

**Part I, Administrative Legislation**

**Chapter 1**

**GENERAL PROVISIONS**



ARTICLE I  
**Adoption of Code**  
**[Adopted 12-30-1987 by L.L. No. 9-1987]**

**§ 1-1. Legislative intent.**

The local laws, ordinances and resolutions of the Town of New Paltz referred to in § 1-2 of this article shall be known collectively as the "Code of the Town of New Paltz," 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 article.

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

Sections providing for severability of provisions, repeal of conflicting legislation and effective dates which are covered by provisions of Chapter 1, Article I, have been omitted from the Code, and such sections are indicated as "omitted" in the table which follows.

**Derivation Table**

<b>New Number</b> <b>(chapter, title, article,</b> <b>section)</b>	<b>Old Number</b> <b>(source)</b>	<b>Adoption or</b> <b>Amendment Date</b>
Ch. 5, Continuity of Government	Ord. No. 3	2-13-1963
§ 5-1	Sec. 1	
§ 5-2	Sec. 2	
§ 5-3	Sec. 3	
§ 5-4	Sec. 4	
§ 5-5	Sec. 5	
§ 5-6	Sec. 6	
Omitted	Sec. 7	
Omitted	Sec. 8	
Ch. 8, Defense and Indemnification		
§ 8-1	Sec. 1	
§ 8-2	Sec. 2	
Omitted	Sec. 3	
Ch. 12, Environmental Conservation Commission	L.L. No. 4-1972	6-14-1972
§ 12-1	Sec. 1	
§ 12-2	Sec. 2	
§ 12-3	Sec. 3	

**Derivation Table**

<b>New Number (chapter, title, article, section)</b>	<b>Old Number (source)</b>	<b>Adoption or Amendment Date</b>
§ 12-4	Sec. 4	
§ 12-5	Sec. 5	
§ 12-6	Sec. 6	
§ 12-7	Sec. 7	
§ 12-8	Sec. 8	
Omitted	Sec. 9	
Ch. 15, Ethics		
Art. I, Code of Ethics	L.L. No. 6-1970	11-11-1970
§ 15-1	Sec. 1	
§ 15-2	Sec. 2	Amended at time of adoption of Code
§ 15-3	Sec. 3	
§ 15-4	Sec. 4	
§ 15-5	Sec. 5	Amended at time of adoption of Code
§ 15-6	Sec. 6	
Omitted	Sec. 7	
Art. II, Board of Ethics		
§ 15-7	Sec. 1	
§ 15-8 Omitted	Sec. 2 Sec. 3	
Ch. 20, Local Laws, Adoption of	L.L. No. 1-1969	1-8-1969
§ 20-1	Sec. 1	
§ 20-2	Sec. 2	
§ 20-3	Sec. 3	
§ 20-4	Sec. 4	
§ 20-5	Sec. 5	
Omitted	Sec. 6	
Ch. 24, Meetings		
Art. I, Executive Meetings	Resolution	11-13-1974
§ 24-1	First and only paragraph	
Art. II, Regular and Special Meetings	L.L. No. 2-1977	6-22-1977

<b>Derivation Table</b>		
<b>New Number</b> <b>(chapter, title, article, section)</b>	<b>Old Number</b> <b>(source)</b>	<b>Adoption or</b> <b>Amendment Date</b>
§ 24-2	Sec. 1	
§ 24-3	Sec. 2	
§ 24-4	Sec. 3	
§ 24-5	Sec. 4	
§ 24-6	Sec. 5	
§ 24-7	Sec. 6	
§ 24-8	Sec. 7	
§ 24-9	Sec. 8	
§ 24-10	Sec. 9	
§ 24-11	Sec. 10	
Omitted	Sec. 11	
Omitted	Sec. 12	
Ch. 27, Ordinances, Publication of	L.L. No. 4-1977	10-26-1977
§ 27-1	Sec. 1	
§ 27-2	Sec. 2	
Omitted	Sec. 3	
Ch. 31, Planning Board	Resolution	12-8-1955
§ 31-1	First unnumbered paragraph Second unnum-bered paragraph	Amended during codification Deleted during codification
§ 31-2	Third and fourth unnumbered paragraphs	Amended during codification
§ 31-3	Fifth unnumbered paragraph	
§ 31-4	Sixth unnumbered paragraph	
§ 31-5	Seventh unnumbered paragraph	
§ 31-6	Eight unnumbered paragraph	
Ch. 34, Police Commissioner		

**Derivation Table**

<b>New Number (chapter, title, article, section)</b>	<b>Old Number (source)</b>	<b>Adoption or Amendment Date</b>
Art. I, Authorization	L.L. No. 1-1984	1-10-1984
§ 34-1	Sec. 1	
Omitted	Sec. 2	
Art. II Implementation		
§ 34-2	First and only paragraph	
Ch. 40, Traffic Violations Bureau	L.L. No. 5-1974	12-11-1974
§ 40-1	Sec. 1	
§ 40-2	Sec. 2	
§ 40-3	Sec. 3	
§ 40-4	Sec. 4	
§ 40-5	Sec. 5	
§ 40-6	Sec. 6	
§ 40-7	Sec. 7	
§ 40-8	Sec. 8	
Omitted	Sec. 9	
Ch. 49, Alcoholic Beverages	L.L. No. 10-1986	12-29-1986
§ 49-1	Sec. 1	
§ 49-2	Sec. 2	
§ 49-3	Sec. 3 and 4	
§ 49-4	Sec. 5	
§ 49-5	Sec. 6	
§ 49-6	Sec. 7	Amended at time of adoption of Code
Omitted	Sec. 8	
Omitted	Sec. 9	
Omitted	Sec. 10	
Ch. 56, Buildings, Unsafe	Ch. 56	Adopted at time of adoption of Code
§ 56-1	§ 56-1	
§ 56-2	§ 56-2	
§ 56-3	§ 56-3	

<b>Derivation Table</b>		
<b>New Number</b> <b>(chapter, title, article,</b> <b>section)</b>	<b>Old Number</b> <b>(source)</b>	<b>Adoption or</b> <b>Amendment Date</b>
§ 56-4	§ 56-4	
§ 56-5	§ 56-5	
§ 56-6	§ 56-6	
§ 56-7	§ 56-7	
§ 56-8	§ 56-8	
§ 56-9	§ 56-9	
§ 56-10	§ 56-10	
Ch. 62, Dogs	L.L. No. 1-1986	5-28-1986
§ 62-1	Sec. 1	
§ 62-2	Sec. 2	
§ 62-3	Sec. 3	
§ 62-4	Sec. 4	
§ 62-5	Sec. 5	
§ 62-6	Sec. 6	
§ 62-7	Sec. 7	
§ 62-8	Sec. 8	Amended at time of adoption of Code
§ 62-9	Sec. 9	
§ 62-10	Sec. 10	Amended at time of adoption of Code
§ 62-11	Sec. 11	Amended at time of adoption of Code
§ 62-12	Sec. 12	Amended at time of adoption of Code
Omitted	Sec. 13	
Omitted	Sec. 14	
Omitted	Sec. 15	
Ch. 66, Dumps and Dumping		
Art. I, Landfill Regulations	L.L. No. 3-1974	3-13-1974
§ 66-1	Sec. 1.1	
§ 66-2	Sec. 1.2	
§ 66-3	Sec. 2.1	Amended 11-24-1981 by L.L. No. 4-1981

**Derivation Table**

<b>New Number (chapter, title, article, section)</b>	<b>Old Number (source)</b>	<b>Adoption or Amendment Date</b>
§ 66-4	Sec. 3.1	Amended 11-24-1981 by L.L. No. 4-1981
§ 66-5	Sec. 3.2	
§ 66-6	Sec. 3.3	
§ 66-7	Sec. 3.4	Amended 11-28-1984 by L.L. No. 5-1984
§ 66-8	Sec. 3.5	
§ 66-9	Sec. 3.6	
§ 66-10	Sec. 3.7	
§ 66-11	Sec. 3.8	
§ 66-12	Sec. 3.9	
§ 66-13	Sec. 3.10	
§ 66-14	Sec. 3.11	
§ 66-15	Sec. 3.12	
§ 66-16	Secs. 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, 4.7 and 4.8	
§ 66-17	Sec. 5.1	
§ 66-18	Secs. 6.1 and 6.2	Amended at time of adoption of Code
Omitted	Sec. 7.1	
Omitted	Sec. 8.1	
Art. II, Commercial Dumping of Certain Wastes	Art. II	Adopted at time of adoption of Code
§ 66-19	§ 66-19	
§ 66-20	§ 66-20	
§ 66-21	§ 66-21	
§ 66-22	§ 66-22	
Ch. 69, Electrical Standards	Ord. No. 13	11-11-1970
§ 69-1	Sec. 1	
§ 69-2	Sec. 2	
§ 69-3	Sec. 3	
Omitted	Sec. 4	



<b>Derivation Table</b>		
<b>New Number</b> <b>(chapter, title, article, section)</b>	<b>Old Number</b> <b>(source)</b>	<b>Adoption or</b> <b>Amendment Date</b>
Ch. 72, Entertainment on Sundays	Ord. No. 7	6-9-1965
§ 72-1	Sec. I	
§ 72-2	Sec. II	
§ 72-3	Sec. III	
§ 72-4	Sec. IV	
Omitted	Sec. V	
Ch. 82, Flood Damage Prevention	L.L. No. 2-1982	3-31-1982
§ 82-1	Sec. 1.1	
§ 82-2	Sec. 1.2	
§ 8-22	Sec. 1.3	
§ 82-4	Sec. 1.4	
§ 82-5	Sec. 2.0	
§ 82-6	Sec. 3.1	
§ 82-7	Sec. 3.2	Amended 9-22-1982 by Ord. No. 5-1982
§ 82-8	Sec. 3.3	
§ 82-9	Sec. 3.4	
§ 82-10	Sec. 3.5	
§ 82-11	Sec. 3.6	
§ 82-12	Sec. 4.1	
§ 82-13	Sec. 4.2	
§ 82-14	Sec. 4.3	
§ 82-15	Sec. 4.4	
§ 82-16	Sec. 5.1	
§ 82-17	Sec. 5.2	
§ 82-18	Sec. 5.3	
Omitted	Sec. 6.1	
Ch. 86, Games of Chance	L.L. No. 6-1986	8-11-1986
§ 86-1	Sec. 1	
§ 86-2	Sec. 2	
§ 86-3	Sec. 3	

**Derivation Table**

<b>New Number (chapter, title, article, section)</b>	<b>Old Number (source)</b>	<b>Adoption or Amendment Date</b>
§ 86-4	Sec. 4	
§ 86-5	Sec. 5	
§ 86-6	Sec. 6	
§ 86-7	Sec. 7	
Ch. 89, Garbage, Rubbish and Refuse	L.L. No. 3-1982	5-26-1982
§ 89-1	Sec. 1	
§ 89-2	Sec. 2	
§ 89-3	Sec. 3	
§ 89-4	Sec. 4	
§ 89-5	Sec. 5	
§ 89-6	Sec. 6	
§ 89-7	Sec. 7	Amended at time of adoption of Code
Omitted	Sec. 8	
§ 89-8	Sec. 9	
Omitted	Sec. 10	
Ch. 105, Peddling and Soliciting	L.L. No. 9-1984	11-28-1984
§ 105-1	Sec. I	
§ 105-2	Sec. II	
§ 105-3	Sec. III	
§ 105-4	Sec. IV	
§ 105-5	Sec. V	
§ 105-6	Sec. VI, first paragraph	
§ 105-7	Sec. VI, second paragraph	
§ 105-8	Sec. VII, first paragraph	
§ 105-9	Sec. VII, second paragraph	
§ 105-10	Sec. VIII	
§ 105-11	Sec. IX	Amended at time of adoption of Code

**Derivation Table**

<b>New Number (chapter, title, article, section)</b>	<b>Old Number (source)</b>	<b>Adoption or Amendment Date</b>
§ 105-12	Sec. X, Subd. (1)(c)	
§ 105-13	Sec. X, Subd. (1)(a) and (b)	Amended at time of adoption of Code
§ 105-14	Sec. X Subd. (2)	Amended at time of adoption of Code
§ 105-15	Sec. XI	
§ 105-16	Sec. XII	Amended at time of adoption of Code
Omitted	Sec. XIII	
Omitted	Sec. XIV	
Ch. 109, Records, Public Access to	Ch. 109	Adoption during codification
§ 109-1	§ 109-1	
§ 109-2	§ 109-2	
§ 109-3	§ 109-3	
§ 109-4	§ 109-4	
§ 109-5	§ 109-5	
§ 109-6	§ 109-6	
§ 109-7	§ 109-7	
§ 109-8	§ 109-8	
§ 109-9	§ 109-9	
Ch. 113, Sewers	L.L. No. 2-1985	9-30-1985
Art. I		
§ 113-1	Sec. I	Amended at time of adoption of Code
Art. II		
§ 113-2	Sec. IIA, B and C	
§ 113-3	Sec. IID, E, F, G, H, I, J and K	
§ 113-4	Sec. IIL	
Art. III		
§ 113-5	Sec. IIIA and B	
§ 113-6	Sec. IIIC	
§ 113-7	Sec. IIID and E	

**Derivation Table**

<b>New Number (chapter, title, article, section)</b>	<b>Old Number (source)</b>	<b>Adoption or Amendment Date</b>
§ 113-8	Sec. IIIF	
§ 113-9	Sec. IIIG	
§ 113-10	Sec. IIIH	
§ 113-11	Sec. III I	
§ 113-12	Sec. IIIJ	Amended at time of adoption of Code
§ 113-13	Sec. IIIK	
§ 113-14	Sec. IIIL, M and N	
§ 113-15	Sec. IIIO	
Art. IV		
§ 113-16	Sec. IVA	
§ 113-17	Sec. IVB	
§ 113-18	Sec. IVC	
§ 113-19	Sec. IVD	
§ 113-20	Sec. IVE	
§ 113-21	Sec. IVF	
§ 113-22	Sec. IVG	
Art. V		
§ 113-23	Sec. VA	
§ 113-24	Sec. VB, C and D	
§ 113-25	Sec. VE	
§ 113-26	Sec. VF and G	
§ 113-27	Sec. VH	
§ 113-28	Sec. V I	
§ 113-29 Art. VI	Sec. VJ Sec. VI	Deleted at time of adoption of Code
§ 113-30	Sec. VII	
§ 113-31	Sec. VIII	Amended at time of adoption of Code
Art. VII		
§ 113-32	Sec. IXA	
§ 113-33	§ 113-33	Added at time of adoption of Code
§ 113-34	Sec. IXB	

<b>Derivation Table</b>		
<b>New Number</b> <b>(chapter, title, article, section)</b>	<b>Old Number</b> <b>(source)</b>	<b>Adoption or</b> <b>Amendment Date</b>
§ 113-35	Sec. IXC	
§ 113-36	Sec. IXD	
§ 113-37	Sec. IXE	Amended at time of adoption of Code
§ 113-38	Sec. IXF	
§ 113-39	Sec. IXC	
§ 113-40	Sec. IXH and I	
§ 113-41	Sec. IXJ	Amended at time of adoption of Code
§ 113-42	Sec. IXK	
§ 113-43	Sec. IXL	
Omitted	Sec. X	
Ch. 118, Streets and Sidewalks		
Art. I, Notification of Defects	L.L. No. 8-1986	11-6-1986
§ 118-1	Secs. 1 and 2	
§ 118-2	Sec. 3	
§ 118-3	Sec. 4	
§ 118-4	Sec. 5	
Omitted	Sec. 6	
Omitted	Sec. 7	
Art. II, Snow and Ice Removal	L.L. No. 2-1987	2-25-1987
§ 118-5	Sec. 1	
§ 118-6	Sec. 2	
§ 118-7	Sec. 3	
§ 118-8	Sec. 4	Amended at time of adoption of Code
Ch. 121, Subdivision of Land Art. I	L.L. No. 4-1976	12-6-1976
§ 121-1	Art. I	
§ 121-2	Art. II	
§ 121-3	Art. III, Sec. 3.1	

**Derivation Table**

<b>New Number (chapter, title, article, section)</b>	<b>Old Number (source)</b>	<b>Adoption or Amendment Date</b>
§ 121-4	Art. III, Sec. 3.2	
Art. II		
§ 121-5	Art. IV, opening paragraph	
§ 121-6	Sec. 4.1	Amended at time of adoption of Code
§ 121-7	Sec. 4.2	Amended at time of adoption of Code
§ 121-8	Sec. 4.3	Amended at time of adoption of Code
Art. III		
§ 121-9	Sec. 4.41	
§ 121-10	Sec. 4.42	
Art. IV		
§ 121-11	Art. V, opening paragraph	
§ 121-12	Sec. 5.1	
§ 121-13	Sec. 5.2	
§ 121-14	Sec. 5.3	
§ 121-15	Sec. 5.4	
§ 121-16	Sec. 5.5	
§ 121-17	Sec. 5.6	
§ 121-18	Sec. 5.7	
Art. V		
§ 121-19	Sec. 6.1	
§ 121-20	Sec. 6.2	Amended 5-26-1982 by L.L. No. 4-1982; at time of adoption of Code
§ 121-21	Sec. 6.3	
§ 121-22	Sec. 6.4	
§ 121-23	Sec. 6.5	Amended at time of adoption of Code
§ 121-24	Sec. 6.6	
Art. VI		

**Derivation Table**

<b>New Number (chapter, title, article, section)</b>	<b>Old Number (source)</b>	<b>Adoption or Amendment Date</b>
§ 121-25	Sec. 7.11	
§ 121-26	Secs. 7.12, 7.13 and 7.14	
§ 121-27	Sec. 7.2	
§ 121-28	Sec. 7.3	
§ 121-29	Sec. 7.4	
Art. VII		
§ 121-30	Sec. 7.5	
§ 121-31	Sec. 7.6	
§ 121-32	Sec. 7.7	
§ 121-33	Sec. 7.8	Amended at time of adoption of Code
§ 121-34	Art. VIII	
§ 121-35	Art. IX	
Omitted	Art. X	
Omitted	Art. XI	
Omitted	Art. XII	
Ch. 124, Swimming Pools	Ord. No. 9	8-10-1966
§ 124-1	Sec. 1	
§ 124-2	Sec. 2	
§ 124-3	Sec. 3	
§ 124-4	Sec. 4	Amended at time of adoption of Code
§ 124-5	Sec. 5	
§ 124-6	Sec. 6	
§ 124-7	Sec. 7	
§ 124-8	Sec. 8	
§ 124-9	Sec. 9	
§ 124-10	Sec. 10	Amended at time of adoption of Code
Omitted	Sec. 11	
Ch. 127, Taxation		
Art. I, Property of Nonprofit Organizations	L.L. No. 1-1982	3-31-1982

**Derivation Table**

<b>New Number (chapter, title, article, section)</b>	<b>Old Number (source)</b>	<b>Adoption or Amendment Date</b>
§ 127-1	Sec. 1	
§ 127-2	Sec. 2	
Omitted	Sec. 3	
Art. II, Exemptions for Improvements to Facilitate Handicapped Persons	L.L. No. 6-1984	11-28-1984
§ 127-3	Unnumbered paragraph entitled "Legislative Intent"	
§ 127-4	Sec. 1	
§ 127-5	Sec. 2	
§ 127-6	Sec. 3	
§ 127-7	Sec. 4	
Omitted	Sec. 5	
Omitted	Sec. 6	
Art. III, Senior Citizens Tax Exemption	L.L. No. 7-1984	11-28-1984; amended in its entirety 2-25-1987 by L.L. No. 1987
§ 127-8	Unnumbered paragraph entitled "Legislative Intent"	
§ 127-9	Sec. 1	
§ 127-10	Sec. 2	
Omitted	Sec. 3	
Omitted	Sec. 4	
Art. IV, Alternative Veterans Exemption	L.L. No. 10-1984	12-19-1984
§ 127-11	Sec. I	
Omitted	Sec. II	
Art. V, Disposition of Certain Tax Revenues		
§ 127-12	Sec. 1	
§ 127-13	Sec. 2	
Omitted	Sec. 3	



<b>Derivation Table</b>		
<b>New Number</b> <b>(chapter, title, article, section)</b>	<b>Old Number</b> <b>(source)</b>	<b>Adoption or</b> <b>Amendment Date</b>
Omitted	Sec. 4	
Ch. 137, Water	L.L. No. 2-1969	3-12-1969
§ 137-1	Sec. 1	
§ 137-2	Sec. 2	
§ 137-3	Sec. 3	
§ 137-4	Sec. 4	
§ 137-5	Sec. 5	
§ 137-6	Sec. 6	
§ 137-7	Sec. 7	
§ 137-8	Sec. 8	
§ 137-9	Sec. 9	
§ 137-10	Sec. 10	
§ 137-11	Sec. 11	
§ 137-12	Sec. 12	
§ 137-13	Sec. 13	Amended at time of adoption of Code
§ 137-14	Sec. 14	
§ 137-15	Sec. 15	
§ 137-16	Sec. 16	
§ 137-17	Sec. 17	
§ 137-18	Sec. 18	
§ 137-19	Sec. 19	
§ 137-20	Sec. 20	
§ 137-21	Sec. 21(a) and (b)	
§ 137-22	Sec. 21(c)	
§ 137-23	Sec. 21(d)	
§ 137-24	Sec. 21(e)	
§ 137-25	Sec. 21(f)	
§ 137-26	Sec. 21(g)	
§ 137-27	Sec. 21(h)	
§ 137-28	Sec. 22	
§ 137-29	Sec. 23	
§ 137-30	Sec. 24	

**Derivation Table**

<b>New Number (chapter, title, article, section)</b>	<b>Old Number (source)</b>	<b>Adoption or Amendment Date</b>
§ 137-31	Sec. 25	
§ 137-32	Sec. 26	
§ 137-33	Sec. 27	
§ 137-34	Sec. 28	
§ 137-35	Sec. 29	
§ 137-36	Sec. 30	Amended at time of adoption of Code
§ 137-37	Sec. 31	
§ 137-38	§ 137-38	Added at time of adoption of Code
Ch. 140, Zoning Art. I	L.L. No. 3-1976	12-6-1976
§ 140-1	Sec. IA	
§ 140-2	Sec. IB	
§ 140-3	Sec. IC	
§ 140-4	Sec. XI	Amended at time of adoption of Code
§ 140-5	Sec. IIA	Amended 1-14-1981 by L.L. No. 1-1981; at time of adoption of Code
§ 140-6	Sec. IIB	
§ 140-7	Sec. IIC	
Art. II		
§ 140-8	Sec. IIIA	Amended at time of adoption of Code
§ 140-9	Sec. IIIB	
Art. III		
§ 140-10	Sec. IVA	
§ 140-11	Sec. IVB	
§ 140-12	Sec. IVC and D	
§ 140-13	Sec. IVE	
§ 140-14	Sec. IVF	
§ 140-15	Sec. IVG	

**Derivation Table**

<b>New Number</b> <b>(chapter, title, article,</b> <b>section)</b>	<b>Old Number</b> <b>(source)</b>	<b>Adoption or</b> <b>Amendment Date</b>
§ 140-16	Sec. IVH	
§ 140-17	Sec. IV I and J	Added 8-14-1986 by L.L. No. 4-1986; 8-14-1986 by L.L. No. 3-1986
Art. IV		
§ 140-18	Sec. VC	Amended at time of adoption of Code
§ 140-19	Sec. VK	Amended 2-23-1983 by L.L. No. 1-1983; at time of adoption of Code
§ 140-20	Sec. VM	Amended at time of adoption of Code
§ 140-21	Sec. VN	Amended 4-26-1978 by L.L. No. 5-1978; 7-11-1979 by L.L. No. 1-1979; 4-25-1984 by L.L. No. 3-1984; at time of adoption of Code
§ 140-22	Sec. VO	Amended 4-26-1978; at time of adoption of Code
Art. V		
§ 140-23	Sec. VL1	
§ 140-24	Sec. VL2	
§ 140-25	Sec. VL3	
Art. VI		
§ 140-26	Sec. VA1	
§ 140-27	Sec. VA2	
§ 140-28	Sec. VA3	
§ 140-29	Sec. VA4	
§ 140-30	Sec. VA5	
§ 140-31	Sec. VA6	
§ 140-32	Sec. VA7	
§ 140-33	Sec. VA8	

**Derivation Table**

<b>New Number (chapter, title, article, section)</b>	<b>Old Number (source)</b>	<b>Adoption or Amendment Date</b>
§ 140-34	Sec. VB	
§ 140-35	Sec. VD	
§ 140-36	Sec. VE	Amended at time of adoption of Code
§ 140-37	Sec. VF	Amended at time of adoption of Code
§ 140-38	Sec. VG	Amended at time of adoption of Code
§ 140-39	Sec. VH	
§ 140-40	Sec. V I	
§ 140-41	Sec. VJ	
Art. VII		
§ 140-42	Sec. VIA	
§ 140-43	Sec. VIB	
§ 140-44	Sec. VIC	
§ 140-45	Sec. VID	
§ 140-46	Sec. VIE	
§ 140-47	Sec. VIF	
§ 140-48	Sec. VIG	
§ 140-49	Sec. VIH	Amended at time of adoption of Code
Art. VIII		
§ 140-50	Sec. VIIA	
§ 140-51	Sec. VIIB, first 3 paragraphs	Amended 4-26-1978 by L.L. No. 2-1978; 10-29-1986 by L.L. No. 7-1986; at time of adoption of Code
§ 140-52	Sec. VIIB, last 3 paragraphs	Amended 4-26-1978 by L.L. No. 3-1978; at time of adoption of Code
§ 140-53	Sec. VIIC	Amended 10-29-1986 by L.L. No. 7-1986; at time of adoption of Code

**Derivation Table**

<b>New Number</b> <b>(chapter, title, article,</b> <b>section)</b>	<b>Old Number</b> <b>(source)</b>	<b>Adoption or</b> <b>Amendment Date</b>
§ 140-54	Sec. VIIF	Added 10-29-1986 by L.L. No. 7-1986
§ 140-55	Sec. VIII	Amended at time of adoption of Code
§ 140-56	Sec. X	Amended at time of adoption of Code
§ 140-57	Sec. XA and B	
Omitted	Sec. XC	
§ 140-58	Sec. XD	Amended at time of adoption of Code
Omitted	Sec. XE	
Density Control Schedule	Density Control Schedule	Amended 4-26-1978 by L.L. No. 1-1978; 1-23-1984 by L.L. No. 2-1984; at time of adoption of Code

**§ 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 Paltz 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, ordinances and resolutions 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 Paltz prior to the effective date of this local law, or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Town of New Paltz, 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 Paltz.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of New Paltz.
- E. Any local law, ordinance or resolution of the Town of New Paltz 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 Paltz or any portion thereof.
- F. Any local law, ordinance or resolution of the Town of New Paltz 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 Paltz 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. All legislation dealing with vehicles and traffic.
- L. An ordinance adopted 9-9-1964 setting forth road specifications.
- M. Local Law No. 4-1970, Housing standards, adopted 10-14-1970.
- N. Local Law No. 1-1972, Streets and sidewalks, adopted 2-22-1972.
- O. Local Law No. 3-1977, Fire prevention, adopted 10-26-1977.
- P. All legislation adopted subsequent to February 25, 1987.

