, and energy;
- (15) The general plan for the collection and disposal of sanitary wastes for the PDD;

- (16) The number, size and location of automobile parking areas and loading areas and the proposed access to such areas;
- (17) Preservation of historic structure(s);
- (18) Design standards and guidelines;
- (19) A proposed amendment to the Zoning Code including at a minimum, a metes and bounds description of the property and standards for development;
- (20) All material and data necessary to conduct review under the State Environmental Quality Review Act.
- (21) A list of all other permits required.

**§ 112-43. Planning Board action.**

- A. The Planning Board is delegated by the Town Board to be responsible for ensuring that the sketch plan approved by the Town Board will be properly implemented. The Planning Board achieves compliance by reviewing and approving the formal PDD plans submitted by the applicant.
- B. The Planning Board may require such changes in the preliminary plans as are found necessary or desirable, in accordance with the criteria set forth herein for the required findings as well as the project parameters set by the Town Board during sketch plan review, to protect the established or permitted uses in the vicinity and to promote the orderly growth and sound development of the community.
- C. The Planning Board shall make the Required Findings outlined below and recommend approval, approval with conditions or disapproval to the Town Board of such PDD application, and shall report its findings to the Town Board within 62 days following the date of referral from said Town Board, unless an extension is mutually agreed to by the applicant and the Planning Board.
- D. Planning Board approval of the preliminary plans shall not constitute nor imply approval of a building project for the area included in the application. Planning Board approval of the preliminary plans shall not constitute nor imply a permit for said project.

**§ 112-44. Required Planning Board findings.**

The Planning Board shall develop written findings that document the facts and information relied upon to reach its conclusions in rendering a decision on a PDD. The following mandatory findings must be addressed:

- A. Uses and structures. The variety and arrangement of land uses and structures throughout the proposed development are appropriate for the site. The Planning Board may not specifically prohibit nor permit uses or structures not similarly authorized by the Town Board during sketch plan review.
- B. Dimensional standards. The Planning Board shall ensure compliance of the sketch plan approved by the Town Board. The Planning Board shall evaluate the project plan with respect to the minimum area and geometric controls and other standards set forth by the Town Board or the default standards of this section if not specifically modified by the Town Board.
- C. Feasibility of completing the PDD. The Planning Board shall evaluate and comment whether the proposed sequence, staging and expected schedule for implementing the PDD can be achieved in the manner described. It shall seek to identify any public infrastructure or improvements that are related to or contingent upon the successful completion of the proposed PDD and set forth a preliminary schedule of PDD milestones that are to be achieved after adoption.

**§ 112-45. Town Board action.**

- A. Upon receipt of the Planning Board's findings and recommendation, the Town Board may then consider the legal establishment of the Planned Development District through a Zoning District Map amendment. The Town Board shall hold a public hearing thereon upon such notice as is required by this chapter for a zoning amendment and applicable provisions of the Town Law of the State of New York.
- B. The Town Board shall render a decision on the application within sixty-two (62) days of the close of the public hearing, unless an extension of time is agreed to by the applicant and Town Board, according to the following criteria:
  - (1) That the PDD is consistent with the purpose and intent of this chapter including, where applicable, the development program and standards of this chapter;
  - (2) That the PDD is compatible with the surrounding neighborhood context and character and is in conformance with the policies in the Comprehensive Plan;
  - (3) That the PDD has mitigated potential undue adverse environmental impact as set forth during SEQRA review to the maximum extent practicable;

- (4) That the PDD will add to the long-term assets of the community and it will not erode the livability or economic viability of existing and neighboring areas;
  - (5) That the open space and recreation areas and facilities provided are commensurate with the level of development proposed and the pre-development open space resources potentially available for protection;
  - (6) That the provisions to protect open space resources are sufficiently secured by dedication where appropriate and desirable or legal instruments and/or monitoring programs and/or establishment or use of an existing trust to ensure their continued long-term protection.
- C. The Town Board may, if it believes it necessary in order to fully protect the health, safety, and general welfare of the community, attach to its zoning resolution approving the zoning change additional conditions or requirements applicants must meet. Such requirements may include but are not limited to:
  - (1) Visual and acoustical screening
  - (2) Land use mix
  - (3) Schedule of construction and occupancy
  - (4) Pedestrian and vehicular circulation system
  - (5) Parking and snow removal
  - (6) Sites for public services
  - (7) Protection of natural and/or historical features
  - (8) Requirements or conditions identified during the SEQR process and/or voluntary agreements between the applicant and the community, including economic incentives or infrastructure improvements
- D. If the change of zone is approved by the Town Board, the Official Town Zoning Map shall be amended so as to define the boundaries of the Planned Development District, and such amendment shall be advertised and recorded in accordance with the requirements of New York State Town Law.

**§ 112-46. Site plan review of building projects within an established PDD.**

- A. Site Plan Review Required. Upon the establishment of a PDD, all development projects within the PDD are required to undergo the Site Plan Review Process as laid out in Article VII of this

chapter. This process may be undertaken concurrently with the PDD process.

- B. Application for site plan approval for a development project within an established planned development district shall be made in writing to the Planning Board. Application shall be made by the owner(s) or developer(s) of the development project.
- C. The applicant shall furnish necessary data, including maps and plans showing topography, building types and layout, setback, off-street parking and loading, ingress and egress, signs, existing and proposed amenities such as screening, planting and ornamental features and such other data and plans as may be required for an understanding of the proposed development.

The data, maps and plans submitted with the application shall be prepared in accordance with the requirements of Article VII, Site Plan Review (major projects) of this chapter.

- D. The Planning Board may require that changes be made in the submitted plans that are found necessary or desirable to meet the requirements of this chapter and to conform to such other existing regulations of the Town concerning the approval of developments in general. Where a conflict between the PDD and the other land use laws exist the site specific PDD legislation shall prevail.
- E. No permit shall be issued for any project within a PDD until the Planning Board determines that the proposed project is consistent with the approved PDD.
  - (1) The PDD approved by the Town Board shall guide the planning and design of subsequent projects and/or phases of development within the PDD.
  - (2) A building project within a planned development district shall conform in all respects to the approved plans.
  - (3) The Planning Board, as appropriate shall document that the following requirements have been met prior to approval of a development project within a PDD:
    - (a) The project is in conformance with the approved development program and the design standards.
    - (b) The minimum setbacks required for the underlying zoning district shall apply to the periphery of the project;



- (c) All other zoning requirements of the district, except those modified or specifically deemed not applicable by Building Inspector, shall be met;
- (d) The development plan shall specify reasonable periods within which development of each phase of the planned development may be started and shall be completed.
- (4) The Planning Board shall hold a public hearing on any such proposed building project as finally submitted to it for approval.
- (5) After the public hearing, the Planning Board, may approve, approve with conditions, or disapprove the application.

**§ 112-47. Subdivision review.**

Applications for subdivision in a Planned Development District shall be made to the planning board in accordance with Chapter 115 of the Code of the Town of New Baltimore. In the event of a conflict between such subdivisions regulations and this Article or any requirement imposed hereunder, the provisions of this Article of such requirements shall apply.

**§ 112-48. Consultant review fees.**

The Town Board may require an applicant for a PDD to deposit in an escrow account an amount established by the Town Board to pay the fees and/or costs of any consultant, engineer, or attorney designated by the Town Board to review the application for the PDD and subsequent Site Plan Review and/or Subdivision review. The fees and/or costs charged by such consultant, engineer, or attorney in connection with such review will be charged against the sum deposited in escrow. If specific circumstances warrant it, additional funds will be required to be deposited in order to cover reasonable expenses incurred beyond the original estimate. Any amount remaining shall be returned to the applicant within 45 days of site plan or subdivision approval. Payment to the escrow account, if required, is a prerequisite to a complete application, and no review will be initiated until payment is received. The deposit specified above does not include all approvals or fees required from or by agencies other than the town, costs associated with extensions to districts to provide necessary services to the proposal nor fees charged by town departments or boards for permits, approvals, hearings, or other actions, except as noted above.

**§ 112-49. Conditions to run with land.**

All conditions imposed by the Town and Planning Boards shall run with the land and shall neither lapse nor be waived as a result of any subsequent change in the tenancy or ownership of any or all of said area. Such conditions shall further be a part of any certificate of occupancy issued for any use or structure in such development.

**§ 112-50. PDD amendment procedure.**

**A. Application.**

- (1) An application for amendment of an established Planned Development District shall be made in writing to the Town Board and shall be accompanied by the applicable fee. The application shall also be accompanied by a full environmental assessment form or draft EIS as required by the Environmental Conservation Law. The Town Board shall refer the application to the Planning Board within 30 days of the receipt of application.
- (2) The application shall describe the proposed physical changes to the project area in a report that includes graphics and a supporting narrative. The application shall contain sufficient facts and information for the Planning Board to make the findings required under this section.

**B. Planning Board Action.**

- (1) The Planning Board may require such changes in the preliminary plans as are found necessary or desirable, to protect the established or permitted uses in the vicinity and to promote the orderly growth and sound development of the community.
- (2) The Planning Board shall make the Required Findings outlined below and recommend approval, approval with conditions or disapproval to the Town Board of such PDD application, unless said application is abandoned, and shall report its findings to the Town Board within 62 days following the date of referral from said Town Board, unless an extension is mutually agreed to by the applicant and the Planning Board.
- (3) Planning Board approval of the preliminary plans shall not constitute nor imply approval of a building project for the area included in the application. Planning Board approval of the preliminary plans shall not constitute nor imply a permit for said project.

**C. Required Findings.**

The Planning Board shall develop written findings that document the facts and information relied upon to reach its conclusions in rendering a decision on a PDD. The following mandatory findings must be addressed:

- (1) Uses and structures. The variety and arrangement of land uses and structures throughout the proposed development are appropriate for the site. The Planning Board may not specifically prohibit nor permit uses or structures not similarly authorized by the Town Board during sketch plan review.
- (2) Dimensional standards. The Planning Board shall ensure compliance of the sketch plan approved by the Town Board. It shall evaluate the project plan with respect to the minimum area and geometric controls and other standards set forth by the Town Board or the default standards of this section if not specifically modified by the Town Board.
- (3) Feasibility of completing the PDD. The Planning Board shall evaluate and comment whether the proposed sequence, staging and expected schedule for implementing the PDD can be achieved in the manner described. It shall seek to identify any public infrastructure or improvements that are related to or contingent upon the successful completion of the proposed PDD and set forth a preliminary schedule of PDD milestones that are to be achieved after adoption.

**D. Town Board Action.**

- (1) Upon receipt of the Planning Board's findings and recommendation, the Town Board may then consider the legal modification of the Planned Development District. The Town Board shall hold a public hearing thereon upon such notice as is required by this chapter for a zoning amendment and applicable provisions of the Town Law of the State of New York.
- (2) The Town Board shall render a decision on the application within sixty-two (62) days of the public hearing, unless an extension of time is agreed to by the applicant and Town Board, according to the following criteria:
  - (a) That the PDD is consistent with the purpose and intent of this chapter including, where applicable, the development program and standards of this chapter;

- (b) That the PDD is compatible with the surrounding neighborhood context and character and is in conformance with the policies in the Comprehensive Plan;
  - (c) That the PDD has mitigated potential undue adverse environmental impact as set forth during SEQRA review to the maximum extent practicable;
  - (d) That the PDD will add to the long-term assets of the community and it will not erode the livability or economic viability of existing and neighboring areas;
  - (e) That the open space and recreation areas and facilities provided are commensurate with the level of development proposed and the pre-development open space resources potentially available for protection;
  - (f) That the provisions to protect open space resources are sufficiently secured by dedication where appropriate and desirable or legal instruments and/or monitoring programs and/or establishment or use of an existing trust to ensure their continued long-term protection.
- (3) The Town Board may, if it believes it necessary in order to fully protect the health, safety, and general welfare of the community, attach to its zoning resolution approving the zoning change additional conditions or requirements applicants must meet. Such requirements may include but are not limited to:
  - (a) Visual and acoustical screening
  - (b) Land Use mix
  - (c) Schedule of construction and occupancy
  - (d) Pedestrian and vehicular circulation system
  - (e) Parking and snow removal
  - (f) Sites for public services
  - (g) Protection of natural and/or historical features
- (4) If the change of zone is approved by the Town Board, the Official Town Zoning Map shall be amended so as to define the boundaries of the Planned Development District, and such amendment shall be advertised and recorded in

accordance with the requirements of New York State Town Law.

**§ 112-51. Other provisions.**

PDD Legislation Repealer. The Town Board shall act to return the property to its prior zoning district classification if it finds that:

- A. Performance requirements which may have been specified by the Town Board in its PDD approval action, such as a time limit for either initiation or completion of improvements and other construction work on the proposed development have not been met, unless the Town Board, upon specific application and for good cause, authorizes an extension of such performance requirement.
- B. The PDD approval has expired by the failure of the project sponsor to make substantial and continuing progress in the development of the project for more than three years from the date of final approval of the PDD. The determination of substantial and continuing progress shall be determined solely by the Town Board, which may consider any number of factors in making its determination, including the securing of project financing and changed market conditions.
- C. If a Planned Development District expires, any buildings constructed or used may continue as a non-conforming use and such shall continue to be bound by the previous PDD approval.

## **ARTICLE IX Conservation Subdivisions**

### **§ 112-52. Purpose and applicability.**

- A. Conservation Subdivisions allow design flexibility while preserving important natural attributes of the land. The purpose of Conservation subdivision development is to ensure that environmental resources are protected as much as possible and that development occurs on the land that is best suited for development.
- B. For major subdivisions in the RA Zone the Planning Board shall require Conservation Subdivisions as outlined herein.
- C. Conservation Subdivision requirements may be applied to minor subdivisions if desired by the applicant.

### **§ 112-53. Conservation subdivision procedures.**

Review Process. The Conservation Subdivision process involves the following three steps:

- A. Concept Plan Review, as set forth in Chapter 115, Subdivision Regulations.
- B. Conservation Analysis, as set forth herein
- C. Preliminary and Final Plat Review (as per Chapter 115, Subdivision Regulations)

### **§ 112-54. Conservation analysis.**

- A. After receiving Concept Plan approval, as outlined in §115-4, Subdivision of Land, an applicant shall prepare a conservation analysis, consisting of inventory maps, survey and topographic maps, written description of the land, and a written analysis of the conservation value of various site features.
- B. The conservation analysis shall identify lands with conservation value on the parcel, including but not limited to the following:
  - (1) “Constrained land” as defined herein. Constrained land includes:
    - (a) Wetlands (NYS Department of Environmental Conservation and US Army Corps of Engineers)
    - (b) Watercourses/waterbodies with a 100 foot buffer
    - (c) 100-year floodplains
    - (d) Slopes over 15% which are 2,000 square feet or more of contiguous sloped area

- (2) Active Farmland
  - (3) Existing or proposed public trail corridors
  - (4) Scenic viewsheds, as determined through the completion of a NYS Department of Environmental Conservation Visual Environmental Assessment Form, or as otherwise defined in any Natural Resources inventory or similar plan adopted by resolution of the Town Board
  - (5) Documented aquifers and aquifer recharge areas
  - (6) Sites identified as historic on any federal, state, or local register of historic places
  - (7) Public parks and publicly accessible recreation lands
  - (8) Unfragmented forest land
  - (9) Buffer areas necessary for screening new development from adjoining parcels and from other publicly accessible areas including roads, parkland, and nature preserves
  - (10) Stone walls
  - (11) Trees 8" dbh or larger, except where such trees are part of a larger stand of trees, in which case the entire stand may be identified as a unit
  - (12) If requested by the Planning Board, other relevant information such as the location and nature of areas with potential recreational, historic, ecological, agricultural, water resource, scenic or other natural resource value.
- C. The Conservation Analysis shall also identify areas that are potentially suitable for development, especially those that have been previously disturbed (e.g. by mining, prior development, or clear-cutting) and their present condition. Such areas, depending on their condition and location might be preferred locations for development.
- D. Sketch Plan. The sketch plan shall incorporate the outcome of the Conservation Analysis into the design and layout of the project.
- The Sketch Plan shall show the following:
- (1) A density calculation, as described in Article V.
  - (2) Preferred locations for intensive development as well as acceptable locations for less dense development.
  - (3) Land to be permanently preserved, as well as recommended Conservation uses, ownership, and management guidelines for

such land. At least 50% of the total acreage shall be preserved by deed restriction or conservation easement as set forth herein and shown as such on the Sketch Plan, based upon the Conservation Analysis.

- (4) Land suitable for stormwater management facilities, which may be located within the preserved land area.
- (5) A sketch plan showing the draft lot and road layout, based on the number of lots proposed by the applicant.

E. Conservation Analysis Findings.

The Planning Board shall make a final determination that the applicant has identified sufficient land that has conservation value and should be protected from development by conservation easement or deed restriction. This determination shall be based upon an analysis that weighs the relative importance of the environmental resources on the site and shall be expressed in a written report supporting its decision (the "Conservation Findings"). The Planning Board may incorporate information provided by its own research, as a result of site visits, or provided by its own consultants, or other qualified experts or agencies.

**§ 112-55. Preliminary and final plat review.**

Once the sketch plan is approved, the applicant must follow all processes and requirements pertaining to Preliminary and Final Plat for Major Subdivisions pursuant to Chapter 115, Subdivision Regulations.

**§ 112-56. Exceptions and waivers from conservation subdivision requirement.**

A. Exception with voluntary lot size increase

Applicants may, at their discretion, seek an exception from the conservation analysis process and proceed directly to a conventional subdivision by voluntarily increasing in the minimum lot size proposed on the parcel. The increased minimum lot size shall be determined by the number of lots proposed, as set forth in the Dimensional Table (Article V).

It should be noted on the approved subdivision map that the increased minimum lot size shall apply to all further subdivision of any parcels created under the application of this waiver. However, this does not restrict the minimum lot size for the parent parcel, provided that any such subsequent subdivision meets the provisions of this Chapter.



## B. Waiver with no lot size increase

- (1) Applicants may also apply to the Planning Board to waive the requirements for a Conservation Subdivision without increasing the minimum lot size by completing a Conservation Analysis of the property. 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 acreage is too small to preserve a substantial amount of land with conservation value (this criterion shall not be evaded by piecemeal subdivision of larger tracts)
  - c. The lot configuration is unique and precludes preservation of a substantial amount of land with conservation value
  - d. That there are extraordinary circumstances unique to the parcel that demonstrates that conventional subdivision is in the best interest of the adjacent neighborhoods
- (2) In order to make the required showing 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.