#### **§ 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 Paltz 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 Paltz by impressing thereon the Seal of the Town of New Paltz, 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 Paltz," 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 Paltz 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 change or local law, 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 Paltz 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 Paltz, or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Town of New Paltz to be misrepresented thereby, or who violates any other provision of this local law, shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both.

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

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of New Paltz, 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 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. When effective.**

This local law shall take effect upon filing with the Secretary of State and State Comptroller as required by § 27 of the Municipal Home Rule Law.

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1. Editor's Note: In accordance with the provisions of § 1-11B, the following sections have been added or amended: §§ 15-2, 15-5 and 49-6, Ch. 56, §§ 62-8, 62-10, 62-11, 62-12 and 66-18A, Art. II of Ch. 66, §§ 89-7, 105-11C, 105-13, 105-14, 105-16, 113-1A, 113-12, 113-31B, 113-33, 113-37, 113-41, 118-8A, 121-6D, 121-7B, 121-8C(3) and E, 121-20C(1)(b), 121-23F, 121-33A, 124-4, 124-10, 137-13, 137-36, 137-38, 140-4C, 140-5, 140-8B, 140-18C(1) and G(1), 140-19, 140-20B(3), 140-21D(2), 140-22H, 140-36A, 140-37, 140-38, 140-49A, 140-51B, 140-52A, 140-53D, 140-55B(1) and C(2), 140-56A and 140-58A, B and C and the Density Control Schedule. The following sections have been deleted: former Sec. VI of L.L. No. 2-1985 and former Sec. VO2 of L.L. No. 3-1976. A complete description of each change may be found in L.L. No. 9-1987, on file in the office of the Town Clerk.



ARTICLE II  
**Legislation Enacted During Codification**

**During the process of codification, certain amendments to existing legislation and certain complete new legislation were approved by the Town Board for inclusion in the Code of the Town of New Paltz. Such amendments and new enactments are noted in the histories of individual chapters as "... amended (adopted) during codification; see Ch. 1, General Provisions, Art. II." During the course of routine supplementation, specific dates of amendment will be inserted where pertinent in the text of the various chapters.**

**The enumeration appearing below lists each chapter and, where applicable, each section affected by any such legislation adopted during codification. The complete text of these amendments is on file in the office of the Town Clerk, where it may be inspected during office hours.**

<b>Chapter/Section</b>	<b>Adoption Date</b>	<b>Legislation</b>
Ch. 31, Planning Board, §§ 31-1B and 31-2	12-16-1987	Resolution
Ch. 109, Records, Public Access to	12-16-1987	Resolution

## **Chapter 5**

### **CONTINUITY OF GOVERNMENT**

#### **§ 5-1. Definitions.**

As used in this chapter, the following terms shall mean and include:

**ATTACK** — Any attack, actual or imminent, or series of attacks by an enemy or foreign nation upon the United States causing or which may cause substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, shellfire or nuclear, radiological, chemical, bacteriological or biological means or other weapons or processes.

**DULY AUTHORIZED DEPUTY** — A person authorized to perform all the powers and duties of a public office in the event that the office is vacant or at such times as it lacks administration due to the death, absence or disability of the incumbent officer, where such authorization is provided pursuant to the provisions of any general or special law other than the sections of law pursuant to which this chapter is adopted.

**EMERGENCY INTERIM SUCCESSOR** — A person designated pursuant to this chapter for possible temporary succession to the powers and duties, but not the office, of a Town officer in the event that neither such officer nor any duly authorized deputy is able, due to death, absence from the Town or other physical, mental or legal reasons, to perform the powers and duties of the office.

**PUBLIC DISASTER** — A disaster, catastrophe or emergency, actual or imminent, of such unusual proportions or extent that a substantial number of the residents of the Town of New Paltz, New York, either sustain injury, become ill, are infected with disease, have their lives imperiled, are killed or die as the result of injury, disease or exposure or the property of a substantial number of such residents is imperiled, damaged or destroyed and it is necessary and essential in the interest of public safety, health and welfare that the continuity of the government of the Town of New Paltz, New York, be assured in order that it be enabled to function properly and efficiently and to exercise its essential powers in meeting emergency conditions. Such disasters, catastrophes and emergencies may include but shall not be limited to conflagrations, explosions, earthquakes or other convulsions of nature, floods, tidal waves, pestilence, riots, insurrections, storms, prolonged failure of electric power or essential transportation services or any incident or occurrence which causes or threatens to cause danger to life, health or property from exposure to noxious materials or radiation.

#### **§ 5-2. Designation of emergency interim successors; qualification; terms; compensation.**

- A. Elective officers. Within 30 days following the effective date of this chapter and thereafter within 30 days after first entering upon the

duties of his office, each elective officer shall, in addition to any duly authorized deputy, designate such number of emergency interim successors to the powers and duties of his office and specify their rank in order of succession after any duly authorized deputy so that there will be not less than three duly authorized deputies or emergency interim successors, or a combination thereof, to perform the powers and duties of the office.

- B. Appointive officers. Each officer or body of officers empowered by law to appoint officers shall, within the time specified in Subsection A of this section, in addition to any duly authorized deputy, designate for each such appointive officer such number of emergency interim successors to such officers and specify their rank in order of succession after any duly authorized deputy so that there will be not less than three duly authorized deputies or emergency interim successors, or a combination thereof, for each such officer. Where such body of officers consists of members having overlapping terms, such body of officers shall review and, as necessary, revise the previous designations of emergency interim successors by such board within 30 days after a new member elected or appointed to such body of officers first enters upon the duties of his office as a member of such body of officers.
- C. Review of designations. The incumbent, in the case of those elective officers specified in Subsection A of this section, and the appointing officer or body of officers specified in Subsection B of this section shall from time to time review and, as necessary, promptly revise the designations of emergency interim successors to ensure that at all times there are at least three duly authorized deputies or emergency interim successors, or a combination thereof, for each elective and appointive officer of the Town.
- D. Qualifications. No person shall be designated to nor serve as an emergency interim successor unless he is legally qualified to hold the office of the person to whose powers and duties he is designated to succeed.
- E. Status of emergency interim successor. A person designated as an emergency interim successor shall hold that designation at the pleasure of the designator, and such a designation shall remain effective until replaced by another by the authorized designator.
- F. Compensation. An emergency interim successor shall serve without salary unless otherwise provided by ordinance or resolution. He shall, however, be entitled to reimbursement for actual expenses necessarily incurred in the performance of his powers and duties.

### **§ 5-3. Assumption of duties by emergency interim successor.**

If, in the event of an attack or a public disaster, an officer described in § 5-2A or B of this chapter or his duly authorized deputy, if any, is unable, due to death, absence from the Town or other physical, mental or legal

reasons, to perform the powers and duties of the office, the emergency interim successor of such officer highest in rank in order of succession who is able to perform the powers and duties of the office shall, except for the power and duty to discharge or replace duly authorized deputies and emergency interim successors of such officer, perform the powers and duties of such officer. An emergency interim successor shall perform such powers and duties only until such time as the lawful incumbent officer or his duly authorized deputy, if any, resumes the office or undertakes the performance of the powers and duties of the office, as the case may be, or until, where an actual vacancy exists, a successor is duly elected or appointed to fill such vacancy and qualifies as provided by law.

**§ 5-4. Records; notice.**

The name, address and, rank in order of succession of each duly authorized deputy and emergency interim successor shall be filed with the Town Clerk, and each designation, replacement or change in order of succession of any emergency interim successor shall become effective when the designator files with such Clerk the successor's name, address and rank in order of succession. Such Clerk shall keep an up-to-date file of all such data regarding duly authorized deputies and emergency interim successors, and the same shall be open to public inspection. The Clerk shall notify, in writing, each designated person of the filing of his name as an emergency interim successor and his rank in order of succession and also shall notify, in writing, any person previously designated who is replaced or whose place in order of succession is changed.

**§ 5-5. Additional qualifications for taking office.**

At the time of their designation or as soon thereafter as possible, emergency interim successors shall take such oaths and do such other things, if any, as may be required to qualify them to perform the powers and duties of the office to which they may succeed.

**§ 5-6. Effect on quorum; voting.**

In the event of an attack or a public disaster, the Supervisor or his duly authorized deputy or emergency interim successor performing his powers and duties may suspend quorum requirements for the Town Board. If quorum requirements are suspended, any ordinance, resolution or other action requiring enactment, adoption or approval by an affirmative vote of a specified proportion of members may be enacted, adopted or approved by the affirmative vote of the specified proportion of those voting thereon.

## **Chapter 8**

### **DEFENSE AND INDEMNIFICATION**

**§ 8-1. Applicability of statutory provisions; conferral of benefits.**

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

**§ 8-2. Alleged civil rights violations.**

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 12****ENVIRONMENTAL CONSERVATION BOARD****GENERAL REFERENCES**

**Agriculture and open space preservation and acquisition — See Ch. 44.**

**Tree conservation — See Ch. 130.**

**Wetlands and watercourses — See Ch. 139.**

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**§ 12-1. Legislative intent.**

The preservation and improvement of the quality of the natural and man-made environment within the Town of New Paltz, in the face of population growth, urbanization and technologic change, with their accompanying demands on natural resources, are found to be of increasing and vital importance to the health, welfare and economic well-being of present and future inhabitants of the Town of New Paltz. It is recognized that the biologic integrity of the natural environment on which man is dependent for survival and the natural and functional beauty of our surroundings which condition the quality of our life experience cannot be protected without the full cooperation and participation of all the people of the Town working in partnership with local and state officials and with various public and private institutions, agencies and organizations. Establishment of a Conservation Board is a necessary step in fostering unified action on environmental problems.

**§ 12-2. Redesignation of Environmental Conservation Commission as Conservation Board; legislative authority.**

- A. The Town of New Paltz Environmental Conservation Commission is hereby redesignated as the Town of New Paltz Environmental Conservation Board (hereinafter referred to as the "Board" or "ECB") to assist the Town of New Paltz in the development of sound open space planning and to assure the preservation and protection of natural and scenic resources.
- B. This chapter shall be considered a resolution of the Town Board for purposes of the redesignation of the Environmental Conservation Commission to an Environmental Conservation Board pursuant to General Municipal Law § 239-y. To the extent that any provision of the General Municipal Law § 239-x or 239-y is inconsistent with the provisions of this chapter, the terms of this chapter are intended, pursuant to Municipal Home Rule Law § 10 and other provisions of law, to supersede those provisions insofar as they pertain to the Environmental Conservation Board for the Town of New Paltz.

**§ 12-3. Membership.**

- A. The Environmental Conservation Board shall consist of no fewer than five and no more than nine members, appointed by the Town Board, who shall serve for terms of two years. Persons residing within the Town of New Paltz who are interested in the improvement and preservation of environmental quality shall be eligible for appointment as members of the Environmental Conservation Board. Vacancies on the Environmental Conservation Board shall be filled in the same manner as the original appointment.
- B. Each member shall be entitled to one vote.
- C. Four of the initial nine appointments to the ECB shall be made for a term of one year only, so as to create staggered terms such that approximately 1/2 of the Board shall be considered for appointment each year. Terms of office shall commence January 1 and expire December 31. Appointments made other than on January 1 shall be for the remaining unexpired term of the member being replaced.

**§ 12-4. Officers; rules of procedure; records.**

- A. The Environmental Conservation Board shall designate a member of its group, upon approval of the Town Board, to act as Chairman thereof. At the first meeting of the ECB, its members shall also designate from among themselves a Recording Secretary.
- B. The ECB shall adopt rules and procedures for its meetings. It shall keep accurate records of its meetings and activities and shall file an annual report as provided in § 12-7 of this chapter.

**§ 12-5. Powers and duties.**

The Board shall have the following powers and duties:

- A. Those powers and duties set forth in General Municipal Law § 239-y except as modified below.
- B. The Board shall review applications (such as, for example, applications for rezoning, subdivision approval, site plan approval, special approval, fill permits or variances) received by the Town Board, Planning Board, Zoning Board of Appeals, or other administrative body, which seek approval for the use or development of any open area identified in the index and which application involves property or a project that is:
  - (1) A Type I action under the New York State Environmental Quality Review Act (see Environmental Conservation Law § 8-0101 et seq.) and related regulations; or
  - (2) Within or contiguous to a critical environmental area or unique natural area designated by the appropriate governmental entity; or
  - (3) Within an Environmental Protection Overlay District and requires a special approval from the Town Planning Board or a variance from the Town Board of Appeals; or
  - (4) Involves five or more acres of land; or
  - (5) Would create five or more building lots; or
  - (6) Would be reasonably anticipated (based on recognized traffic generation guides) to create 50 or more vehicle trips per peak hour.
- C. The Board shall review any other applications that involve land identified in the index upon:
  - (1) The request of the Town Planner or Town Engineer and the concurrence of the Chair of the Board; or
  - (2) The concurrence of the Chair of the Board and the Chair of the entity receiving the application.
- D. The Board shall exercise any of the functions and responsibilities heretofore granted to the Environmental Conservation Commission in the Town Board resolution that established said Commission.
- E. The Board shall perform any duties assigned to it by resolution of the Town Board.
- F. The Board may request the assistance of the Department of Environmental Conservation in the preparation of any report.
- G. The Board shall notify the Department of Environmental Conservation of its establishment within 30 days of the adoption of this chapter.

**§ 12-6. Operational guidelines.**

- A. The Chair of the Board shall be notified of all subdivision proposals, and applications for rezonings, whether or not review is required pursuant to the provisions above, within five days of receipt of same by the Town of New Paltz Planning Department. In addition, the Chair of the Board shall be notified of any other application (special approvals, site plan approvals, variances, fill permits, etc.) for which review of the Board is required by this chapter within five days of receipt of same by the Planning Department or other appropriate Town official.
- B. The Board, at its option, may decline to perform a formal review on a specific project.
- C. The Board shall have at least 45 working days to complete its review and shall submit a written report to the referring board or entity at least five working days before a project is to be considered by the applicable entity so that Board recommendations can be included in the referral entity's mailing.
- D. Such report shall evaluate the proposed use or development of the open area in the context of the open space index and the land use planning objectives of the Town. The report may make recommendations as to the most appropriate use or development of the open area and may include preferable alternative use proposals consistent with open areas conservation.
- E. A copy of every report shall be filed with the referring board or entity and made available for public inspection at Town Hall.
- F. Adequate staff time will be allocated to the Board to assist with the review. Such time will be determined by the Chair of the referring entity with input from the Chair of the Board.
- G. Accurate summary records or minutes of the Board's meetings and activities shall be kept and reported to the Town Board as requested. Such records shall be made available to the public in accordance with the New York State Freedom of Information Law (see Public Officers Law § 84 et seq.) and any related local laws and procedures.

**§ 12-7. Reports.**

The Environmental Conservation Board shall submit an annual report to the Town Board concerning the activities and work of the ECB and from time to time shall submit such reports and recommendations as may be necessary to fulfill the purposes of this chapter.

**§ 12-8. Reimbursement for expenses.**

The members of the Environmental Conservation Board shall receive no compensation for their services as members thereof, but may be reimbursed



for reasonable and necessary expenses incurred in the performance of their duties within the appropriations made available therefor.

### **§ 12-9. Interpretation.**

This chapter shall be deemed an exercise of the powers of the Town of New Paltz to preserve and improve the quality of the natural and man-made environment on behalf of the present and future inhabitants thereof. This chapter is not intended and shall not be deemed to impair the powers of any other public corporation.

## **Chapter 15**

### **ETHICS**

#### **GENERAL REFERENCES**

**Defense and indemnification — See Ch. 8.**

**Town employees — See Ch. 39.**

**Meetings — See Ch. 24.**

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### **§ 15-1. Purpose.**

Officers, employees and consultants of the Town of New Paltz hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties. The Town Board recognizes that, in furtherance of this fundamental principle, there is a need for clear and reasonable standards of ethical conduct. This code of ethics establishes those standards.

### **§ 15-2. Definitions.**

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

**BOARD** — The governing board of a municipality and any municipal administrative board, commission or other agency or body comprised of two or more municipal officers or employees.

**CODE** — This code of ethics.

**CONSULTANT** — A person, paid or unpaid, providing advice to and at the request of a municipal board, committee, commission or other body.

**INTEREST** — A direct or indirect financial or material benefit, but does not include any benefit arising from the provision or receipt of any services generally available to the residents or taxpayers of the municipality or an area of the municipality, or a lawful class of such residents or taxpayers. A municipal officer or employee is deemed to have an interest in any private organization when he or she, his or her spouse, or a member of his or her household is an owner, partner, member, director, officer, employee, or

directly or indirectly owns or controls more than 5% of the organization's outstanding stock.

MUNICIPALITY — Town of New Paltz. The word "municipal" refers to the municipality.

MUNICIPAL OFFICER OR EMPLOYEE — A paid or unpaid officer or employee of the Town of New Paltz, including, but not limited to, the members of any municipal board.

OFFICE IN A POLITICAL PARTY, CLUB OR ASSOCIATION, SOCIETY OR COMMITTEE — The office of chairman, secretary, treasurer and such other officer as the rules of the particular body may provide.

RELATIVE — A spouse, parent, step-parent, sibling, step-sibling, sibling's spouse, child, step-child, uncle, aunt, nephew, niece, first cousin, or household member of a municipal officer or employee, and individuals having any of these relationships to the spouse of the officer or employee.

SPOUSE — A spouse or registered domestic partner.

### **§ 15-3. Applicability.**

This code of ethics applies to the officers and employees of the Town of New Paltz, and shall supersede any prior municipal code of ethics. The provisions of this code of ethics shall apply in addition to all applicable state and local laws relating to conflicts of interest and ethics, including, but not limited to, Article 18 of the General Municipal Law (Conflicts of Interest of Municipal Officers and Employees) and all rules, regulations, policies and procedures of the Town of New Paltz.

### **§ 15-4. Use of municipal position for personal or private gain prohibited.**

- A. No municipal officer or employee shall use his or her municipal position or official powers and duties to secure a financial or material benefit for himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.
- B. Representation before one's own agency. No officer, employee or consultant shall receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal department, board, commission or committee of which he or she is a member or employee or to which he or she has the power to appoint any member, officer or employee.
- C. Representation before any agency for a contingent fee. No officer, employee or consultant shall receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any department, board, commission or committee of the Town whereby his or her compensation is to be dependent or contingent upon any action by such department, board, commission or committee with respect to such matter. This subsection

shall not prohibit fees based upon the reasonable value of the services rendered.

**§ 15-5. Disclosure of interest in legislation and other matters required.**

- A. All Town officers are required, within 30 days of taking office, or within 30 days of the effective date of this chapter, to file a disclosure statement on a form provided by the Town of New Paltz pursuant to this section. In the event that a change occurs with respect to any information required on the aforesaid disclosure statement, the party required to file such a statement shall file an amended statement reflecting any such change in circumstances within 60 days from the date thereof, unless requested by the Board of Ethics to do so sooner, in which case an amended statement shall be filed within 10 days of the request for the same. Failure to file the required disclosure statement or any amendment thereto in a timely fashion shall be deemed a violation of this chapter. Town officers required to file disclosure statements are:
- (1) Elected officials (excepting Town Justices).
  - (2) Public officers under the Public Officers Law.
  - (3) Members of boards.
  - (4) Members of commissions.
  - (5) Department heads and their supervisory assistants.
  - (6) All Town officials responsible for purchasing under the Procurement Policy for the Town of New Paltz.
  - (7) Town Engineer.
  - (8) Town Attorney.
  - (9) Consultants.
- B. Whenever a matter requiring the exercise of discretion comes before a municipal officer, an employee or consultant, either individually or as a member of a board, and disposition of the matter could result in a direct or indirect financial or material benefit to himself or herself, a relative, or any private organization in which he or she is deemed to have an interest, the municipal officer, employee or consultant shall disclose, in writing, the nature of the interest on a form provided by the Town Clerk.
- C. The disclosure shall be made when the matter requiring disclosure first comes before the municipal officer, employee or consultant, or when the municipal officer, employee or consultant first acquires knowledge of the interest requiring disclosure, whichever is earlier.

- D. In the case of a person serving in an elective office, the disclosure shall be filed with the governing board of the municipality. In all other cases, the disclosure shall be filed with the person's supervisor or, if the person does not have a supervisor, the disclosure shall be filed with the municipal officer, employee or board having the power to appoint to the person's position. In addition, in the case of a person serving on a municipal board, a copy of the disclosure shall be filed with the board. Any disclosure made to a board shall be made publicly at a meeting of the board and must be included in the minutes of the meeting.

**§ 15-6. Recusal and abstention.**

- A. No municipal officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting on it, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.
- B. In the event that this section prohibits a municipal officer or employee from exercising or performing a power or duty:
- (1) If the power or duty is vested in a municipal officer as a member of a board, then the power or duty shall be exercised or performed by the other members of the board; or
  - (2) If the power or duty is vested in a municipal officer individually, then the power or duty shall be exercised or performed by his or her deputy or, if the officer does not have a deputy, the power or duty shall be performed by another person to whom the officer may lawfully delegate the function.
  - (3) If the power or duty is vested in a municipal employee, he or she must refer the matter to his or her immediate supervisor, and the immediate supervisor shall designate another person to exercise or perform the power or duty.

**§ 15-7. Exceptions to prohibited acts, disclosure, recusal and abstention.**

- A. This code's prohibition on use of a municipal position (§ 15-4), disclosure requirements (§ 15-5), and requirements relating to recusal and abstention (§ 15-6) shall not apply with respect to the following matters:
- (1) Adoption of the municipality's annual budget;
  - (2) Any matter requiring the exercise of discretion that directly affects any of the following groups of people or a lawful class of such groups:

- (a) All municipal officers or employees;
  - (b) All residents or taxpayers of the municipality or an area of the municipality; or
  - (c) The general public; or
- (3) Any matter that does not require the exercise of discretion.
- B. Recusal and abstention shall not be required with respect to any matter:
  - (1) Which comes before a board when a majority of the board's total membership would otherwise be prohibited from acting by § 15-6 of this code;
  - (2) Which comes before a municipal officer when the officer would be prohibited from acting by § 15-6 of this code and the matter cannot be lawfully delegated to another person.

**§ 15-8. Investments in conflict with official duties.**

- A. No municipal officer or employee may acquire the following investments:
  - (1) Investments that can be reasonably expected to require more than sporadic recusal and abstention under § 15-6 of this code; or
  - (2) Investments that would otherwise impair the person's independence of judgment in the exercise or performance of his or her official powers and duties.
- B. This section does not prohibit a municipal officer or employee from acquiring any other investments or the following assets:
  - (1) Real property located within the municipality and used as his or her personal residence;
  - (2) Less than 5% of the stock of a publicly traded corporation; or
  - (3) Bonds or notes issued by the municipality and acquired more than one year after the date on which the bonds or notes were originally issued.

**§ 15-9. Private employment in conflict with official duties.**

No municipal officer or employee, during his or her tenure as a municipal officer or employee, may engage in any private employment, including the rendition of any business, commercial, professional or other types of services, when the employment:

- A. Can be reasonably expected to require more than sporadic recusal and abstention pursuant to § 15-6 of this code;

- B. Can be reasonably expected to require disclosure or use of confidential information gained by reason of serving as a municipal officer or employee;
- C. Violates § 805-a(1)(c) or (d) of the General Municipal Law (Certain action prohibited); or
- D. Requires representation of a person or organization other than the municipality in connection with litigation, negotiations or any other matter to which the municipality is a party.

**§ 15-10. Future employment.**

- A. No municipal officer or employee may ask for, pursue or accept a private post-government employment opportunity with any person or organization that has a matter requiring the exercise of discretion pending before the municipal officer or employee, either individually or as a member of a board, while the matter is pending or within the 30 days following final disposition of the matter.
- B. No municipal officer or employee, for the two-year period after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any matter involving the exercise of discretion before the municipal office, board, department or comparable organizational unit for which he or she served.
- C. No municipal officer or employee, at any time after serving as a municipal officer or employee, may represent or render services to a private person or organization in connection with any particular transaction in which he or she personally and substantially participated while serving as a municipal officer or employee.

**§ 15-11. Personal representations and claims permitted.**

This code shall not be construed as prohibiting a municipal officer or employee from:

- A. Representing himself or herself, or his or her spouse or minor children, before the municipality; or
- B. Asserting a claim against the municipality on his or her own behalf, or on behalf of his or her spouse or minor children.

**§ 15-12. Use of municipal resources.**

- A. Municipal resources shall be used for lawful municipal purposes. Municipal resources include, but are not limited to, municipal personnel, and the municipality's money, vehicles, equipment, materials, supplies or other property.

- B. No municipal officer or employee may use or permit the use of municipal resources for personal or private purposes, but this provision shall not be construed as prohibiting:
- (1) Any use of municipal resources authorized by law or municipal policy;
  - (2) The use of municipal resources for personal or private purposes when provided to a municipal officer or employee as part of his or her compensation; or
  - (3) The occasional and incidental use during the business day of municipal telephones and computers for necessary personal matters such as family care and changes in work schedule.
- C. No municipal officer or employee shall cause the municipality to spend more than is reasonably necessary for transportation, meals or lodging in connection with official travel.

**§ 15-13. Interests in contracts.**

- A. No municipal officer or employee may have an interest in a contract that is prohibited by § 801 of the General Municipal Law.
- B. Every municipal officer and employee shall disclose interests in contracts with the municipality at the time and in the manner required by § 803 of the General Municipal Law (Disclosure of interest).

**§ 15-14. Nepotism.**

Except as otherwise required by law:

- A. No municipal officer or employee, either individually or as a member of a board, may participate in any decision specifically to appoint, hire, promote, discipline or discharge a relative for any position at, for or within the municipality or a municipal board.
- B. No municipal officer or employee may supervise a relative in the performance of the relative's official powers or duties without prior approval of the Town Board.
- C. Disclosure of relationships, as defined in § 15-2, must be made by the person seeking employment and/or appointment with the Town of New Paltz.

**§ 15-15. Political solicitations.**

- A. No municipal officer or employee shall directly or indirectly compel or induce or attempt to compel or induce a subordinate municipal officer or employee to make, or promise to make, any political contribution, whether by gift of money, service or other thing of value.

- B. No municipal officer or employee may act or decline to act in relation to appointing, hiring or promoting, discharging, disciplining, or in any manner changing the official rank, status or compensation of any municipal officer or employee, or an applicant for a position as a municipal officer or employee, on the basis of the giving or withholding or neglecting to make any contribution of money or service or any other valuable thing for any political purpose.
- C. No municipal officer or employee shall use his or her official position to obtain, provide, furnish or supply any municipal resource, including but not limited to personnel, services, equipment, supplies or facility on behalf of any political party or candidate, political club or association or any political society or committee. In addition, no elected official or any chairperson of any Town committee, commission or board shall hold office in any political party, political club or association, society or committee. This provision shall not be interpreted or construed as precluding any municipal officer or employee from being involved in the political affairs of the Town as a private citizen, nor shall it preclude any municipal officer or employee from soliciting and/or receiving campaign contributions in the course of a political campaign for public office conducted pursuant to the laws of the State of New York, nor shall it exempt any municipal officer or employee from any federal, state or local rules, regulations, codes of conduct or other restrictions imposed by law.

#### **§ 15-16. Confidential information.**

No municipal officer or employee who acquires confidential information in the course of exercising or performing his or her official powers or duties may disclose or use such information unless the disclosure or use is required by law or in the course of exercising or performing his or her official powers and duties.

#### **§ 15-17. Gifts.**

- A. No municipal officer or employee shall solicit, accept or receive a gift in violation of § 805-a(1)(a) (Gifts) of the General Municipal Law as interpreted in this section.
- B. No municipal officer or employee may directly or indirectly solicit any gift.
- C. No municipal officer or employee may accept or receive any gift, or multiple gifts from the same donor, having an annual aggregate value of \$75 or more when:
  - (1) The gift reasonably appears to be intended to influence the officer or employee in the exercise or performance of his or her official powers or duties;



- (2) The gift could reasonably be expected to influence the officer or employee in the exercise or performance of his or her official powers or duties; or
  - (3) The gift is intended as a reward for any official action on the part of the officer or employee.
- D. For purposes of this section, a "gift" includes anything of value, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form. The value of a gift is the gift's fair market value, determined by the retail cost of the item or a comparable item. The fair market value of a ticket entitling the holder to food, refreshments, entertainment, or any other benefit is the face value of the ticket, or the actual cost to the donor, whichever is greater. Determination of whether multiple gifts from a single donor exceed \$75 must be made by adding together the value of all gifts received from the donor by an officer or employee during the twelve-month period preceding the receipt of the most recent gift.
- E. Gifts to influence and reward.
  - (1) A gift to a municipal officer or employee is presumed to be intended to influence the exercise or performance of his or her official powers or duties when the gift is from a private person or organization that seeks municipal action involving the exercise of discretion by or with the participation of the officer or employee.
  - (2) A gift to a municipal officer or employee is presumed to be intended as a reward for official action when the gift is from a private person or organization that has obtained municipal action involving the exercise of discretion by or with the participation of the officer or employee during the preceding 12 months.
- F. This section does not prohibit any other gift, including:
  - (1) Gifts made to the municipality;
  - (2) Gifts from a person with a family or personal relationship with the officer or employee when the circumstances make it clear that the personal relationship, rather than the recipient's status as a municipal officer or employee, is the primary motivating factor for the gift;
  - (3) Gifts given on special occasions, such as marriage, illness, or retirement, which are modest, reasonable and customary;
  - (4) Unsolicited advertising or promotional material of little intrinsic value, such as pens, pencils, note pads, and calendars;
  - (5) Awards and plaques having a value of \$75 or less which are publicly presented in recognition of service as a municipal officer or employee, or other service to the community; or

- (6) Meals and refreshments provided when a municipal officer or employee is a speaker or participant at a job-related professional or educational conference or program and the meals and refreshments are made available to all participants.

**§ 15-18. Board of Ethics.**

- A. Membership. There is hereby established a Board of Ethics of the Town. The members of such Board of Ethics shall be appointed by the Town Board and shall consist of five members, one and not more than one of whom shall be an employee of the Town of New Paltz, and none of whom shall be an officer of the Town or member of the Town Board. Appointment of members to the Board of Ethics shall be by the affirmative vote of a majority plus one of the members of the Town Board present and voting thereon.
- B. Terms of members. In the creation of a new Board of Ethics, or the reestablishment of an existing Board, the appointment of members to the Board shall be for terms so fixed that one member's term shall expire at the end of the calendar year in which such member was initially appointed. The remaining members' terms shall be so fixed that one member's term shall expire at the end of the calendar year next following the calendar year in which such member was appointed; one member's term shall expire at the end of the second calendar year next following the calendar year in which such member was appointed; one member's term shall expire at the end of the third calendar year next following the calendar year in which such member was appointed; and one member's term shall expire at the end of the fourth calendar year next following the calendar year in which such member was appointed. At the expiration of each original member's appointment, each replacement member shall be appointed for a term of five years.
- C. Vacancies. If a vacancy shall occur otherwise than by expiration of a term, the Town Board shall appoint a 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 Board of Ethics for cause.
- E. Chairperson. The Board of Ethics shall designate the Chairperson thereof, and, in the absence of a Chairperson, the Board of Ethics may designate a member to serve as Acting Chairperson.
- F. The books and records. The Board of Ethics shall designate a member to serve as Recording Secretary who shall be in charge of its minutes, books and records. In the absence of a Recording Secretary, the Board of Ethics may designate a member to serve as Acting Secretary.
- G. Quorum and voting. Three members of the Board of Ethics shall constitute a quorum. A vote of at least four members shall be required for the Board of Ethics to take any action. The Attorney for the Town

shall provide such legal and advisory services to the Board of Ethics as it may require in the performance of its duties.

H. Powers and duties. The Board of Ethics shall have the powers and duties prescribed by Article 18 of the General Municipal Law and shall:

- (1) Promptly render advisory opinions to the officers and employees of the Town regarding their own conduct with respect to Article 18 of the General Municipal Law and the Code of Ethics adopted pursuant to this chapter and to officers of the Town regarding the conduct of any officer, employee or consultant with respect to Article 18 of the General Municipal Law and the Code of Ethics adopted pursuant to this chapter.
  - (a) The Ethics Board is authorized pursuant to this chapter to employ the services of an attorney to provide legal assistance and advice at any stage of the Ethics Board's inquiry into any matter;
  - (b) The Ethics Board shall promptly deliver its advisory opinion to the Town Clerk together with one copy thereof to each member of the Town Board and to the attorney for the Town;
  - (c) The Town Board, within five business days next following receipt of an advisory opinion of the Ethics Board, shall convene a meeting to review such opinion and thereafter shall take such action as is appropriate under the circumstances;
  - (d) Advisory opinions of the Ethics Board shall be subject to Article 6, § 87 of the Public Officers Law of the State of New York (Freedom of Information Law) and shall be reported to and made available by the Town Clerk as Town records access officer to the subject of the inquiry and to the public in accordance with Article 6, § 87 of the Public Officers Law of the State of New York (Freedom of Information Law);
  - (e) Within two business days following a final determination by the Town Board with respect to the matters contained in the advisory opinion of the Ethics Board, the Town Clerk, unless expressly prohibited by law, shall furnish to the subject of the ethics inquiry a copy of such Town Board determination together with a copy of the advisory opinion of the Ethics Board;
  - (f) It shall be a violation of this chapter for any municipal officer, employee or consultant to influence or attempt to influence the independent exercise or performance of the official duties or responsibilities of the Ethics Board with respect to any inquiry. For purposes of this subsection, the presence of and participation by a member of the Town Board as liaison to the Ethics Board at its meetings and in its deliberations shall not constitute a violation of this chapter.

- (2) Make recommendations with respect to the drafting and adoption of the Code of Ethics or amendments thereto upon request of the Town Board.
  - (3) Have the responsibility to review disclosure statements filed pursuant to § 15-5.
- I. The Board of Ethics shall convene at least twice a year and at such times as may otherwise be necessary. The Board of Ethics may adopt rules and regulations relative to the conduct of its business but may only render advisory opinions subject to these limitations:
- (1) Requests for advisory opinions shall be in writing and shall have attached any originating request or inquiry.
  - (2) Requests for advisory opinions must originate with a municipal officer or employee who, upon receipt, shall promptly forward such request to the Board of Ethics.
  - (3) Requests for advisory opinions must relate to the Town's Code of Ethics.
  - (4) The opinion must be approved as to legal sufficiency by the Attorney for the Town.
- J. The only records of the Ethics Board which shall be available for public inspection are those whose disclosure is required by Article 6 of the Public Officers Law of the State of New York (Freedom of Information Law) or by some other state or federal law or regulation.
- K. Meetings of the Ethics Board shall be conducted in accordance with the provisions of Article 7 of the Public Officers Law (Open Meetings Law) and with all applicable state and federal laws and regulations.

**§ 15-19. Posting and distribution.**

- A. The Supervisor must cause the following notice to be posted publicly and conspicuously in each building under the municipality's control: "Town of New Paltz officers, employees and consultants must abide by the requirements of Local Law Chapter 15, Ethics. Copies of the local law may be obtained from the Town Clerk."
- B. The Supervisor must promptly cause a copy of this code, including any amendments to the code, to be distributed to every person who is or becomes an officer and employee of the Town of New Paltz.
- C. Every municipal officer or employee who receives a copy of this code or an amendment to the code must acknowledge such receipt in writing. Such acknowledgments must be filed with the Town Clerk who must maintain such acknowledgments as a public record.
- D. The failure to post this code or an amendment to the code does not affect either the applicability or enforceability of the code or the

amendment. The failure of a municipal officer or employee to receive a copy of this code of ethics or an amendment to the code, or to acknowledge receipt thereof, in writing, does not affect either the applicability or enforceability of the code or amendment to the code.

#### **§ 15-20. Enforcement.**

Any municipal officer or employee who violates this code may be censured, fined, suspended or removed from office or employment in the manner provided by law.

## **Chapter 16**

### **IMMIGRATION AND DETENTION**

#### **§ 16-1. Legislative purpose and intent.**

- A. The purpose and intent of this chapter is to recognize the importance of fostering a town that is welcoming and inclusive for all individuals, regardless of nationality or citizenship status, and to ensure, to the greatest extent permitted by law, that immigration enforcement is a function of the federal government and not the Town of New Paltz.
- B. The below text clarifies and codifies existing New Paltz Police Department policies as well as maintains the values of those who founded the Town. The English word "refugee" derives from the root word refuge, from Old French refuge, meaning "hiding place." It refers to "shelter or protection from danger or distress." In Western history, the term was first applied to the French Huguenots.

#### **§ 16-2. Definitions.**

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

**CIVIL IMMIGRATION DETAINER** (also called a "CIVIL IMMIGRATION WARRANT") — A detainer issued pursuant to 8 CFR 287.7 or any similar request from ICE or CPB for detention of a person suspected of violating civil immigration law.

**CBP** — United States Customs and Border Protection, including any successor federal agency(s) tasked with immigration, customs, and/or border enforcement.

**JUDICIAL WARRANT** — A warrant based on probable cause and issued by an Article III federal judge or a federal magistrate judge that authorizes federal immigration authorities to take into custody the person who is the subject of the warrant. A judicial warrant does not include a civil immigration warrant, administrative warrant, or other document signed only by United States Immigration and Customs Enforcement ("ICE") or Customs and Border Protection ("CBP") officials.

ICE — United States Immigration and Customs Enforcement, including any successor federal agency(s) tasked with immigration, customs, and border enforcement.

NPPD — New Paltz Police Department, including entities, efforts, and initiatives jointly operated or pursued by officers of the New Paltz Police Department, acting in their official capacity, and others (e.g., the Joint Special Weapons and Tactics Team).

PROBABLE CAUSE — More than mere suspicion or that something is at least more probable than not. Probable cause and "reasonable cause," as that latter term is used in the New York State criminal procedure code, are equivalent standards.

### **§ 16-3. Prohibition of certain enforcement activities.**

- A. NPPD shall not stop, question, interrogate, investigate, or arrest an individual based solely on any of the following:
  - (1) Actual or suspected immigration or citizenship status; or
  - (2) A civil immigration warrant, administrative warrant, or an immigration detainer in the individual's name, including those identified in the National Crime Information Center (NCIC) database;
- B. NPPD shall not inquire about the immigration status of an individual, including a crime victim, a witness, or a person who calls or approaches the police seeking assistance, unless necessary to investigate criminal activity by that individual;
- C. NPPD shall not perform the functions of a federal immigration officer or otherwise engage in the enforcement of federal immigration law, whether pursuant to Section 1357(g) of Title 8 of the United States Code or under any other law, regulation, or policy.

### **§ 16-4. Civil immigration detainer requests.**

- A. Immigration detainees accompanied by judicial warrant. NPPD may respond affirmatively to a civil immigration detainer from ICE or CBP to detain or transfer an individual for immigration enforcement or investigation purposes for up to 48 hours only if the request is accompanied by a judicial warrant;
- B. Immigration detainees without judicial warrant. NPPD may detain a person for up to 48 hours on a civil immigration detainer in the absence of a judicial warrant if:
  - (1) There is probable cause to believe that:
    - (a) The individual has illegally re-entered the country after a previous removal or return as defined by 8 U.S.C. § 1326; and

(b) The individual has been convicted at any time of:

[1] A "violent felony offense" as defined in Subdivision 1 of Section 70.20 of the Penal Law of the State of New York; or

[2] A federal crime or crime under the law of another state that would constitute a predicate felony conviction, as defined under the New York Penal Law for any of the preceding felonies; or

(2) There is probable cause to believe that the individual has or is engaged in terrorist activity.

**§ 16-5. ICE or CBP requests for certain nonpublic, sensitive information.**

A. NPPD may respond affirmatively to an ICE or CBP request for nonpublic information about an individual, including but not limited to nonpublic information about an individual's release, home address, or work address, only if the request is accompanied by a judicial warrant; provided however, that nothing in this chapter prohibits NPPD from:

(1) Sending to or receiving from any local, state, or federal agency pursuant to 8 U.S.C. § 1373:

(a) Information regarding an individual's country of citizenship; or

(b) A statement of the individual's immigration status; or

(2) Disclosing information about an individual's criminal arrests or convictions, where disclosure of such information about the individual is otherwise permitted by state law or required pursuant to subpoena or court order; or

(3) Disclosing information about an individual's juvenile arrests or delinquency or youthful offender adjudications, where disclosure of such information about the individual is otherwise permitted by state law or required pursuant to subpoena or court order.

B. NPPD shall limit the information collected from individuals concerning immigration or citizenship status to that necessary to perform agency duties and shall prohibit the use or disclosure of such information in any manner that violates federal, state, or local law.

**§ 16-6. Questioning individuals in custody solely for immigration enforcement purposes.**

NPPD shall not provide ICE or CBP with access to an individual in its custody or the use of NPPD facilities to question or interview such individual if ICE or CBP's sole purpose is enforcement of federal immigration law.

**§ 16-7. Due process and notice.**

- A. NPPD shall not delay bail and/or release from custody upon posting of bail solely because of:
  - (1) An individual's immigration or citizenship status;
  - (2) A civil immigration warrant; or
  - (3) An ICE or CBP request for notification about, transfer of, detention of, or interview or interrogation of that individual.
- B. Upon receipt of an ICE or CBP detainer, transfer, notification, interview or interrogation request, NPPD shall provide a copy of that request to the individual named therein and inform the individual whether NPPD will comply with the request before communicating its response to the requesting agency.
- C. Individuals in NPPD's custody shall be subject to NPPD's booking, processing, release, and transfer procedures, policies, and practices, regardless of actual or suspected citizenship or immigration status.

**§ 16-8. Prohibition on the use of Town's resources.**

Neither the NPPD nor any Town personnel may use Town funds, facilities, property, equipment, or personnel to investigate, enforce, or assist in the investigation or enforcement of any federal program requiring registration of individuals on the basis of race, gender, sexual orientation, religion, ethnicity, or national origin.

**§ 16-9. Collection of immigration-related information; access to Town benefits and services.**

Town personnel shall not inquire about or request proof of immigration status or citizenship when providing services or benefits, except where the receipt of such services or benefits are contingent upon one's immigration or citizenship status or where inquiries are otherwise lawfully required by federal, state, or local laws.

**§ 16-10. Collection and reports of data.**

- A. NPPD shall record, solely to create the reports described in Subsection B, below, the following for each immigration detainer, notification, transfer, interview, or interrogation request received from ICE or CBP:
  - (1) The subject individual's race, gender, and place of birth;
  - (2) Date and time that the subject individual was taken into custody, the location where the individual was held, and the arrest charges;
  - (3) Date and time of NPPD receipt of the request;
  - (4) The requesting agency;



- (5) Immigration or criminal history indicated on the request form, if any;
  - (6) Whether the request was accompanied by any documentation regarding immigration status or proceedings, e.g., a judicial warrant;
  - (7) Whether a copy of the request was provided to the individual and, if yes, the date and time of notification;
  - (8) Whether the individual consented to the request;
  - (9) Whether the individual requested to confer with counsel regarding the request;
  - (10) NPPD's response to the request, including a decision not to fulfill the request;
  - (11) If applicable, the date and time that ICE or CBP took custody of, or was otherwise given access to, the individual; and
  - (12) Date and time of the individual's release from NPPD's custody.
- B. NPPD shall provide annual reports to the Police Commission and the Town Clerk, who shall make the same publicly available, regarding the information collected in Subsection A, above, in an aggregated form that is stripped of all personal identifiers in order that NPPD and the community may monitor NPPD's compliance with all applicable law.

#### **§ 16-11. Enforcement.**

Any member of the NPPD, municipal officer or employee who violates any provision of this chapter may be disciplined in accordance with the provisions of an applicable collective bargaining agreement or, in the case where an officer or employee is not covered by a collective bargaining agreement, in the manner provided by law.

## **Chapter 17**

### **INDUSTRIAL AND COMMERCIAL INCENTIVE BOARD**

#### **§ 17-1. Establishment.**

Pursuant to the provisions contained at § 485-b of the Real Property Tax Law, the Town of New Paltz hereby establishes a board to be known as the "Industrial and Commercial Incentive Board," (hereinafter referred to in this chapter as "ICIB").

#### **§ 17-2. Membership; terms; records.**

- A. Membership. The Industrial and Commercial Incentive Board shall consist of five members who shall be appointed by the Town Board and

who shall serve at the pleasure of the Town Board, one of whom shall, at the time of appointment, be a member of the Town Board of the Town of New Paltz, one of whom shall, at the time of appointment, be a member of the Town of New Paltz Planning Board, one of whom shall, at the time of appointment, be a member of the Environmental Conservation Commission of the Town of New Paltz, plus two additional persons who, at the time of their respective appointments and throughout their term of appointment, shall be electors residing within the Town of New Paltz.

- B. Terms of members. The appointment of members to the ICIB shall be for terms so fixed that one member's term shall expire at the end of the calendar year in which this chapter was originally adopted. The remaining members' terms shall be so fixed that two members' terms shall expire at the end of the next calendar year thereafter and two members' terms shall expire at the end of the second year next succeeding the end of the calendar year in which this chapter was originally adopted. At the expiration of each member's appointment, the replacement member shall be appointed for a term equal in years to the term of the member replaced.
- C. Vacancies. If a vacancy shall occur otherwise than by expiration of a term, the Town Board shall appoint a new member for the unexpired term.
- D. Chairperson. The Town Board shall designate the chairperson thereof, and, in the absence of a chairperson, the ICIB may designate a member to serve as Acting Chairperson.
- E. Books and records. The ICIB shall designate a member to serve as recording secretary who shall be in charge of its minutes, books and records. In the absence of a recording secretary, the ICIB may designate a member to serve as acting secretary.

### **§ 17-3. Powers and duties.**

The ICIB shall have the powers and duties prescribed by § 485-b of the Real Property Tax Law of the State of New York and shall present a plan to the Town Board of the Town of New Paltz concerning the various types of business real property which should be granted eligibility for exemption pursuant to the provisions of § 485-b of the Real Property Tax Law of the State of New York.

- A. Such plan shall make recommendations concerning the applicability of the exemption to specific sectors and subsectors, as defined in the North American Industry Classification System published by the United States Government.
- B. Such plan shall also make a recommendation as to the manner in which such exemption shall be computed consistent with the provisions of § 485-b of the Real Property Tax Law of the State of New York.

- C. Such plan shall identify specific geographic areas within which such exemptions shall be offered.
- D. In developing such plan, the ICIB shall consider the planning objectives of the municipality within which such exemptions may be offered, the necessity of the exemption to the attraction or retention of such businesses and the economic benefit to the New Paltz community of providing exemptions to various types of businesses.
- E. In addition, the ICIB may make recommendations to the Town Board of the Town of New Paltz with respect to actions which the ICIB deems desirable to improve the economic climate of the New Paltz community.

#### **§ 17-4. Reports.**

The ICIB shall submit an annual report to the Town Board not later than the first day of October of each year, concerning the activities and work of the ICIB and from time to time shall submit such reports and recommendations as may be necessary to fulfill the purposes of this chapter.

#### **§ 17-5. Compensation.**

The members of the ICIB shall receive no compensation for their services as members thereof but may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties within the appropriations made available therefor.

## **Chapter 18**

### **INTERMUNICIPAL AGREEMENTS**

#### **GENERAL REFERENCES**

**Continuity of government — See Ch. 5**

**Police Commissioner — See Ch. 34.**



## ARTICLE I

**Police Assistance****[Adopted 7-25-2002 by L.L. No. 4-2002]****§ 18-1. Legislative intent.**

The Town Board recognizes that there may be times when emergency events cause a particular agency to require additional law enforcement personnel, equipment or supplies, and that intermunicipal cooperation is an efficient and cost-effective method of meeting those needs in the interest of public health and safety.

**§ 18-2. Delegation of power to Police Chief.**

The New Paltz Chief of Police, or in his/her absence the duly appointed officer in charge, is hereby delegated the power to request and grant police assistance pursuant to an intermunicipal agreement for mutual aid, under § 209-m of the General Municipal Law.

**§ 18-3. Intermunicipal agreements.**

The Supervisor of the Town of New Paltz is hereby authorized to execute an intermunicipal agreement(s) with other local governments on behalf of the Town of New Paltz for mutual aid police protection and cooperative training pursuant to Article 5-G of the General Municipal Law, in such form as may be approved by the Town Attorney, and such agreement(s) shall be filed with the Town Clerk.

## **Chapter 20**

### **LOCAL LAWS, ADOPTION OF**

#### **GENERAL REFERENCES**

**Publication of ordinances — See Ch. 27.**

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#### **§ 20-1. Notice of public hearing.**

No local law shall be adopted by the Town Board of the Town of New Paltz until a public hearing has been held thereon in its final form before such Town Board not less than three nor more than 30 days after public notice has been given of the time and place of the holding of such public hearing. Such notice shall be given by the Town Clerk by causing the same to be published once in the official newspaper of the Town. Such notice shall contain the title of the proposed local law and a brief explanatory statement thereof.

#### **§ 20-2. Availability of copies.**

The Town Clerk shall cause to be printed or otherwise reproduced copies of such proposed local law and shall, not later than the day such notice is published, post one such copy, together with the notice of hearing, on the signboard at his office and shall also make copies of such proposed local law available at his office for inspection by and distribution to any interested person during business hours.

#### **§ 20-3. Publication of notice of adoption.**

The Town Clerk shall, forthwith upon the adoption of a local law by the Town Board, post a copy thereof on the signboard at his office and shall, within 10 days after such adoption, cause the local law or an abstract thereof describing the same in general terms to be published in the official newspaper of the Town.

#### **§ 20-4. Filing of proofs of publication.**

Proof of publication of the notice of public hearing required by § 20-1 hereof and proof of the posting and publication required by § 20-3 hereof shall be filed in the office of the Town Clerk.

#### **§ 20-5. Numbering of local laws.**

Each local law shall be numbered consecutively, beginning with Number one for each calendar year. When a local law is finally adopted and certified copies thereof are required by § 27 of the Municipal Home Rule Law to be filed in the offices of the Town Clerk, the State Comptroller and the

Secretary of State, the Town Clerk shall accordingly assign to such local law its appropriate number.

## **Chapter 24**

### **MEETINGS**

#### **GENERAL REFERENCES**

**Public access to records — See Ch. 109.**





ARTICLE I  
**Executive Meetings**  
**[Adopted 11-13-1974]**

**§ 24-1. Attendance by public and media; exceptions.**

The public and representatives of the press or news media shall be permitted to attend executive sessions of the Town Board of the Town of New Paltz with the following exceptions:

- A. Those which deal with personnel matters;
- B. Contract negotiations while in committee; or
- C. Lawyer - client matters concerning settlement of claims against the Town.



ARTICLE II  
**Regular and Special Meetings**  
**[Adopted 6-22-1977 by L.L. No. 2-1977]**

**§ 24-2. Legislative intent.**

The purpose of this article is to provide notice to the public and the news media of the regular and special meetings of the Town Board at which public business is officially transacted, in compliance with the Open Meetings Law (Article 7 of the Public Officers Law). Such notice is designed to facilitate public attendance at such meetings to observe and listen to the deliberations and decisions of this Board.

**§ 24-3. Definitions.**

- A. The terms, words and phrases used in this article shall have the same meanings as such terms, words and phrases are defined in § 92 of the Public Officers Law.<sup>2</sup>
- B. As used in this article, the following terms shall have the meanings indicated:

NEWS MEDIA — A newspaper that is printed not less frequently than once a week in which legal notices may be published or a radio or television station that regularly broadcasts news.

NOTICE — Includes but shall not be limited to written or oral information relating to the date, time and place where a meeting is to be held.

**§ 24-4. Designated locations for posting notices.**

The following locations are hereby designated as the sites where notice of all meetings held by the Town Board shall be posted:

- A. The official bulletin board.

**§ 24-5. Designated media to receive notices.**

Any or all of the following officially designated newspapers or newspapers of general circulation within the Town of New Paltz and television or radio stations are hereby designated as the news media that shall receive notice of the meetings of the Town Board:

- A. The official newspaper of the Town of New Paltz.