**§ 112-57. Dimensional requirements in conservation subdivisions.**

- A. There shall be no required width, depth, setback, or related dimensional standards in a Conservation Subdivision, with the following exceptions:
  - (1) Lots that are connected to central sewage and central water systems shall have no minimum lot size requirement.
  - (2) For lots that do not have either central water systems or central sewer systems (or have neither), the minimum lot size shall be established by the Planning Board based on site-specific soil conditions and the approval of the State Health Department.

- (3) Where such subdivision abuts an existing residence, 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 RA district.
- B. In order to permit a clustered lot configuration, wells and septic systems may be located in areas of protected open space, provided that necessary easements are provided for maintenance of these facilities.
- C. 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.

**§ 112-58. Conservation subdivision design guidelines.**

The following guidelines should be considered and may be required in the process of designing and siting houses in a conservation subdivision in the RA District. When locating new houses on the land there are many options in the siting, configuration, size and arrangement of elements in the landscape. These choices define the character of the developed landscape environment. These guidelines are examples of the preferred method to design and site uses but should not be considered the only acceptable solution.

- A. Preservation of Scenic Features. Relate the location of structures to existing scenic features such as individual large trees within open fields, stone walls, hedgerows, historic buildings, and unpaved country roads if they exist on the site. Avoid locating structures in areas which disrupt the relationship of the rural features. Locating structures in the midst of an open field is discouraged.
- B. Placement of Structures. Wherever practical, structures shall be sited to be as visually inconspicuous as possible, when seen from a distance and from lower elevations, and to minimize impact on open and agricultural lands. Wherever possible, the Planning Board may require that structures be located at the edge of the agricultural land to minimize the loss of such land.
- C. Vegetation. Existing vegetation on-site shall be preserved to the maximum extent practical. Every attempt shall be made to limit cutting necessary for either construction or the opening of views from the subject site so as to maintain native vegetation as a screen for structures as seen from public roads or parks or other public views.
- D. Wherever practical, buildings shall be sited so that they do not protrude above treetops and ridgelines of hills as seen from public places and roads. This shall not be interpreted to mean that the

buildings should not be seen, only that they should not protrude above the trees or hilltops.

- E. Wherever practical, all electric, telephone, television, and other communication lines, both main and service connections, servicing new development, shall be provided by underground wiring installed in accordance with the prevailing standards and practices of the utility or other companies providing such services.

**§ 112-59. Professional assistance.**

The Planning Board, subject to the approval of the Town Board, may require an applicant for Conservation Subdivision to deposit in an escrow account an amount established by the Planning Board to pay the fees and/or costs of any consultant, engineer, or attorney designated by the Town Board to review the application. The fees and/or costs charged by such consultant, engineer, or attorney in connection with such review will be charged against the sum deposited in escrow. If specific circumstances warrant it, additional funds will be required to be deposited in order to cover reasonable expenses incurred beyond the original estimate. Any amount remaining shall be returned to the applicant within 45 days of final action on the application. Payment to the escrow account, if required, is a prerequisite to a complete application, and no review will be initiated until payment is received. The deposit specified above does not include all approvals or fees required from or by agencies other than the town, costs associated with extensions to districts to provide necessary services to the proposal nor fees charged by town departments or boards for permits, approvals, hearings, or other actions, except as noted above.

**§ 112-60. Conservation value of open space.**

The open space protected pursuant to this Section must have "conservation value," which shall be determined in the course of the Conservation Analysis.

**§ 112-61. Permanent preservation of open space.**

- A. As part of the Conservation Subdivision process, a minimum of 50% of the gross acreage of the parcel shall be permanently protected from development.
- B. A permanent deed restriction or a conservation easement restricting development of the 50% open space land and allowing use only for agriculture, forestry, passive recreation, protection of natural resources, or similar conservation purposes, shall be reviewed by the Planning Board. Such deed restriction or conservation easement shall be required as a condition of Final Plat approval.

- C. The permanent protection shall prohibit residential, industrial, or commercial use of open space land (except in connection with agriculture, forestry, and passive recreation), and shall not be amendable to permit such use. Access roads, driveways, wells, underground sewage disposal facilities, local utility distribution lines, stormwater management facilities, trails, temporary structures for passive outdoor recreation, and agricultural structures may be permitted on preserved open space land, provided that they do not impair the conservation value of the land. Forestry shall be conducted in conformity with applicable best management practices.
- D. Permanent open space may be preserved as a portion of one or more lots or may be contained in a separate open space lot.

**§ 112-62. Notations on final plat.**

Preserved open space land shall be clearly delineated and labeled on the subdivision Final Plat as to its use, ownership, management, method of preservation, and the rights, if any, of the owners of lots in the subdivision and the public to the open space land. The Final Plat shall clearly show that the open space land is permanently preserved for conservation purposes by a conservation easement required by this Section, and shall include deed recording information in the County Clerk's office for the conservation easement.

**§ 112-63. Ownership of open space land.**

- A. Open space land shall under all circumstances be protected but may be owned in common by a homeowner's association (HOA), offered for dedication to Town, County, or State governments, transferred to a non-profit organization acceptable to the Planning Board, held in private ownership, or held in such other form of ownership as the Planning Board finds appropriate to properly manage the open space land and to protect its conservation value.
- B. If the land is owned in common by an HOA, such HOA shall be established in accordance with the following:
  - (1) The HOA must be established before the approved subdivision Final Plat is signed, and must comply with all applicable provisions of the General Business Law.
  - (2) Membership must be mandatory for each lot owner, who must be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities.

- (3) The HOA must be responsible for liability insurance, property taxes, and the maintenance of recreational and other facilities and private roads.
  - (4) The HOA must be able to adjust the assessment to meet changed needs.
- C. The applicant shall make an irrevocable, conditional offer of dedication to the Town, binding upon the HOA, for all open space to be conveyed to the HOA. Such offer may only be accepted upon any one of the following circumstances:
  - (1) upon the failure of the HOA to take title to the open space from the applicant or other current owner, or,
  - (2) upon dissolution of the association at any future time, or,
  - (3) upon failure of the HOA to fulfill its maintenance obligations hereunder, or,
  - (4) upon failure to pay its real property taxes.
- D. Ownership shall be structured in such a manner that real property taxing authorities can satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.
- E. The Town's Counsel shall find that the HOA documents presented satisfy the conditions in Subsections C.(1) through C.(4) above, and such other conditions as the Planning Board shall deem necessary.

**§ 112-64. Maintenance standards.**

- A. Ongoing maintenance standards shall be established, enforceable by the town against an owner of open space land as a condition of subdivision approval, to ensure that the open space land is not used for any purpose or structure prohibited by the conservation easement or for the storage or dumping of refuse, junk, or other offensive or hazardous materials.
- B. If the Town Board finds that the maintenance provisions above are being violated, enforcement procedures as set forth in Article XIV shall be followed to obtain compliance.

## **ARTICLE X**

### **Special Use Permit Review**

#### **§ 112-65. Intent.**

The intent of this Article is to set forth additional requirements which shall apply to certain land uses and activities which due to their characteristics, or the special characteristics of the area in which they are to be located, require special consideration so that they may be properly located and planned with respect to the objectives of this chapter and their effect on the surrounding properties and community character.

The primary purpose of Special Use Permit review is to ensure compatibility with the surrounding neighborhood and to ensure the long-term benefit of the use to the Town.

#### **§ 112-66. Application content.**

All special use permit review and approval shall occur as a part of any applicable Site Plan review. Applicants shall refer to Article VII Site Plan Review for application content.

#### **§ 112-67. Criteria.**

The Planning Board shall consider the following criteria when making a determination for a special use permit:

- A. The operation of the proposed use will not be more objectionable to nearby properties by reason of noise, fumes, vibration, hours of operation, illumination or other potential nuisance than the operation of any permitted use in the particular district.
- B. The current or future capacity of community infrastructure and services, including but not limited to protective services, roadways, garbage collection, schools and water and sewer facilities, to accommodate the proposed use.
- C. The adequacy of the soil capacity and natural features on the proposed site possesses to safely support proposed facilities and structures, including water and septic services at the site.
- D. Compliance with the provisions of the Zoning Code, other applicable regulations and ordinances of the town, standards of New York State, and the town's Comprehensive Plan.
- E. The adequacy and management of vehicular and pedestrian traffic patterns associated with the proposed use. Factors for the

Planning Board to consider in making this determination include turning movements in relation to traffic flow, proximity to and relationship to intersections, adequacy of sight distances, location and access of off-street parking, provision for pedestrian traffic, capacity of existing roads and minimizing pedestrian-vehicular circulation conflicts.

- F. The compatibility of the location, design, layout, size and character of the proposed use with the appropriate and orderly development of the surrounding area.
- G. The ability of the proposed location and height of buildings or structures, walls and fences, parking, loading and landscaping to not interfere or discourage appropriate development of land adjacent to the proposed site or unreasonably affect its value.
- H. Adequacy of screening, landscaping, lighting, hours of operation, signs, and architecture to mitigate any adverse impacts that might result from the proposed use on neighboring properties.
- I. The development will be located and organized in a way which reflects the natural capabilities of the site to support such a use. Natural resources, as listed in Article IX of this chapter, will be maintained and preserved.
- J. The existing landscape will be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil.
- K. The proposed use has been preliminarily approved by all other governmental entities and agencies which have jurisdiction.
- L. Consistency with the requirements of any applicable site plan approval for the proposed use.

#### **§ 112-68. Site plan approval.**

- A. Site plan approval is required in the consideration of those special use permit uses involving new construction, or any land development activities not specifically excluded by §112-28 of this chapter. Such site plan review shall be carried out either in conjunction with or after, these special use permit procedures.
- B. In cases where special use permits involving the conversion of an existing structure from one use to another with no physical changes to the site or structure, or which involve only those activities excluded from Site Plan Review, shall not require site plan review.

**§ 112-69. Public hearing on special use permit.**

- A. The Planning Board will schedule a public hearing within sixty-two (62) days of the date of the meeting at which the application was considered complete for receipt by the Planning Board.
- B. The Planning Board shall advertise notice of the public hearing in the town's official newspaper at least five and not more than 30 days before the hearing. If the public hearing is to be concurrent with the public hearing required for Site Plan Review, only one advertisement notice is needed.
- C. Such notice of hearing shall also be mailed directly by the applicant to all land owners of all parcels located directly adjacent to and across a street or public right-of-way at least ten (10) days prior to the hearing date. If the public hearing is to be concurrent with the public hearing required for Site Plan Review, only one notice is required to be sent to each parcel owner.
- D. After the conclusion of a public hearing for a special use permit, including site plan approval, the Planning Board shall grant, deny, or grant subject to conditions, the special use permit within sixty-two (62) days.

**§ 112-70. Planning Board action.**

- A. The Planning Board shall not issue a special use permit unless it makes a recorded finding that the proposed use will satisfy the standards set forth herein. In order to reach positive findings in support of the special use permit, the Planning Board may require conditions of, and/or modifications to, the project. Such conditions must relate to the impact of the project. If the Planning Board does not make a positive finding in support of the special use permit, it shall deny the special use permit. In issuance of such a denial, the record of the Planning Board must address the criteria outlined above and include the facts and reasons upon which such denial was based.
- B. The decision of the Planning Board shall be filed in the office of the Planning Board Clerk, and a copy thereof mailed to the applicant.

**§ 112-71. Special use permit expiration, revocation and enforcement.**

- A. A conditional special use permit approval shall expire at the end of six months if the conditions have not been satisfied. The



Planning Board may, however, consent to an extension of up to six additional months.

- B. A special use permit shall be deemed to authorize only the particular special use or uses specified therein.
- C. A special use permit may be issued as:
  - (1) Permanent, except where the permitted use is discontinued for any reason for a period of two (2) years or more.
  - (2) Temporary, to cease on a specified date and not to be renewable.
  - (3) Renewable within a specified period of time set by the Planning Board.
- D. A special use permit may be revoked by the Planning Board if the conditions of the special use permit are violated.
- E. Any violation of the conditions of a special use permit or a violation of any applicable performance criteria of this chapter shall be deemed a violation of this chapter and shall be subject to enforcement action as provided herein.
- F. All special use permits shall run with the land and will be transferred to successive property owners provided the permit has not expired and it is not revoked for failure to meet the permit conditions.

**ARTICLE XI**  
**Nonconforming Uses, Structures and Lots**

**§ 112-72. Nonconforming uses. [Amended 1-05-2009 by L.L. 2 of 2009]**

A. Continuation. Any nonconforming use which existed lawfully at the time of adoption of this chapter may be continued, subject to the following provisions.

B. Expansion, extension, modification, or replacement.

(1) Expansion

A nonconforming use shall not be enlarged beyond the area of the existing structure in which the use is located, which structure existed prior to adoption of this chapter, unless granted a special use permit from the Planning Board. Said expansion shall also be subject to site plan approval, to be considered at the same time as the special use permit application, where the Use Table of this chapter and the provisions of Article VII (Site Plan Review) require site plan approval for the expansion.

(2) Extension.

A nonconforming use which existed prior to adoption of this chapter may be extended within any portion of an existing structure in which it is located, and the same shall not be deemed an expansion of such nonconforming use, provided that such extension does not involve the physical expansion of the existing structure.

(3) Modification.

A nonconforming use shall not be changed to any other nonconforming use; nor shall a nonconforming use be modified in a way that increases its nonconformity unless such modification results in a use of the same or a less nonconforming nature. The determination of whether such modification results in an equal or lesser nonconformity shall be made by the Zoning Board of Appeals.

(4) Replacement.

If a nonconforming use is replaced by another use, such use shall conform to the use regulations of the district in which it is located.

C. Discontinuance.

If a nonconforming use is discontinued for a period of 24 consecutive months, such nonconforming use shall expire and be deemed abandoned; and any subsequent use on the same lot shall conform to the use regulations of the district in which it is located.

D. Continuance of non-conforming use.

- (1) If any building or structure in which a nonconforming use is conducted is hereafter removed voluntarily, or destroyed by fire, wind, explosion, structural failure or other natural cause, the structure may be reconstructed or restored and the nonconforming use continued.
- (2) Such restoration or reconstruction must not enlarge the structure beyond the original dimensions, and a valid building permit must be obtained within one year of the removal or destruction of the original structure.

**§ 112-73. Nonconforming buildings and structures.**

A. Continuation.

- (1) Any nonconforming building or structure which existed lawfully at the time of adoption of this chapter may be maintained.
- (2) Any building or structure, for which a valid building permit was lawfully issued prior to the adoption of this chapter, may be completed and used in accordance with the plans and specifications for such building or structure.
- (3) Any owner of an existing nonconforming mobile home who desires to substitute a single-family home, a mobile home of superior construction, or to improve the facilities for the existing mobile home, such substitution or improvement shall be considered to be a continuation of such nonconforming use, and shall comply with the regulations set forth herein.

B. Modification and replacement.

- (1) Modification.
  - (a) A nonconforming building or structure shall be maintained in such condition as will not constitute a danger to the health, safety, or general welfare of the public.

- (b) A nonconforming building or structure shall not be added to, enlarged, reconfigured or altered in any manner which increases its nonconformity.
- (2) Replacement.
  - (a) A nonconforming building or structure may be replaced or rebuilt on its identical footprint, within 24 months after its removal, so long as it is not added to, enlarged, reconfigured or altered in any manner which increases its nonconformity.
  - (b) After 24 months, such nonconforming structure may not be rebuilt on the same footprint but must conform to the regulations of the district in which it is located.

**§ 112-74. Nonconforming lots.**

- A. In instances where an existing lot of record is nonconforming relative to lot size, and/or lot width, an area variance to waive these dimensional requirements is not required in order for a building permit to be secured. However, any new construction on a nonconforming lot must comply with all applicable required setbacks.
- B. Buildings and structures located on nonconforming lots may be moved, expanded, enlarged or replaced as long as such change complies with all of the required setbacks of the district in which it is located.

## **ARTICLE XII**

### **Administrative Provisions**

#### **§ 112-75. Notice of public hearing.**

- A. Each notice of hearing upon an application for site plan review, special use permit, planned development district application, the review of a variance application upon an appeal to the Zoning Board of Appeals, or any other public hearing required by this chapter, NYS Town Law or SEQRA shall be published once in the official newspaper of the Town at least five (5) and no more than thirty (30) days prior to the date of the hearing.
- B. Such notice of hearing shall also be mailed directly by the applicant to all land owners of all parcels located directly adjacent to and across a street or public right-of-way at least ten (10) days prior to the hearing date. The notice shall be sent certified mail, return receipt requested.
- C. The cost of the public hearing notice shall be included in the fee for the applicable review or permit. If subsequent, separate hearings are required by the reviewing board or requested by the applicant, the cost of additional notices and mailings shall be paid by the applicant prior to such notices being sent. This shall not include hearings held open or continued by the reviewing Board.

#### **§ 112-76. Referral to County Planning Board.**

- A. Per §239—m and -n of Town Law, any variance application, site plan review, special use permit, planned development district application, or zoning change application within the following thresholds shall be referred to the Greene County Planning Board for their review and comment:
  - (1) Within 500 feet of the Town boundary.
  - (2) Within 500 feet of an existing or proposed county or state park or recreation area.
  - (3) Within 500 feet of a right-of-way of any existing or proposed parkway, thruway, expressway, road or highway.
  - (4) Within 500 feet of any existing or proposed county or state stream or drainage channel or easement.
  - (5) Within 500 feet of the existing or proposed boundary of any county or state owned land on which a public building or institution is situated.

- (6) Within 500 feet of the boundary of a farm operation located in an agricultural district as defined by article 25-AA of the agriculture and markets law.
- B. Within 30 days after receipt of a full statement of such referred matter, the Greene County Planning Board shall report its recommendations to the referring Town body. If the county fails to report within 30 days, the Town body may act without such report. If the county disapproves the proposal, or recommends modification thereof, the Town body having jurisdiction shall not act contrary to such disapproval or recommendation, except by a vote of a majority plus one of all the members thereof, and after the adoption of a resolution fully setting forth the reasons for such contrary action.
- C. Within 7 days after final action by the Town body, a report of said final action shall be filed with the Greene County Planning Board.