**§ 24-6. Duties of Town Clerk.**

- A. The Town Clerk shall be responsible for providing notice to the public and the news media as provided in this article.

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2. Editor's Note: See now § 102 of the Public Officers Law.

- B. The Town Clerk shall, upon request, whenever possible, provide notice to any person of the date, time and place of a meeting of the Town Board, whether the request for such information is made in person, in writing or by telephone; provided, however, that a written request requiring a written notice shall be accompanied by a properly stamped self-addressed envelope and that a telephone request requiring the Town Clerk to return a long-distance call shall not be honored unless the requester accepts the charges for such call.

**§ 24-7. Notices for meetings scheduled a week in advance.**

- A. The public shall be informed of meetings scheduled at least one week in advance by the posting of a notice at least 72 hours in advance of such meetings in locations designated in § 24-4 herein.
- B. The newspaper designated in § 24-5 herein shall be informed of a meeting scheduled at least one week in advance at least 72 hours in advance of such meeting by mail or by telephone or personal delivery of the notice to an officer or employee of the news media, as follows:
- (1) Notice provided by mail to the news media shall be sent by mail at least one week in advance of such meetings to ensure that notice will be provided to the news media at least 72 hours in advance of a meeting.
  - (2) When notice to the news media is personally delivered, the person delivering the notice shall obtain a receipt signed by an officer or employee of the news media, which receipt shall also show the time and date thereof and the title of such officer or employee and shall state that notice has been provided in compliance with § 94 of the Public Officers Law.<sup>3</sup>
  - (3) When notice to the news media is given by telephone, the person making such telephone call shall obtain the name and title of the officer or employee to whom the notice is given and shall write down such information and the time and date of such call as provided herein.

**§ 24-8. Notices for meetings scheduled less than a week in advance.**

- A. The public shall be informed of meetings scheduled less than a week in advance as soon as practicable by the posting of notices in locations designated by § 24-4 herein.
- B. Notice to the news media shall be delivered personally or be by telephone in accordance with the requirements set forth in § 24-7B(2) or (3) herein, respectively.

**§ 24-9. Regularly scheduled meetings.**

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3. Editor's Note: See now § 104 of the Public Officers Law.

- A. When the Town Board schedules meetings in advance that are to be held at specific times and locations and on specific dates, a single notice may be provided to the public and the news media.
- B. Notice specifying the time, location and dates of regularly scheduled meetings shall be posted in locations designated in § 24-4 herein.
- C. Notice specifying the time, location and dates of regularly scheduled meetings shall be provided to the news media designated in § 24-5 herein. Such notice shall be provided in accordance with the requirements set forth in § 24-7B(1) or (2) of this article.

**§ 24-10. Notice of changes in date, time or location of scheduled meetings.**

When the time, date or location of a scheduled meeting is changed, the Town Clerk shall, as soon as practicable, post notices showing the change in date, time or location of a meeting at the sites designated by § 24-4 herein and provide notice to the news media designated to receive notice by § 24-5 herein as provided in § 24-7 or 24-8, as the case may be, of this article.

**§ 24-11. Record of notice.**

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

- A. The date of posting of the public notice, the date or descriptive schedule of the meeting or meetings for which notice was given and the name and title of the person who posted the notice.
- B. If notice is given to the news media by mail, the date of mailing of the same, the date or descriptive schedule of the meeting or meetings for which the notice has been mailed and the name and title of the person who mailed such notice.
- C. If notice to the news media is given by personal delivery, the time and date of delivery of the same, the date or descriptive schedule of the meeting or meetings for which the notice was delivered, the name and title of the officer or employee to whom it was delivered and the name and title of the person who delivered the notice.
- D. If notice to the news media is given by telephone, the time and date of such telephone call, the date or descriptive schedule of the meeting or meetings for which such notice is given, the name and title of the officer or employee to whom it was given and the name and title of the person who gave such notice.

## **Chapter 27**

### **ORDINANCES, PUBLICATION OF**

#### **GENERAL REFERENCES**

**Adoption of local laws — See Ch. 20.**

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#### **§ 27-1. 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 Paltz which is or may be required to be published in one 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.

#### **§ 27-2. Effect on statutory provisions.**

This chapter shall supersede, in their application to the Town of New Paltz, 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.

## **Chapter 31**

### **PLANNING BOARD**

#### **GENERAL REFERENCES**

**Flood damage prevention — See Ch. 82.**

**Zoning — See Ch. 140.**

**Subdivision of land — See Ch. 121.**

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#### **§ 31-1. Creation; appointment; terms; probationary period.**

- A. There shall be a Town Planning Board appointed by the Town Board, which Planning Board shall consist of one member to serve for one year, one member to serve for two years, one member to serve for three years, one member to serve for four years, one member to serve for five years, one member to serve for six years and one member to serve for seven years. Their successors shall be appointed for seven years.
- B. New members of the Planning Board shall serve for a probationary period of six months. **[Added 12-16-1987]**

**§ 31-1.1. Definitions. [Added 4-23-2009 by L.L. No. 2-2009]**

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

ALTERNATE MEMBER — An individual appointed by the Town Board to serve on the Planning Board when a regular member is unable to participate on an application or matter before the Planning Board because of a conflict of interest.

MEMBER — An individual appointed by the Town Board to serve on the Planning Board pursuant to the provisions of the applicable law, local law or ordinance that established such Board.

PLANNING BOARD — The duly constituted Planning Board of the Town of New Paltz.

TOWN BOARD — The duly constituted Town Board of the Town of New Paltz.

**§ 31-1.2. Alternate members. [Added 4-23-2009 by L.L. No. 2-2009]**

- A. This section is enacted to provide a process for appointing alternate members of the Planning Board. These individuals shall serve only when a member is unable to participate on an application or matter before the Board owing to a conflict of interest and under no other circumstances.
- B. At least two alternate members of the Planning Board may be appointed by the Town Board for a term of two years, with the terms to expire on December 31 of the second year after the date of their initial appointment. The initial term of each appointment shall include the six-month probationary period for Planning Board members as provided for in § 31-1 of the Code of the Town of New Paltz.
- C. The Chairperson of the Planning Board shall designate an alternate to substitute for a member when such member is unable to participate on an application or matter before the Board owing to a conflict of interest. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Planning Board. Such designation shall be made by the Chairperson on a rotating basis commencing with the alternate first appointed by the Town Board following the effective date of this section. Each designation shall be entered into the minutes of the initial Planning Board meeting at which the substitution is made.
- D. Alternate members appointed by the Town Board shall regularly attend the scheduled meetings and/or work sessions of the Planning Board to which they may be designated so as to be available for designation when required and to be familiar with the applications and/or matters pending before such Board.
- E. Alternate members shall serve without compensation.

- F. All provisions of state law relating to Planning Board member attendance, eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as provisions of any local law or ordinance relating to training and continuing education, shall also apply to alternate members.

**§ 31-2. Chairman. [Amended 12-16-1987]**

The Town Board shall designate a member of said Planning Board to act as Chairman thereof.

**§ 31-3. Experts and staff. [Amended 6-21-2018 by L.L. No. 4-2018]**

The Town Board shall have exclusive power and authority to employ experts and a staff in their service to the Planning Board and to pay for such services and such other expenses as may be necessary and proper, not exceeding the appropriations that may be made by the Town Board.

**§ 31-4. Rules and regulations.**

The Town Planning Board may adopt rules and regulations in respect to procedure before it and in respect to any subject matter over which it has jurisdiction under this chapter or any statute after public hearing by such Board and subject to the approval of the Town Board.

**§ 31-5. Powers and duties.**

The Town Planning Board shall hear and exercise the powers and duties as follows:

- A. To prepare and change a Master Plan for the development of the entire area of the Town of New Paltz outside of the limits of the Incorporated Village of New Paltz and to make investigations and reports relating to the planning of the Town and its future growth and affording adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population.
- B. To approve all plats showing any streets or highways within that part of the Town outside of the limits of the Incorporated Village of New Paltz.
- C. To approve or disapprove changes in the lines of existing streets, highways or public areas shown on subdivision plats or maps filed in the County Clerk's office.
- D. To approve or disapprove the laying out of, closing off or abandonment of such streets, highways or public areas under and subject to the provisions of the Town and Highway Laws.
- E. Simultaneously with the approval of any such plat, to confirm and make changes in the zoning regulations applicable to the land included in any such plat, in accordance with the provisions of § 281 of the Town Law and amendments thereto.<sup>4</sup>



- F. To exercise all other powers conferred upon it by the provisions of the Town Law and to pass upon all matters which may be referred to it from time to time by resolution of the Town Board. It shall conduct hearings and perform its duties in accordance with such procedure as provided in §§ 272 through 281, inclusive, of the Town Law, and acts amendatory thereof.<sup>5</sup>
- G. To complete training and continuing education courses as required by New York State General Municipal Law. **[Added 6-21-2018 by L.L. No. 4-2018]**

#### **§ 31-6. Filing of certificate with County Clerk.**

The Town Clerk of the Town of New Paltz shall file with the Clerk of the County of Ulster a certificate certifying that the Town Planning Board of the Town of New Paltz has been authorized to approve plats showing new streets or highways in accordance with the provisions of § 276, as amended, of the Town Law.

### **Chapter 34**

## **POLICE COMMISSIONERS, BOARD OF**

#### **§ 34-1. Definitions and word usage.**

- A. Terms defined. As used in this chapter, the following terms shall have the meanings indicated:

ADMINISTRATION — The Chief of Police and any commissioned officer of the Police Department.

AGREEMENT — Contracts in effect between the Board and the respective negotiating units of employees and agreements in effect with the Commission and/or with the Town of New Paltz and members of the Administration.

ASSOCIATION — The New Paltz Police Association.

BOARD or TOWN BOARD — The Town Board of the Town of New Paltz.

COMMISSION — The Police Commission of the Town of New Paltz consisting of five members appointed by the Town Board (or, in the event that the Police Commission is abolished, the Town Board of the Town of New Paltz).

COMMISSIONED OFFICERS — Any police officer above the rank of sergeant.

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4. Editor's Note: See now § 278 of the Town Law.

5. Editor's Note: Sections 272, 274 and 275 of the Town Law were repealed by L. 1992, c. 663. Sections 276 and 277 of the Town Law were repealed and replaced by L. 1992, c. 727, which act also renumbered §§ 278, 279, 280 and 281 as §§ 279, 280, 281 and 278, respectively.

DEPARTMENT — The Town of New Paltz Police Department.

EMPLOYEES — All police officers and sergeants, and dispatch personnel, except the Chief of Police and commissioned officers of the Police Department.

- B. Word usage. He; him, his. Whenever the pronouns “he,” “him” or “his” appear, they are used for the convenience of written expression and shall represent a person of either sex unless, by additional statements, a person of a particular sex is clearly specified.

**§ 34-2. Rights and duties.**

- A. Except as may be provided by the laws of the State of New York and subject to the limitations contained in this document, the Commission shall:
- (1) Solicit applications and conduct all interviews for the position of Chief and of other commissioned officers after consultation with the Police Chief. The Commission shall approve and forward the Chief's recommendations to the Town Board for approval. The starting salaries for such positions will be determined by the Town Board;
  - (2) Approve the promotions of employees and commissioned officers upon recommendation of the Chief of Police, who shall keep a complete service record of each member of the Department in accordance with applicable civil service rules;
  - (3) Upon recommendation of the Chief of Police, adopt rules, orders and regulations for the government, discipline, administration and disposition of the Department and of the members thereof;
  - (4) Conduct regular performance evaluations of the Chief, developing with him plans to address any deficiency in job performance and monitoring progress towards improvement and maintaining and reviewing the Chief's personnel file. The results of the Commission's annual or semiannual reviews shall be shared with the Town Board's Personnel Committee;
  - (5) Consistent with the laws of the State of New York and with the terms of any collective bargaining agreement or amendment thereof, adopt rules and regulations for the examination, hearing, investigation and determination of charges made against any member of the Department;
  - (6) Have access to all records of the Department during normal business hours;
  - (7) Appoint a Commission member to participate in the Town Board's negotiating team for contracts involving commissioned officers and the PBA. The Chief will be a member of the negotiating team for all contracts;

- (8) Fulfill its responsibilities under such collective bargaining agreements, including but not limited to the following:
  - (a) At the direction of the Town Board, the Commission may participate in the review of grievances after they have been presented to the Chief of Police for his informal review and initial determination. If not resolved, presented again in writing. The Commission shall never meet with employees or the union on matters which have not been initially presented to the Chief for his initial consideration;
  - (b) The Commission shall give prompt written notification to the Chief of Police whenever it receives civilian complaints regarding other members of the Department or when information or accusations are made by any person that an employee or commissioned officer (not including the Chief) has violated any rule, regulation or order of the Department;
  - (c) The Commission shall likewise receive copies of any complaints against the Department received by the Chief;
  - (d) The Commission shall monitor the disposition of complaints and or accusations and shall receive complete written reports on the matter including the Chief's final adjudication (if any). When the Commission receives a report from the Chief that does not contain a final adjudication, the Commission may dispose of the matter in a manner consistent with the terms of the agreement or any other statutes or regulations that may apply. In such event, the Chief and the accused will be informed, in writing, of the Commission's determination on the matter.
- B. The duties and responsibilities of the Police Commission shall not conflict with the duties and responsibilities of the Chief of Police, as set forth in the appropriate civil service job classification, who shall be responsible for the day-to-day operation of the Police Department.
- C. The Chief shall prepare and submit monthly and special reports to the Commission and the Town Board through its liaison.
- D. Subject to budgetary restrictions imposed with respect to the Department, the Chief will review with the Commission and furnish to the Town Board appropriate and detailed specifications for purchases. Competitive bidding requirements, the advertisement, acceptance and the letting of contracts shall be the responsibility of the Town Board.
- E. The Town Board cannot supersede an order or directive of the Commission on questions of promotions or disciplinary proceedings. However, pursuant to Local Law No. 3 of the year 1994, and upon recommendation made in each case to the Town Board by the Commission, the authority to hire and the authority to undertake the commencement and/or the continued prosecution of any disciplinary

proceeding or other action to terminate employment of commissioned officers is reserved to the Town Board.

**§ 34-3. Operations.**

- A. Of the members of the Police Commission first appointed following adoption of this chapter, one shall hold office through December 31, 2003, the successor for which shall thereafter be appointed for the term of three years; one shall hold office through December 31, 2004, the successor for which shall thereafter be appointed for the term of three years; one shall hold office through December 31, 2005, the successor for which shall be appointed for the term of three years; two shall hold office through December 31, 2003, the successors for which shall be appointed for the term of one year each. If a vacancy shall occur otherwise than by expiration of a term, it shall be filled by the Town Board by appointment for the unexpired term.
- B. The Commissioners shall file an oath of office with the Town Clerk upon commencement of their duties and shall be governed by applicable state and local laws, rules and regulations with respect to conduct and ethics and shall be deemed employees of the Town for the purpose of bonding, filing oaths of office, resignations and public officers' liability insurance.
- C. All members of the Commission shall be chosen by a majority vote of the Board and shall at the time of their appointments and throughout their terms of office be electors of the Town of New Paltz and shall serve without compensation and at the pleasure of the Board.
- D. The Commission, by majority vote of its members, shall designate one of its members to serve as Chairperson for one year. In the event that the Commission shall be unable to or shall fail to designate such Chairperson, the Town Board, by majority vote of its members, shall designate one of the members of the Commission to serve as Chairperson. Notwithstanding the manner in which a Chairperson has been designated, any such designation, at any time with or without cause, may be rescinded by resolution of the Town Board.
- E. Monthly meetings shall be called consistent with the provision of Article 7 of the Public Officers Law (Open Meetings Law), and all member of the Commission shall be given prior, written notice of the time and place of all Commission meetings, except in emergency circumstances when personal and/or telephone notice shall be deemed to be sufficient. Special meetings may be called by the Chairperson of the Commission or by any three Commission members.
- F. The Commission shall hold regular meetings which shall be publicly announced and open to the public pursuant to the Open Meetings Law of the State of New York (Public Officers Law, Article 7). In addition, minutes of open meetings (and executive sessions at which a final determination of action was taken) shall be compiled pursuant to the

Open Meetings Law and made available to the Records Access Officer of the Town of New Paltz (the Town Clerk).

- G. All decisions and actions of the Commission shall be formally voted upon, with a majority vote of the entire Commission needed to pass any motion, proposal or resolution. Pursuant to the Freedom of Information Law, a voting record shall be compiled that identifies how individual members voted in every instance.
- H. The Commission shall compile and keep current a reasonably detailed list by subject matter of all records in its possession. Records compiled or acquired by the Commission in the course of and in the furtherance of its official function shall be accessible to the public under the Freedom of Information Law (Public Officers Law, Article 6), except those that fall under the category of nondisclosable records pursuant to that Law or pursuant to any other applicable state or federal law (e.g., Civil Rights Law § 50-a). Access to the Commission's records or portions of records, available to the public as provided herein, shall be in accordance with the procedures set forth at Chapter 109 of the Code of the Town of New Paltz, entitled "Records, Public Access to."
- I. The above notwithstanding, the Commission may, at its discretion, make information available to the Board or to any district attorney or his assistants, the attorney for the Town or his deputies or assistants, or a grand jury, which require such records in furtherance of their official functions.
  - (1) Such disclosure shall not constitute a disclosure under Article 6 of the Public Officers Law.
  - (2) Under circumstances where such confidential information is made available to the Board, the Board shall be bound against any other, further or different disclosure of such information where such disclosure would be contrary to or would violate any of the provisions of Article 6 of the Public Officers Law or of any other state or federal statute, rule or regulation.
- J. The Board, upon recommendation by the Commission, may hire clerical, administrative employees and consultants as may be necessary to the Commission to conduct its work.

#### **§ 34-4. Indemnification.**

- A. The Board shall assume all risks incident to the operation of the Department and will indemnify the Commission against all claims and/or actions arising from any accident, injury or damage whatsoever to any person or property arising in the conduct of the lawful discharge of the Commission's duties and against all expenses and liabilities incurred in connection with such claims or actions brought thereon.
- B. If the Commission receives a demand, notice of claim, summons or other notice or process relating to its conduct, it shall give a copy of

such document to the Town Clerk and to the Board within 48 hours after it has been received.

- C. If the Commission is the subject of any claim or action against the Department it shall be obligated to fully cooperate in the investigation and defense of such claim or action and, consistent with all of the foregoing, it shall furnish all information within its knowledge to the Board and to its attorney(s), insurance adjuster(s), agents or designees.
- D. The Board will provide legal counsel of its choice for the Commission in the event a civil or criminal complaint is filed or it is sued for actions or failure to act.

#### **§ 34-5. Additional duties and responsibilities.**

In addition to the duties and responsibilities set forth herein, the Commission shall also have such additional powers, duties and responsibilities not inconsistent with the provisions of this chapter as may lawfully be designated to it by the Town Board.

### **Chapter 36**

## **PURCHASES, MUNICIPAL**

#### **GENERAL REFERENCES**

**Ethics — See Ch. 15.**

**Intermunicipal agreements — See Ch. 18.**

ARTICLE I  
**Best Value Procurement**  
**[Adopted 8-18-2016 by L.L. No. 2-2016<sup>6</sup>]**

**§ 36-1. Legislative intent.**

- A. The State Legislature and Governor amended General Municipal Law § 103 on January 27, 2012, to provide local governments greater flexibility in awarding contracts by authorizing the award of purchase contracts, including contracts for service work, on the basis of best value. Enactment of this legislation provides additional procurement options to localities designed to expedite the procurement process and result in cost savings. The "best value" standard for selecting goods and services vendors is critical to efforts to use strategic sourcing principles to modernize the supply chain and ensure that taxpayers obtain the highest quality goods and services at the lowest potential cost, while also ensuring fairness to all competitors. The federal government, approximately half of the states and many localities have added best value selection processes to their procurement options, in recognition of these advantages.
- B. With the increased complexity of the goods and services that municipalities must obtain in order to serve taxpayers, it is critical to consider selection and evaluation criteria that measure factors other than cost in the strictest sense. Taxpayers are not well served when a public procurement results in low unit costs at the outset, but ultimately engenders cost escalations due to factors such as inferior quality, poor reliability and difficulty of maintenance. Best value procurement links the procurement process directly to the municipality's performance requirements, incorporating selection factors such as useful lifespan quality and options and incentives for more timely performance and/or additional services.
- C. Even if the initial expenditure is higher, considering the total value over the life of the procurement may result in a better value and long-term investment of public funds. Best value procurement also encourages competition and, in turn, often results in better pricing, quality and customer service. Fostering healthy competition ensures that bidders will continue to strive for excellence in identifying and meeting municipalities' needs, including such important goals as the participation of small, minority, and women-owned businesses and the development of environmentally preferable good and service delivery methods. Best value procurement will provide much needed flexibility in obtaining important goods and services at favorable prices, and will reduce the time to procure such goods and services.

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6. Editor's Note: This local law was adopted as Ch. 42, but was renumbered to maintain the organization of the Code.

**§ 36-2. Definitions.**

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

**BEST VALUE** — The purchases of apparatus, materials, equipment or supplies, or to contract for services related to the installation, maintenance or repair of apparatus, materials, equipment, and supplies through the use of a contract let by the United States of America or any agency thereof, any state or any other political subdivision or district therein, if such contract was let to the lowest responsible bidder or on the basis of best value in a manner consistent with the provisions of General Municipal Law § 103 as now existing or as may hereafter be amended.

**§ 36-3. Purchasing authority.**

On and after the effective date of this article, the department head or other person authorized by the Town for purchasing of apparatus, materials, equipment or supplies, or to contract for services related to the installation, maintenance or repair of apparatus, materials, equipment, and supplies may award purchase contracts, including contracts for service work, but excluding any purchase contract necessary for the completion of a public works contract pursuant to Labor Law Article 8, on the basis of best value, as defined herein, to a responsive and responsible bidder or offeror.

**§ 36-4. Requirements.**

- A. Where the basis for award is the best value offer, the department head or other person authorized by the Town for purchasing apparatus, materials, equipment or supplies, or to contract for services related to the installation, maintenance or repair of apparatus, materials, equipment, and supplies, shall document, in the procurement record and in advance of the initial receipt of offers, the determination of the criteria and the process to be used in the determination of best value and the manner in which the evaluation process and selection is to be conducted.
- B. Where the basis for award is the best value offer, the department head or other person authorized by the Town for purchasing apparatus, materials, equipment or supplies, or to contract for services related to the installation, maintenance or repair of apparatus, materials, equipment, and supplies, shall follow the process provided under the Town Procurement Policy and document such process in the procurement record. The process shall include, but shall not be limited to, a clear statement of need; a description of the required specifications governing performance and related factors; a reasonable process for ensuring a competitive field; a fair and equal opportunity for offerors to submit responsive offers; a balanced and fair method of award; and a statement demonstrating the reasons why best value is expected to be achieved.



**Chapter 38**  
**TERMS OF OFFICE**



ARTICLE I  
**Town Clerk**  
**[Adopted 8-24-2006 by L.L. No. 5-2006]**

**§ 38-1. Statutory authority.**

This article is adopted pursuant to the provisions of § 10(l)(ii)(d)(3) of the Municipal Home Rule Law of the State of New York.

**§ 38-2. Increase 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 following the first biennial Town election at which a person is elected to such office. Thereafter, the Town Clerk shall be elected for terms of four years.

**§ 38-3. 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 Paltz at the general election to be held on November 7, 2006.<sup>7</sup> A proposition in the following form shall be included on the ballot at such general 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. 5 of the Year 2006, entitled "A Local Law Increasing the Term of Office of the Town Clerk from Two (2) Years to Four (4) Years" be approved?

**§ 38-4. Supersession of state law.**

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

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7. Editor's Note: This article passed at referendum 11-7-2006.



ARTICLE II  
**Town Highway Superintendent**  
**[Adopted 8-18-2016 by L.L. No. 4-2016]**

**§ 38-5. Statutory authority.**

This article is adopted pursuant to the provisions of § 10(1)(ii)(d)(3) of the Municipal Home Rule Law of the State of New York.

**§ 38-6. Increase term of office.**

The term of office of the elected Town Superintendent of Highways shall be four years. Such four-year term shall commence as of the first day of January following the first biennial Town election at which a person is elected to such office. Thereafter, the Town Superintendent of Highways shall be elected to a term of four years.

**§ 38-7. 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 Paltz at the general election to be held on November 8, 2016.<sup>8</sup> A proposition in the following form shall be included on the ballot at such general Town election, and the increased term of office shall not take effect unless such proposition is approved by a majority of the qualified voters voting thereon:

Shall Local Law No. 4 of the Year 2016, entitled "A Local Law Increasing the Term of Office of the Town Highway Superintendent from Two (2) Years to Four (4) Years "be approved?"

**§ 38-8. Supersession.**

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

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**8. Editor's Note: This article passed at referendum 11-8-2016.**



ARTICLE III  
**Town Supervisor**  
**[Adopted 9-15-2016]**

**§ 38-9. Statutory authority.**

This article is adopted pursuant to the provisions of § 10(1)(ii)(d)(3) of the Municipal Home Rule Law of the State of New York.

**§ 38-10. Increase term of office.**

The term of office of the elected Town Supervisor shall be four years. Such four-year term shall commence as of the first day of January following the first biennial Town election at which a person is elected to such office. Thereafter, the Town Supervisor shall be elected to a term of four years.

**§ 38-11. 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 Paltz at the general election to be held on November 8, 2016.<sup>9</sup> A proposition in the following form shall be included on the ballot at such general Town election, and the increased term of office shall not take effect unless such proposition is approved by a majority of the qualified voters voting thereon:

Shall Local Law No. 5 of the Year 2016, entitled "A Local Law Increasing the Term of Office of the Town Supervisor from Two (2) Years to Four (4) Years "be approved?"

**§ 38-12. Supersession.**

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

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**9. Editor's Note: This article passed at referendum 11-8-2016.**

**Chapter 39**  
**TOWN EMPLOYEES**



ARTICLE I  
**Residency Requirements**  
**[Adopted 10-20-2011 by L.L. No. 4-2011<sup>10</sup>]**

**§ 39-1. Intent.**

The purpose of this article is to provide that all monies paid by the Town of New Paltz as and for wages and salaries, so far as is reasonably possible, be paid to residents of the Town of New Paltz and that qualified residents of the Town of New Paltz shall have priority over all others to fill positions created by said Town, so long as qualified residents of the Town of New Paltz are ready, willing and able to fill said positions.