**§ 112-77. Referral to neighboring municipalities.**

- A. Per §239-nn of Town Law, the Town of New Baltimore shall give notice to an adjacent municipality when a hearing is held by such body relating to:
  - (1) The granting of a use variance on property that is within five hundred feet of an adjacent municipality;
  - (2) Site plan review and approval on property that is within five hundred feet of an adjacent municipality;
  - (3) Special use permit review and approval on property that is within five hundred feet of an adjacent municipality;
  - (4) A subdivision review and approval on property that is within five hundred feet of an adjacent municipality.
- B. Such notice shall be given by mail or electronic transmission to the clerk of the adjacent municipality at least ten days prior to any such hearing.
- C. Such adjacent municipality may appear and be heard.

**§ 112-78. Records to be retained.**

The original or a certified copy of all decisions, approvals, rulings and findings of any board under this Local Law, and of all permits and certificates issued under this article, shall be promptly to the Town Clerk and retained as a permanent Town public record.

**§ 112-79. Assistance to boards.**

Planning Board and Zoning Board of Appeals shall have the authority to call upon any department, agency or employee of the Town for such assistance as shall be deemed necessary and as shall be authorized by the Town Board. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance. The Planning Board and Zoning Board of Appeals shall have the power and authority to employ experts, clerks and a secretary and to pay for their services, and to provide for such other expenses as may be necessary and proper, not exceeding the appropriation that may be made therefore by the Town Board.

**§ 112-80. SEQR compliance.**

The Planning Board and Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article Eight of the Environmental Conservation Law and its implementing regulations as codified in Title Six, Part Six Hundred Seventeen of the New York Codes, Rules and Regulations.

**§ 112-81. Building Inspector.**

- A. The Building Inspector shall have the power and duty to administer and enforce the provisions of this Local Law. The Building Inspector shall be appointed by, and may be removed at the pleasure of, the Town Board. The Town Board may appoint Deputy Building Inspectors to exercise any or all of the duties of the Building Inspector.
- B. Building Inspector Duties. The Building Inspector shall not issue a permit for the construction of any building or use of any property unless such building or use conforms to all laws and ordinances of the Town.

**§ 112-82. Planning Board.****A. General Provisions**

- (1) The Planning Board shall have all the powers and perform all the duties prescribed by state statute and by this Local Law. The Planning Board shall have original jurisdiction for all matters pertaining to this Zoning Law pursuant to state statute.
- (2) Legislative Intent. Pursuant to Article 16 and §271 of the Town Law, the Town Board of the Town of New Baltimore, by resolution on September 12, 1972, established the Town of New Baltimore Planning Board consisting of seven members with corresponding seven-year terms. This section is enacted pursuant to Municipal Home Rule §10

for the purpose of superseding a portion of Town Law §271 regarding the terms of members hereafter appointed to serve on the Town of New Baltimore Planning Board. Notwithstanding any contrary provisions of Town Law §271, the Code of the Town of New Baltimore, chapter, ordinance, resolution, rules and/or regulations inconsistent herewith, members of the Town of New Baltimore Planning Board shall hereafter be appointed by the Town Board for terms of three years.

- (3) Town Board eligibility. No person who is a member of the Town Board shall be eligible for membership on the Planning Board.
- (4) Service on other Planning Boards. No person shall be disqualified from serving as a member of the Town Planning Board by reason of serving as a member of the town or County Planning Agency.
- (5) Rules and regulations. The Planning Board may recommend to the Town Board regulations relating to any subject matter over which the Planning Board has jurisdiction under this Local Law or any other statute, or under any Local Law of the Town. Adoption of any such recommendations by the Town Board shall be by Local Law.
- (6) Report on referred matters. The Town Board may seek input from the Planning Board where their input would help the Town Board make a more informed decision. The Town Board may by resolution provide for the referral of any matter or class of matters to the Planning Board before final action is taken thereon by the Town Board or other office or officer of the Town having final authority. The Town Board may further stipulate that final action shall not be taken until the Planning Board has submitted its report, or after the Planning Board has exceeded the time period set by the Town Board for the Planning Board to submit its report.

B. Training and attendance requirements.

- (1) Each member of the Planning Board shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet these requirements.



Such training requirements shall be established by resolution of the Town Board.

- (2) To be eligible for reappointment to such board, such member shall have completed the training set forth by the Town Board.
  - (3) No decision of the Planning Board shall be voided or declared invalid because of a failure to comply with these training requirements.
- C. Vacancy in office. If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term.
- D. Removal of members. The Town Board shall have the power to remove, after public hearing, any member of the Planning Board for cause. Any Planning Board member may be removed for non-compliance with minimum requirements relating to meeting attendance and training.
- E. Chairperson duties. The Town Board annually shall designate a member of the Planning Board to serve as chairman. All meetings of the Planning Board shall be conducted by chairperson and at such times as the Town Board may determine. In the absence of the Chairperson, the Vice-Chairperson shall conduct the meetings. The Chairperson, or in his absence, the Vice-Chairperson, may call for special meetings of the Planning Board.

### **§ 112-83. Zoning Board of Appeals.**

A. General provisions.

- (1) Zoning Board of Appeals. The Zoning Board of Appeals shall have all the powers and perform all the duties prescribed by state statute and by this Local Law. The Zoning Board of Appeals shall have appellate jurisdiction for all matters pertaining to this Zoning Law.
- (2) Appointment of members. The Town Board shall appoint a board of appeals consisting of five members serving terms of five years, and shall designate the chairperson thereof. In the absence of a chairperson the board of appeals may designate a member to serve as acting chairperson.
- (3) Town board members ineligible. No person who is a member of the Town Board shall be eligible for membership on such board of appeals.

**B. Training and attendance requirements.**

- (1) Each member of the board of appeals shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet these requirements. Such training shall be approved by the Town Board.
- (2) To be eligible for reappointment to such board, such member shall have completed the training.
- (3) No decision of a Zoning Board of Appeals shall be voided or declared invalid because of a failure to comply with these training requirements.

**C. Vacancy in office.** If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint the new member for the unexpired term.**D. Removal of members.** The Town Board shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any zoning board of appeals member may be removed for non-compliance with minimum requirements relating to meeting attendance and training.**E. Chairperson duties.** All meetings of the Zoning Board of Appeals shall be conducted by the Chairperson and at such times as the Town Board may determine. In the absence of the Chairperson, the Vice-Chairperson shall conduct the meetings. The Chairperson, or in his absence, the Vice-Chairperson, may call for special meetings of the Zoning Board of Appeals.

## **ARTICLE XIII**

### **Variances and Appeals**

#### **§ 112-84. Variances and appeals.**

- A. Area variance. The Zoning Board of Appeals has the power to grant variances from the area or dimensional requirements of this chapter. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety or welfare of the neighborhood or community of such grant.
- B. Use variances. The Zoning Board of Appeals has the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of the chapter. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship.
- C. Appeals. Applicants, or any officer, department, board or bureau of the Town has the right to appeal any order, requirement, decision, interpretation or determination of officials charged with the enforcement of this chapter to the Zoning Board of Appeals. The Zoning Board of Appeals may reverse or affirm, wholly or partly, or modify the order, requirement, decision, interpretation or determination being appealed 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 this chapter, and to that end shall assume all the powers of the administrative official from whose order, requirement, decision or determination the appeal is taken.

#### **§ 112-85. Application.**

- A. Applications shall be in writing and must be filed with the Zoning Board of Appeals within sixty (60) days after the order, requirement, decision, interpretation, or determination that is being appealed. Such application shall refer to the specific provisions of this chapter involved and shall specify the grounds for the variance requested, the interpretation claimed, or the reversal of an order, requirement, decision, or determination of an administrative official and the relief sought.

- B. The applicant shall supply the Zoning Board of Appeals with:
- (1) A completed application, on forms provided by the Town.
  - (2) A legal description of the property.
  - (3) A map showing the property and all properties within a radius of 500 feet of the exterior boundaries thereof.
  - (4) Plans and elevations necessary to show the proposed variance.
  - (5) The color and construction materials of all structures.
  - (6) The requirement of a landscaping plan acceptable to the Board.
  - (7) Other drawings or information considered necessary by the Zoning Board of Appeals to make an informed decision.

**§ 112-86. Hearing on appeal.**

- A. The Zoning Board of Appeals shall fix a reasonable time within sixty-two (62) days of receipt of an appeal for the hearing of an appeal or other matter referred to it and give public notice of such hearing by publication in the official newspaper in the Town at least five (5) and no more than thirty (30) days prior to the date thereof.
- B. The Zoning Board of Appeals shall advertise notice of the hearing in the town's official newspaper at least five and not more than 30 days before the hearing.
- C. Such notice of hearing shall also be mailed directly by the applicant to all land owners of all parcels located directly adjacent to and across a street or public right-of-way at least ten (10) days prior to the hearing date. The notice shall be sent certified mail, return receipt requested.
- D. The Zoning Board of Appeals shall decide upon the appeal within sixty-two (62) days after such hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Zoning Board of Appeals.
- E. The Zoning Board of Appeals may reverse or affirm, wholly or in part, or may modify, any order, requirement, decision, interpretation, or determination made by officials charged with the enforcement of this chapter. The concurring vote of a majority of the members of the Zoning Board of Appeals shall be

necessary to reverse any order, requirement, decision or determination of any such administrative official, or to grant a use variance or area variance.

- F. Imposition of conditions. The Zoning Board of Appeals shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed variance. Such conditions shall be consistent with the spirit and intent of the chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community, and may be placed on use or area variances.
- G. Rehearing. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Zoning Board of Appeals not previously reheard may be made by any member of the Zoning Board of Appeals. A unanimous vote of all members of the Zoning Board of Appeals then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the Zoning Board of Appeals may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Zoning Board of Appeals finds that the rights of persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.
- H. Stay upon Appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of this chapter, from whom the appeal is taken, certifies to the Zoning Board of Appeals, after the notice of appeal is filed, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed other than by a restraining order which may be granted by the Zoning Board of Appeals or by a court with jurisdiction on application, with notice to the administrative official from whom the appeal is taken, and for due cause shown.
- I. Expiration of Appeal decision. Unless otherwise specified by the Zoning Board of Appeals and without any further hearing by the Zoning Board of Appeals, a decision on any appeal, including the granting of area and use variances, shall automatically lapse and expire if the applicant fails to exercise the variance or fails to obtain any necessary building permits within one (1) year of the

date on which the decision is filed. Prior to such expiration, an applicant may seek a one-year extension of the variance from the Zoning Board of Appeals, who shall grant such extension if, in consultation with the Building Inspector, there have been no material changes in the circumstances surrounding the application.

**§ 112-87. Area variance criteria and standards.**

- A. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of an administrative official charged with the enforcement of such chapter, to grant area variances from the area or dimensional requirements of such chapter.
- B. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against any detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider the following tests. Not all five tests are required to be met in order to grant the area variance.
  - (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
  - (2) Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
  - (3) Whether the requested area variance is substantial;
  - (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
  - (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- C. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

**§ 112-88. Use variances criteria and standards.**

- A. The Zoning Board of Appeals, on appeal from the decision or determination of the administrative officer charged with the enforcement of such chapter, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of the chapter.
- B. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
  - (1) Under applicable zoning regulations, the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;
  - (2) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
  - (3) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - (4) The alleged hardship has not been self-created.
- C. The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

## **ARTICLE XIV Enforcement**

### **§ 112-89. Complaint; investigation; notice of violation.**

- A. Whenever a violation of this chapter occurs, any person may file a complaint in writing with the Building Inspector, who shall properly record such complaint and thereafter make an investigation within ten (10) days.
- B. If, in the opinion of the Building Inspector, after such investigation there appears to be a violation of this chapter, the Building Inspector shall, within thirty (30) days of the date of such complaint, meet informally with the appropriate person or persons involved for the purpose of obtaining voluntary compliance with this chapter and shall set a reasonable compliance date therefor.
- C. Where compliance with this chapter is not obtained in accordance with the procedure set above, in the opinion of the Building Inspector, within the time limits as set forth, the Building Inspector shall thereupon submit an appropriate report in writing of all proceedings to the Town Board at its next regularly scheduled meeting held after the date of compliance. A copy of such report shall also be given to the Zoning Board of Appeals, which shall be kept informed of all further proceedings.
- D. The Town Board shall thereafter serve written notice of violation upon the appropriate person or persons responsible for the alleged violation, which such notice shall contain the following:
  - (1) The specific nature and details of the violation.
  - (2) Recommended action to remedy the situation and effect compliance with this chapter.
  - (3) The date by which compliance must be met.
  - (4) Notification of the right to a hearing before the Building Inspector and the Town Board.

### **§ 112-90. Hearings.**

- A. Upon written request within ten (10) days of the notice of violation, any person served with a notice of violation may request a hearing before the Town Board and Building Inspector.
- B. At such hearing, such person shall present testimony or other evidence why he/she should not or is unable to comply with this chapter.



- C. The Town Board, with the advice of the Building Inspector, shall decide upon all evidence presented whether to sustain, amend, or dismiss the notice of violation. If the notice is sustained or amended, the Town Board shall direct that the violation be removed or remedied and shall set a new compliance date by which such violation shall be removed or remedied in accordance with the original or amended notice.
- D. Any specified date of compliance may be extended if, in the opinion of the Building Inspector and the Town Board, there is reasonable evidence of intent to comply and unusual conditions prevent compliance by the specified date. Written notice of any extension shall be sent to the person or persons in violation.

**§ 112-91. Certificate of compliance.**

The Building Inspector shall, within ten (10) days of the compliance date or any extended compliance date, re-inspect the alleged violation, and if, in his opinion, the violation has been remedied or removed and is in compliance with this chapter, he shall issue a certificate of compliance and report thereon to the Town Board and the Zoning Board of Appeals.

**§ 112-92. Fines; penalties for offenses.**

- A. It shall be unlawful for any person to construct, alter, repair, move, remove, demolish, equip, use, occupy or maintain any building, structure or premises, or portion thereof, in violation of any provision of the Town of New Baltimore Zoning Code, or to construct, alter or use and occupy any building, structure or premises in a manner not permitted by or inconsistent with a permit, approval or variance issued pursuant to the aforementioned, or fail to comply with a notice, directive or order of the Building Inspector or agents thereof.
- B. Any person who owns, controls or manages any building, structure or premises, and who shall fail to comply with a written directive, including a stop-work order of the Building Inspector or an agent thereof with the time fixed for compliance, and any owner, builder, architect, contractor, subcontractor, construction superintendent or their agents, or any other person assisting in the construction or use of any building or structure, or in the land disturbance on or use of any premises who knowingly violates any of the applicable provisions of the Town of New Baltimore Zoning Code, or any lawful order, notice, directive, permit, certificate, approval or variance issued hereunder shall be punishable as follows:

- (1) Civil penalties.
    - (a) First offense: fine not exceeding \$500 or six months' imprisonment or both.
    - (b) Second offense: fine of not less than \$500 or more than \$1000, or up to six months' imprisonment, or both.
  - (2) Every such person shall be deemed guilty of a separate offense for each week such violations, disobedience, omission, neglect or refusal shall continue. Where the person committing such violation is a partnership, association or corporation, the principal executive officer, partner, agent or manager may be considered to be the "person" for the purposes of this article.
  - (3) Such fines or penalties may be compromised or released by the Town Board as a part of any disposition.
- C. If a fine is imposed and is not paid within thirty (30) days or such other time period established by the Court, then following mailing of the Notice described herein, the unpaid fines shall be assessed by the Town as a lien against the fine debtor's real property in the Town and added to the current tax roll by the Town as an unpaid charge attributable to the real property. Prior to assessing this lien for unpaid fines, the Town shall mail a notice to the fine debtor at his/her last known address by regular first-class mail stating that unless the fines are paid within fifteen (15) days of the notice date, they will be assessed and collected as an unpaid charge attributable to the real property.

#### **§ 112-93. Alternative or additional remedy.**

In the case of any violation or threatened violation of any provisions hereof, or the terms and conditions imposed by any permit, approval, variance or order issued pursuant to the provisions hereof, in addition to other penalties and remedies herein provided, the Town may institute any appropriate action or proceedings against the owner of the premises and/or any other responsible person to prevent such unlawful erection, structural alteration, reconstruction, occupancy, moving and/or use, to restrain, correct or abate such violation, to prevent or restrain the occupancy of such building, structure or land, to compel compliance with the provisions hereof and any permit, approval, variance, order or directive issued pursuant to it, and to prevent, restrain, correct or abate any illegal act, conduct, business or use in or about such premises. The alternative or additional remedy specified herein may be taken in addition to a proceeding for civil

penalties. The Town Board may negotiate appropriate remediation and restoration measures by entering into an enforceable settlement agreement or consent order with any violator and/or owner, which may include payment by the violator and/or owner of a monetary penalty which may include exemplary or punitive damages, plus recovery of actual costs incurred by the Town in connection with the enforcement proceeding, including actual attorneys' fees, disbursements and, in appropriate cases, reimbursements for the actual costs to be incurred in rectifying any circumstance or condition necessary to restore the premises into compliance, all and any of which may, if not voluntarily paid by the violator and/or owner, constitute the basis of a lien charge attachable to the premises as a special assessment or charge assessable and collectable on the tax bill associated with the subject premises.

**§ 112-94. Stop-work order.**

- A. The Town Board for the Town of New Baltimore hereby grants the Building Inspector plenary administrative responsibility to immediately suspend any continuing violations of this chapter by posting a stop-work order on the premises wherein the violation has occurred.
- B. Whenever the Building Inspector has reasonable grounds to believe that work on any building, structure or development of any premises is being undertaken or continued in violation of the provisions of this chapter or the provisions hereof, or other ordinances, rules or regulations, or not in conformity with the provisions of an application, plans or specifications on the basis of which a permit was issued, or not in conformity with the terms or conditions of a permit, approval or variance, he shall notify the owner of the property, or the owner's agent, to suspend all work, and such persons shall forthwith stop such work and suspend all building and development activities until the stop order has been rescinded or superseded by a court order.
- C. Such order and notice shall be in writing, in accordance with the provisions of §32-6 of the Town Code.
- D. Obtaining relief or release from a stop-work order may be obtained in the proper circumstances as follows:
  - (1) If all provisions hereof, together with all other reasonable conditions specified by the Building Inspector or agent, are satisfied, upon the advice of the Planning Board, Zoning Board of Appeals, or Town Board as the circumstances of

each case may require, an authorization of release or lifting of a stop-work order may occur.