**§ 39-2. Definitions.**

For the purposes of this article, the following words and terms shall have the meaning ascribed to them in this section:

EMPLOYEE — Any person performing services for the Town of New Paltz in return for wages or salaries, including full-time, part-time, permanent or temporary positions; however, the word "employee" shall not mean any person elected or appointed by the Town of New Paltz whose residency qualifications are defined by statute.

RESIDENCY — The actual principal domicile of an individual, where he or she normally eats or sleeps and maintains usual personal and household effects.

RESIDENT — A person who has established residency within the geographical boundaries of the Town.

TOWN — The Town of New Paltz, County of Ulster, State of New York.

**§ 39-3. Residency requirement; exceptions.**

Every person, at the commencement of his or her employment and throughout said employment, shall be a resident of the Town of New Paltz, except:

- A. If no qualified resident of the Town of New Paltz is ready, willing and able to fill the position within a reasonable time of its first being available; or
- B. If no qualified nonresident of the Town of New Paltz is ready, willing and able to accept the position and to relocate his or her residence to the Town of New Paltz prior to or within 60 days next following the commencement of his or her employment.

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**10. This local law was originally adopted as Ch. 128 but was renumbered under Part I, Administrative Legislation, to maintain the organizational structure of the Code.**

**§ 39-4. Change in domicile for nonresidents required.**

Except for nonresidents of the Town of New Paltz who secure employment with said Town under the provisions described in § 39-3 of this article, the Town of New Paltz may accept applications for Town employment from nonresidents with the requirement that any person receiving said employment physically move to the Town prior to or within 60 days next following the commencement of his or her employment.

**§ 39-5. Applicability.**

This article shall apply prospectively and only to those persons commencing employment on and after the effective date of this article.

**Chapter 40****TRAFFIC VIOLATIONS BUREAU****GENERAL REFERENCES**

**Vehicles and traffic — See Ch. 133.**

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**§ 40-1. Establishment authorized.**

The Justice Court of the Town of New Paltz is hereby authorized to establish a Traffic Violations Bureau to assist the Court in the disposition of offenses in relation to parking and non-moving-traffic violations. Such Bureau shall be in charge of such person or persons and shall be open at such hours as the Court may designate.

**§ 40-2. Powers and duties; payment of fines at Bureau by persons charged with offenses; levying of fines.**

- A. The Traffic Violations Bureau shall dispose of such parking or other nonmoving violations of traffic laws, ordinances, rules and regulations as the Court shall designate.
- B. A person charged with an offense which may be handled by the Traffic Violations Bureau may answer at said Bureau, within a time to be specified by the Court, by paying a fine to be prescribed by the Court (within the limits established for such offenses) and, in writing, waiving a hearing in court, pleading guilty to the charge and authorizing the person or persons in charge of the Bureau to make such a plea and pay such a fine in court. The Court shall prescribe the forms to be used in waiving a hearing, pleading guilty and authorizing the person in charge of the Bureau to make such plea and pay such fine in court.
- C. Within the limits prescribed by law, the Court may provide different fines for different offenses and may provide for graduated fines to be based on the number of prior vehicular offenses for which a person has convicted within such time as the Court shall designate.

**§ 40-3. Appearance before Bureau; power of attorney.**

The person charged with an offense which may be disposed of by the Traffic Violations Bureau may appear personally before the Bureau or may cause another to appear in his stead by executing a power of attorney in substantially this form:

I, the undersigned, hereby appoint (name of attorney) residing at (address) in the \_\_\_\_\_ of \_\_\_\_\_, as my attorney, for me and in my name to appear before the Traffic Violations Bureau of the Town of New Paltz, New York, and pay the fine prescribed for the violations of the \_\_\_\_\_, Section \_\_\_\_\_, with which I am charged, on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ Town of New Paltz, New York, and, in writing, waive a hearing in court, plead guilty to the charge and authorize the person in charge of the Bureau to make such a plea for me and pay such a fine in court.

Dated:

\_\_\_\_\_  
(witness)

\_\_\_\_\_  
(defendant)

**§ 40-4. Acceptance of fine and power of attorney by Bureau.**

After execution and filing of the proper papers, the Bureau shall accept the prescribed fine for the offense charged, and the violator shall be given a receipt which states that acceptance of the prescribed fine and power of attorney by the Bureau shall be deemed complete satisfaction for the violation charged. The Court shall designate the form of receipt to be issued.

**§ 40-5. Records and reports.**

The Bureau shall keep such records and file such reports as are required to be kept by law. The Bureau shall also keep such additional records and file such reports as the Town Board or the Court shall direct.

**§ 40-6. Maximum number of violations handled by Bureau.**

Any person who shall have been, within the preceding 12 months, guilty of a number of parking violations in excess of such maximum number as may be designated by the Court, or of three or more violations other than parking violations, shall not be permitted to appear and answer to a subsequent violation at the Traffic Violations Bureau but must appear in Court at the time specified on the summons issued by the Bureau. Within these limitations, the Court may provide further restrictions as to the number of offenses by any person which may be disposed of by the Traffic Violations Bureau.

**§ 40-7. Applicability.**

The Traffic Violations Bureau shall not be authorized to deprive a person of his right to counsel or to prevent him from exercising his right to appear in court to answer to, explain or defend any charge of a violation of any traffic law, ordinance, rule or regulation.

**§ 40-8. Noncompliance.**

If a person charged with a traffic violation authorized to be disposed of by the Traffic Violations Bureau does not answer as hereinbefore prescribed, within a time to be designated by the Court, the Bureau shall cause a complaint to be entered against him forthwith and a warrant to be issued for his arrest and appearance before the Court.

**Chapter 41****TOWING LIST****§ 41-1. Declaration of purpose.**

It is hereby declared and found that it is of vital importance to the traveling public that disabled vehicles be removed from the highways as promptly as possible, that delay in removal results in restricting the movement of traffic unnecessarily and causes street accidents. The towing of disabled motor vehicles from the highways of the Town of New Paltz is a matter affecting the public interest and consequently should be subject to supervision and administrative control for the purpose of safeguarding the public against traffic problems and confusion at the scene of accidents, fraud and exorbitant rates and similar abuses. The Town Board believes that establishing a towing list for use by the police can accomplish this purpose.

**§ 41-2. Establishment of policy.**

- A. It is the intent of the Town Board of the Town of New Paltz to establish a fair and uniform Town-wide policy for the towing of vehicles. The following issues have been taken into consideration in the development of this policy:
  - (1) The needs of the public.
  - (2) The needs of the towing industry.
  - (3) The needs of the Town police.
- B. To meet the needs of the public, unethical or unfair business practices on the part of private towing companies acting at the direction of Town policemen must be regulated. Towing companies who wish to participate in the Town towing program must demonstrate that they can give prompt, safe and professional service.
- C. The needs of the towing industry must be met by providing them with a consistent Town system for the equitable distribution of tow calls within the Town. This provides the towing industry with clear and concise requirements for continued service to the community. This policy also allows for a fair and equitable means to resolve disputes between tow operators.

- D. The community needs tow operators who are competent and able to respond to calls within a minimum of time delay. This requirement mandates an appropriate administrative response to deal with those towing agencies which do not provide services which meet Town standards.

### **§ 41-3. Criteria for tow operators.**

The Town Board requires that any towing business which applies for inclusion on the Town police towing list, within the Town, must meet the following standards:

- A. All towing businesses must maintain a minimum of \$1,000,000 insurance for each occurrence and on-the-hook and in-the-yard coverage of at least \$100,000.
- B. All towing businesses must maintain a valid inspection and registration for each of their towing vehicles.
- C. All towing businesses must have secure indoor and outdoor storage areas within the Town of New Paltz available in which to store specified vehicles out of public access and staffed with at least one employee of the registered repair shop, who shall be present at least on weekdays between 8:00 a.m. and 6:00 p.m. and who shall be authorized to release towed vehicles to claimants. **[Amended 7-25-2013 by L.L. No. 1-2013]**
- D. All towing businesses must maintain adequate equipment to perform the required towing tasks. Each tow truck operator shall maintain a valid operator's license for the class of vehicle being driven to and from the tow scene.
- E. All towing businesses must be capable of a twenty-minute response time to the scene of the tow after receiving the request for their services.
- F. All towing companies must make their facilities and equipment available for scheduled inspections. These inspections will be made to ensure that each company maintains a valid Department of Motor Vehicles (DMV) shop registration, with employees on the premises who are engaged in or capable of engaging in repairs to motor vehicles, vehicle registrations, vehicle inspections and vehicle insurance. The Town police must give two weeks' notice before inspecting any towing company's vehicles or facilities. **[Amended 7-25-2013 by L.L. No. 1-2013]**
- G. All towing businesses shall comply with the requirements for the charging of fees as established from time to time by resolution of the Town Board.

### **§ 41-4. Towing list procedures.**

- A. Two rotational towing lists shall be kept. One towing list shall be for normal passenger vehicles and light trucks. The second list shall be used for towing companies capable of towing larger commercial-type vehicles. Only towing companies located within the Town shall be included on each towing list. (This will be determined by the business location as recorded on the DMV shop registration.) In the event that satisfactory towing services cannot be obtained in the Town, towing companies from adjoining townships may be utilized to provide particular services.
- B. Priority for contacting towing companies shall be made in the following sequence:
  - (1) Emergency needs at the towing scene.
  - (2) Owner request for a specific towing agency (within a reasonable distance).
  - (3) Next towing business from the rotational towing list.
- C. Towing businesses will initially be placed on the towing list in random order. Once the use of the towing list has been commenced, new businesses to be included on the list shall be placed on the bottom of the list.
- D. Tow calls from the towing list shall be made from the top of the list. Each company shall be allowed 10 rings to answer the phone. Once a towing agency has responded to a call, or failed to respond, their name shall be placed at the bottom of the rotation list. If a towing agency uses an answering service or pager, voice contact must be made with the calling agency within five minutes.
- E. A towing log shall be maintained at the Town police answering point. After a towing agency has been contacted, or failed to answer in 10 rings, the call shall be logged onto the towing log. The log shall include the name of the towing company, the time the call was made and whether or not the company responded. Upon the company's response to the scene, the officer at the scene shall advise the dispatch point of the arrival. The arrival time shall then be recorded on the towing log.

**§ 41-5. Additional operational guidelines for towing companies.**

In addition to the above criterion and procedures, the following guidelines shall also be adhered to:

- A. Tow companies shall be available 24 hours a day, seven days a week. Tow companies must be willing to respond to any type of tow call, whether it be a collision, disabled vehicle, impound, etc. Tow companies who do not desire to tow at night or on weekends, etc., or who elect to respond only to certain types of tow calls, will not be considered for placement on the towing list. (This does not preclude the tow company from being called as a result of an owner's request.) Failure to respond

to three calls, absent extenuating circumstances, will result in temporary suspension from the towing list for a period of 20 consecutive days.

- B. Tow companies must provide one permanent day and/or night phone number. Absent mitigating circumstances, tow companies will not contact Town police and attempt to leave phone numbers of on-call tow truck operators.
- C. If a tow company shall utilize an answering service, the twenty-minute response time shall commence when the original phone call is made and not from the time voice contact is made with the tow company.
- D. Tow companies must accept standard methods of payment for their service, like credit cards, and not be restricted to cash-only transactions.
- E. In the event that a company is removed from the tow list, the owner of such company will be afforded the opportunity to meet with the Town Board to discuss the reason(s) for removal.

**§ 41-6. Additional operational guidelines for Town police and employees.**

In addition to the aforementioned procedures, Town police and Town employees shall comply with the following guidelines:

- A. The towing of vehicles will be completed in accordance with both the Town Police Manual and the instructions, guidelines and procedures set forth in this policy.
- B. If applicable, the towing of a vehicle shall be done by the owner's/operator's request. If the owner/operator has no preference, or is not present, or is unable to provide a proper response, then the tow will be performed by the next tow company on the established tow list for that particular town.
- C. Police officers and employees shall avoid offering personal recommendation to motorists who have no preference of a towing company. Members shall inform the person in need that a tow list is maintained, comprised of certain companies which have all met certain criteria, thus affording them the opportunity to be utilized for towing calls.
- D. The tow company, whether the owner's request or from the tow list, shall not be changed once it has been notified to respond to a scene.
- E. If the tow list calls fail to obtain a response to an incident, then the closest available, and authorized, tow company from an adjacent town shall be utilized. The same principle shall apply when seeking heavy-duty commercial-type tow trucks. If there is none available within the



Town, then the closest to the scene from an adjacent town shall be utilized.

**§ 41-7. Severability.**

If any section, paragraph, subdivision, clause or provision of this chapter shall be adjudged as invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudicated and the remainder of this chapter shall be deemed valid and effective.

**§ 41-8. When effective.**

This chapter shall be effective immediately upon filing with the Secretary of State.

**Part II, General Legislation**

**Chapter 44**

**AGRICULTURE AND OPEN SPACE PRESERVATION AND  
ACQUISITION**

**§ 44-1. Legislative findings.**

- A. The State of New York, by various legislative enactments, including but not limited to General Municipal Law § 247 and Environmental Conservation Law § 49-0301, has found that the rapid growth and spread of suburban development is encroaching upon or eliminating many open areas and spaces of varied size and character, including many having significant scenic or aesthetic values, which areas and spaces if preserved and maintained in their present open state would constitute important physical, social, aesthetic or economic assets to existing or impending suburban development. The legislature has determined that the acquisition of open spaces and areas is a valid public purpose and that the expenditure of Town funds to acquire legal interests and rights in such lands is in furtherance of such purpose and is a proper expenditure of public funds for public purposes.
- B. The Town of New Paltz supports such public purposes and finds that such purposes can be achieved by instituting a program for the acquisition of interests or rights in real property for the preservation of open spaces and farmland. Such a program would be consistent with the New Paltz Open Space Plan adopted in June 2006. The Town Board further moved toward local funding for the acquisition of open spaces and areas, particularly the purchase of development rights (PDR), by placing a bonding proposition on the November 2006 general election ballot. A majority of voters in the Town approved such proposition, authorizing the expenditure of \$2,000,000 for the acquisition of open spaces and areas, including, among other things, development rights. This chapter is intended to indicate generally and in particular the

procedures to be employed by the Town to protect and conserve open spaces as characterized in the New Paltz Open Space Plan.

**§ 44-2. Purpose; voluntary nature.**

- A. The purpose of this chapter is to provide mechanisms to protect the assets of the Town that provide New Paltz's residents with water that is clean, plentiful and sustainable; farm and forestry industries that are strong and sustainable; habitats for diverse plants and animals; recreational opportunities that are harmonious with the land's natural state, historical, cultural and scenic assets and variety; and educational and research opportunities about the natural world and our agrarian economy. The activities and mechanisms outlined in this chapter protect these assets generally, through the purchase of interests in property, and through ongoing management and stewardship of interests in property acquired by or entrusted or given to the Town.
- B. The activities described in this chapter for the purchase of interests in property, described herein, shall be purely voluntary. Under no circumstances shall any landowner be coerced into participation in these activities.
- C. Through this chapter the Town of New Paltz will expend its tax revenues, and in some cases forego ongoing tax revenues, in order to acquire interests in property. These acquisitions become assets of the Town and are valuable to Town residents. It is incumbent on the Town, in perpetuity, to safeguard these assets by monitoring their condition and, where necessary, taking action to preserve the rights that it has acquired.

**§ 44-3. Definitions.**

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

**AGRICULTURAL USE AND PRODUCTION** — The use and production for commercial purposes of all those items and products as defined in NYS Agriculture and Markets Law § 301, including but not limited to plants and animals useful to man, including fruits, viniculture, nuts, vegetables, greenhouse plants, tree nurseries, Christmas trees, forages, sod crops, grains, feed crops, dairy, processing of farm-produced dairy products, all domestic livestock for breeding and grazing and the equine industry, aquaculture, hydroponics, woody biomass, horticulture, maple sap, and other similar uses and activities.

**ALIENATION** — The sale or transfer of any development right in real property acquired under this chapter by or from the Town of New Paltz to another person or entity and shall include, without limitation, changes or amendments in the terms or provisions of conservation easements held by the Town.

**BASELINE REPORT AND MONITORING PLAN** — A report and plan, including photographs, maps and narrative, that documents the current state of the property at the time that it, or an interest in it, is acquired pursuant to this chapter; and outlines the plan to monitor preservation of this state and remedies in the event of noncompliance with the easement or other requirements of the purchase of the interests in property. In the case of an easement that is purchased by the Town, the baseline report and monitoring plan is the document that describes how the easement will be monitored. The baseline report and monitoring plan should document features that are important to the CWOSP Commission and Town Board in its decision to acquire the property or interest in it. The baseline report and monitoring plan must be signed and acknowledged before a notary by the seller(s) of the property or interests in the property, the Chair or Vice Chair of the CWOSP Commission, and the Town Supervisor or his/her designee.

**CLEAN WATER AND OPEN SPACE PROTECTION COMMISSION or THE CWSOP COMMISSION** — The Commission established in § 44-4 of this chapter shall assist the Town Board in executing this chapter.**[Amended 4-18-2019 by L.L. No. 4-2019]**

**CLEAN WATER AND OPEN SPACE PROTECTION FUNDS** — Includes all monies deposited in the fund established by § 44-7 hereof.

**CONSERVATION EASEMENT** — A negative easement in gross that restricts the use of real property to conservation purposes described in a deed of easement or other legal document.

**DEED OR CONTRACT OF EASEMENT** — A legal document which conveys and/or restricts the use of legal interests in land.

**DEVELOPMENT RIGHT** — Those rights permitted to real property or land with respect to residential or commercial uses or density of use in accordance with law.

**ELIGIBLE LANDOWNER** — A landowner with property that has at least a minimum score under the scoring criteria established by the CWOSP Commission, consistent with the New Paltz Open Space Plan.

**INTERESTS IN PROPERTY** — Include any legally recognized interests or rights in real property, including fee simple ownership, ownership of development rights or easements, options to purchase interests in property, leases of property or development rights, and other interests or rights. Interests in property may also be term interests that expire after a set amount of time.

**MONITORING REPORT** — A report produced at least annually by the CWOSP Commission, Town, or a private entity hired or designated by the CWOSP Commission or Town that documents compliance with the baseline report and monitoring plan. Upon completion, the monitoring report should be signed by the report author, accepted by vote of the CWOSP Commission and signed by its Chair, and signed by the property owner, if applicable. In the event that the property owner refuses to sign, the refusal should be documented. Copies of the report shall be distributed to all holders of the baseline report and monitoring plan and otherwise filed, distributed and

publicized in a manner that promotes public capacity to monitor the quality of the assets acquired under this chapter.

**NEGOTIATION BEYOND FIXED CONTRACT FACTORS** — A specific modification to standard agreements, easements, or other standard documents which furthers program interests.

**NONFARM OPEN SPACE** — Parcels of land that are not receiving agricultural assessment. Such open space may be part of a significant viewshed, harbor significant biodiversity and/or endangered species or abundant animal habitats, protect a vital aquifer, be adjacent to an already existing parcel of conserved land, be proximate to a public facility, contain a year-round stream or body of water, have an historic structure (or structures) or proven Native American landmarks and artifacts, or border a scenic road.

**OPEN SPACE ACQUISITION BOND FUNDS (BOND FUNDS)** — The \$2,000,000 authorized by the referendum approved by the voters on November 5, 2006.

**PERMEABILITY** — The ability of soils to absorb and transmit water from the surface toward the subsoil without an artificial or natural barrier. This term relates to the qualitative evaluation of soils for agricultural purposes.

**POTENTIAL CONFLICT OF INTEREST** — A situation in which a member of the CWOSP Commission or his/her family could specifically benefit from an action taken by the CWOSP Commission. For purposes of this definition, "family members" include spouses and domestic partners, parents and parents-in-law, stepparents, siblings and stepsiblings, children and stepchildren, grandparents and grandchildren. For purposes of this definition, "specifically benefit" means any reward that accrues in a greater amount to the CWOSP Commission member in question than to other citizens of New Paltz. For example, a potential conflict of interest would arise if the Commission considered purchasing interest in property next to a Commission member's mother's home or in a farm where a Commission member's spouse works.

**STRUCTURE** — Anything constructed, erected or moved from other premises and located in, on or under the ground, or attached to anything in, on or under the ground, including fences.

#### **§ 44-4. Clean Water and Open Space Protection Commission. [Amended 4-18-2019 by L.L. No. 4-2019]**

The New Paltz Clean Water and Open Space Protection Commission is hereby established and hereinafter referred to as "the CWOSP Commission" or "the Commission." The Commission's purpose is, with the Town Board, to execute the elements of this chapter.

#### **§ 44-5. Membership.**

- A. The CWOSP Commission of the Town shall consist of 11 members to be appointed by the Town Board. Persons residing within the Town of New

Paltz who shall have demonstrated significant interest in and commitment to the conservation, protection and encouragement of open space and of agricultural lands, both for production of food and for preservation of such lands as valued natural and ecological resources, evidenced either by involvement in conservation and preservation groups, expertise in real estate, finance, agriculture, or recreation, or by employment or by volunteer activity in such areas, shall be eligible for appointment as members of the Commission. The Commission will seek to have geographic representation from the different areas of the Town identified in the New Paltz Open Space Plan as priorities for protection.

- (1) In any reestablishment of the Commission following the effective date of this chapter, the Commission shall consist of seven members to be appointed by the Town Board consistent with the requirements for eligibility and membership set forth in Subsection A of this section. **[Added 4-18-2019 by L.L. No. 4-2019]**
- B. Of the members of the CWOSP Commission first appointed following adoption of this chapter, two shall hold office through December 31, 2007, the successors for whom shall thereafter be appointed for the term of five years; three shall hold office through December 31, 2008, the successors for whom shall thereafter be appointed for the term of five years; three shall hold office through December 31, 2009, the successors for whom shall be appointed for the term of five years; and three shall hold office through December 31, 2011, the successors for whom shall be appointed for the term of five years each. If a vacancy shall occur otherwise than by expiration of a term, it shall be filled by the Town Board by appointment for the unexpired term.
  - (1) In any reestablishment of the Commission following the effective date of this chapter, the terms of office shall be for terms so fixed that one member's term shall expire at the end of the second calendar year next following the calendar year in which such member is appointed. The remaining members' terms shall be three years each, so fixed that three members' terms shall expire at the end of the third year in which such members were initially appointed and three members' terms shall expire at the end of the fourth year next succeeding the end of the year in which such members were initially appointed. At the expiration of each original member's appointment, the replacement member shall be appointed for a term equal in years to the term of the member replaced. **[Added 4-18-2019 by L.L. No. 4-2019]**
- C. The Commissioners shall file an oath of office with the Town Clerk upon commencement of his/her duties and shall be governed by applicable state and local laws, rules and regulations with respect to conduct and ethics and shall be deemed public officers of the Town for purposes of bonding/filing oaths of office and resignations and public officers liability insurance.

- D. All members of the CWOSP Commission shall be chosen by a majority vote of the Town Board and shall, at the time of their appointment and throughout their term of office, be electors of the Town of New Paltz and shall serve without compensation and at the pleasure of the Town Board.
- E. The Commission, by majority vote of its members, shall designate one of its members to serve as Chairperson through December 31, 2007, the successor of whom shall thereafter be designated in the same manner to serve in such capacity for one year. In the event that the Commission shall be unable to or shall fail to designate such Chairperson, the Town Board, by majority vote of its members, shall designate one of the members of the Commission to serve as Chairperson. Notwithstanding the manner in which a Chairperson has been designated, any such designation, at any time with or without cause, may be rescinded by resolution of the Town Board.
- F. The Commission, by majority vote of its members, shall designate one of its members to serve as Vice Chairperson through December 31, 2007, the successor of whom shall thereafter be designated in the same manner to serve in such capacity for one year. In the event that the Commission shall be unable to or shall fail to designate such Vice Chairperson, the Town Board, by majority vote of its members, shall designate one of the members of the Commission to serve as Vice Chairperson. Notwithstanding the manner in which a Vice Chairperson has been designated, any such designation, at any time with or without cause, may be rescinded by resolution of the Town Board.
- G. The Commission shall meet at least bimonthly. Meetings shall be called consistent with the provisions of Article 7 of the Public Officers Law (Open Meetings Law), and all members of the Commission shall be given prior, written notice of the time and place of all Commission meetings, except in emergency circumstances when personal and/or telephone notice shall be deemed to be sufficient. Special meetings may be called by the Chairperson of the Commission or by any three Commission members.
- H. All meetings shall be publicly announced and open to the public pursuant to the Open Meetings Law of the State of New York (Public Officers Law Article 7). In addition, minutes of open meetings (and executive sessions at which a final determination of action was taken) shall be compiled pursuant to the Open Meetings Law and made available to the Records Access Officer of the Town of New Paltz (the Town Clerk) within two weeks.
- I. A quorum for the transaction of business shall consist of at least six of the Commission's members. All decisions and actions of the Commission shall be formally voted upon, with a majority vote of the total authorized membership of the Commission needed to pass any motion, proposal or resolution. Pursuant to the Freedom of Information

Law,<sup>11</sup> a voting record shall be compiled that identifies how individual members voted in every instance.

(1) In any reestablishment of the Commission following the effective date of this chapter, a quorum for the transaction of business shall consist of a majority of the total authorized membership of the Commission. **[Added 4-18-2019 by L.L. No. 4-2019]**

- J. The Commission shall compile and keep current a reasonably detailed list, by subject matter, of all records in its possession. Records compiled or acquired by the Commission in the course of and in the furtherance of its official function shall be accessible to the public under the Freedom of Information Law (Public Officers Law Article 6), except those that fall under the category of nondiscloseable records pursuant to that law or pursuant to any other applicable state or federal law. Access to the Commission's records or portions of records, available to the public as provided herein, shall be in accordance with the procedures set forth in the Code of the Town of New Paltz.