- (2) In cases where a variance is sought to address some or all conditions which are the subject of the stop work order, the Building Inspector shall conform or terminate the stop-work order in accordance with the requirements mandated by the Zoning Board of Appeals upon issuance of the variance. Only those conditions of the stop work order which are addressed by the variance may be lifted.
- (3) In cases where site plan review or special use permit approval is sought to address the some or all conditions which are the subject of the stop work order, the Building Inspector shall conform or terminate the stop-work order in accordance with the requirements mandated by the Planning Board upon issuance of the site plan review approval. Only those conditions of the stop work order which are addressed by the site plan review approval may be lifted.

**§ 112-95. Suspension of administrative review.**

- A. Processing and review of any application pursuant to the provisions hereof may be suspended and the application deemed incomplete with written notice to the applicant under the following circumstances:
  - (1) A stop-work order has been issued by the Building Inspector or agent, related to the activity for which the permit is sought, or
  - (2) Other written notice of an alleged violation has been delivered to the property owner or applicant related to the activity for which the permit is sought, or
  - (3) A criminal or civil criminal action commenced against the property owner, applicant or other responsible person for alleged violations of law related to the activity for which the permit is sought or for alleged violation of the provisions hereof related to the site.
- B. Such suspension of application processing may remain in effect pending final resolution of any enforcement action by an order of court or by a negotiated settlement of the pending violations between the responsible parties and the Town Board. In any appropriate case, the Building Inspector or agent, Planning Board or Zoning Board of Appeals, in their respective roles as reviewing authorities, may suspend review of an application.

**§ 112-96. Misrepresentation.**

Any permit, variance or approval granted under the provisions hereof which is based upon or is granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known, by or on behalf of an applicant, shall be void. This section shall not be construed to diminish the penalties and remedies available to the Town under any enforcement provisions hereof.

**§ 112-97. Certificate of compliance/certificate of occupancy.**

- A. The Building Inspector shall issue a Certificate of Compliance or a Certificate of Occupancy as set forth in §32 of the Town of New Baltimore Code when conformity exists with the provisions of this chapter, including all conditions set forth under approved site plans or variances.
- B. Notwithstanding any other provisions of this chapter, a Temporary Certificate, as authorized in §32 of the Town of New Baltimore Code, may be issued by the Building Inspector at such time as the conditions of §32-7 are met.

**ARTICLE XV  
Amendments****§ 112-98. Purpose of article.**

The purpose of this Article is to allow for amendment to this chapter whenever the public necessity and convenience and the general welfare require such amendment, by following the procedure of this article.

**§ 112-99. Referrals.**

When directed by the Town Board, the Town Clerk shall refer proposed amendments of this chapter to the Planning Board, and where required by §239-m of the General Municipal Law, to the County Planning Board having jurisdiction, for the report and recommendations by those bodies to the Town Board.

**§ 112-100. Hearing and decision on proposed amendment.**

The procedure as to the notice of a public hearing on an enactment of a proposed amendment shall follow and be governed by §265 of the Town Law, and §239-l, 239-m and 239-nn of the General Municipal Law, including all subsequent amendments thereto.

**§ 112-101. Records of amendments.**

The Building Inspector and the Town Clerk shall each maintain records of amendments to the text of this chapter and of the Town Zoning Map.

## **ARTICLE XVI**

### **Definitions**

#### **§ 112-102. Definitions.**

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

- (1) ACCESS — Entranceway for vehicles to leave or enter a property or lot from a public highway or private road.
- (2) ACCESS DRIVE — See "driveway."
- (3) ACCESSORY STRUCTURE — A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.
- (4) ACCESSORY USE -- Any use which is incidental and subordinate to a permitted use and located on the same lot and such shall be under the same ownership.
- (5) ACTUAL CONSTRUCTION -- The fastening or placing of construction materials in a permanent manner, the excavation of a basement, or the demolition or removal of any existing structure.
- (6) ADULT BOOKSTORE — An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, other periodicals, films, slides and videotapes and which establishment is customarily not open to the public generally but excludes any minor by reason of age.
- (7) ADULT DRIVE-IN THEATER — A drive-in theater that customarily presents motion pictures that are not open to the public generally but excludes any minor by reason of age.
- (8) ADULT ENTERTAINMENT CABARET — A public or private establishment which receives its primary revenue from the presentation of topless dancers, strippers, male or female impersonators or exotic dancers, or other similar entertainments, and which establishment is customarily not open to the public generally but excludes any minor by reason of age.
- (9) ADULT MOTEL — A motel which is not open to the public generally but excludes minors by reason of age and which makes available to its patrons in their rooms films, slide shows or videotapes, 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.

- (10) **ADULT MASSAGE ESTABLISHMENT** — Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home or medical clinic or the office of a physician, surgeon, chiropractor, osteopath or duly licensed physical therapist, barbershops or beauty salons. This definition shall not apply to establishments operated by certified or licensed massage therapists. This definition also shall exclude health clubs which have facilities for physical exercise, such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.
- (11) **ADULT PEEP SHOWS** — 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.
- (12) **ADULT THEATER** — A theater that customarily presents motion pictures, films, videotapes or slide shows that are not open to the public generally but exclude any minor by reason of age.
- (13) **AGRICULTURE** — The raising of crops, animals, animal products or fowl; forestry; and other commonly accepted agricultural operations for commercial purposes.
- (14) **AGRICULTURE, FIELD CROPS** — Agricultural uses, farm operations, and/or orchards associated with the raising or processing of crops or beekeeping, including but not limited to field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans; fruits, including apples, peaches, grapes, cherries and berries; vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions; horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers; maple sap; and Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump. Field crops shall not include the raising or processing of livestock as defined herein.
- (15) **AGRICULTURE, LIVESTOCK** — Agricultural uses and/or farm operations devoted to the raising of livestock and livestock products, including but not limited to cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, wool bearing animals, such as alpacas and llamas, milk, eggs



and furs; as well as aquaculture products, including fish, fish products, water plants and shellfish.

- (16) AGRICULTURE, PERSONAL ACCESSORY -- The production, keeping or maintenance, of plants and animals, as an accessory to a permitted use, where the sale of agricultural products is limited to those products produced on the lot and such sales are only permitted from a single temporary roadside stand or display.
- (17) AGRICULTURAL SALES AND SERVICE - A use primarily engaged in the sale or rental of farm tools and implements, feed, grain, tack, animal care products, and farm supplies. This definition excludes the sale of large implements, such as tractors and combines, but includes food sales and farm machinery repair services that are accessory to the principal use.
- (18) ALTERATION, STRUCTURAL — To change or rearrange the walls, roof, ceiling, floors, supporting beams, columns or other structural parts, interior plan or layout, the exterior architectural features or the exit facilities of a structure; or the relocation of a building from one location to another. Alterations are in excess of \$10,000.
- (19) APPLICANT — The person(s), corporation, agency, or other legal entity responsible for submitting site plan applications for review by the Planning Board.
- (20) AQUIFER — An underground geologic formation that contains and transmits significant quantities of groundwater.
- (21) AREA, BUILDING — The total area 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.
- (22) AREA, FLOOR — The total interior floor space measured in square feet of a structure.
- (23) AREA, LOT — The total area contained within the property lines of an individual parcel of land, excluding any area within an existing street right-of-way.
- (24) ART GALLERY – A structure for the preparation, sale, display or barter of paintings, sculpture, original, limited edition graphic arts and photographs or similar created by individual artists on a single piece basis, not to include home occupations.
- (25) ASSISTED LIVING FACILITY – Residential facility which combines housing, supportive services, personalized assistance, and health

care designed to respond to the individual needs of those who need assistance with activities of daily living. A facility with a central or private kitchen, dining, recreational, and other facilities, with separate bedrooms or living quarters, where the emphasis of the facility remains residential.

- (26) **AUTOMOBILE RENTAL OR SALES** — Establishments primarily engaged in the retail sale or rental of new and used vehicles, including automobiles, boats, and trailers, where service and repairs are incidental to the use, not to include the sale, service, or repair of commercial vehicles.
- (27) **AUTOMOBILE REPAIR** -- Any building, premises, and land in which or upon which a business, service or industry involving the maintenance, servicing, repair or painting of vehicles is conducted or rendered. Automobile repair as defined herein does not include the repair or service of commercial vehicles.
- (28) **AUTOMOBILE SERVICE STATION** -- Any area of land, including structures thereon, that is used for the sale of gasoline, oil, other motor vehicle fuels, or products designed to be used for lubricating, washing, cleaning, or otherwise servicing automobiles, including a convenience store, provided that the store is an integral part of the gasoline or service station, but excluding the activities permitted with an automobile repair center, and the use of mechanical car washing equipment.
- (29) **AVERAGE DAILY TRAFFIC** — The average number of vehicles per day that either enter or leave a specific location or travel over a specific section of road.
- (30) **AVERAGE PEAK-HOUR TRAFFIC** — The average number of vehicles per hour. at the time of peak traffic volume, that either enter or leave a specific location or travel over a specific section of road.
- (31) **BASE FLOODPLAIN** — See "one-hundred-year flood area."
- (32) **BILLBOARD** — See "sign, off-premises".
- (33) **BOAT STORAGE, INDOOR COMMERCIAL** -- A structure used to store more than three boats, not registered to family members for 30 consecutive days or more.
- (34) **BUFFER AREA** — An undeveloped part of a property or an entire property specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties.

- (35) BUILDING – A structure designed to be used as a place of occupancy, business, storage or shelter. The term "building" shall include the term "structure" as well as receiving and transmitting commercial, radio, television and other utility communication towers, mobile structures and modular structures used for commercial purposes.
- (36) BUILDING AREA COVERAGE – The percentage of the lot area covered by the combined area of all buildings on the lot.
- (37) BUILDING, PRINCIPAL — The building on a lot that houses the primary use on a parcel of land.
- (38) CAMPGROUND -- Any area designated for transient occupancy by camping in tents, camp trailers, motor homes, transient mobile homes, truck campers, or pickup campers or similar facilities designated for temporary shelter and shall not have provide more than 50 individual camp sites.
- (39) CAR WASH — A building, or portion thereof, containing facilities for washing automobiles, using production-line methods or other mechanical devices; or providing space, water equipment, or soap for the complete or partial hand washing of automobiles, whether by operator or by customer. A car wash does not include facilities for washing commercial vehicles.
- (40) CEMETERY -- Land used or intended to be used for the burial or deceased human beings and dedicated for cemetery purposes.
- (41) CHANGE IN USE (CONVERSION) — The change of use or occupancy of a building from either residential, commercial, or industrial to one of the other uses, or a change in the intensity of the same use.
- (42) COLD STORAGE – Warehouses featuring controlled atmosphere intended for the storage of produce, processed and/or packaged agricultural products.
- (43) COMMERCIAL HORSE BOARDING OPERATION – An agricultural enterprise, consisting of at least seven acres and boarding at least ten horses. Horse boarding operations which are under this threshold, either in respect to size, number of horses boarded, or both, shall be considered Personal Accessory Agricultural uses.
- (44) COMMERCIAL VEHICLE -- A vehicle whose Gross Vehicle Weight exceeds 5 tons (10,000 lbs), or a vehicle having more than two axles, or a vehicle greater than 8' in height.

- (45) **COMMERCIAL VEHICLE REPAIR** – Any building, premises, and land in which or upon which a business, service or industry involving the maintenance, servicing, repair or painting of commercial vehicles is conducted or rendered, including facilities for washing commercial vehicles, using production-line methods or other mechanical devices; or providing space, water equipment, or soap for the complete or partial hand washing of commercial vehicles, whether by operator or by customer. Commercial vehicle repair as defined herein does not include the repair or service of automobiles or car washes.
- (46) **COMMUNITY FACILITY** -- A building or structure owned and operated by a governmental agency or a not-for-profit entity to provide a public or semipublic service, such as libraries, museums, governmental buildings, firehouses, and churches.
- (47) **CONTRACTING BUSINESS** – An office and/or shop which contains a contractor's business office, and which may also include enclosed structures used for the indoor repair, maintenance, or storage of a contractor's vehicles, equipment, or materials.
- (48) **CURB-CUT** — A defined opening to provide vehicular access from a public highway to a lot or property.
- (49) **DAY-CARE CENTER** -- A site, building, or place designed and/or operated to provide day care and/or instruction for twelve or more persons and operated on a regular basis for a fee.
- (50) **DENSITY** — Minimum area per dwelling unit or structure; the total usable area of any parcel of land to be developed.
- (51) **DISTRIBUTION CENTER** - Building or structure used primarily for the storage of goods which are intended for subsequent shipment to retail outlet, not to include a building or structure used primarily to store raw agricultural products, used primarily by a manufacturer to store goods to be used in the manufacturing process, used primarily for the storage of petroleum products, or used for the retail sale of goods.
- (52) **DRAINAGE** — A system of swales, ditches and culverts, catchbasins and/or piping to convey stormwater runoff to retention areas and stabilized discharge points.
- (53) **DRIVEWAY** — Private entrance drive that commonly leads to the principal use.
- (54) **DWELLING** — A complete self-contained residential unit for permanent habitation by one family only and containing one or

more rooms and facilities for living, including cooking, sleeping, and sanitary needs.

- (55) DWELLING, ATTACHED — A one-family dwelling attached to two or more one-family dwellings by common vertical walls.
- (56) DWELLING, DETACHED — A dwelling which is not attached to any other dwelling by any means.
- (57) DWELLING, MANUFACTURED HOME — A structure used primarily as a residence, 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.
- (58) DWELLING, MULTIPLE-FAMILY — A building, portion of a building, or group of buildings on one lot containing three or more dwelling units and designed or used for occupancy by three or more families living independently of each other.
- (59) DWELLING, TWO-FAMILY — A structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.
- (60) EASEMENT — The right to use the land of another, obtained through the lawful acquisition of use rights from a landowner, for a special purpose consistent with the property's current use.
- (61) EGRESS — A one-way access from a property leading onto a public highway or private road.
- (62) ENVIRONMENTAL ASSESSMENT FORM (EAF) — A form used to determine whether a project will have significant environmental impacts. Depending on a site's environmental features and a project's magnitude, either a short or long SEQRA environmental assessment form will be completed.
- (63) ENVIRONMENTAL IMPACT STATEMENT (EIS) — A document prepared pursuant to SEQRA subsequent to a determination of potential adverse impacts that examines the existing and developed environment and identifies and presents impacts, mitigation measures, and alternatives.
- (64) EQUIPMENT REPAIR AND RENTAL - An establishment providing the rental and/or repair of tools, lawn and garden equipment, party supplies and similar goods and equipment. This term does

not include automobile rental, sales, or repair.

- (65) EROSION – The wearing away of surface soils by action of wind and/or water.
- (66) EROSION CONTROL — Use of reseeding, revegetation, placement of mulch or artificial matting or rip rap or other methods to prevent soil erosion.
- (67) EXTRACTION, PRIVATE -- Any extraction from the land of sand, gravel or topsoil for the purpose of use, but not sale, by the owner of the land, not to include private gardening or landscaping activities, or any extraction for the purpose of sale of less than 750 cubic yards in any one-year period.
- (68) FAMILY – One or more persons living together as a single housekeeping unit and maintaining a common household.
- (69) FIRE LANE - Access for emergency fire-fighting vehicles.
- (70) FLOOD HAZARD, AREA OF — Land subject to a one-percent-or-greater chance of flooding in any given year. Also commonly referred to as "base floodplain" or "100-year flood area."
- (71) FLOODWAY — See "Regulatory Floodway."
- (72) FRONTAGE – That part of a property bounded by either a public or private road.
- (73) FUEL DISTRIBUTION – A business engaged in the distribution of fuel products and/or petroleum products, but which does not rely on on-site storage of such products.
- (74) FUEL STORAGE - The storage of chemicals, petroleum products and other materials in above-ground containers for subsequent resale to distributors or retail dealers or outlets.
- (75) FUNERAL HOME -- A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation, funeral homes do not include crematories.
- (76) GAME PRESERVE -- A land area used for the protection of wildlife, usually because of its unique natural character, which provides habitat, food or shelter for wildlife.
- (77) GRADING — The leveling of land for site development purposes, including construction of roads, building construction, drainage areas and parking.
- (78) GREEN ROOF - A roof of a building that is partially or completely covered with vegetation and soil, or a growing medium, planted

over a waterproofing membrane.

- (79) GROSS FLOOR AREA — The total interior area of a building, multiplied by the number of floors.
- (80) GROSS LEASABLE AREA — The total floor area designed for tenant occupancy and exclusive use, expressed in square feet.
- (81) HOME OCCUPATION — Any occupation or profession which is an accessory use and is conducted within the dwelling unit or associated accessory structures.
- (82) IMPERVIOUS SURFACE COVERAGE — The percentage of the lot covered by buildings, parking areas, walkways or other surfaces covered with a paved surface or a surface that is impervious to water.
- (83) INDUSTRIAL SERVICES – Establishments providing industrial services to individuals or businesses. This includes, but is not limited to: dry cleaning plants; metal, machine and welding shops; cabinetry and woodworking shops; furniture upholstery shops; and similar business engagements in custom fabrication, assembly, and repair.
- (84) INGRESS — A one-way access from a public highway or private road leading into a lot or property.
- (85) JUNKYARD — A building, structure or premises where junk or junkyard waste associated with discarded or salvaged materials are bought or sold, exchanged, stored, collected, sorted, dismantled or otherwise processed. including automobile wrecking yards, and yards for house wrecking, structural steel materials and equipment, but not including premises used for the purchase or storage of used furniture and household equipment or used cars in operable condition. A junkyard includes a parcel of land containing one or more unregistered, inoperable motor vehicles.
- (86) KENNEL — A commercial or non-profit establishment that houses dogs, cats, or other domestic animals more than six months of age and where grooming, breeding, boarding, training or selling of animals is conducted as a business.
- (87) LAUNDROMAT — A business premises equipped with individual clothes washing and/or drying machines for use by retail customers, exclusive of any laundry facilities provided as an accessory use in an apartment.
- (88) LIGHT MANUFACTURING – The manufacture, predominantly from

previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, and packaging of such products, and incidental storage, sales, and distribution of such products, but excluding basic industrial processing.

- (89) LODGING, BED AND BREAKFAST -- A dwelling having a resident host in a single-family home with common dining and leisure rooms and lodging rooms for overnight accommodation, the rates for which include breakfast and lodging only, and in which no public restaurant is maintained and no other commercial services are offered. The Bed and Breakfast establishment shall have not more than six (6) guest rooms.
- (90) LODGING, INN -- A commercial facility, resembling traditional residential character with common access providing transient lodging and meals which is characterized by common dining facilities and leisure rooms available for use by lodgers and limited general public with no more than 12 guest rooms.
- (91) LODGING, MOTEL/HOTEL — A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units, designed primarily for transient automobile travelers and providing for accessory off-street parking facilities.
- (92) LOT — A parcel of land that is recognized as a separate, legal entity for the purposes of transfer of title and whose boundaries are established by some legal instrument such as a recorded deed or map.
- (93) LOT, CORNER – A parcel of land at the junction of and fronting on two (2) or more intersecting streets.
- (94) LOT COVERAGE — The percentage of the lot area covered by the combined area of all buildings and structures.
- (95) LOT DEPTH — The mean horizontal distance between the front and the rear lot lines, measured in the general direction of its side lot lines.
- (96) LOT LINES — Any line dividing one (1) lot from another.
  - a. LOT LINE, FRONT — The property line dividing a lot from a public or private street and from which the required front setback is measured.
  - b. LOT LINE, REAR — A lot line which is opposite and most distant from the front lot line, and in the case of an



irregular or triangular-shaped lot, a line 10 feet in length within the lot parallel to and at the maximum distance from the front lot line.

- c. LOT LINE, SIDE — A lot line other than a front or rear lot line.
- (97) LOT WIDTH – The distance between the two (2) side lot lines measured at the required setback line.
  - (98) LUMBERYARD – A facility where building materials such as lumber, plywood, drywall, paneling, cement blocks and other cement products, and other building products are stored and sold. Lumberyards may also process lumber by performing millwork, planing, cutting, and other customizing processes. Lumberyards may provide for the sale of associated products including tools and fasteners.
  - (99) MALL — See "shopping center."
  - (100) MANUFACTURED HOMES - A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term shall include any structure that meets all of the requirements of Article 21-B of the Executive Law of New York State except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under Title 42 of the United States code. The definition of manufactured homes shall not include self-propelled recreational vehicles, travel trailers, or modular structures.
  - (101) MARINA — A facility providing docking or mooring for boats together with ancillary uses such as sale of fuels, boats, and boating parts and accessories.
  - (102) MODULAR STRUCTURES — A structure designed primarily for residential occupancy, constructed by a method or system of construction whereby the structure or its components are wholly or in substantial part manufactured in manufacturing facilities, intended or designed for permanent installation, or assembly and permanent installation, on a building site.

- (103) NET FLOOR AREA — The total useable interior floor area of a structure (excludes such elements as walls, stairwells, elevators, etc.).
- (104) NURSERY: A building or structure and lands for the growing of flowers, fruits, vegetables, plants, shrubs, trees or other similar vegetation, together with garden accessories which are sold at retail from such building or lot to the general public.
- (105) OFF-STREET PARKING — Area provided for parking not on any public or private road.
- (106) OFFICES, MEDICAL— Any structure(s) used wholly for the purpose of providing human health care, including clinics, hospitals and group health practices.
- (107) OFFICE PARK- A group of contiguous or adjacent office buildings, on a single lot or a group of lots, planned as a total entity with supporting ancillary uses and employee parking provided on-site. Office Parks include, but are not limited to, medical or dental, professional, clerical, and administrative offices. Retail and service uses that are permitted within the underlying zoning district may be incorporated into the office park as an accessory use. These accessory uses may include, but are not necessarily limited to, restaurants, coffee shops, barber shops, dry cleaners, and banks. An office park excludes
- (108) OFFICES, PROFESSIONAL – The use of offices and related spaces for such professional, business, or administrative services that are provided by attorneys, architects, engineers and similar professions. A professional office excludes uses permitted in a "medical offices/clinics" and "retail, service".
- (109) ONE HUNDRED-YEAR FLOOD AREA — Area where there is a one-percent-or-greater chance of flooding in any given year.
- (110) PARENT PARCEL – A parcel of land that is proposed by an applicant to be the subject of a development proposal.
- (111) PARKING SPACE — The area required for parking one automobile, which shall be a minimum of 20 feet long and 10 feet wide, not including passageways.
- (112) PEAK HOURS OF OPERATION — The hours of operation in any average four-hour period of a nonresidential use, which may represent the time of heaviest production or of customer or employee traffic, depending on the nature of the use.
- (113) PEAK SEASON — The weeks or months or any period within an

average year when the most activity occurs for a given use or group of uses or for an area.

- (114) PERSONS — Any individual, group of individuals, partnership, firm, corporation, association, government agency or other legal entity.
- (115) PERSONAL SERVICE ESTABLISHMENTS— An office, store or other place of business catering to the needs of a customer with only incidental sale of merchandise, such as normally conducted by a barber, beautician, tailor or dressmaker, excluding tattoo parlors or body-piercing establishments.
- (116) PHASED DEVELOPMENT — Development that occurs in defined stages (e.g. a twenty-unit townhouse project built in two separate ten-unit stages).
- (117) PICKUP CAMPER – A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreation, and vacation.
- (118) PLACES OF WORSHIP -- (1) A church, synagogue, temple, mosque, or other facility that is used for prayer by persons of similar beliefs; (2) a special-purpose building that is architecturally designed and particularly adapted for the primary use of conducting formal religious services on a regular basis.
- (119) PRINCIPAL USE – See “Use, Principal”.
- (120) RECREATION, CLUB -- A group of people organized for a not-for-profit purpose to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings and constitution and bylaws. A lodge used for meetings by fraternal organizations shall be considered a "club" so long as it is not used for dwelling purposes. Commercial organizations, such as but not limited to tennis clubs, racquet clubs and physical fitness clubs, or other indoor recreation facilities, shall not be considered clubs.
- (121) RECREATION, FIRING RANGES – Establishments primarily engaged in providing opportunities for hunting, fishing, skeet, trap, target shooting and other shooting sports.
- (122) RECREATION, INDOOR – A building or structure used primarily for the operation of commercial or nonprofit recreation, including, but not limited to, health and exercise clubs, skating rinks, bowling alleys, indoor sports clubs, indoor swimming pools, golf domes, pool or billiards, foosball, table tennis, shuffleboard, pinball machines, and/or video or other games.

Indoor Recreation includes any accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use. Recreation clubs as defined above shall not be considered indoor recreation.

- (123) RECREATION, OPEN SPACE -- Any principal recreation use, conducted for other than personal use and not to include uses accessory and incidental to other principal residential or commercial uses, particularly oriented to and utilizing the outdoor character of an area which does not depend on amusement devices, rides, or motorized vehicles. These recreational uses may include a cross-country ski trail, hiking and backpacking trail, bicycle trail and horse trail, as well as playground, picnic area, public parks, and public beach for activities such as soccer, baseball, football, tennis and water-related activities.
- (124) 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.
- (125) REPAIR — Replacement or renewal, excluding additions, of any part of a building, structure, device or equipment, with like or similar materials or parts, for the purpose of maintenance.
- (126) RESEARCH AND DEVELOPMENT FACILITIES – Buildings or portions of buildings used primarily for scientific, medical and/or high tech research, development and product or equipment design activities in a setting which combines offices and laboratories and may include small-scale manufacturing.
- (127) RESTAURANT, DRIVE-THRU – An establishment which serves food and beverages in which food may be ordered by patrons in vehicles and/or whose design or method of operation includes a window designed to accommodate automobile traffic.
- (128) RESTAURANT, FULL SERVICE — An establishment that serves food and beverages primarily to persons seated within the building. This includes cafes, tearooms, outdoor cafes, coffee shops and banquet/reception halls.
- (129) RETAIL, GENERAL - Establishments providing goods or merchandise to the general public, for a fee, such as, but not limited to, food stores, pharmacies, variety stores, apparel,

hardware, and supermarkets.

- (130) RETAIL, NEIGHBORHOOD - A building less than 5,000 gross square feet used for the retail sale of a variety of goods and professional offices catering primarily to pedestrian traffic. Such goods may include, but not be limited to, general retail items such as newspapers and magazines, dairy products, baked goods, beverages, fresh or prepared foods such as sandwiches and coffee, fresh fruits and vegetables, and minor amounts of canned foods, dry goods and which may also include limited seating for on-site consumption without wait service.
- (131) RETAIL, SERVICE – Establishments providing services to the general public, for a fee, such as, but not limited to, banks, accountants, realtors, dry cleaners, educational services, with only incidental sale of merchandise.
- (132) RETAIL, SHOPPING CENTER — A group of stores, shops, and similar establishments occupying adjoining structures all of which may be deemed one building if designed as an architectural unit and if provided with adequate space in the rear for loading and unloading commodities.
- (133) RIDING ACADEMY – An establishment in which horses may be hired for riding, and where riding lessons and/or public horse shows are offered to the public and to individuals that do not own or have a long-term lease for the horse boarded and used at the facility for such riding. Riding academies do not include commercial horse boarding operations.
- (134) ROAD — A public thoroughfare or right-of-way dedicated, deeded, or condemned for use as such which affords the principal means of access to abutting property.
- (135) ROAD, PRIMARY – Where the subject property has frontage on two or more roads, this refers to the road that is used most intensively (i.e. has the greater volume of vehicular traffic). This usually corresponds to the public road classification and size, assuming county roads receive greater traffic than local roads and that state highways have greater traffic volumes than county roads.
- (136) ROAD, PRIVATE — An access drive or roadway privately owned and maintained and not meant for use by the general public.
- (137) ROAD, RIGHT-OF-WAY — An area defined by a boundary that provides for road construction, maintenance, improvement and/or widening.

- (138) ROAD, SECONDARY — Where the subject property has frontage on two or more roads, this refers to the road used less intensively (See "road, primary").
- (139) ROADSIDE STAND — A direct marketing operation without a permanent structure and only offering outdoor shopping. Such an operation is seasonal in nature and features on-farm produced as well as locally produced agricultural products, enhanced agricultural products and handmade crafts.
- (140) RUNOFF — Surface water that flows onto, within and/or off the site area.
- (141) SAWMILLS — See "Lumberyards".
- (142) SCREENING — Vegetation, fencing or earthen materials used to block visibility toward and/or away from a site or to lessen noise impacts from a particular site or from adjacent land uses.
- (143) SEDIMENT — Soils or other surficial materials transported by surface water as a product of erosion.
- (144) SEDIMENTATION (SILTATION) — The deposition of sediment and silt in drainage ways, watercourses and waterbodies which may result in pollution, murkiness, accumulation and blockage.
- (145) SELF-STORAGE — A building or group of buildings consisting of individual, self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property.
- (146) SEPARATION DISTANCE — Distance between the two closest points of reference between two facilities, structures, uses or properties (e.g. the distance between an on-site septic system absorption field and a well).
- (147) SEPTIC SYSTEM, CONVENTIONAL — A subsurface sewage disposal system, which consists of the following: A septic tank to collect water and waste materials being discharged from occupancy, where a natural anaerobic (nonoxygenated) digestion occurs allowing the separation and settling out of solids, to allow a gray water discharge at outlet of septic tank going to: A leaching system that consists of either a series of perforated drainage tile fields or seepage pits to allow for ground absorption. (See §§ 87-8 through 87-10, Sewers, Chapter 87, Article 1 of this Chapter.)
- (148) SEPTIC SYSTEM, ALTERNATIVE — Systems that do not conform to the site and design criteria for conventional septic systems as

described above are considered alternative systems. Any system meeting requirements for alternative systems (described in New York State Health Department Standards Appendix 75-A) must have plan preparation and installation supervision by a design professional and filed with the Department of Health.

- (149) SEQRA REVIEW (STATE ENVIRONMENTAL QUALITY REVIEW ACT) — Review of an application according to the provisions of the State Environmental Quality Review Act, 6NYCRR, Part 617, (Statutory Authority: Environmental Conservation Law, § 8-0113), as amended, which incorporates consideration of environmental, social, and economic factors into the planning, review, and decision-making processes of state, county and local government agencies.
- (150) SETBACK — The minimum distance required for compliance with this chapter as measured by the shortest horizontal line between any portion of any structure and the lot line, man-made structure or topographical or natural feature designated as being the reference point from which such minimum setback is measured.
- (151) SIGHT DISTANCE – The length of roadway ahead visible to the driver. The minimum sight distance available on a roadway should be sufficiently long enough to enable a vehicle traveling at or near the designated speed to stop before reaching a stationary object in its path.
- (152) SIGN — An identification, description, illustration or device, which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise, or any logo, painting, banner, pennant, placard or temporary sign designed to advertise, identify or convey information, with the exception of window displays and national flags. "Sign" shall also include all sign structures. "Sign" shall not include any display of official court or public office notices, nor any official traffic control devices, nor shall it include the flag, emblem or insignia of a nation, state, county, municipality, school or religious group.
- (153) SIGN, ABANDONED — A sign which for a period of 90 consecutive days has not correctly directed or exhorted any person or advertised a bona fide business, lessor, owner, product or activity conducted or product available on the premises where such sign is displayed.

- (154) SIGN, BUILDING— A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign and which does not project more than 18 inches from such building or structure.
- (155) SIGN, CONSTRUCTION— A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, engineers, landscape architects, contractors and similar persons or firms having a role or interest with respect to the structure or project.
- (156) SIGN, DIRECTIONAL— Any sign commonly associated with and limited to information and directions necessary and convenient for persons coming on the property, including signs marking entrances, parking areas, one-way drives, restrooms, pickup and delivery areas and the like.
- (157) SIGN, DOUBLE-FACED— Any two-faced sign utilizing both faces or surfaces for display purposes.
- (158) SIGN, FREESTANDING — A sign that is attached to, erected on or supported by some structure such as a pole, mast, frame or other structure that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of the sign.
- (159) SIGN, GOVERNMENT— A sign erected and maintained pursuant to and in discharge of any governmental function or required by any law or ordinance or governmental regulation.
- (160) SIGN, ILLUMINATED— Any sign which emanates light either by means of exposed tubing or lamps on its surface or by means of illumination transmitted through the sign surface or which reflects lights from a source intentionally directed upon it.
- (161) SIGN, NON-COMMERCIAL -- A sign that does not contain information or advertising for any business, commodity, service, entertainment, product or other attraction including murals and works of art.
- (162) SIGN, OFF-PREMISES — Any sign advertising or calling attention to any business or activity not located on the same continuous parcel of real estate as the sign, or any sign advertising or calling attention to any commodity or service not sold or offered upon the same continuous parcel of real estate as the sign.
- (163) SIGN, POLITICAL A temporary sign announcing or supporting



political candidates or issues connected with any national, state or local election.

- (164) SIGN, PORTABLE — Any device on wheels or stand that is designed to be easily moved, the purpose of which is to display a sign.
- (165) SIGN, REAL ESTATE A sign pertaining to the sale or lease of the premises or a portion of the premises on which the sign is located.
- (166) SIGN, ROOF— Any sign erected upon, against or directly above a roof or on top of or about the parapet of a building.
- (167) SIGN, TEMPORARY — Any sign permitted pursuant to the provisions of this chapter other than a permanent sign.
- (168) SILTATION CONTROL – Placement of siltation barriers such as sod, matting, hay bale barriers, or silt fencing or other methods to prevent pollution and blockage of watercourses and waterbodies by silt and other sediment.
- (169) SITE PLAN — Maps, drawings, supportive data describing the project proposal or development plan for one or more lots on which are shown the existing or proposed conditions of the lot, submitted to the Planning Board for review and approval.
- (170) SKETCH PLAN — Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review, which may be used as the basis for preparing the site plans for Planning Board review.
- (171) SKETCH PLAN CONFERENCE — Initial Planning Board review of the project proposal with the applicant. The sketch plan conference provides an opportunity for an applicant to learn from the Planning Board what the site plan submission requirements be prior to submitting the site plan.
- (172) STACKING LANES — Off-street temporary parking space specifically provided for vehicles to park behind one another while waiting for drive-up customer assistance. This type of parking is required for bank windows, fast-food restaurants, car wash bays, etc.
- (173) START OF CONSTRUCTION — Applies to improvements of \$10,000 or more and means the initiation, excluding planning and design, of any phase of a project, physical alteration of the property and shall include land preparation such as clearing, grading and filling; installation of streets and/or walkways;

excavation for a basement, footings, piers or foundations; or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages or sheds), storage trailers and building materials.

- (174) **STRUCTURE** — Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings and mobile homes. An accessory structure is one constructed on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.
- (175) **TAVERN** - An establishment used primarily for the serving of liquor by the drink to the general public and where food may be served or sold only as accessory to the principal use and where entertainment may be provided.
- (176) **TELECOMMUNICATIONS TOWER** – Any structure greater than 35 feet in height which is specifically designed for receiving and/or transmitting signals (for the purpose of communications).
- (177) **THEATER** - A building or part of a building, devoted to showing motion pictures, or for dramatic musical or live performances and which may include dinner theaters.
- (178) **TRAVEL TRAILER** - A portable vehicle which is designed to be transported on its own wheels, which is designed intended to be used for temporary living quarters for travel, recreational or vacation purposes and which may or may not include one (1) or all of the accommodations and facilities included in a mobile home.
- (179) **TRUCK TERMINAL** - A building or area in which freight brought by truck is assembled and/or stored for routing in shipment by truck.
- (180) **USE, ACCESSORY** — Any use which is incidental and subordinate to a permitted use and located on the same lot and such shall be under the same ownership.
- (181) **USE, PRINCIPAL** — The specific purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained.
- (182) **USE, SPECIAL PERMIT** — A use that would not normally be appropriate generally or without restrictions throughout the zoning district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, order, comfort, convenience, appearance,

prosperity or general welfare. Such use may be permitted in such zoning district as a special permit use, provided that specific provision for such is made in the district and a permit is obtained in accordance with this chapter.