#### **§ 44-6. Powers and duties.**

The CWOSP Commission's role is to advise and assist the Town Board in implementing this chapter and to help the Town protect agricultural, open, and undeveloped land and other natural resources. The Commission shall have the authority to:

- A. Hold informational meetings;
- B. Communicate with landowners and others about programs, described in this chapter and elsewhere, that support the preservation of open, agricultural and environmentally significant lands;
- C. Encourage and solicit applications from landowners to programs that acquire interests in property;
- D. Develop ranking criteria for evaluation of properties consistent with the open space plan.
- E. Consider acquisition or interests in agricultural lands; the Committee shall make every effort to enlist at least two but no more than three farmers from outside the Town of New Paltz to assist in the preparation of on-site reviews of agricultural lands and facilities, to interview applicants, to study applications, to determine the extent to which farms exhibit values consistent with criteria established by the Commission, to arrive at a ranking of applicants and to submit the results to the Commission;
- F. Assist the Town Board in the execution of this chapter, including recommending expenditures of revenues and fees associated with this

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**11. Editor's Note: See Public Officers Law Article 6.**

chapter and interest on monies in the fund in accordance with the purposes of this chapter;

- G. Promulgate, subject to Town Board approval, procedural rules, regulations and establishment of fees necessary to carry out the purposes and intent of this chapter and to administer its provisions, including evaluation and ranking of applicants for acquisition of interests in property;
- H. Offer review, analysis and other assistance with the application process;
- I. Establish baseline report and monitoring plans on each interest in property acquired in accordance with this chapter; ensure at least annual completion of monitoring reports and compliance with the baseline reports and with conservation easements where applicable; formally review annual monitoring reports and other reports on compliance with terms of the baseline reports and conservation easements where applicable; take prompt and effective action to protect the rights, of the Town of New Paltz should it discover inconsistencies between the baseline reports, conservation easements held or owned by the Town and current conditions;
- J. Make baseline reports, monitoring plans, monitoring reports, and conservation easements easily available so that the public can monitor the investments that the Town has made in interests in property;
- K. In cases where the town has or intends to acquire development rights, serve as a review board for the making of recommendations for the location, construction, or moving of structures onto or within all lands on which development rights have been acquired with respect to any applications pending before any other local governmental board, body or agency;
- L. Provide input on any matters relating to the acquisition of development rights as they relate to the Town;
- M. Seek funds to increase and leverage monies in the fund from government and private sources;
- N. Complete applications for federal, state and other grant funding available for programs to preserve open space, farmland and other lands consistent with the purpose of this chapter and hire grant writers if needed for same; and
- O. Have such powers and exercise such duties as are set forth in this chapter.

#### **§ 44-7. Preservation and investment fund.**

- A. The Town of New Paltz Preservation and Investment Fund (the "fund") is hereby established. Its purpose shall be to purchase interests in property and fund the activities described in this chapter, including the



ongoing management and stewardship of interests in property acquired through this chapter.

- B. Deposits into the fund shall include revenues of the Town from whatever source and shall include, at a minimum, bond funds of November 2006, all revenues from or for the amortization of indebtedness authorized for the acquisition of open spaces or areas pursuant to § 247 of the General Municipal Law, and any revenues from any real estate transfer tax which may be established.
- C. The fund shall also be authorized to accept gifts on behalf of the Town.
- D. Interest accrued by monies deposited in the fund shall be credited to the fund.
- E. Fees collected in conjunction with administration of this chapter shall be deposited in the fund.
- F. Proceeds from the sale or lease of lands or other property acquired through the fund shall be deposited in the fund.
- G. At its discretion, the Town Board may deposit other monies in the fund.
- H. In no event shall monies deposited in the fund be transferred to any other fund or account.
- I. Nothing contained in this chapter shall be construed to prevent the financing, in whole or in part, pursuant to the Local Finance Law of the State of New York, of any acquisition or interest authorized by this chapter. Monies from the fund may be utilized to repay any indebtedness or obligations incurred pursuant to the Local Finance Law, consistent with the purposes and intent of this chapter.

#### **§ 44-8. Use of funds.**

The fund shall be used exclusively:

- A. To implement the Town's clean water, open space and agricultural land acquisition program described in this chapter;
- B. To acquire interests in property for the preservation of agricultural land, open space and other land within the Town.

#### **§ 44-9. Applications for acquisition of interests in property; public hearing.**

- A. The Town Board shall hear and decide on all applications for the purchase of interests in property made pursuant to this chapter. No interest or right in real property shall be acquired by the fund until a public hearing is held.
- B. The Commission shall establish a mechanism to solicit and receive applications for use of monies in the fund, including the review and

ranking criteria and the application requirements for submission contents, deadlines and application fees (which may be set by the Town Board).

- C. Applications must, among other things, make clear:
- (1) The application fees required for participation and whether they are refundable;
  - (2) That alterations to the property between the time of the application and final sale may, at the advice of the Commission and the discretion of the Town Board, prevent the sale from being completed; and
  - (3) That the Town is required to safeguard its assets and will take action should its interests in property be impaired.
- D. In order to solicit applications for the purchase of interests in property, the Commission will publish notice, at the Town's expense, of the availability of funding in at least one local newspaper and shall otherwise publicize the availability of funding in such a manner as to ensure maximum awareness and applications for use of the fund. The Commission may also notify landowners directly about the availability of funding.
- E. All applications for funding shall be filed with the Commission and fees paid, in the manner prescribed by the Commission, and supported by such additional information, maps and other documents as shall be required by the Commission to insure compliance with this chapter.
- F. Before reviewing applications, Commission members must disclose to each other any potential conflicts of interest and must determine whether such potential conflicts of interest require that a Commission member not attend discussions about certain applications.
- G. The Commission will review and score applications. The Commission is permitted to engage outside experts and hold public hearings to gather information that will support its scoring of applications.
- H. Once its review and scoring is complete, the Commission will transmit to the Town Board all the papers constituting the application, along with the Commission's recommendations and rankings.
- I. Within 30 days of receipt of the Commission recommendations, the Town Board shall publish, in the official newspaper of the Town, notice of the time, place and date upon which the application shall be heard at a public hearing to be held not less than 20, nor more than 30 days following publication.
- J. At least 20 days before the date of the hearing held in connection with any application submitted to the Town Board, the Town Board shall transmit to the Planning Board, to the Environmental Conservation Commission and to such other boards as the Town Board shall

determine a copy of the application and shall request that each such board submit to the Town Board its advisory opinion on said application. Each board shall submit its recommendations prior to the date of the public hearing. The failure of such board to submit its recommendations shall be interpreted as a favorable recommendation upon the application.

- K. No land or rights in land shall be acquired within the geographical boundaries of the incorporated Village of New Paltz unless the Village has consented to such acquisition.
- L. At the Town Board hearing the Board will review the applications, the CWOSP Commission recommendations, the Planning Board and Environmental Conservation Commission recommendations and other evidence and render a decision about which purchase to make. If the Town Board decides to take actions not recommended by the CWOSP Commission, the Town Board shall issue a statement explaining why it is at variance with the CWOSP Commission.
- M. The CWOSP Commission shall assist the Town in the completion of the transaction.
- N. Prior to the completion of the transaction, the Commission will prepare or cause to be prepared a baseline report and monitoring plan for each interest in property acquired. Should conditions have changed from those at the time of application, the Commission can recommend a review of the property and a stop to the purchase.
- O. Conservation easements placed on the property through a CWOSP recommendation shall include the Town as a party to the easement and shall be filed with the county.

#### **§ 44-10. Preparation of grant proposals.**

- A. Upon announcement of grant-funding opportunities by state, county, and/or federal agencies, two commission members shall be selected to study the RFP (request for proposals) and make a recommendation to the Commission about whether or not to apply for a particular grant. To the extent appropriated funds are available, and with the consent of the Town Board, the Commission may employ the services of a grant writer to be retained by the Town in order to facilitate and enhance the application for and receipt of grants.
- B. After evaluating and ranking the potential projects that would qualify for a grant, only those that rank within the top 15% of all applications shall be submitted for grant funding.

#### **§ 44-11. Gifts of open space; purchase of Village-owned property.**

- A. The Town Board may accept by gift interests in open spaces, or rights thereto, on terms and conditions acceptable to the Town Board. If so designated, such lands and or rights, including, among other things,

development rights, shall be deemed to have been acquired under the clean water and open space preservation program and shall be subject to the same diligence established by this chapter and related amendments and regulations, including requirements to establish a baseline report and monitoring plan.

- B. If the Town purchases Village-owned property, the Town and the Village will enter into a purchase agreement to specify the types of uses for which the funds can be used to preserve or enhance open space. Any purchase agreement should also provide that the Town will not be required to maintain or develop the property unless agreed upon by the parties.

**§ 44-12. Conditional purchase agreements; Town Board approval of acquisitions.**

- A. Nothing herein shall prevent the Town Board from entering into a conditional purchase agreement before a public hearing is held.
- B. Any resolution of the Town Board approving an acquisition of land pursuant to this chapter shall include a finding that such acquisition is a suitable alternative for the protection of such lands available for the Town, that such acquisition is in furtherance of the Town's goals for the equitable allocation of open space acquisition bond funds (if applicable), and that acquisition is in furtherance of other applicable program goals.
- C. A decision to fund may be for a limited time or can be rescinded at any time by the Town Board.

**§ 44-13. Management of acquired lands.**

- A. Interests in property acquired under this chapter shall be administered and managed in a manner which:
  - (1) Allows public use and enjoyment in a manner compatible with the natural, scenic, historic, and open space character of such lands;
  - (2) Preserves the native biological diversity of such lands;
  - (3) With regard to open spaces, limits improvements to enhancing access for passive use of such lands, such as nature trails, boardwalks, bicycle paths and peripheral parking areas, provided that such improvements do not degrade the ecological value of the land or threaten essential wildlife habitat; and
  - (4) Preserves cultural property consistent with accepted standards for historic preservation.
- B. Notwithstanding any other provision of this section, there shall be no right to public use and enjoyment of land used in conjunction with a farm operation as defined by Subdivision 11 of § 301 of the Agriculture

and Markets Law, unless the landowner explicitly agrees to permit such public use and enjoyment.

**§ 44-14. Not-for-profit corporations may manage land.**

The Town may enter into agreements with corporations organized under the Not-For-Profit Corporation Law to engage in land trust activities to manage lands, including less-than-fee interests acquired pursuant to this chapter. Any such agreement shall contain a provision that such corporation shall keep the lands accessible to the public unless such corporation shall demonstrate to the satisfaction of the Town that public accessibility would be detrimental to the lands or any natural features associated therewith.

**§ 44-15. Temporary purchase and sale of open space program lands.**

- A. Except as provided for in the remainder of this section, interests in property acquired through this chapter shall not be sold, leased for more than one year, exchanged, donated or otherwise disposed of or used for other than the purposes permitted by this chapter without a local law adopted by 4/5 of the Town Board, the majority plus one vote of the Town and subject to a permissive referendum.
- B. Any easements created with this chapter that also fall under the jurisdiction of state or federal law (including the Agriculture and Markets Law and Title 3 of Article 49 of the Environmental Conservation Law) may only be extinguished or modified as provided under that applicable state or federal law.
- C. This section shall not apply to the sale of development rights by the Town where said sale is made by a central bank created by the Town, pursuant to a transfer of development rights program, should such a program be adopted by the Town. It shall also not apply to temporary purchases of land and leases of property described in Subsections D and E of this section.
- D. The Town Board may purchase real estate, from willing sellers, that is deemed to be threatened by development, in order to protect a critical area of open space, agriculture or other element defined in § 44-2A of this chapter. The fund may be temporarily used for such purposes. When such land is sold, it shall bear an easement that ensures the preservation of those elements, such as open space or agricultural use, for which it was temporarily purchased. To the extent that the funds used to purchase such land came from the fund, the net sales price of such land will be returned to the fund. A sale of land pursuant to the provisions of this subsection shall not be subject to the requirements of Subsection A of this section.
- E. A majority of the Town Board may decide to lease interests in property acquired in conjunction with this chapter for a temporary (here defined as a period of less than one year) purpose, provided that such actions neither violate the terms of any easements on the property nor violate

agreements with other entities that contributed to the Town's purchase of such interests in property. For example, there might be interest in using land designated as open to erect a temporary structure for a public event; there might also be crop or hunting rights on land for which the Town owns rights. Upon recommendation by the Commission that the temporary use does not contravene the purpose of the acquisition, a majority of the Town Board may vote to permit such a use. Lease revenues from such a use shall be deposited in the fund. The Commission shall be empowered to take all necessary steps, including negotiating a lease contract and requiring sufficient insurance and a performance bond, to ensure that after the lease period the land is returned to its original condition.

#### **§ 44-16. Gifts of interests in property.**

The Town Board may accept by gift interests in property on terms and conditions acceptable to the Town Board. If so designated, such lands and or rights, including, among other things, development rights, shall be deemed to have been acquired under the clean water, open space and agricultural land acquisition program and shall be subject to the same diligence established by this chapter and related amendments and regulations, including requirements to establish a baseline report and monitoring plan.

#### **§ 44-17. Access to attorneys.**

The Commission shall have access to attorneys for the Town, designated by the Town Board, in matters requiring legal opinion.

#### **§ 44-18. Monitoring by other entities.**

Because the preparation and review of monitoring reports is critical to the preservation of Town assets, the CWOSP Commission or, in the event the CWOSP Commission becomes dormant or ceases to exist, the Town Board may delegate the annual preparation and review of these reports to another body of the Town, to another government agency, to an independent contractor under contract to provide such services to the Town, or to a nonprofit corporation with a bona fide interest in preservation of the interests in property acquired through this chapter.

## **Chapter 46**

### **ALARM SYSTEMS**

#### **§ 46-1. Title.**

This chapter shall be known and may be cited as the "Alarm System Local Law of the Town of New Paltz."

**§ 46-2. Declaration of policy.**

The Town Board of the Town of New Paltz is concerned that a large number of audible burglar and fire alarm signals or signals transmitted to the New Paltz Police Department from locations in the Town of New Paltz are activated automatically as the result of defective or malfunctioning equipment or caused by the negligence of the owner or occupant of the premises to which the Police or Fire Departments are required to respond as the result of the signal and where an emergency condition is found not to exist, resulting in an unnecessary use of the personnel and resources of the departments. The Town Board believes that the imposition of a scale of penalties for repeated false alarms will encourage property owners and occupants to use care in the use of their alarm equipment and to maintain the equipment in proper condition and that a registration record will facilitate notification to alarm owners of possible violations of this chapter.

**§ 46-3. Definitions.**

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

**FALSE ALARM** — The activation of an audible alarm system or of a signal transmitted to the New Paltz Police Department of the Town of New Paltz giving notice of fire, unlawful entry or other damage to or intrusion upon property where, upon response by the Fire or Police Department, the condition of fire, unlawful entry, damage or intrusion upon property is found not to exist. It shall not be deemed a false alarm where the system or signal is activated by a natural disaster such as a hurricane, lightning, thunderstorm, earthquake or an interruption in the electrical or telephone services to the premises without the knowledge or control of the owner or occupant thereof.

**§ 46-4. Registration required.**

- A. Effective July 1, 1997, the owner or occupant of any premises in the Town of New Paltz upon which a burglar or fire alarm system is operated shall provide the following information, in writing, to the New Paltz Police Department:
- (1) The name, address and business and residence telephone numbers of the property owner and occupant;
  - (2) The property location both by street or postal address and tax roll identification number;
  - (3) The number of individual tenants or subtenants occupying the premises; and
  - (4) The name, address and business and residence telephone numbers of at least one other person to receive notice of the activation of the

alarm system if the owner or occupant of the premises is not available.

- B. The New Paltz Police Department shall be notified by the owner or occupant within 15 days of any change in the information previously provided.

**§ 46-5. Record of false alarms to be maintained.**

- A. A member of the Police or Fire Department who proceeds to a premises in response to the communication of a signal which is determined to be a false alarm shall, within two hours thereafter, file a written report with the New Paltz Police Department setting forth the date, time, premises, location, whether an owner or occupant was present, whether there appeared to be any fire, unlawful entry, intrusion or other damage to the premises and whether it appeared that the alarm signal was activated by a natural disaster as above described.
- B. The New Paltz Police Department shall maintain a record of the reports of false alarms transmitted to the Center from premises in the Town of New Paltz.

**§ 46-6. Penalties for offenses.**

- A. The owner or occupant of premises from which more than two false alarms shall have previously been given within any twelve-month period and who shall have at the time of the first alarm maintained current registration information with the New Paltz Police Department as required by the provisions of this chapter shall be deemed to have committed the offense of disorderly conduct pursuant to the Penal Law and shall be punished by a fine of not more than \$100 for the first violation and by a fine of not more than \$250 for each subsequent violation occurring within a twelve-month period.
- B. The owner or occupant of premises from which more than one false alarm shall have been given within any twelve-month period and who shall not have at the time of the first alarm maintained current registration information with the New Paltz Police Department as required by the provisions of this chapter shall be deemed to have committed the offense of disorderly conduct pursuant to the Penal Law and shall be punished by a fine of not more than \$100 for the first violation and by a fine of not more than \$250 for each subsequent violation occurring within a twelve-month period.

**Chapter 49**

**ALCOHOLIC BEVERAGES**



**§ 49-1. Intent.**

The Town of New Paltz, County of Ulster, State of New York, by its Town Board, finds that possession of an open container of alcoholic beverage in a public place within the Town has lead to consumption of the same, resulting in public intoxication, disorderly conduct, disturbance of the peace, littering of public places, destruction of property and other acts and conditions detrimental to the public health, safety and welfare of the residents of said Town of New Paltz. The Town Board finds further that preservation of the public safety and prevention of conditions which leads to conduct disturbing the public peace attributable to the consumption of alcoholic beverages can be accomplished by the prohibition of the consumption of alcoholic beverages in public places and by restricting the possession of an open or unsealed container of alcoholic beverages under such circumstances which indicate that the possessor of such open or unsealed container in a public place intends to consume the same or intends to have it consumed by another person.

**§ 49-2. Definitions.**

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

ALCOHOL — Ethyl alcohol, hydrated oxide of ethyl or spirit of wine from whatever source or by whatever process produced.

ALCOHOLIC BEVERAGE — Includes alcohol, spirits, liquor, wine, beer, cider and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being.

CIDER — The fermented natural juices of fresh, whole apples, containing more than 3.2% alcohol by volume.

LIQUOR — Includes any and all distilled or rectified spirits, brandy, whiskey, rum, gin, cordials or similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing.

PERSON — Includes an individual, copartnership, corporation, association, society or joint-stock company.

PUBLIC PLACE — A place to which the public or a substantial group of persons has access, and includes but is not limited to highways, transportation facilities, schools, churches, places of amusement, parks, playgrounds, parking lots, sidewalks, shopping centers, malls, cemeteries and hallways and lobbies or other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence. For the purposes of this chapter, "public place" shall not include any place which is upon or within boundaries duly licensed by the State Liquor Authority of the State of New York for the on-premises consumption of alcoholic beverages pursuant to the provisions of the Alcoholic Beverage Control Law of the State of New York.

SPIRITS — Any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution.

TRANSPORTATION FACILITY — Any conveyances, premises or place used for or in connection with public passenger transportation, whether by air, railroad, motor vehicle or any other method. It includes aircraft, watercraft, railroad cars and buses and air, boat, railroad and bus terminals and stations and all appurtenances thereto.

VEHICLE — Every device in, upon or by which any person or property is or may be transported or drawn by any power, including muscular power, and shall include but is not limited to bicycles, motorcycles, automobiles, snowmobiles, coaches, wagons, platforms and trailers.

WINE — The product of the normal alcoholic fermentation of the juice of fresh, sound, ripe fruits, with or without the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, and shall include champagne and sparkling and fortified wines of an alcoholic content.

### **§ 49-3. Consumption and possession restricted.**

- A. No persons shall drink or otherwise consume any alcoholic beverage in any public place within the Town, nor shall any person have in his possession an open or unsealed container of alcoholic beverage while in any public place for the purpose or with the intent of consuming such alcoholic beverage by himself or by another in any public place.
- B. No persons shall consume any alcoholic beverage in any vehicle in any public place within the Town, nor shall any person have in his possession, while in a vehicle in any public place within the Town, an open or unsealed container of an alcoholic beverage for the purpose of or with the intent of consuming such alcoholic beverage by himself or by another in any such public place.

### **§ 49-4. Applicability.**

This chapter shall not apply to any person in violation of § 1227 of the Vehicle and Traffic Law of the State of New York.

### **§ 49-5. Presumptive evidence.**

The presence in any vehicle of any bottle, can, container or other receptacle upon which the original seal thereof has been broken containing any alcoholic beverage is presumptive evidence of knowing possession thereof by each and every person in the vehicle at the time such container was found, except that such presumption does not apply to a duly licensed operator of a vehicle who is at the time operating it for hire in the lawful and proper pursuit of his trade or when such container is concealed upon the person of one of the occupants.

**§ 49-6. Penalties for offenses. [Amended 12-30-1987 by L.L. No. 9-1987]**

Upon conviction for a violation of this chapter, a person shall be guilty of a violation as defined in Article 10, § 10.00, Subdivision 3, of the Penal Law of the State of New York, which shall be punishable by the payment of a fine not to exceed \$250 or by imprisonment for a term not to exceed 15 days, or both.

**Chapter 52****BINGO LICENSING****§ 52-1. Bingo games authorized.**

Subject to the provisions of Article 14-H of the General Municipal Law of the State of New York, and pursuant to the direction contained in Subdivision 2 of § 9 of Article I of the Constitution of the State of New York, it shall be lawful for any "authorized organization," as that term is defined in § 476 of the General Municipal Law of the State of New York, upon obtaining a license therefor as required by the provisions of Article 14-H of the General Municipal Law, to conduct the game of bingo within the territorial limits of the Town of New Paltz, Ulster County, New York, lying outside of the geographical boundaries of the incorporated Village of New Paltz, Ulster County, New York.

**§ 52-2. When effective.**

This local law shall become effective upon approval by a majority of the electors voting on a proposition submitted at the general election next following the date of the adoption of this local law held within the Town of New Paltz, Ulster County, New York, who are qualified to vote for officers of such municipality, and, thereafter, upon filing same with the Secretary of State of the State of New York and with the State Racing and Wagering Board of the State of New York.

**Chapter 56****BUILDINGS, UNSAFE****GENERAL REFERENCES**

Electrical standards — See Ch. 69.

Housing standards — See Ch. 93.

Fire prevention and building  
construction — See Ch. 78.

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**§ 56-1. Legislative findings and intent.**

Pursuant to the authority granted by § 78-b of the General Municipal Law, it is the finding of this Board that vacant and abandoned buildings and structures which are not properly secured at entrances, windows and other openings serve as attractive nuisances for children who are oftentimes injured therein. Such buildings are, in addition, places of congregation by vagrants and transients. Dilapidated buildings and structures are frequently infested with rodents, thereby creating a significant health hazard to the community. This chapter is enacted to safeguard against the aforementioned dangers by requiring that unsafe buildings be repaired or demolished and removed.

**§ 56-2. Definitions.**

For the purpose of this chapter, the following terms shall have the meanings set forth in this section, unless otherwise expressly stated:

**BUILDING INSPECTOR** — The official, duly appointed by the Town Board, who is the Building Inspector of the Town of New Paltz.

**UNSAFE BUILDING** — Any building or structure which is structurally unsound, unsanitary or not provided with adequate ingress and egress, or which constitutes a fire hazard, or which has become unsafe by reason of damage by fire, the elements, age or general deterioration, or which, in relation to an existing use, constitutes a hazard to public health, safety or welfare by reason of inadequate maintenance, dilapidation, obsolescence or abandonment, or which is otherwise dangerous to human life.

**§ 56-3. Investigation and report.**

- A. Upon acquiring information that a building or structure may be an unsafe building, the Building Inspector shall cause an investigation of the premises to be made and an inspection report to be prepared containing the following:
  - (1) A description of the premises.
  - (2) A statement of the particulars, if any, in which the building or structure is unsafe.
  - (3) A recommendation with respect to the building's or structure's repair or demolition and removal.
- B. Said report shall be filed in the office of the Building Inspector.

**§ 56-4. Notice of unsafe building.**

- A. If the investigation performed pursuant to § 56-3 hereinabove confirms the existence of an unsafe building or structure, the Building Inspector shall cause a written notice to be prepared, which shall contain the following:

- (1) A description of the premises.
  - (2) A statement of the particulars in which the building or structure is unsafe.
  - (3) An order requiring that the building or structure be made safe and secure or demolished and removed, which order may outline the manner in which the building or structure is to be made safe and secure.
  - (4) An order requiring that the repair or demolition of the building or structure be commenced within 10 days of the date of personal service or mailing of the written notice and that repair or demolition and removal be completed within 30 days after the date required for the commencement of the repair or demolition.
  - (5) The date, time and place of the hearing before a person designated by the Town Board relative to the subject unsafe building or structure, which hearing shall be scheduled not less than five consecutive days from the date of personal service or mailing of written notice. Such designated person shall, in turn, make recommendations to the Town Board, which the Town Board shall act upon at its next regular meeting.
  - (6) A statement that, in the event of the failure, neglect or refusal to comply with the order to repair, make safe and secure or demolish and remove the unsafe building, the Town Board is empowered and authorized to provide for the security of the building or structure or for its demolition and removal, to assess all expenses thereof against the land on which it is located and to institute legal action to recover the costs of demolition and removal of said unsafe building, as well as legal fees and expenses.
- B. The aforementioned written notice shall be served on the owner of record or the owner's executor, legal representative, agent, lessee or any other person having a vested or contingent interest in the subject property, either personally or by registered mail, addressed to the intended recipient's last known address as shown by the records of the Town's Receiver of Taxes or the records in the office of the County Clerk. In addition, a copy of said notice shall be securely posted on the unsafe building in a conspicuous location.
- C. In the event that one or more adult persons are actually residing and have a lawful interest in the unsafe building at the time of issuance of the Town Board's order mentioned hereinabove in this section, a copy of the written notice provided herein shall be served upon any one such adult person if such person can reasonably be found.
- D. In the event that the whereabouts of the owner of the unsafe building and any other person having an interest therein, as defined in Subsection B hereinabove, are unknown and cannot be ascertained after the exercise of reasonable diligence by the Building Inspector, the

Building Inspector shall execute an affidavit to that effect, which shall be filed in the office of the Building Inspector. In such a case, notice shall be served by posting a copy of the aforementioned written notice on the unsafe building in a conspicuous location.

**§ 56-5. Filing of written notice.**

- A. A copy of the written notice served as provided in § 56-4 shall be filed in the office of the County Clerk of the County of Ulster. The filing of said notice shall have the same effect as the filing of a notice of pendency as provided in Article 65 of the Civil Practice Law and Rules, except as otherwise provided in this section.
- B. A notice filed in accordance with Subsection A hereinabove shall be effective for a period of one year from the date of filing; provided, however, that it may be vacated upon the order of a judge or justice of a court of record or upon the consent of the Town Attorney. Upon the presentation and filing of such consent or certified copy of such order in the office of the County Clerk of the County of Ulster, the aforementioned notice and any record or docket thereof shall be marked as canceled of record by said County Clerk.