- (183) VARIANCE — A relaxation of this chapter approved by the Board of Appeals owing to conditions peculiar to the property and not the result of actions by the applicant, a literal enforcement of which would result in unnecessary and undue hardship.
- (184) VETERINARY CLINIC/ANIMAL HOSPITAL — A building or portion of a building where animals are given medical care and the boarding of animals is limited to short-term care incidental to the hospital use.
- (185) WAREHOUSE — A building or part of a building used for the storage and distribution of goods, wares, merchandise, substances, or articles, not intended for subsequent shipment to a retail outlet. Warehousing does not include individual/personal storage units, and does not include wholesale or retail sales, or distribution centers.
- (186) WATERBODY — Any natural or manmade body of water such as a pond, lake, wetland or wet area that does not necessarily flow in a definite direction or course.
- (187) WATERCOURSE — A natural or artificial channel for passage of water either continuously or intermittently.
- (188) WATER, GROUNDWATER — Water that infiltrates into the ground, accumulating and saturating the spaces in earth material.
- (189) WATERSHED — The area which is a drainage basin for a particular freshwater body.
- (190) WATER, SURFACE — Water contained in streams, rivers, ponds, wet areas, lakes and other waterbodies and watercourses or that drains across land.
- (191) WETLANDS — Applies to all areas defined as "wetlands" by state or federal law or regulation.
- (192) WINDMILLS — Any mechanism or device designed for the purpose of converting wind energy into electrical or mechanical power.

**ARTICLE XVII  
Repealer**

**§ 112-103. Repeal of prior zoning ordinance and inconsistent chapters of town code. [Amended 1-05-2009 by L.L. 2 of 2009]**

- A. The Ordinance entitled "Town of New Baltimore Zoning Ordinance" adopted as of October 1977, together with all changes and amendments thereto is hereby repealed and declared to be of no effect.
- B. Chapter 73 of the Code of the Town of New Baltimore, entitled "Mobile Home Law of the Town of New Baltimore", Chapter 89 of the Code of the Town of New Baltimore, regulating all on-premise signs currently existing or yet to come into existence within the Town of New Baltimore, and Chapter 90 of the Code of the Town of New Baltimore, entitled "Town of New Baltimore Site Plan Review Law", are hereby repealed and declared to be of no effect.

**§ 112-104. Severability.**

If any clause, sentence, paragraph, section or part of this chapter 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 or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**§ 112-105. Effective date.**

This Local Law shall take effect 10 days after publication and posting, or immediately upon personal service as provided by §133 of the Town Law.

**CHAPTER 115  
SUBDIVISION REGULATIONS**

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**[HISTORY: Subdivision of Land adopted by the Town Board of the Town of New Baltimore 6-12-73 and subsequently amended; then repealed and replaced by Local Law 5 of 2008 adopted by the Town Board on 11-10-2008]**

**§ 115-1. Purpose.**

- A. The Town Board hereby declares that the process of subdividing land in the Town of New Baltimore is governed by regulations, standards, and procedures that involve the Planning Board working together with the landowner proposing to subdivide land, in order to meet the goals and objectives set forth herein.
- B. The regulations, standards and procedures contained herein are developed to ensure that the land to be subdivided is suitable for building purposes without creating dangers to health or peril from fire, flood or other menace. The regulations ensure that proper provisions will be made for drainage, water, sewerage and other needed improvements. Streets and highways must meet the minimum Town standards and must accommodate the expected volume of traffic. Where appropriate, the regulations establish standards for preserving and developing open space areas and other recreational purposes.
- C. It is the further policy of these regulations to ensure reasonable overall conservation, protection, development and use of the scenic, aesthetic, wildlife, recreational, open space, historic, ecological and natural resources of the Town.

**§ 115-2. Definitions.**

- A. APPLICANT — Any person, firm, corporation, partnership, or association who shall lay out any subdivision or part thereof as defined herein, either for himself or others.
- B. COLLECTOR STREET — A street which serves, or is designed to serve, as a traffic way for a neighborhood or as a feeder to a major street.
- C. CONCEPT PLAN — A sketch of a proposed subdivision to enable the applicant to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of these regulations.
- D. DEAD-END STREET or CUL-DE-SAC — A street or a portion of a street with only one (1) vehicular traffic outlet.
- E. EASEMENT — Authorization by a property owner for the use of another, and for a specified purpose, of any designated part of his property.
- F. ENGINEER or LICENSED PROFESSIONAL ENGINEER — A person licensed as a professional engineer by the State of New York.
- G. FIELD SURVEY — A determination in written form of the exact boundaries, position and extent of a tract of land or plat by linear and angular measurements taken by actual examination in the field.

- H. MAJOR STREET — A street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or other heavy traffic-generating areas.
- I. MAJOR SUBDIVISION — The division of a single parcel which involves the creation of more than four lots, or a division of a parcel into at least two or more lots in such a way that it requires the construction or extension of a new street, excluding private streets, or municipal facilities for the parcels to be developed.
- J. MINOR STREET — A street intended to serve primarily as an access to abutting properties.
- K. MINOR SUBDIVISION — The division of a single parcel into at least two but not more than four lots in such a way that it does not require the construction or extensions of a new street, excluding private streets, or municipal facilities for the parcels to be developed.
- L. PRELIMINARY PLAT — A drawing or drawings clearly marked "preliminary plat" showing the layout of a proposed subdivision, as specified in these regulations, submitted to the Planning Board for approval prior to submission of the plat in final form and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.
- M. PRIVATE STREET — A street which serves two or more lots, which is not under the jurisdiction of, or intended to be dedicated to, the Town or other governmental agency and is maintained by agreement among the owners of all lots having frontage on, and having a right of access to, such street.
- N. STATE ENVIRONMENTAL QUALITY REVIEW (SEQR) — the New York State legislation which requires the sponsoring or approving governmental body to identify and mitigate the significant environmental impacts of the activity it is proposing or permitting.
- O. STREET — Includes streets, roads, avenues, lanes or other traffic ways, between right-of-way lines.
- P. STREET PAVEMENT — The exposed surface of the roadway used by vehicular traffic.
- Q. STREET WIDTH The width of the right-of-way, measured at right angles to the center line of the street.
- R. SUBDIVISION — The division of any parcel of land into two (2) or more lots, blocks or sites, with or without streets or highways, and includes resubdivision.

- S. SUBDIVISION PLAT or FINAL PLAT — A drawing, in final form, showing a proposed subdivision containing all information or detail required by law and by these regulations to be presented to the Planning Board for approval, and which, if approved, may be duly filed or recorded by the applicant in the office of the County Clerk.
- T. SURVEYOR — A person licensed as a land surveyor by the State of New York.
- U. STORMWATER POLLUTION PREVENTION PLAN (SWPPP) – A document prepared as part of the permit process for the New York State Pollutant Discharge Elimination System.
- V. TOWN ENGINEER — The duly designated Engineer of the town or a designated registered engineer retained by the Town Board to provide expert engineering service in accordance with the provisions of the Town Law of the State of New York.
- W. TRACT — The entire parcel of land from which the subdivision plat is taken.
- X. WETLANDS — Applies to all areas defined as "wetlands" by state or federal law or regulation.
- Y. WETLAND UPLAND AREA - Those areas of land or water that are outside a wetland and within 100 feet measured horizontally from the boundary of the wetland.

**§ 115-3. Approval required.**

- A. Whenever any subdivision of land is proposed to be made, and before any contract for the sale of or any offer to sell any lots in such subdivision or any part thereof is made, and before any permit for the erection of a structure in such proposed, subdivision shall be granted.
- B. The applicant or his duly authorized agent shall apply, in writing, for approval of such proposed subdivision in accordance with the following procedures.
- C. Administration.
  - (1) The subdivision regulations for the Town of New Baltimore shall be administered by the Planning Board in cooperation with the Town Board, the Building Inspector, the Town Engineer and other agencies.
  - (2) All requests for information, application forms or other related materials should be directed to the Town of New Baltimore Planning Board.



**D. Approval Process**

- (1) Pre-application Conference. All subdivision applicants are strongly encouraged to schedule a pre-application conference prior to submitting an application for a subdivision in the Town of New Baltimore. This conference is a means by which applicants can become acquainted with the approvals process, submission requirements, and other relevant regulations in an informal setting. Pre-application conferences are scheduled with the Planning Board Clerk.
- (2) Concept Plan. See §115-4 for the requirements for Concept Plan Review. All subdivision applications are required to undergo concept plan review.
- (3) Conservation Analysis. See Article IX of the Zoning Code for the requirements for Conservation Analysis. All Major Conservation Subdivisions are required to undergo the Conservation Analysis procedure.
- (4) Preliminary and Final Plat. See §115-5 for procedures for Minor Subdivisions, and §115-6 for procedures for Major Subdivisions.

**§ 115-4. Concept plan review.**

- A. Purpose. Concept Plan Review allows the Planning Board and Applicant to discuss the general goals and scope of the subdivision project, as well as identify any potential issues specific to the site prior to the preparation of a full subdivision application.
- B. Submission of concept plan. Any owner of land shall, prior to subdividing or resubdividing land, shall request a meeting with the Planning Board by notifying the Planning Board Clerk at least 10 days prior to the regular meeting of the Planning Board. The applicant shall present five copies of a concept plan of the proposed subdivision for the purposes of classifications and preliminary discussion at the meeting.
- C. Classification and preliminary discussion of requirements.
  - (1) The applicant or his duly authorized representative shall attend the meeting of the Planning Board to discuss the requirements of this chapter for street improvements, drainage, sewerage, road names, water supply, fire protection, site design, and similar aspects, as well as the availability of existing services and other pertinent information.
  - (2) Classification of project type. Classification of the concept plan is to be made at this meeting by the Planning Board as to whether the project is a minor or major subdivision as defined in this

chapter, as well as whether conservation subdivision requirements are applicable.

- (a) The Planning Board may require when it deems it necessary for protection of the public health, safety and welfare, that a minor subdivision comply with all or some of the requirements specified for major subdivisions.
- (b) If the concept plan is classified as a minor subdivision, the applicant shall then comply with the procedure outlined in §115-5 of this chapter.
- (c) If it is classified as a major subdivision, the applicant shall then comply with the procedures outlined in Article IX of the Zoning Code and §115-6 of this chapter, with the following exceptions:
  - (i) Applicants for major subdivisions seeking a large-lot Conventional Subdivision, as set forth in Article V of the Zoning Code, shall then comply with the procedures outlined in §115-6 of this chapter.
  - (ii) Applicants for major subdivisions seeking a waiver from the mandatory Conservation Subdivision requirements, as outlined in Article IX of the Zoning Code, shall then comply with the procedures outlined in §115-6 of this chapter.
- (3) Planning Board Action. The Planning Board shall determine whether the concept meets the purposes of this chapter and shall, if necessary, make specific recommendations, to be incorporated by the applicant in the next submission to the Planning Board.

**D. Documents to be submitted for Concept Plan**

- (1) The concept plan initially submitted to the Planning Board shall be based on Tax Map information or some other similarly accurate base map at a scale (preferably not less than 200 feet to the inch) to enable the entire tract to be shown on one sheet, and shall show the following information:
  - (a) The location of that portion which is to be subdivided in relation to the entire tract, and the distance to the nearest existing street intersection.
  - (b) All existing structures, wooded areas, streams and other significant physical features within the portion to be subdivided and within 200 feet thereof.

- (c) The Tax Map sheet, block and lot numbers, if available.
- (d) The proposed lot and road layout, if available. The Concept Plan should, at a minimum, show the general location and number of lots proposed by the applicant.
- (e) All existing restrictions on the use of land, including easements or covenants, if available

**§ 115-5. Minor subdivision procedure.**

**A. Application and Fee.**

- (1) Within six (6) months after classification of a concept plan as a minor subdivision by the Planning Board, the applicant shall submit an application for approval of a subdivision plat. Failure to do so, unless waived by the Planning Board, shall require resubmission of the concept plan to the Planning Board for reclassification.
- (2) The plat shall conform to the layout shown on the concept plan and shall take into account any recommendations made by the Planning Board. Said application shall also conform to the requirements listed herein.
- (3) The application for approval of a minor subdivision plat shall be accompanied by a fee in an amount set by the Town Board by resolution.

**B. Number of copies.** Ten (10) copies of the subdivision plat and application shall be presented to the Clerk of the Planning Board at the time of submission of the subdivision plat. Application shall be presented to the Clerk at least ten (10) days prior to the Planning Board meeting.

**C. Applicant to attend Planning Board meeting.** The applicant, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the subdivision plat.

**D. When officially submitted.** The time of submission of the subdivision plat shall be considered to be the date on which the application for plat approval which has been deemed complete has been filed with the Planning Board Clerk, accompanied by the required fee, and all data required by these regulations.

**E. Coordination with SEQR.** The time periods for review of a minor subdivision plat shall be coordinated with the requirements of SEQR, and the time periods shall begin upon filing of a negative declaration of significance or a notice of completion of a draft environmental impact

statement. All time periods may be extended by mutual agreement of the applicant and the Planning Board.

F. Public Hearing for Minor Subdivision

- (1) The time within which the planning board, acting as Lead Agency for SEQR review, shall hold a public hearing on such minor subdivision shall be coordinated with any hearings the planning board may schedule pursuant to the State Environmental Quality Review Act, as follows:
  - (a) If the Planning Board, as Lead Agency, determines that the preparation of an environmental impact statement is not required, the public hearing on a minor subdivision plat shall be held within sixty-two days after the receipt of a complete final plat by the clerk of the planning board; or
  - (b) If the Planning Board, as Lead Agency, determines that an environmental impact statement is required, and a public hearing on the draft environmental impact statement is held, the public hearing on the minor subdivision and the draft environmental impact statement shall be held jointly within sixty-two days after the filing of the notice of completion of such draft environmental impact statement in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, the public hearing on the minor subdivision plat shall be held within sixty-two days following filing of the notice of completion.
- (2) If the Planning Board is not acting as Lead Agency, the provisions of §276-6 of New York State Town Law shall apply.
- (3) Public notice.
  - (a) The hearing on the minor subdivision shall be advertised by the Planning Board at least once in the town's official newspaper at least five days and not more than 30 days before such hearing if no hearing is held on the draft environmental impact statement, or at least fourteen days before a hearing held jointly therewith.
  - (b) Such notice of hearing shall also be mailed directly by the applicant to all land owners of all parcels located directly adjacent to and across a street or public right-of-way at least ten (10) days prior to the hearing date.

- (c) The hearing on the minor subdivision shall be closed upon motion of the planning board within one hundred twenty days after it has been opened.

G. Decision. The Planning Board shall make its decision on the minor subdivision plat as follows:

- (1) If such board determines that the preparation of an environmental impact statement on the minor subdivision is not required, the Planning Board shall by resolution conditionally approve, with or without modification, disapprove, or grant minor approval and authorize the signing of such plat, within sixty-two days after the close of the public hearing; or
- (2) If such board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the minor environmental impact statement shall be filed within forty-five days following the close of such public hearing in accordance with the provisions of the State Environmental Quality Review Act.
  - (a) If no public hearing is held on the draft environmental impact statement, the minor environmental impact statement shall be filed within forty-five days following the close of the public hearing on the plat.
  - (b) Within thirty days of the filing of the final environmental impact statement, the Planning Board shall issue findings on such minor environmental impact statement and shall by resolution approve with conditions, disapprove, or grant final approval and authorize the signing of such plat.

H. Grounds for decision. The grounds for conditions, if any, or the grounds for disapproval shall be stated upon the records of the planning board.

- (1) Within five (5) business days of the resolution granting approval with conditions, the plat shall be certified by the Planning Board Chairman as approved with conditions and a copy filed in the Planning Board Clerk's office, and a certified copy of the resolution shall be mailed to the applicant. Upon completion of such conditions, the plat shall be signed by the duly designated officer of the Planning Board.
- (2) Approval with conditions of a minor subdivision plat shall expire one hundred eighty (180) days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved

plat may be submitted for signature, if, in its opinion, such extension is warranted in the circumstances, for not to exceed two (2) additional periods of ninety (90) days each.

- I. Documents to be submitted. The Planning Board is not limited to this list and may, within reason, request any additional information it deems necessary or appropriate. In determining the amount of information it will require, the Planning Board will consider the location and the size and potential impact of the project.
  - (1) A copy of the Conservation Analysis, if prepared voluntarily by the applicant under the provisions of Article IX of the Zoning Code.
  - (2) Where the property remaining in the tract from which the plat is subdivided is four acres or less, an actual field survey of the boundary lines of the entire tract, giving descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by monuments as approved by the Town Engineer and shall be referenced and shown on the plat. Where the remaining property in the tract from which the plat is subdivided is greater than four acres, the field survey shall be of the boundary lines of the plat only.
  - (3) One plat to be filed with the county, clearly drawn in permanent black ink on permanent reproducible material such as Mylar. The size of the sheets shall be no greater than thirty-six by sixty (36 x 60) inches.
    - (a) The plat shall be drawn at a scale of no more than one hundred (100) feet to the inch and oriented with the North point at the top of the map.
    - (b) When more than one (1) sheet is required, an additional index sheet of the same size shall be filed showing to scale the entire subdivision with lot and block numbers clearly legible.
  - (4) The plat shall show, where applicable:
    - (a) The proposed subdivision name or identifying title and the name of the town and county in which the subdivision is located, the name and address of the record owner and applicant, and the name, license number and seal of the licensed land surveyor.

- (b) A key map at a scale of approximately one (1) inch equals eight hundred (800) feet, showing the location of the proposed project within the town.
- (c) Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.
- (d) Sufficient data acceptable to the Town Engineer to determine readily the location, bearing and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the State System of Plane Coordinates, and in any event should be tied to reference points previously established by a public authority.
- (e) The length and bearing of all straight lines, radii, length of curves, and central angles of all curves and tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The plat shall show the boundaries of the property, location, graphic scale and true North point.
- (f) The plat shall also show by proper designation thereon all public open spaces for which deeds are included and those spaces title to which is reserved by the developer. For any of the latter, there shall be submitted with the subdivision plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefore.
- (g) All offers of cession and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
- (h) Lots and blocks with a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing town practice.
- (i) Permanent reference monuments shall be shown and shall be constructed in accordance with specification of the Town Engineer. When referenced to the State System of Plane Coordinates, they shall also conform to the requirements of the State Department of Public Works. They shall be placed as required by the Town Engineer and their location noted and referenced upon the plat.

- (j) All lot corner markers shall be permanently located satisfactorily to the Town Engineer, at least three-fourths (3/4) inch, if metal, in diameter and at least twenty-four (24) inches in length, and located in the ground to existing grade.
  - (k) Monuments of a type approved by the Town Engineer shall be set at all corners and angle points of the boundaries of the original tract to be subdivided; and at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Town Engineer.
- (5) Construction drawings, including plans, profiles and typical cross sections, as required, showing the proposed location, size and type of streets, sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers, storm drains and completed SWPPP if required, pavements and subbase, manholes, catch basins and other facilities.

**§ 115-6. Major subdivision procedure.**

**A. Preliminary Plat Procedure**

- (1) Prior to submission of a preliminary plat, all applicants for a major subdivision must comply with the requirements of Article IX of the Zoning Code.
- (2) The applicant shall file an application for the consideration of a preliminary plat of the proposed subdivision. The preliminary plat shall, in all respects, comply with the requirements set forth in the provisions of § 276 and 277 of the Town Law and as required herein, except where a waiver may be specifically authorized by the Planning Board.
- (3) The application for approval of the preliminary plat shall be accompanied by a fee in an amount set by the Town Board by resolution.

**B. Number of copies.** Ten (10) copies of the preliminary plat shall be presented to the Clerk of the Planning Board at least 10 days prior to a regular meeting of the Planning Board.

**C. Applicant to attend Planning Board meeting.** The applicant, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the preliminary plat.



- D. Study of preliminary plat. The Planning Board shall study the practicability of the preliminary plat, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, and the future development of adjoining lands as yet unsubdivided.
- E. When officially submitted. The time of submission of the preliminary plat shall be considered to be the date on which the complete application, including all required fees and estimates, is submitted to the Planning Board Clerk.
- F. Approval of a preliminary plat shall not constitute approval of the subdivision plat, but is rather intended to guide the design of the minor subdivision. Prior to approval of the minor subdivision, the Planning Board may require additional changes upon consideration of the final plat or as a result of new information obtained at the public hearing.
- G. Coordination with SEQR. The time periods for review of a major subdivision plat shall be coordinated with the requirements of SEQR, and the time periods shall begin upon filing of a negative declaration of significance or a notice of completion of a draft environmental impact statement. All time periods may be extended by mutual agreement of the applicant and the Planning Board.
- H. Public hearing on preliminary plats.
  - (1) If the Planning Board is acting as Lead Agency for the purposes of SEQR review, the time within which the Planning Board shall hold a public hearing on the preliminary plat shall be coordinated with any hearings the Planning Board may schedule pursuant to the State Environmental Quality Review Act, as follows:
    - (a) If such board determines that the preparation of an environmental impact statement on the preliminary plat is not required, the public hearing on such plat shall be held within sixty-two days after the receipt of a complete preliminary plat by the clerk of the Planning Board; or
    - (b) If such board determines that an environmental impact statement is required, and a public hearing on the draft environmental impact statement is held, the public hearing on the preliminary plat and the draft environmental impact statement shall be held jointly within sixty-two days after the filing of the notice of completion of such draft

environmental impact statement in accordance with the provisions of the State Environmental Quality Review Act. If no public hearing is held on the draft environmental impact statement, the public hearing on the preliminary plat shall be held within sixty-two days of filing the notice of completion.

- (2) Planning Board not acting as Lead Agency. If the Planning Board is not acting as Lead Agency, the provisions of §276-6 of New York State Town Law shall apply.
- I. Public hearing notice. The hearing on the preliminary plat shall be advertised by the Planning Board at least once in the town's official newspaper at least five days before such hearing if no hearing is held on the draft environmental impact statement, or fourteen days before a hearing held jointly therewith. The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the Planning Board within one hundred twenty days after it has been opened.
- J. Decision. The Planning Board shall approve, with or without modification, or disapprove such preliminary plat as follows:
  - (1) If the Planning Board determines that the preparation of an environmental impact statement on the preliminary plat is not required such board shall make its decision within sixty-two days after the close of the public hearing; or
  - (2) If the Planning Board determines that an environmental impact statement is required, and a public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five days following the close of such public hearing in accordance with the provisions of the state environmental quality review act. If no public hearing is held on the draft environmental impact statement, the final environmental impact statement shall be filed within forty-five days following the close of the public hearing on the preliminary plat. Within thirty days of the filing of such final environmental impact statement, the Planning Board shall issue findings on the final environmental impact statement and make its decision on the preliminary plat.
- K. Grounds for decision. The grounds for a modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a preliminary plat, the planning

board shall state in writing any modifications it deems necessary for submission of the plat in final form.

- L. Documents to be submitted. Ten (10) copies of the preliminary plat prepared at a scale of not more than one hundred (100), but preferably not less than fifty (50) feet to the inch, shall be submitted. Not all items on this list may be required by the Planning Board. The Planning Board is not limited to this list and may, within reason, request additional information it deems necessary or appropriate. In determining the level of detail it will require, the Planning Board will consider the location, the size, and potential impact of the project:
- (1) The completed Conservation Analysis, as required under Article IX of the Zoning Code.
  - (2) An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified to by a licensed land surveyor. The corners of the tract shall also be located on the ground and marked by substantial monuments of such size and type as approved by the Town Engineer, and shall be referenced and shown on the plat.
  - (3) The proposed subdivision name and name of the town and county in which it is located; the date, true North point, scale and name and address of the record owner, applicant and engineer or surveyor, including license number and seal.
  - (4) The name of all subdivisions immediately adjacent and the names of the owners of record of all adjacent property.
  - (5) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
  - (6) The location of existing property lines, easements, buildings, rock outcrops, wooded areas, single trees with a diameter of eight (8) inches or more as measured three (3) feet above the base of the trunk, and other significant existing features for the proposed subdivision and adjacent property.
  - (7) The proposed lot lines with approximate dimensions and area of each lot.
  - (8) The location of existing sewers, water mains, culverts and drains on the property, with pipe sizes, grades and direction of flow.
  - (9) Existing and proposed contours, shown at two foot intervals or less as required by the Planning Board.
  - (10) The width and location of any streets or public ways or places within the area to be subdivided, and the width, location, grades

and street profiles of all streets or public ways proposed by the developer.

- (11) The approximate location and size of all proposed water lines, valves, hydrants and sewer lines, and fire alarm boxes; the connection to existing lines or alternate means of water supply or sewage disposal and treatment as provided in the Public Health Law; and profiles of all the proposed water and sewer lines.
- (12) The storm drainage plan indicating the approximate location and size of proposed lines and their profiles; and the connection to existing lines or alternate means of disposal. Temporary measures to control erosion shall also be shown.
- (13) Plans and cross sections showing the proposed location and type of sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers and storm drains, and the size and type thereof, the character, width and depth of pavements and subbase, the location of manholes, basins and underground conduits.
- (14) Preliminary designs of any bridges or culverts which may be required.
- (15) Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the preliminary plat shall show the boundaries of proposed permanent easements over or under private property, which permanent easements shall not be less than twenty (20) feet in width and which shall provide satisfactory access to an existing public highway or other public highway or public open space shown on the subdivision map.
- (16) If the application covers only a part of the applicant's entire holding, a map of the entire tract, drawn at a scale of not less than four hundred (400) feet to the inch showing an outline of the platted area with its proposed streets and indication of the probable future street system with its grades and drainage in the remaining portion of the tract and probable future drainage layout of the entire tract shall be submitted. The part of the applicant's entire holding submitted shall be considered in the light of the entire holdings.
- (17) A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.

- (18) The plan shall show the zoning district and/or agricultural district (if applicable), including exact boundary lines of the district or area, if crossed by a district line.
- (19) Records of percolation tests and deep hole tests, with the location of each test hole shown on the Preliminary Plat and identification of the record of results for each location.
- (20) Areas of land with 3% slope or less, and areas with 15% slope or greater shall be shown as differently shaded areas.
- (21) Delineated wetlands, and, if the wetland falls under the jurisdiction of the NYSDEC, the required upland buffer area.
- (22) Shoreline and centerline of all watercourses, and water quality designation of all streams as set forth by the NYSDEC.
- (23) The locations of all existing wells within 1,500 feet of the proposed subdivision, test wells, and the results of the well tests, if requested by the Planning Board or required by NYS Department of Health, sufficient to determine on-site water capacity as well as impacts on surrounding existing wells. Information which may be requested may include, but not be limited to, the depth, flow, capacity, and water quality for existing wells off-site and test wells on-site.

M. Major Subdivision Final Plat Approval

Application for approval and fee.

- (1) The applicant shall, within six months after the approval of the preliminary plat, file with the Planning Board an application of the final subdivision plat, using the approved application form available from the Planning Board Clerk.
- (2) All applications for plat approval for major subdivisions shall be accompanied by the fee in the amount set by the Town Board by resolution.
- (3) If the final plat is not submitted within six months after the approval of the preliminary plat, the Planning Board may require resubmission of the preliminary plat.

N. Number of copies. Applicants shall provide the Planning Board Clerk with ten (10) copies of the completed application and plat. Two copies of all construction drawings and a completed Stormwater Pollution Prevention Plan, if required, shall also be submitted.

O. When officially submitted. The time of submission of the subdivision plat shall be considered to be the date on which the complete application for approval of the subdivision plat, accompanied by the

required fee and all data required by these regulations, has been filed with the Planning Board Clerk.

P. Endorsement of state and county agencies. Water and sewer facility proposals contained in the subdivision plat shall be properly endorsed and approved by the New York State Department of Environmental Conservation and/or the New York State Department of Health. Applications for approval of plans for sewer or water facilities will be filed by the applicant with all necessary town, county and state agencies.

Q. Action on proposed subdivision plat.

- (1) When a final plat is submitted which the Planning Board deems to be in substantial agreement with a preliminary plat approved pursuant to this section, the Planning Board shall by resolution conditionally approve with or without modification, disapprove, or grant final approval and authorize the signing of such plat, within sixty-two days of its receipt by the clerk of the Planning Board.
- (2) Upon resolution of a conditional approval of such final plat, the Planning Board shall empower a duly authorized officer to sign the plat upon completion of such requirements as may be stated in the resolution.
  - (a) Within five days of such resolution the plat shall be certified by the Clerk of the Planning Board as conditionally approved and a copy filed in his office and a certified copy to be mailed to the applicant. The copy mailed to the applicant shall include a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved final plat.
  - (b) Upon completion of such requirements, the plat shall be signed by said duly authorized officer of the Planning Board. Conditional approval of a final plat shall expire one hundred eighty (180) days after the date of the resolution granting final approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if, in its opinion, such extension is warranted in the circumstances, for not to exceed two (2) additional periods of ninety (90) days each.
- (3) Final plats deemed by the Planning Board to be not in substantial agreement with approved preliminary plats, the Planning Board

shall hold a Public Hearing under the major subdivision hearing procedures described above.

- R. Documents to be submitted. The following documents shall be submitted for plat approval. The Planning Board is not limited to this list and may, within reason, request any additional information it deems necessary or appropriate. In determining the amount of information it will require, the Planning Board will consider the location, the size, and potential impact of the project:
- (1) The proposed subdivision name or identifying title and the name of the town and county in which the subdivision is located, the name and address of the record owner and applicant, and the name, license number and seal of the licensed land surveyor.
  - (2) A key map at a scale of approximately one (1) inch equals eight hundred (800) feet, showing the location of the proposed project within the town.
  - (3) Street lines, pedestrian ways, lots, reservations, easements and areas to be dedicated to public use.
  - (4) Sufficient data acceptable to the Town Engineer to determine readily the location, bearing and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground. Where applicable, these should be referenced to monuments included in the State System of Plane Coordinates, and in any event should be tied to reference points previously established by a public authority.
  - (5) The length and bearing of all straight lines, radii, length of curves, and central angles of all curves and tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The plat shall show the boundaries of the property, location, graphic scale and true North point.
  - (6) The plat shall also show by proper designation thereon all public open spaces for which deeds are included and those spaces title to which is reserved by the developer. For any of the latter, there shall be submitted with the subdivision plat copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefore.
  - (7) All offers of cession and covenants governing the maintenance of uncaded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.

- (8) Lots and blocks with a subdivision shall be numbered and lettered in alphabetical order in accordance with the prevailing town practice.
- (9) Permanent reference monuments shall be shown and shall be constructed in accordance with specification of the Town Engineer. When referenced to the State System of Plane Coordinates, they shall also conform to the requirements of the State Department of Public Works. They shall be placed as required by the Town Engineer and their location noted and referenced upon the plat.
- (10) All lot corner markers shall be permanently located satisfactorily to the Town Engineer, at least three-fourths (3/4) inch, if metal, in diameter and at least twenty-four (24) inches in length, and located in the ground to existing grade.
- (11) Monuments of a type approved by the Town Engineer shall be set at all corners and angle points of the boundaries of the original tract to be subdivided; and at all street intersections, angle points in street lines, points of curve and such intermediate points as shall be required by the Town Engineer.
- (12) Construction drawings, including plans, profiles and typical cross sections, as required, showing the proposed location, size and type of streets, sidewalks, streetlighting standards, street trees, curbs, water mains, sanitary sewers, storm drains and completed SWPPP if required, pavements and subbase, manholes, catch basins and other facilities.

**§ 115-7. General requirements for major subdivisions.**

Applicability. For major subdivisions in the Town of New Baltimore, the following standards shall apply.

- A. Consultant review fee. The Planning Board, subject to the approval of Town Board, may require an applicant for any review, permit or approval to deposit in an escrow account an amount established by the Planning Board to pay the fees and/or costs of any consultant, engineer or attorney designated by the Planning Board to review such application. The fees and/or costs charged by such consultant, engineer or attorney in connection with such review will be charged against the sum deposited in escrow.
- (1) If specific circumstances warrant it, additional funds will be required to be deposited in order to cover reasonable expenses incurred beyond the original estimate.



- (2) Any amount remaining shall be returned to the applicant within forty-five (45) days of final action on the application.
- (3) Payment to the escrow account is a prerequisite to a complete application, and no review will be initiated until payment is received.
- (4) The deposit specified above does not include any approvals or fees required from or by agencies other than the town, costs associated with extensions to districts to provide necessary services to the proposal nor fees charged by town departments or boards for permits, approvals, hearings or other actions, except as noted above.

B. Required improvements.

- (1) Before the Planning Board shall grant final approval of the subdivision plat, the Planning Board shall determine the minimum improvements to be provided by the applicant.
- (2) The Planning Board may not require certain improvements if it finds that, due to the circumstances of a particular plat, the provision of certain improvements is not requisite in the interest of the public health, safety or general welfare or where the required improvement would be inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision.
- (3) The improvements which are to be provided by the applicant, pursuant to the determination of the Planning Board, may include but are not limited to the following:
  - (a) Streets.
  - (b) Curbs and gutters.
  - (c) Water supply, water mains and fire hydrants.
  - (d) Sanitary waste disposal.
  - (e) Storm drainage.
  - (f) Sidewalks.
  - (g) Streetlighting.
  - (h) Monuments and markers.
  - (i) Street trees.
  - (j) Noise berms.
  - (k) Designated open spaces.
  - (l) Landscape and buffer plantings.

- C. Construction plans for all required improvements shall be approved by the Town Engineer, in accordance with standards which shall be no less stringent than required pursuant to state regulations or local laws.
- D. Inspection fees. The Town Engineer shall furnish the Planning Board with an estimate of the costs associated with inspecting the design and construction of required improvements. The Planning Board shall require the applicant to deposit a cash amount, equal to the estimate, in a town-established escrow account. This money shall be used to pay for the cost of inspections as they are rendered. If specific circumstances warrant it, additional funds will be requested to cover reasonable expenses incurred beyond the original estimate.

In lieu of these requirements, the Planning Board may allow for the inspection of the design and construction of the required improvements by a registered engineer retained by the applicant, provided that said engineer shall furnish a certificate to the Planning Board bearing the engineer's official stamp stating that all improvements to the subdivision required by the Planning Board have been made or installed in accordance with specifications, and the improvements shall not be considered to be completed until said certificate has been received by the Planning Board.

- E. Security Required. The Planning Board shall require an applicant to post a performance bond, letter of credit, capital in escrow, or other security (hereafter referred to as a "performance guarantee"), in an amount sufficient to construct required improvements, or shall complete the required improvements to the satisfaction of the Town Engineer or other authorized person.
  - (1) A performance guarantee estimate shall be prepared by a licensed professional engineer retained by the applicant and approved by the Town Engineer. The Planning Board shall pass a resolution either approving or adjusting the performance guarantee estimate and shall provide copies, signed by the Chairman, for use by the applicant in obtaining and posting a guarantee.
  - (2) When performance guarantee is posted. The applicant shall file with the Planning Board Clerk a performance guarantee to cover the full cost of the required improvements. Any such guarantee shall comply with the requirements of § 277 of the Town Law and shall be satisfactory to the Planning Board and as to form, sufficiency, manner of execution, and surety. A period of one year, or such other period as the Planning Board may determine appropriate, but not to exceed three years, shall be set forth within which the required improvements shall be completed.

In cases where the guarantee involves escrow, the applicant may request the escrow amount to be reduced upon partial completion of improvements. No reduction will be granted until the installation of said improvements has been approved by the Town Engineer or the applicant's engineer pursuant to the provisions above.

- (3) When no performance guarantee is posted. When no performance guarantee is posted, the applicant shall complete all required improvements to the satisfaction of the Town Engineer who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Planning Board.

F. As-built plans. The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Town Engineer or the applicant's engineer pursuant to the provisions above and the applicant has submitted as-built plans which are drawn to scale and which diagram the exact locations based upon engineering and surveying techniques or direction, distance and grade. The following information should be indicated on the plans:

- (1) The location of manholes (both vertical and horizontal).
- (2) The location of catch basins (both vertical and horizontal).
- (3) The location (both vertical and horizontal) and direction of sanitary sewer lines, septic systems, storm sewer lines and water mains.
- (4) The location of connections between the sanitary sewer trunk and laterals.
- (5) The grades for laterals.
- (6) The depth and grade of main trunk lines and laterals.
- (7) The size, capacity and location of all stormwater conveyance structures.
- (8) The location of monuments marking all underground utilities as actually installed.

G. Modification of design or improvements. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Town Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Engineer may authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the

waiver or substantial alteration of the function of any improvements required by the guarantee. The Town Engineer shall issue an authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board as its next regular meeting.