**§ 56-6. Failure to comply; removal by Town.**

In the event that the owner of the unsafe building fails or refuses to comply with the order to make safe and secure or demolish and remove said unsafe building and after a hearing has been held before the Town Board as provided in § 56-4A(5), the Town Board may, by resolution duly adopted, provide for the demolition and removal of said building either by employees of the Town or by contract.

**§ 56-7. Interference with officials.**

It shall be unlawful for any person, whether or not interested in the property affected by this chapter, to interfere with, obstruct or hinder the Building Inspector or his representative or any person acting on his behalf in performing his duties as set forth in this chapter.

**§ 56-8. Reimbursement for costs incurred by Town.**

The Town shall be reimbursed for all costs and expenses incurred by it in connection with the proceedings to make safe and secure or demolish and remove any building or structure pursuant to this chapter in addition to the actual cost of demolishing and removing said building or structure. Such costs and expenses may be assessed against and recovered from the land on which the building or structure was located. The Town may also institute a civil action to recover said costs and expenses from the owner of the affected property.

**§ 56-9. Emergency powers of Building Inspector.**

Where the investigation and report of the Building Inspector reveal that the continued existence of a building or structure presents an imminent danger to human life or public health or safety, the Building Inspector is hereby empowered to authorize the immediate demolition and removal of such building or structure either by employees of the Town or by contract. The expenses of such demolition and repair shall be assessed and/or recovered as provided in § 56-8 hereinabove.

**§ 56-10. Penalties for offenses.**

Any person or persons, other than those duly authorized by the Building Inspector, removing from a building or structure any notice prescribed by this chapter or committing an offense against the provisions of § 56-7 hereof are guilty of a violation, punishable by a fine not exceeding \$250 or by imprisonment for a period not exceeding 15 days for each such offense, or by both such fine and imprisonment.

**Chapter 57****COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM****§ 57-1. Title.**

This chapter shall be known and may be cited as the "Community Choice Aggregation (Energy) Program Law" of the Town of New Paltz.

**§ 57-2. Legislative findings; intent and purpose; authority.**

- A. It is the purpose of this chapter to seek to reduce costs and to provide cost certainty to promote economic development; to promote deeper penetration of energy efficiency and renewable energy resources, such as hydroelectric, wind and solar; to promote wider deployment of distributed energy resources; and to examine the retail energy markets and increase participation of and benefits for eligible consumers in those markets.
- B. The purpose of this Community Choice Aggregation (Energy) Program (the "CCA Program"), as described to the Town of New Paltz by the administrator, is to allow participating local governments including the Town of New Paltz to procure energy supply service for their residential and commercial customers, who will have the opportunity to opt out of the procurement, while maintaining transmission and distribution service from the existing distribution utility. This chapter establishes a program that will allow the Town of New Paltz, or its designated agent for that purpose, to put out for bid the total amount of energy and/or electricity being purchased by their residential and commercial customers. Bundled customers will have the opportunity to have more negotiating strength and consequential potential to lower their overall

energy costs, and to improve customer choice and value, by providing an additional alternative source for electricity and natural gas; thereby, fulfilling the purposes of this chapter and fulfilling an important public purpose.

- C. The Town of New Paltz is hereby authorized to participate in a Community Choice Aggregation (Energy) Program pursuant to Section 10(1)(ii)(a)(12) of the New York Municipal Home Rule Law; and State of New York Public Service Commission Case No. 14-M-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs, Order Authorizing Framework for Community Choice Aggregation Opt-Out Program (issued April 20, 2016), including subsequent orders of the Public Service Commission issued in connection with or related to Case No. 24-M-0224 (collectively, the "Order").

### **§ 57-3. Definitions.**

For purposes of this chapter, and unless otherwise expressly stated or unless the context otherwise requires, the terms in this chapter shall have the meanings employed in the State of New York Public Service Commission's Uniform Business Practices or, if not so defined there, as indicated below:

ADMINISTRATOR — [\_\_\_\_\_], a New York not-for-profit corporation.

BUNDLED CUSTOMERS — Residential and commercial customers of electricity or natural gas ("fuels") who are purchasing the fuels from the distribution utility.

COMMERCIAL — Nonresidential customers as permitted in the Order.

COMMUNITY CHOICE AGGREGATION PROGRAM or CCA PROGRAM — A municipal energy procurement program, which replaces the incumbent utility as the default supplier for all bundled customers within the Town of New Paltz.

DISTRIBUTION UTILITY — Owner or controller of the means of distribution of the natural gas or electricity that is regulated by the Public Service Commission.

PUBLIC SERVICE COMMISSION — New York State Public Service Commission.

SUPPLIERS — Energy service companies (ESCOs) that produce electric power and natural gas for bundled customers in connection with this chapter or, alternatively, generators of electricity and natural gas or other entities who procure and resell electricity or natural gas.

### **§ 57-4. Establishment of a Community Choice Aggregation (Energy) Program.**



- A. A Community Choice Aggregation (Energy) Program is hereby established by the Town of New Paltz whereby the Town of New Paltz (the "Town") shall cooperate with the administrator by participating in the CCA Program to the full extent permitted by the Order, as set forth more fully herein. The Town's role under the CCA Program involves the aggregating of the electric and/or natural gas supply for its residents, and the entering into a contract with one or more suppliers, through the administrator, for the procurement of electricity and/or natural gas supply for its residential and commercial customers. Under the CCA Program, the operation and ownership of the utility service shall remain with the distribution utility.
- B. The Town's procurement of energy supply through a CCA Program constitutes neither the purchase of a public utility system, nor the furnishing of utility service. The Town will not take over any part of the electric or gas transmission or distribution system and will not furnish any type of utility service, but will instead negotiate with suppliers through the administrator on behalf of participating residential and commercial customers.
- C. In order to implement the CCA Program, the Town shall adopt one or more resolutions that outline the process of and conditions for participation in the CCA Program consistent with the chapter and the Order. The Town shall adopt the following policies and agreements consistent with the Order:
  - (1) An implementation plan;
  - (2) A data protection plan;
  - (3) A data security agreement; and
  - (4) A certification of local authority (collectively, the "policies"). The policies shall be adopted, submitted, amended, supplemented and filed in accordance with the Order.
- D. The Public Service Commission supervises retail markets and participates in these markets through legislative and regulatory authority and the Uniform Business Practices, which includes rules relating to the eligibility of participating ESCOs, the operation by which ESCOs provide energy services, and the terms on which customers may be enrolled with ESCOs.

**§ 57-5. Customer eligibility.**

- A. Residential and commercial customers, regardless of size, shall be eligible to participate in the CCA Program.
- B. The administrator shall apply opt-in and opt-out status to customers in accordance with the Order.

**§ 57-6. Supplier selection; supplier contracts.**

- A. The administrator, on behalf of the Town, shall issue one or more requests for proposals to suppliers to provide energy to participants and may then award a contract in accordance with the CCA Program.
- B. The terms of the supplier contracts ("CCA contract") shall comply with the Order.

**§ 57-7. Opt-out notice and procedures.**

- A. The administrator shall provide information and education to potential CCA customers over no less than a two-month period.
- B. The Town shall mail opt-out letters to eligible opt-out customers provided the policies have been filed; and the opt-out letters have been deemed compliant.
- C. The opt-out letter shall comport with the requirements set forth in the Order.
- D. The initial opt-out period shall be 30 days after notification is sent to the customer.

**§ 57-8. Customer data sharing.**

- A. The administrator may request the distribution utility's aggregated customer information on all bundled customers in the Town, provided the Public Service Commission has approved the policies.
- B. Provided the administrator has complied with the requirements of Subsection A, above, the distribution utility shall transfer the aggregated customer and usage data within 20 days of a request from the administrator in accordance with the Order.
- C. Customer-specific information may be requested for all eligible customers once the administrator demonstrates that the requisite contracts with ESCOs have been entered into and executed. Detailed customer information may be requested for eligible customers who did not opt-out once the initial opt-out period has closed.
- D. After the administrator has entered into a CCA contract with an ESCO, the distribution utility shall transfer customer-specific data to the administrator within five days of a request in accordance with the Order.
- E. The administrator, the contracted supplier, and the Town of New Paltz will protect customer information as required by law, subject to the Order and the limitations of the New York State Freedom of Information Law.

**Chapter 62**

**DOGS**

**§ 62-1. Purpose.**

The Town of New Paltz, New York, finds that the running at large and other uncontrolled behavior of dogs has caused physical harm to persons, damage to property and created nuisances within the Town. The purpose of this chapter is to protect the health, safety and well-being of persons and property by imposing restrictions and regulations upon the keeping or running at large of dogs and the seizure thereof within the Town.

**§ 62-2. Authority.**

This chapter is enacted pursuant to the provisions of § 124 of Article 7 of the Agriculture and Markets Law.

**§ 62-3. Title.**

The title of this chapter shall be "Dog Control Local Law of the Town of New Paltz."

**§ 62-4. Definitions.**

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

AT LARGE - Any dog that is unleashed and on property open to the public or which is on private property not owned or leased by the owner of the dog unless permission for such presence has been obtained. No dog shall be deemed to be at large if it is: —

- A. Accompanied by its owner or a responsible person and under full control and immediate supervision of such owner or person;
- B. A police work dog in use for police work; or
- C. Accompanied by and under the immediate control of its owner or other responsible person and is actively engaged in hunting or in training for hunting on unposted land or on posted land with the permission of the owner of the land.

DOG — Any member of the species *Canis familiaris*.

DOG CONTROL OFFICER — Any individual appointed by the Town to assist in the enforcement of this chapter or of Article 7 of the Agriculture and Markets Law of the State of New York or any authorized officer, agent or employee of an incorporated humane society or similar incorporated dog protective association under contract with the Town to assist in the enforcement of this chapter or of Article 7 of the Agriculture and Markets Law of the State of New York.

HARBOR — To provide food and/or shelter to any dog.

OWNER — Any person entitled to claim lawful custody and possession of a dog unless such dog is or has been lost and such loss was promptly reported to the Dog Control Officer of the Town and a reasonable search has been

made. The term "owner" shall be deemed to include any person who at any time owns or has custody or control of or harbors any dog which is kept, brought into or comes within the Town. In the event that the owner of any dog found to be in violation of any provision of this chapter shall be under 18 years of age, the custodial parent, guardian or head of the household in which said minor principally resides shall be deemed to have custody and control of said dog and shall be responsible for any acts of said dog committed in violation of this chapter.

PERSON — Any individual, corporation, partnership, association or other organized group of persons, municipality or other legal entity.

POLICE WORK DOG — Any dog owned or harbored by any State or Municipal Police Department or any state or federal law enforcement agency which has been trained to aid law enforcement officers and is actually being used for police work purposes.

TOWN — The Town of New Paltz, County of Ulster, State of New York.

VEHICLE — Every device in, upon or by which any person or property is or may be transported or drawn by any power, including muscular power, and shall include but is not limited to bicycles, motorcycles, automobiles, snowmobiles, coaches, wagons, platforms and trailers.

#### **§ 62-5. Restrictions.**

It shall be unlawful for any owner of any dog to permit or allow such dog, in the Town of New Paltz:

- A. To be at large.
- B. To engage in habitual loud howling, barking, crying or whining or to conduct itself in such a manner so as to unreasonably and habitually disturb the comfort or repose of any person other than the owner of such dog.
- C. To cause damage or destruction to real or personal property or to commit a nuisance by defecating or urinating upon the premises of any person other than the owner of such dog.
- D. To chase or to otherwise harass, annoy or alarm any person in such a manner as to cause intimidation or to put such person in reasonable apprehension of bodily harm or injury.
- E. To habitually chase, run alongside of or bark at any vehicle.

#### **§ 62-6. Enforcement.**

This chapter shall be enforced by any dog control officer, peace officer, when acting pursuant to his special duties, or police officer in the employ of or under contract to the Town of New Paltz.

#### **§ 62-7. Seizure, impoundment, redemption and disposition.**

- A. Any dog found in violation of the provisions of § 62-5 of this chapter may be seized pursuant to the provisions of § 118 of the Agriculture and Markets Law.
- B. Every dog seized shall be properly cared for, sheltered, fed and watered for the redemption periods set forth in § 118 of the Agriculture and Markets Law.
- C. Seized dogs may be redeemed by producing proof of licensing and identification pursuant to the provisions of Article 7 of the Agriculture and Markets Law and by paying the impoundment fees set forth in § 118 of said Article.
- D. If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees set forth in Subsection C of this section, whether or not such owner chooses to redeem his or her dog.
- E. Any dog unredeemed at the expiration of the appropriate redemption period shall be made available for adoption or euthanized pursuant to the provisions of § 118 of the Agriculture and Markets Law.

**§ 62-8. Filing of complaints. [Amended 12-30-1987 by L.L. No. 9-1987]**

Any person who observes a dog in violation of this chapter may file a complaint, under oath, with a Justice of the Town of New Paltz, specifying the nature of violation, the date thereof, a description of the dog and the name and residence, if known, of the owner of such dog. Such complaint may serve as the basis for the issuance of an appearance ticket as hereinafter described.

**§ 62-9. Appearance tickets.**

- A. Any dog control officer, peace officer, when acting pursuant to his special duties, or police officer in the employ of or under contract to the Town of New Paltz observing a violation of this chapter committed in his presence shall issue and serve an appearance ticket upon the owner of the dog alleged to have committed the violation.
- B. Any dog control officer, peace officer, when acting pursuant to his special duties, or police officer in the employ of or under contract to the Town of New Paltz, having reasonable cause to believe that a person has violated this chapter, shall issue and serve upon such person an appearance ticket for such violation.

**§ 62-10. Penalties for offenses. [Amended 12-30-1987 by L.L. No. 9-1987]**

Upon conviction for a violation of this chapter, a person shall be guilty of a violation as defined in Article 10, § 10.00, Subdivision 3, of the Penal Law of the State of New York, which shall be punishable as set forth in § 119 of the Agriculture and Markets Law.

**§ 62-11. Local additional license fees.**

- A. Pursuant to § 110, Subdivision 4, of Article 7 of the Agriculture and Markets Law, local fees in addition to the New York State annual license fees shall be as set forth from time to time by resolution of the Town Board. **[Amended 12-30-1987 by L.L. No. 9-1987]**
- B. The foregoing local additional license fees shall not apply to those applicants who have attained the age of 65 years of age.

**§ 62-12. Care and redemption fees. [Amended 12-30-1987 by L.L. No. 9-1987]**

All costs for feed and care of seized dogs must be borne by the owner or adoptor at the rate as set forth from time to time by resolution of the Town Board. Also, the adoption and/or seizure fee as set forth from time to time by resolution of the Town Board must be paid at time of pickup.

**Chapter 63****DOG LICENSING****GENERAL REFERENCES**

**Dog Control — See Ch. 62.**

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**§ 63-1. Title.**

The title of this chapter shall be "Dog Licensing, the Town of New Paltz, County of Ulster."

**§ 63-2. Legislative authority.**

This chapter is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law, as amended by L.2010, c. 59, Part T, and the Municipal Home Rule Law of the State of New York.

**§ 63-3. Purpose.**

The Town Board of the Town of New Paltz, County of Ulster hereby finds and declares that the purpose of this chapter is to provide for the licensing and identification of dogs.

**§ 63-4. Definitions.**

- A. All terms not specifically defined herein shall have the meaning assigned to such terms within § 108 of the Agriculture and Markets Law of the State of New York.

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

AGRICULTURE AND MARKETS LAW — The Agriculture and Markets Law of the State of New York in effect as of the effective date of this chapter, as amended by this chapter, and as thereafter amended.

IDENTIFICATION TAG — A tag issued by the Town Clerk which sets forth the identification number together with the name of the Town and state, the telephone number of the Town Clerk, and any other information deemed necessary by the Town Clerk.

OWNER — Any person who harbors or keeps any dog or other animal.

OWNER OF RECORD — The person in whose name a dog was last licensed pursuant to this chapter.

PERSON — A person, partnership, corporation, association or other organized group of persons, business entity, municipality or other legal entity.

RESIDENT — An individual who maintains a residence within the Town of New Paltz, County of Ulster, State of New York.

TOWN — The Town of New Paltz, County of Ulster, State of New York.

#### **§ 63-5. Licensing of dogs.**

- A. No person shall own or possess a dog within the Town unless such dog is licensed and identified as provided in Article 7 of the Agriculture and Markets Law and laws of the Town.
- B. All dogs within the Town that are four months of age or older, unless otherwise exempted, shall be licensed. No license shall be required for any dog which is under the age of four months and which is not at large.
- C. The owner of each dog required to be licensed shall obtain, complete and return to the Town Clerk of the Town a dog license application together with the license application fee, any applicable license surcharges and such additional fees as may be established by the Town.

#### **§ 63-6. Licensing grace period for dogs licensed in New York City or outside New York State.**

Any dog harbored within the Town which is owned by a resident of New York City or licensed by the City of New York, or which is owned by a nonresident of New York State and licensed by a jurisdiction outside the State of New York, shall for a period of 30 days be exempt from the licensing and identification provisions of this chapter.

#### **§ 63-7. Proof of vaccination against rabies.**

Each license application shall be accompanied by proof that the dog has been vaccinated against rabies or a statement from a licensed veterinarian

that such vaccination would endanger the dog's life in which case vaccination shall not be required.

**§ 63-8. Term of license and renewals.**

Each license issued pursuant to this chapter shall be valid for a period of one year and shall expire on the last day of the last month of the period for which it was issued. No license shall be issued for a period expiring after the last day of the 11th month following the expiration date of the current rabies certificate for the dog being licensed.

**§ 63-9. Fees.**

By resolution adopted from time to time, the Town Board of the Town of New Paltz shall set the fees and other charges for the following:

- A. Individual dog license fee for:
  - (1) For a spayed or neutered dog;
  - (2) An unspayed or unneutered dog.
- B. State-mandated animal population control surcharge.
  - (1) Each individual dog license for a spayed or neutered dog shall be subject to an animal population control surcharge payable at the time the dog license application is filed.
  - (2) Each individual dog license for an unspayed or unneutered dog shall be subject to an animal population control surcharge payable at the time the dog license application is filed.
  - (3) A replacement tag fee shall be charged to offset the costs associated with the provision and replacement of identification tags.
- C. Optional fee exemptions.
  - (1) There shall be no fee for any license issued for the following:
    - (a) Guide dog (as defined in Article 7 of the State Agriculture and Markets Law);
    - (b) Hearing dog (as defined in Article 7 of the State Agriculture and Markets Law);
    - (c) Service dog (as defined in Article 7 of the State Agriculture and Markets Law);
    - (d) War dog (as defined in Article 7 of the State Agriculture and Markets Law);
    - (e) Working search dog (as defined in Article 7 of the State Agriculture and Markets Law);



- (f) Detection dog (as defined in Article 7 of the State Agriculture and Markets Law);
  - (g) Police work dog (as defined in Article 7 of the State Agriculture and Markets Law);
  - (h) Therapy dog (as defined in Article 7 of the State Agriculture and Markets Law).
- (2) Each copy of any license for such dogs shall be conspicuously marked "Guide Dog," "Hearing Dog," "Service Dog," "Working Search Dog," "War Dog," "Detection Dog," "Police Work Dog," or "Therapy Dog," as may be appropriate, by the Clerk.

D. Purebred dog license and fee.

- (1) The owner of one or more purebred dogs registered by a recognized registry association as defined in Agriculture and Markets Law, § 108, may annually make an application for a purebred license in lieu of or in addition to the individual licenses required by this chapter. A purebred license shall be valid for a period of one year beginning with the first day of the month following the date of issuance and shall be renewable annually thereafter prior to the expiration date.
- (2) The purebred dog license application shall state the name, address and telephone number of the owner; the county and town where such dogs are harbored; the sex, breed, registry name and number of each purebred registered dog over the age of four months which is harbored on the premises; and the sex and breed of each purebred dog over the age of four months which is harbored on the premises and which is eligible for registration. The application shall also include a statement by the owner that all purebred dogs over the age of four months which are harbored on the premises have been listed.
- (3) The application shall be accompanied by the license fee prescribed by this chapter and a certificate of rabies vaccination or statement in lieu thereof, as required by this chapter and Article 7 of the State Agriculture and Markets law.
- (4) Upon receipt of the foregoing items, the Clerk shall assign a license number, which shall be reserved for the sole use of the named owner, and shall issue a purebred license. Once a purebred license has been issued, no refund therefor shall be made.
- (5) The Town Clerk shall:
  - (a) Provide a copy of the purebred license to the owner;
  - (b) Retain a record of the purebred license in the office of the Town Clerk.

- (6) No purebred license shall be transferable. Upon change of ownership of any dog licensed under a purebred license, such dog shall become subject to the licensing provisions of Subsection A of this section, except when the new owner holds a valid purebred license.
- (7) Separate fees shall be established for each of the following:
  - (a) If no more than 10 registered purebred dogs or purebred dogs eligible for registration over the age of six months are harbored on the owner's premises at the time of the application;
  - (b) If more than 10 but no more than 25 registered purebred dogs or purebred dogs eligible for registration over the age of six months are harbored on the owner's premises at the time of the application;
  - (c) If more than 25 registered purebred dogs or purebred dogs eligible for registration over the age of six months are harbored on the owner's premises at the time of the application;
- (8) Each purebred dog license shall be subject to an animal population control surcharge payable at the time the dog license application is filed.

**§ 63-10. Issuance of license; identification tag.**

- A. Upon validation by the Town Clerk of the Town, a dog license shall be issued and a record of its issuance retained in the office of the Town Clerk of the Town. Such record shall be made available upon request to the State Commissioner of Agriculture and Markets or successor thereof.
- B. No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately apply for a new license for the dog. A license cannot be transferred to another dog.
- C. Change of ownership, lost or stolen dogs.
  - (1) Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog. The original issued identification tag shall remain the same for the life of the dog.
  - (2) In the event of a change in ownership of any dog which has been assigned an official identification number or in the event of a change of address of the owner of record of any such dog, the owner of record shall, within 10 days of such change, notify the Town Clerk.

- (3) If any dog which has been assigned an official identification number is lost or stolen, the owner of record shall, within 10 days of the discovery of such loss or theft, notify the Town Clerk.
- (4) In the case of a dog's death, the owner of record shall so notify the Town Clerk either prior to renewal of license or upon the time of such renewal.

D. Identification tag.

- (1) The Town Clerk shall assign a Town permanent official identification number to a dog when it is first licensed. Such identification number shall be carried by the dog on an identification tag which shall be affixed to the collar of the dog at all times.
- (2) An identification tag is not required to be worn while the dog is participating in a dog show.
- (3) The official permanent identification number shall constitute the official identification of the dog to which it is assigned, regardless of changes of ownership, and the number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned.
- (4) No tag carrying an identification number shall be affixed to the collar of any dog other than the one to which the number has been assigned
- (5) At the time a dog is first licensed, one identification tag shall be furnished to the owner at no additional charge. Any replacement tag shall be obtained by the owner at the owner's expense. Any person wishing to replace a tag previously issued shall make application to the Town Clerk for a replacement tag.

**§ 63-11. Penalties for offenses.**

Any person convicted of a violation of this chapter shall be liable for a civil penalty of \$25 for a first violation; of \$50 for a second violation, and \$75 for each subsequent violation.

**§ 63-12. Repeal of inconsistent local laws or ordinances.**

This chapter shall supersede all prior inconsistent local laws, ordinances, rules and regulations relative to the licensing of dogs within the Town. All prior inconsistent local laws, ordinances, rules and regulations shall be, upon the effectiveness of this chapter, null and void.

**§ 63-13. Severability clause.**

The provisions of this chapter are declared to be severable, and, if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such

decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this chapter.

**§ 63-14. Effective date.**

This chapter shall be effective January 1, 2011, after filing with the Secretary of State.

**Chapter 66**

**DUMPS AND DUMPING**

**GENERAL REFERENCES**

**Environmental  
Commission — See Ch. 12.**

**Conservation    Garbage, rubbish and refuse — See Ch. 89.**

**Sewers — See Ch. 113.**

ARTICLE I  
**Landfill Regulations**  
**[Adopted 3-13-1974 by L.L. No. 3-1974]**

**§ 66-1. Legislative intent.**

By the adoption of this article, the Town Board of the Town of New Paltz declares its intent to be to regulate, in a manner consistent with the interest of the citizens of the Town of New Paltz, the dumping of garbage, rubbish, refuse and similar waste material on lands within the Town and to provide for the disposal thereof on the established Town dump or any dump hereafter established. Garbage is a deleterious substance, and garbage dumps emit obnoxious odors and fumes. Unattended, private garbage dumps and disposal areas attract rodents and vermin and become breeding places for them. The process of burning garbage causes smoke and oxidized garbage to be given off into the air which the community breathes. All of these conditions can adversely affect the development of the Town unless they are properly and carefully regulated. Therefore, recognizing the above and the need of the community for an adequate and well-regulated procedure for the disposal of garbage and rubbish in the Town sanitary landfill and in the exercise of its police power in these regards, be it enacted by the Town Board of the Town of New Paltz as follows.

**§ 66-2. Applicability.**

This article shall apply to dumping upon all lands, public or private, within this Town, except upon such premises as are or may be lawfully established as a public sanitary landfill of this Town, and thereon only in the manner herein provided.

**§ 66-3. Definitions.**

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

GARBAGE — Putrescible animal and vegetable waste resulting from the handling, preparation, cooking and/or consumption of food.**[Amended 2-22-1990 by L.L. No. 3-1990]**

HANDBILL **[Added 2-22-1990 by L.L. No. 3-1990]** — "Commercial handbill" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter or literature which:

- A. Advertises for sale any merchandise, product, commodity or things.
- B. Directs attention to any business or mercantile or commercial establishment or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales.

- C. Directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind for which an admission fee is charged for the purpose of private gain or profits.
- D. While containing reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as an advertiser or distributor.