- H. Inspection of improvements. At least ten (10) days prior to commencing construction of required improvements, the applicant shall pay to the Town Clerk the inspection fee to be deposited in escrow, if applicable, and shall notify the Planning Board Clerk, in writing, of the time when he proposes to commence construction of such improvements so that the Planning Board may cause inspection to be made to assure that all town specifications and requirements shall be met during the construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Planning Board.
- I. Proper installation of improvements. If the Town Engineer shall find, upon inspection of the improvements performed before the expiration date of the performance guarantee, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the applicant, he shall so report to the Town Board, Building Inspector and Planning Board. In the event that the Town Board has granted permission for the applicant's engineer to inspect the improvements pursuant to the provisions of Subsection B. above, the Planning Board shall report to the Town Board and Building Inspector if the applicant's engineer has not furnished the required certificate before the expiration date of the performance guarantee. The Town Board shall then notify the applicant and, if necessary, the guaranteeing company and take all necessary steps to preserve the town's rights under the bond. No plat shall be approved by the Planning Board as long as the applicant is in default on a previously approved plat.

**§ 115-8. Acceptance of streets; ownership and maintenance of recreation areas.**

- A. Public acceptance of streets. The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the town of any street, easement or other open space shown on such subdivision plat.
- B. Ownership and maintenance of recreation areas.
  - (1) When a park or recreation area has been shown on a plat, the approval of said plat shall not constitute an acceptance by the town of such area. The Planning Board shall require the plat to be endorsed with appropriate notes to this effect.

- (2) The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of any such recreation area.

**§ 115-9. Required improvements and site design standards.**

**A. Design Standards.**

Standards to be considered minimum. In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth hereinafter. Said standards shall be considered to be minimum requirements and shall be waived by the Planning Board only under circumstances set forth herein.

**B. Character of land; specifications for requirements.**

- (1) 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.
- (2) All required improvements shall be constructed to standards approved by the Town Engineer, in accordance with standards which shall be no less stringent than required pursuant to state regulations or local laws

**C. Lots; access; monuments.**

- (1) Lots to be buildable. The lot arrangement shall be such that in constructing a building there will be no foreseeable difficulties for reasons of topography or other natural conditions. Approval of plat does not guarantee the issuance of a building permit or any applicable approvals of the NYS Department of Health.
- (2) Lots should not be of such depth as to encourage the later creation of a second building lot at the front or rear.
- (3) Side lines. All side lines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a variance from this rule will give a better street or lot plan.
- (4) Corner lots. In general, corner lots should be larger than interior lots to provide for a proper building setback from each street and provide a desirable building site.
- (5) Driveway access. Driveway access and grades shall conform to specifications of the Town Driveway Ordinance. Driveway grades between the street and the setback line shall not exceed ten percent (10%).

- (6) Access from private streets. Access from private streets shall be deemed acceptable only if such streets are designed and improved in accordance with these regulations.
- (7) Monuments and lot corner markers. Permanent monuments meeting specifications approved by the Town Engineer as to size, type and installation shall be set at such block corners, angle points, points of curves in streets and other points as the Town Engineer may require, and their location shall be shown on the subdivision plat.
- (8) Flag lots.
  - (a) Flag lots shall be permitted and shall have a minimum width for driveway access of forty (40) feet at the intersection of the lot with the public right-of-way.
  - (b) No structure shall be constructed on a flag lot unless the structure meets the minimum front, side and rear yard setback requirements for the zoning district. The area or distance of driveway access shall not be used to calculate setback requirements. The front setback shall be determined from the lot line facing or closest to the public highway, unless otherwise determined by the Planning Board.
  - (c) Setbacks may be increased where the Planning Board determines that the minimum setbacks are insufficient to protect the existing character of the neighborhood and adjoining properties.
  - (d) The minimum lot size of flag lots shall be same as the area of conventional lots for that zoning district. The area for driveway access strip shall not be used to calculate lot size.
  - (e) Driveway access shall be at least as far away from each other as the minimum lot width for the district where located, measured at the public road frontage, except where adjacent access strips are designed to accommodate a common driveway.

D. Common driveways.

- (1) A common driveway shall provide access to no more than two (2) lots.
- (2) The traveled way shall have a minimum width of twelve (12) feet.

- (3) The plat application for a subdivision containing common driveway(s) must be accompanied by an executed declaration of covenants, easements, and restrictions for its use and maintenance, in form approved by the Planning Board. Such declaration of covenants, easements, and restrictions shall state that the Town of New Baltimore shall not be responsible for construction or maintenance of the common driveway.
- (4) An adequate turnaround for emergency vehicles shall be provided if the common driveway exceeds one hundred (100) feet in length.
- (5) Utility trenches and conduits shall not be located within the traveled way of the common driveway, except to facilitate crossing of said utilities.

E. Drainage improvements.

- (1) Stormwater and Erosion Control. The applicant must conform to all applicable regulations for stormwater management and erosion control as required in the most current regulations of the NYS Department of Environmental Conservation. Applicant may be required to demonstrate compliance with the New York State standards, including, but not limited to: Stormwater Management Design Manuals, Technical Specifications, and Guidelines for Erosion and Sediment Control.
- (2) Drainage structure to accommodate potential development upstream. A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Town Engineer shall approve the design and size of the facility based on the design requirements of the Stormwater Pollution Prevention Plan.
- (3) Responsibility for drainage downstream. The applicant's engineer shall also study the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision; this study shall be reviewed by the Town Engineer. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a one hundred-year storm, the Planning Board shall notify the Town Board of such potential condition. In such case, the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.

- (4) Land subject to flooding. Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said hazardous conditions.

F. Parks, open spaces and natural features.

- (1) The Planning Board shall require for major subdivisions that the plat show sites of a character, extent, and location suitable for the development of a park or other recreation purposes. The Planning Board may require that the developer satisfactorily grade any such recreation areas shown on the plat.
- (2) The Planning Board may require, for major subdivisions, the reservation of land for a park or recreational purposes to be reserved on the plat, but in no case to be more than 10% of the gross area of the subdivision. This area may be included in the 50% open space requirement pursuant to Article IX of the Zoning Code. Such area or areas may be held in private ownership for use by all residents of the subdivision, or dedicated to the town or county by the applicant if the Town Board approves such dedication. In general, such reservations should have adequate street access.
- (3) Information to be submitted. In the event that an area to be used for a park is required to be so shown, the applicant shall submit, prior to final approval, to the Planning Board three (3) prints [one (1) permanent reproducible material] drawn in ink showing, at a scale of not less than thirty (30) feet to the inch, such area and the following features thereof:
  - (a) The boundaries of the area, giving lengths and bearings of all straight lines; radii, lengths, central angles and tangent distances of all curves.
  - (b) Existing features such as brooks, ponds, clusters of trees, rock outcrops and structures.
  - (c) Existing and, if applicable, proposed changes in grade and contours of said area and of the area immediately adjacent.
  - (d) Proposed recreational improvements.



- (4) Waiver of plat designation of area for parks and playgrounds.

In cases where the Planning Board finds that, due to the size, topography or location of the subdivision, land for park, playground or other recreation purpose cannot be properly located therein or if, in the opinion of the Planning Board, it is not desirable, the Planning Board may waive the requirement that the plat show land for such purposes.

- (5) Payment of money in lieu of land. Where the Planning Board determines that a suitable park or recreation site of adequate size cannot be properly located in any such plat or is otherwise not practical, the Planning Board may stipulate the payment of moneys-in-lieu of recreation land. Such moneys shall be placed in trust to be used exclusively for the purpose of acquisition and development of parkland or other recreational purposes as may be deemed appropriate by the Town Board. The amount of such moneys-in-lieu shall be based on a per-lot fee in an amount set by the Town Board by resolution. The number of lots used to calculate the fee shall be based on the number of building lots approved. Lots dedicated to open space, utility easements, or similar uses shall not be counted towards the calculation of the per-lot recreation fee.

- (a) Such amount shall be paid to the Town Board at the time of final plat approval, and no plat shall be signed by the authorized officer of the Planning Board until such payment is made.
- (b) All such payments shall be held by the Town Board in a special Town Recreation Site Acquisition and Improvement Fund to be used for the acquisition of land that is suitable for permanent parkland or other recreational purposes, and so located that it will serve primarily the general neighborhood in which the land covered by the plat lies, and shall be used only for parkland or other recreational land acquisition or improvements.
- (c) Such money may also be used for the physical improvement of existing parks or recreation areas serving the general neighborhood in which the land shown on the plat is situated, provided that the Town Board finds there is a need for such improvements.

G. Reserve strips prohibited. Reserve strips of land which might be used to control access from the proposed subdivision to any neighboring property or to any land within the subdivision itself shall be prohibited.

## H. Preservation of natural features.

- (1) Applicability. The following standards shall apply to major subdivisions within the Town of New Baltimore.
- (2) Preservation of natural cover. Land to be subdivided shall be laid out and improved in reasonable conformity to existing topography, in order to minimize grading and cut and fill, to retain, insofar as possible, the natural contours, to limit stormwater runoff, and to conserve the natural cover and soil. No topsoil, sand, or gravel shall be removed from any lots shown on any subdivision plat except for the purpose of improving such lots and for laying out of streets shown thereon. No excess topsoil, sand, or gravel shall be disposed of outside of the boundaries of the tract, except upon the approval of the Planning Board.
- (3) Preservation of existing features. The Planning Board shall, wherever possible, establish the preservation of all natural features which add value to residential developments and to the community, such as large trees or groves, watercourses and falls, historic resources, vistas and similar irreplaceable assets. The Planning Board may require easements in favor of the Town of New Baltimore, other lot owners, or suitable land trusts, and other restrictions, including any conservation easements required under the provisions of Article IX of the Zoning Code, or under General Municipal Law § 247, to insure the continuing preservation of such features.

**§ 115-10. Street layout.**

- A. Width, location and construction. Streets shall be of sufficient width, suitably located and adequate to accommodate the prospective traffic and afford access for fire-fighting, snow removal and other road maintenance equipment. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties and shall be coordinated so as to compose a convenient system.
- B. Arrangement. The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions, and for proper projection of principal streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services such as sewers, water and drainage facilities. Where, in the opinion of the Planning Board, topographic or

other conditions make such continuance undesirable or impracticable, the above conditions may be modified.

- C. Minor streets. Minor streets shall be so laid out that their use by through traffic will be discouraged.
- D. Special treatment along major arterial streets. When a subdivision abuts or contains an existing or proposed major arterial street, the Planning Board may require marginal streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- E. Provision for future resubdivision. Where a tract is subdivided into lots substantially larger than the minimum size in which a subdivision is located, the Planning Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these regulations.
- F. Dead-end streets (culs-de-sac). The Planning Board may find that the creation of dead-end or loop residential streets to be appropriate, if such street design will not interfere with normal traffic circulation in the area. In the case of dead-end streets, where needed or desirable, the Planning Board may require the reservation of a twenty-foot wide easement to provide for continuation of pedestrian traffic and utilities to the next street. Subdivisions containing twenty (20) lots or more shall have at least two (2) street connections with existing public streets, or streets on an approved subdivision plat for which a bond has been filed.
- G. Block size. Blocks generally shall not be less than four hundred (400) feet nor more than one thousand two hundred (1,200) feet in length. In general, no block width shall be less than twice the normal lot depth. In blocks exceeding eight hundred (800) feet in length, the Planning Board may require the reservation of a twenty-foot wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a four-foot wide paved footpath be included.
- H. Intersections with collector or major arterial roads. Minor or secondary street openings into such roads shall, in general, be at least five hundred (500) feet apart.
- I. Street jogs. Street jogs with center-line offsets of less than one hundred twenty-five (125) feet shall be avoided.

- J. Angle of intersection. In general, all streets shall join each other so that for a distance of at least one hundred (100) feet the street is approximately at right angles to the street it joins.
- K. Relation to topography. The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building sites as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography.
- L. Other required streets. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Board may require a street approximately parallel to and on each side of such right-of-way, 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.

#### **§ 115-11. Street design.**

- A. Widths of rights-of-way. Streets shall have the following widths:

Type of Street	Minimum Rights-of-Way (feet)	Minimum Pavement (feet)
Major	66	18
Collector	60	18
Local	50	18

- B. Improvements. Streets shall be graded and improved with pavements, curbs and gutters, sidewalks, storm drainage facilities, water mains, sewers, streetlights and signs, street trees and fire hydrants, except where waivers may be requested, and the Planning Board may waive, subject to appropriate conditions, such improvements as it considers may be omitted without jeopardy to the public health, safety and general welfare. Pedestrian easements shall be improved as required by the Town Engineer, and/or Town Superintendent of Highways. Such grading and improvements shall be approved as to design and specifications by the Town Engineer and/or Town Superintendent of Highways.
  - (1) Fire hydrants. Installation of fire hydrants shall be in conformity with all requirements of standard thread and nut as specified by the New York Fire Insurance Rating Organization and the Division of Fire Safety of the State of New York.

- (2) Streetlighting facilities. Lighting facilities shall be in conformance with the lighting standards of the town. Such lighting standards and fixtures shall be installed after approval by the appropriate power company and the authorized electrical inspector.
- C. Utilities in streets. The Planning Board shall, whenever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and street line to simplify location and repair of lines when they require attention. The applicant shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved.
- D. Utility easements. Where topography is such as to make impractical the inclusion of utilities within the right-of-way, perpetual unobstructed easements at least twenty (20) feet in width shall be otherwise provided with satisfactory access to the street. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where required.
- E. Grades. Grades of all streets shall conform in general to the terrain and shall not be less than one-half percent ( $1/2\%$ ) nor more than six percent (6%) for major or collector streets, or ten percent (10%) for minor streets in residential zones, but in no case more than three percent (3%) within fifty (50) feet of any intersection.
- F. Changes in grade. All changes in grade shall be connected by vertical curves of such length and radius as meet with the approval of the Town Engineer so that clear visibility shall be provided for a safe distance.
- G. Curve radii at street intersections. All street pavement lines at intersections shall be rounded by curves of at least twenty (20) feet in radius, and curbs shall be adjusted accordingly.
- H. Steep grades and curves; visibility of intersections. A combination of steep grades and curves shall be avoided. In order to provide visibility for traffic safety, that portion of any corner lot (whether at an intersection entirely within the subdivision or of a new street with an existing street) which is shown on the sketch plan shall be cleared of all growth (except isolated trees) and obstructions above the level three (3) feet higher than the center line of the street. If directed, the ground shall be excavated to achieve visibility.
- I. Dead-end streets (culs-de-sac). Permanent dead-end streets should, in general, not exceed five hundred (500) feet in length and shall terminate in a circular turnaround having a minimum right-of-way radius of sixty (60) feet and a pavement radius of fifty (50) feet. At

the end of temporary dead-end streets a temporary turnaround with a pavement radius of fifty (50) feet shall be provided, unless the Planning Board approves an alternate arrangement.

J. Watercourses.

- (1) Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures of design approved by the Town Engineer.
- (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 as required by the Town Engineer, and in no case less than twenty (20) feet in width.

K. Curve radii. In general, street lines within a block deflecting from each other at any one (1) point by more than ten degrees ( $10^{\circ}$ ) shall be connected with a curve, the radius of which for the center line of the street shall not be less than four hundred (400) feet on major streets, two hundred (200) feet on collector streets and one hundred (100) feet on minor streets.

L. Service streets or loading space in commercial development. Paved rear service streets of not less than twenty (20) feet in width or, in lieu thereof, adequate off-street loading space, suitably surfaced, shall be profiled in connection with lots designed for commercial use.

M. Free flow of vehicular traffic abutting commercial developments. In front of areas designed for commercial use, the street width shall be increased by such amount on each side as may be deemed necessary by the Planning Board to assure the free flow of through traffic without interference by parked or parking vehicles, and to provide adequate and safe parking space for such commercial or business district.

**§ 115-12. Filing of approved subdivision plat.**

A. Filing of final plat; expiration of approval. The owner shall file in the office of the county clerk and planning board clerk such approved final plat or a section of such plat within sixty-two days from the date of final approval or such approval shall expire.

Plat shall be clearly drawn in permanent black ink on permanent reproducible material such as Mylar. The size of the sheets shall be no greater than thirty-six by sixty (36 x 60) inches.

- (1) The plat shall be drawn at a scale of no more than one hundred (100) feet to the inch and oriented with the North point at the top of the map.

- (2) When more than one (1) sheet is required, an additional index sheet of the same size shall be filed showing to scale the entire subdivision with lot and block numbers clearly legible.
- B. The following shall constitute final approval: the signature of the duly authorized officer of the planning board constituting final approval by the planning board of a plat as herein provided; or the approval by such board of the development of a plat or plats already filed in the office of the county clerk if such plats are entirely or partially undeveloped; or the certificate of the town clerk as to the date of the submission of the final plat and the failure of the planning board to take action within the time herein provided.

### **§ 115-13. Variances and Waivers.**

- A. Application for area variance. Notwithstanding any provision of law to the contrary, where a plat contains one or more lots which do not comply with the Zoning Code, application may be made to the Zoning Board of Appeals for an area variance, without the necessity of a decision or determination of an administrative official charged with the enforcement of the Zoning Code. In reviewing such application the Zoning Board of Appeals shall request the planning board to provide a written recommendation concerning the proposed variance.
- B. Waiver of requirements. The Planning Board may waive, when reasonable, any requirements or improvements for the approval, approval with modifications or disapproval of subdivisions submitted for its approval. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event any such requirements or improvements are found not to be requisite in the interest of the public health, safety, and general welfare or inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision.
- C. Conditions. In granting such waivers, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

### **§ 115-14. Enforcement; penalties.**

- A. Enforcement. The Town of New Baltimore shall enforce all of the provisions of this regulation by the Town Board upon its own initiation or upon the written request by a resident taxpayer aggrieved by the violation of this regulation, who shall properly record such complaint with the Town Clerk, who then shall refer the same to the Town Board for investigation and action as necessary.
- B. Penalties for offenses. Any person, corporation or other association thereof who violates any provisions of the Subdivision Regulations of

the Town of New Baltimore shall be guilty of an offense, which shall be a violation and not a crime, and shall be subject to a fine not exceeding two hundred fifty dollars (\$250) or to imprisonment for a period not to exceed six (6) months, or both. Each week's continued violation shall constitute a separate additional violation.

- C. Severability. If any part or provision of this section or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this section or the application thereof to other persons or circumstances, and the Town Board of the Town of New Baltimore hereby declares that it would have passed this section or the remainder thereof had such invalid application or invalid provision been apparent.