**LITTER** — Garbage, refuse and rubbish, as defined herein, and/or all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.**[Added 2-2-1990 by L.L. No. 3-1990]**

**MUNICIPAL SEWAGE SLUDGE** — Sludge which has been generated, discharged to sludge-drying beds and dried as the direct result and by-product of the operation by the Town of New Paltz of a Town wastewater disposal facility.**[Added 11-24-1981 by L.L. No. 4-1981]**

**NEWSPAPER** — Any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States in accordance with federal statute or regulation and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year and sold to the public.**[Added 2-22-1990 by L.L. No. 3-1990]**

**NONCOMMERCIAL HANDBILL** — Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a "commercial handbill" or "newspaper."**[Added 2-22-1990 by L.L. No. 3-1990]**

**PERSON** — Includes an individual, society, club, firm, partnership, corporation or association of persons, and the singular number shall include the plural number.

**REFUSE** — All putrescible and nonputrescible solid wastes (except body wastes), including but not limited to garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and/or solid, market and/or industrial wastes.**[Amended 2-22-1990 by L.L. No. 3-1990]**

**RESIDENT** — Those persons having their domicile within the limits of said Town of New Paltz, Ulster County, New York.

**RUBBISH** — Nonputrescible solid wastes consisting of combustible and/or noncombustible wastes and shall include, but shall not be limited to, paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.**[Added 2-22-1990 by L.L. No. 3-1990]**

**§ 66-4. Designation of landfill site. [Amended 11-24-1981 by L.L. No. 4-1981]**

The premises owned by the Town of New Paltz situated three miles north of the Village of New Paltz along Pioneer Trail is hereby designated as the sanitary landfill, dumping grounds of New Paltz for garbage and refuse by the residents of this Town and for dumping of municipal sewer sludge by the Town, subject to the provisions of this article. The regulations herein contained shall also apply to any other lands hereafter acquired or leased for the purpose of disposal at a sanitary landfill site.

**§ 66-5. Use restricted.**

No person shall deposit or cause to be deposited any substance of any kind on the sanitary landfill site except at the places and manner directed by the person in charge of the premises under authority of the Town Board, whether such direction is given personally or by a sign or signs erected upon the premises by his authority and/or the Town Board's direction.

**§ 66-6. Permit required for dumping certain material.**

The use of private or public lands within the Town of New Paltz as a sanitary landfill site, dump, dumping ground or storage or disposal facility for refuse or garbage is hereby prohibited, unless a written permit from the Town Board of the Town of New Paltz is first obtained as herein provided, and the Town Board may hold a public hearing on application as provided hereinafter.

**§ 66-7. Automobiles and parts. [Amended 11-28-1984 by L.L. No. 5-1984]**

No person shall carry or leave or cause to be carried or left upon the premises mentioned in § 66-4 of this article any automobile, vehicle or any junk car, either as a whole or dismantled, or any parts therefrom, including tires.

**§ 66-8. Dead animals and fowl.**

No person shall carry or leave or cause to be carried or left upon the premises mentioned in § 66-4 any dead animal or fowl, except by special permit of the Town Clerk.

**§ 66-9. Waste originating from outside Town. [Amended 2-22-1990 by L.L. No. 3-1990]**

- A. The use of any lands within the Town of New Paltz as a sanitary landfill, dump, dumping ground, storage facility or disposal facility for any garbage, litter, newspaper, commercial handbill, noncommercial handbill, refuse or rubbish where such items originate from outside the geographical boundaries of the Town of New Paltz is hereby prohibited.

- B. Nothing in the foregoing provisions of this chapter shall prohibit the use within the Town of New Paltz of any lands utilized as a sanitary landfill, dump, dumping ground, storage facility or disposal facility for the purpose of collection, receiving, storing, reclamation or other activity associated therewith pursuant to a comprehensive plan of recycling where such use is permitted pursuant to written agreement authorized and entered into by and on behalf of the Town Board of the Town of New Paltz; provided, however, that such use shall be limited exclusively to materials originating within the County of Ulster.

**§ 66-10. Clearing and demolition waste.**

No person shall deposit or cause to be deposited on premises established as a sanitary landfill of this Town any rubbish or refuse generated by land clearing or demolition for the erection of any structure or for the establishment of any subdivision, including but not limited to wood, trees, tree trimmings, leaves or brush, unless cut into small parts not exceeding four feet in length or width and not exceeding 75 pounds in weight per piece.

**§ 66-11. Use by nonresidents.**

No person who does not reside in the Town of New Paltz may deposit or cause to be deposited any substance of any kind on the premises established as a sanitary landfill of this Town, except nonresident haulers by special license of the Town Clerk.

**§ 66-12. Machinery and other appliances.**

No person shall deposit or cause to be deposited any machinery, appliance or any other article unless the same shall have been dismantled and/or cut into small parts not exceeding four feet in length or width and not exceeding 75 pounds in weight per piece.

**§ 66-13. Hours for dumping.**

No person shall dump or cause to be dumped any substance on the premises designated as the "Town sanitary landfill" except at regular hours established by the Town Board. The hours shall be adopted by resolution of the Board and posted on the bulletin board in the Town Clerk's office.

**§ 66-14. Removal or transfer of offensive materials.**

No person shall remove or transport or permit the removal or transportation of any offensive material within the Town of New Paltz except in such a manner or by such conveyance as will prevent the creation of a nuisance or the loss or discharge of such material in any public place, except as otherwise provided herein. All such material shall be so handled and covered so it cannot escape or be accessible to rodents, flies or other insects or create a nuisance.



**§ 66-15. Open burning.**

No person shall ignite or cause to be ignited any fires or burn any material of any kind on the Town sanitary landfill, except the authorized custodian of the sanitary landfill.

**§ 66-16. Permits and licenses for use of site.**

- A. Fees. The use of the sanitary landfill site now owned or any future site owned and maintained by the Town of New Paltz shall be without charge to residents of the Town of New Paltz.
- B. Permit. Each resident of the Town shall have the privilege of using the Town site for disposal of his own refuse and garbage according to the terms of this article upon obtaining from the Town Clerk a resident permit sticker to be conspicuously displayed on the resident's motor vehicle, said sticker to be applied as prescribed by the Town Board. The motor vehicle hauling the refuse and garbage must have its sticker conspicuously displayed.
- C. Application for license.
  - (1) Any person desiring a license shall file with the Town Clerk an application blank. The blanks shall contain the following information and must be under oath:
    - (a) The name of the applicant.
    - (b) The applicant's permanent home residence.
    - (c) The name and address of the firm represented.
    - (d) Three business references.
    - (e) The place or places of residence of the applicant for the preceding three years.
    - (f) The number either of arrests or convictions for misdemeanors or crimes and the nature of the offenses for which arrested or convicted.
  - (2) To the application must be appended a letter from the firm for which he reports to work authorizing the applicant to act as its representative and a picture of the applicant not less than three inches square taken within one year of the date of application and a statement that the applicant will comply with the reasonable regulations as to time of opening, control of said dump and restricting his pickup in the Town of New Paltz only.
- D. Granting of license. Following the filing of application, the Town Clerk shall verify the information respecting the moral character of the applicant and shall signify his approval or rejection on the reverse side of the form, and the Town Clerk shall verify the financial information,

approving or rejecting the application on its reverse side. Upon verification of the application and payment of the prescribed fee, the license shall be issued by the Town Clerk. The license issued shall not authorize any person except the designated person named in said license to engage in business thereunder. Said license shall not be transferable from the person to whom issued to any other person. A separate license must be obtained for every truck used by him.

E. Recording and reporting licenses.

- (1) All licenses shall be issued on forms drawn in accordance with this article. They shall be consecutively numbered. The license shall contain suitable blank spaces for writing in the name, truck name, description and New York State registration number and the amount of fees paid.
- (2) There shall be kept in the office of the Town Clerk the necessary books for recording the time the application for license is received, showing the name of the licensee, the regular number of the blank form, when the application was approved by the Town Clerk, the amount of fee received therefor and the date when the license was issued.
- (3) The Town Clerk shall annually file a report with the Board, showing the number of licenses granted and the amount of fees received therefor. Each report shall state the number of licenses suspended or revoked.

F. License in possession.

- (1) Every person holding a license under this article shall be required to carry the license with him or on his truck while engaged in the business licensed. He must produce the license at the request of an official of the Town and of any person of the Town.
- (2) To every person granted a license, the Town Clerk shall issue a metal plate bearing the words "Commercial Sanitation Permit, Town of New Paltz," together with the number of the license and year of validity. All automobiles or other vehicles used shall have affixed thereon said metal plate.

G. Fee schedule. License fees shall be paid to the Town Clerk according to the schedule adopted by the Town Board. Each license shall terminate at the close of December 31 of the year in which it was issued. Such license is personal to the licensee and not transferable to another person.

H. Revocation of permit Upon the violation of any provision hereof, the Town Board may revoke any such permit previously issued.

**§ 66-17. Removal or scavenging.**

No person shall remove garbage, refuse or materials of any kind whatsoever from the Town sanitary landfill or shall scavenge or retrieve any article deposited for disposal at the sanitary landfill site or other site where dumping is authorized without the authorized written consent of the Town Board.

**§ 66-18. Penalties for offenses.**

- A. Violation. Any person who commits, causes or permits any acts in violation of any of the provisions of this article shall be guilty of an offense and, upon conviction thereof, shall be subject to a fine of not more than \$250 or imprisonment not exceeding 15 days, or both such fine and imprisonment. **[Amended 12-30-1987 by L.L. No. 9-1987]**
- B. Civil remedy. In addition to the penalties provided in Subsection A herein, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this article.



## ARTICLE II

**Commercial Dumping of Certain Wastes  
[Adopted 12-30-1987 by L.L. No. 9-1987]****§ 66-19. Definitions.**

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

COMMERCIAL — Any person who is in the business of cleaning out septic tanks or privies or carting human excrement from such depositories.

GARBAGE — Includes waste food, papers, dead animals or parts thereof and all waste or discarded wood, lumber or vegetable matter of any kind or any other matter which shall be flammable or capable of fermentation or decay.

PERSON — Includes an individual, society, club, firm, partnership, corporation or association of persons, and the singular number shall include the plural number.

RUBBISH — Includes waste metal, tin cans, ashes, cinders, glass, pottery and all discarded substances of a solid and incombustible nature as well as any substance of a combustible nature.

**§ 66-20. Dumping restricted.**

No lands in the Town of New Paltz may be used for the commercial dumping or depositing of any sewage sludge, contents of cesspools, contents of privies or any other human excrement originating outside of the Town of New Paltz.

**§ 66-21. Penalties for offenses.**

Any person violating any of the provisions of this article shall be guilty of a violation and, upon conviction thereof, shall be punishable by a fine not exceeding \$250 for each offense or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment.

**§ 66-22. Enforcement.**

This article shall be enforced by the Supervisor of the Town, who, in turn, shall direct the Town Attorney or Attorney for the Town to initiate judicial proceedings.

## **Chapter 69**

### **ELECTRICAL STANDARDS**

#### **GENERAL REFERENCES**

**Unsafe buildings — See Ch. 56.**

**Housing standards — See Ch. 93.**

**Fire prevention and building  
construction — See Ch. 78.**

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#### **§ 69-1. Statement of findings and purpose.**

- A. The Town Board of the Town of New Paltz hereby finds that to protect the health, safety and welfare of the occupants and owners of property in the Town, there shall exist a procedure whereby electrical inspections shall be performed by qualified inspectors who shall report their findings to the Town of New Paltz but shall not be agents, employees or contractors of the Town of New Paltz.
- B. The purpose of this chapter is to establish a procedure whereby such inspectors shall be qualified in accordance with the standards set forth herein. This chapter also describes the duties of such inspectors and provides, for violations of the provisions of this chapter.

#### **§ 69-2. Statement of authority.**

This chapter is adopted pursuant to the delegation of authority as set forth in the Municipal Home Rule Law; Article IX of the New York State Constitution; and the Statute of Local Governments.

#### **§ 69-3. Electrical inspector; qualifications and duties; performance of inspections and reinspections.**

The Building Inspector of the Town of New Paltz is hereby authorized to accept electrical inspections from any qualified electrical inspector. No person or agency shall be deemed to be qualified within the meaning of this chapter unless such person or agency has first complied with all of the requirements set forth in this chapter and continues to comply with these requirements as follows:

- A. The person or agency shall furnish the Town of New Paltz with currently effective certificates of insurance, including statutory workmen's compensation insurance for its employees and workmen, public liability insurance for property damage in the minimum amount of \$1,000,000 and personal injury claims in the minimum amount of \$1,000,000. The person or agency shall maintain such insurance policies in full force and effect while performing inspections and submitting certificates, and such policies shall name the Town of New Paltz as an additional insured.

All cancellation notices must be sent to the Town of New Paltz upon issuance.

- B. The person, if using a trade name other than his or her own name, and all inspection agencies shall furnish the Town of New Paltz Building Department with proof of filing of the proper business, partnership or corporate certificate with the appropriate recording office.
- C. The person or agency shall not solicit of any person or entity or require, as a condition of inspection, any waiver of responsibility of an error, omission or recommendation made by its inspectors, or for any other action of its inspectors.
- D. The person or agency shall require all wiring to meet standards of the latest revision of the National Electric Code, the New York State Uniform Fire Prevention and Building Code (hereinafter referred to as the "code"), including the regulations thereunder, and all other applicable codes prescribed by the State of New York or the Town of New Paltz in which the inspected premises are located and also the applicable rules and regulations of the appropriate utility company. All references in this chapter to the National Electric Code, the New York State Uniform Fire Prevention and Building Code (the "code") and other applicable codes, rules and regulations shall be deemed to include all amendments to same which may occur after the adoption of this chapter.
- E. The person or agency shall not compete with others in any manner which would cause it to reduce the quality of its inspections. The person or agency shall not knowingly accept an application at any given location from any applicant who has received violations from another inspector, agency, utility company, insurance examiner and/or municipal official.
- F. Each person or agency performing inspections must file a list of current inspection charges and fees with the Town of New Paltz. Established charges will be applied uniformly and will not be discounted. Inspections and reports shall be made only by qualified electrical inspectors permitted to make such inspections by this chapter and by the relevant codes, utility companies and all other applicable governmental requirements. The person or agency shall ensure that the inspectors it employs have adequate experience, education and training as follows:
  - (1) Have a working knowledge of the principles of electricity necessary to interpret the NEC, the code and other applicable requirements.
  - (2) Know the requirements of the NEC, the Code and other applicable requirements.
  - (3) Be familiar with the construction practices of the electrical wiring trade.

- (4) Each particular inspector shall submit written proof of successful completion of one of the following courses together with updates as required:
  - (a) International Association of Electrical Inspectors (IAEI) National Certification Program for Electrical Inspectors.
  - (b) National Certification Program for Construction Code (Electrical) Inspectors.
  - (c) The National Fire Protection Association's "National Electric Code 32-Hour Course."
  - (d) Any other comparable course as approved by the Town of New Paltz Building Inspector.
- G. The person or agency, its employees and workmen shall comply with all federal, state and local laws, ordinances, rules and regulations pertaining to any electrical inspection.
- H. The person or agency agrees to maintain adequate records so that it can provide the Town of New Paltz and applicable officials with records of inspections when requested. Such records will be maintained for a minimum of five years.
- I. The person or agency will maintain an office within the Town of New Paltz or within a reasonable distance from the Town of New Paltz, which office shall be equipped to receive telephone calls during normal business days for a minimum of six hours per day.
- J. The person or agency performing the electrical inspection shall establish a system to receive applications and issue inspection reports in accordance with the following:
  - (1) The person or agency shall provide an application form which shall include a copy for the Town of New Paltz, for the applicable utility company and for the landowner or applicant. The form shall contain or have attached a statement that the person or agency has no knowledge of any other violations previously issued for the property or if such violations were issued, the form shall state how such violations were or will be corrected.
  - (2) The person or agency shall issue a temporary certificate to the Town of New Paltz giving notice that a preliminary inspection has been made and it is safe to energize the service. A copy of same shall be filed with the applicable utility company.
  - (3) The person or agency shall establish a procedure for prompt notification of any noncompliance. This notice shall be served on the Town of New Paltz Building Department, the applicable utility company and the applicant and landowner, if different.



- (4) The person or agency shall issue a certificate of compliance on a form acceptable to the Town of New Paltz and shall provide a copy of the certificate to the Town of New Paltz Building Department, the applicable utility company and the applicant and landowner, if different. All such certificates of compliance must be filed with the Town of New Paltz Building Department and accepted as complete before the certificate of occupancy can be granted.
- K. For good cause and when requested by the Town of New Paltz prior to issuance of a certificate of occupancy, the person or agency will perform a reinspection of an existing electrical service and related components and submit a formal report to the utility company, Town of New Paltz Building Department, applicant and/or landowner in letter form.
- L. All inspections will be completed and certificates issued in a timely manner to ensure that applicants are not subjected to undue delay in receiving electric service. Inspections shall normally be made within 48 hours of the receipt of the application.
- M. All inspectors, upon request of the Town of New Paltz Building Department shall submit proof to such Department as to the requirements set forth in this chapter, inclusive of any special standards for the particular structure to be inspected. The Town of New Paltz Building Inspector shall have the authority to determine the particular inspector unqualified to perform such inspections in the Town of New Paltz for good cause, including, without limitation, such inspector's exhibited lack of knowledge of the particular codes and regulations. Prior to making such determination, the Building Inspector shall provide written notice to the particular inspector or agency setting forth the reasons for the particular concerns, and the inspector or agency shall have not more than 10 days from receipt of the notice to submit written proof to the Building Inspector on the issue of the qualifications and competence of the particular inspector or agency. Within 10 days of receipt of this written proof or, if no proof is received, within 25 days of the mailing of the notice, the Building Inspector shall render a final determination in writing setting forth the reasons for such determination.
- N. Failure of any person or agency to abide by the above requirements shall be grounds for the Town of New Paltz to provide notice to the person, agency, utility company, applicant and landowner that such inspector is no longer qualified to perform such inspections in the Town of New Paltz.

**§ 69-4. Electrical inspectors not employees or agents of the Town.**

- A. The inspector shall not be deemed to be an employee or agent of the Town; rather the inspector shall be an independent contractor who shall be hired by the property owner or applicant and whose fees shall be paid by the property owner or applicant. The inspector shall remain at all times liable to the landowner and/or applicant for any damages

related to the acts or omissions of said inspector, and the Town of New Paltz assumes no liability therein.

- B. It shall remain the duty of the Building Inspector to enforce all provisions of the New York State Uniform Fire Prevention and Building Code, including all violations or deviations from or omissions of the electrical provisions of said code and also of any other local laws and/or ordinances of the Town insofar as any of the same apply to electrical wiring. The Town Building Inspector or his or her duly authorized designee retains at all times the right to make inspections and reinspections of electrical wiring, installations, devices, appliances and equipment, in or on properties within the Town of New Paltz, where he or she deems it necessary for the protection of life and property.
- C. Nothing in this chapter shall be interpreted to require the Town of New Paltz to pay for any costs, expenses or fees relative to the work of the electrical inspectors authorized hereunder.

#### **§ 69-5. Violations; penalties for offenses.**

It shall be a violation of this chapter for any person, firm, entity or corporation to install or cause to be installed or to alter electrical wiring for light, heat or power in or on properties of the Town of New Paltz until an application for inspection has been filed with the Town of New Paltz Building Department. It shall be a violation of this chapter for a person, firm, entity or corporation to connect or cause to be connected electrical wiring in or on properties for light, heat or power, to any source of electrical energy supply, prior to the filing with and acceptance by the Town of New Paltz of a certificate of compliance by an inspector as qualified herein. The penalty for a violation of this chapter shall be a fine of up to a fine of up to \$250 or 15 days in jail, or both such fine and jail sentence. Each day that a violation has been in existence shall be deemed to be a separate violation.

### **Chapter 72**

## **ENTERTAINMENT ON SUNDAYS**

#### **§ 72-1. Applicability.**

This chapter shall be applicable to all territory within the Town of New Paltz outside the Incorporated Village of New Paltz.

#### **§ 72-2. Purpose.**

The purpose of this chapter is to assist in the government of the Town, the management of its business, the preservation of good order and the peace, health, safety and welfare of its inhabitants and the protection and security of their property. Nothing herein contained shall be deemed to prohibit private sports, games or recreation activities which are engaged in primarily for the personal enjoyment, recreation and health of the

participants on the first day of the week, conducted in a manner which does not constitute a serious interruption of the repose or religious liberty of the community.

### **§ 72-3. Public sports and exercises.**

It shall be lawful to conduct, witness, participate or engage in any form of public sports, exercises or shows which are conducted or engaged in primarily for the entertainment of spectators, not specifically prohibited by any provision of law, on the first day of the week after 1:05 p.m., to witness which the public is invited or an admission fee is charged, either directly or indirectly, in said Town of New Paltz, pursuant to § 2145 of the Penal Law of the State of New York.<sup>12</sup>

### **§ 72-4. Public entertainment.**

It shall be lawful to conduct or participate in any public entertainment on the first day of the week after 1:05 p.m., to witness which the public is invited or an admission fee is charged, either directly or indirectly, in said Town of New Paltz, pursuant to § 2152 of the Penal Law of the State of New York.<sup>13</sup>

## **Chapter 78**

### **BUILDING CONSTRUCTION AND FIRE PREVENTION**

#### **GENERAL REFERENCES**

Alarm systems — See Ch. 46.

Housing standards — See Ch. 93.

Unsafe buildings — See Ch. 56.

Subdivision of land — See Ch. 121.

Electrical standards — See Ch. 69.

Zoning — See Ch. 140.

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12. Editor's Note: See now § 7 of the General Business Law.

13. Editor's Note: See now § 61.01 of the Arts and Cultural Affairs Law.



## ARTICLE I

**Administration and Enforcement**

**[Adopted 12-14-2006 by L.L. No. 7-2006<sup>14</sup>; amended 12-18-2008 by L.L. No. 5-2008]**

**§ 78-1. 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 this Town. 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 sections of this chapter, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions of this chapter.

**§ 78-2. Definitions.**

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

**BUILDING PERMIT** — A permit issued pursuant to § 78-4. 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/CERTIFICATE OF COMPLIANCE** — A certificate issued pursuant to § 78-7B.

**CODE ENFORCEMENT OFFICER** — Code Enforcement Officers appointed pursuant to § 78-3B.

**CODE ENFORCEMENT PERSONNEL** — The Code Enforcement Officer and all inspectors.

**COMPLIANCE ORDER** — An order issued by the Code Enforcement Officer pursuant to § 78-15A.

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

**INSPECTOR** — Inspectors appointed pursuant to § 78-3D

**OPERATING PERMIT** — A permit issued pursuant to § 78-10. The term "operating permit" shall also include an operating permit which is renewed, amended or extended pursuant to any provision of this chapter.

**PERMIT HOLDER** — The person to whom a building permit has been issued.

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

**STOP-WORK ORDER** — An order issued pursuant to § 78-6.

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**14. Editor's Note: This local law repealed former Ch. 78, Fire Prevention and Building Construction, adopted 5-24-1990 by L.L. No. 10-1990.**

TEMPORARY CERTIFICATE — A certificate issued pursuant to § 78-7D.

TOWN — The Town of New Paltz.

TOWN BOARD — The Town Board of the Town of New Paltz.

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

**§ 78-3. Code Enforcement Officer; inspectors.**

- A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this chapter. The Code Enforcement Officer shall have the following powers and duties:
- (1) To receive, review, and approve or disapprove applications for building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits, and the plans, specifications and construction documents submitted with such applications;
  - (2) Upon approval of such applications, to issue building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits, and to include in building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;
  - (3) To conduct construction inspections, inspections to be made prior to the issuance of certificates of occupancy/certificates of compliance, temporary certificates and operating permits, firesafety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this chapter;
  - (4) To issue stop-work orders;
  - (5) To review and investigate complaints;
  - (6) To issue orders pursuant to § 78-15A, Compliance orders;
  - (7) To maintain records;
  - (8) To collect fees as set by the Town Board of this Town;
  - (9) To pursue administrative enforcement actions and proceedings;
  - (10) In consultation with this Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this chapter, or to abate or

correct conditions not in compliance with the Uniform Code, the Energy Code or this chapter; and

(11) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this chapter.

- B. The Code Enforcement Officer shall be appointed by the Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- C. In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this chapter.
- D. One or more inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this chapter. Each inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- E. The compensation for the Code Enforcement Officer and inspectors shall be fixed from time to time by the Town Board of this Town.

#### **§ 78-4. Building permits.**

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

- B. Exemptions. No building permit shall be required for work in any of the following categories:
- (1) Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
  - (2) Installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
  - (3) Construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;
  - (4) Construction of temporary motion picture, television and theater stage sets and scenery;
  - (5) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
  - (6) Installation of partitions or movable cases less than five feet nine inches in height;
  - (7) Painting, wallpapering, tiling, carpeting, or other similar finish work;
  - (8) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
  - (9) Replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
  - (10) Repairs, provided that such repairs do not involve:
    - (a) The removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load bearing component;
    - (b) The removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;
    - (c) The enlargement, alteration, replacement or relocation of any building system; or
    - (d) The removal from service of all or part of a fire-protection system for any period of time.
- C. Exemption not deemed authorization to perform noncompliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in Subsection B of this section shall not



be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

- D. Applications for building permits. Applications for a building permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or by an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:
- (1) A description of the proposed work;
  - (2) The Tax Map number and the street address of the premises where the work is to be performed;
  - (3) The occupancy classification of any affected building or structure;
  - (4) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
  - (5) At least two sets of construction documents (drawings and/or specifications) which:
    - (a) Define the scope of the proposed work;
    - (b) Are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;
    - (c) Indicate with sufficient clarity and detail the nature and extent of the work proposed;
    - (d) Substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and
    - (e) Where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.
- E. Construction documents. Construction documents will not be accepted as part of an application for a building permit unless they satisfy the requirements set forth in Subsection D(5) of this section. Construction documents which are accepted as part of the application for a building permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to

be kept at the work site so as to be available for use by the Code enforcement personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a building permit will be issued. Work shall not be commenced until and unless a building permit is issued.

- F. Issuance of building permits. An application for a building permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a building permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.
- G. Building permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- H. Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The building permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended building permit reflecting such change is issued.
- I. Time limits. Building permits shall become invalid unless the authorized work is commenced within six months following the date of issuance. Building permits shall expire 18 months after the date of issuance. Whenever a building permit has become invalid or which has expired pursuant to this subdivision, or whenever an extension is required to prevent a building permit from becoming invalid or expired, such building permit may be extended or renewed upon application by the permit holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer; provided, however, that the first such application for an extension or renewal shall be processed at no charge.
- J. Revocation or suspension of building permits. If the Code Enforcement Officer determines that a building permit was issued because of incorrect, inaccurate or incomplete information, or that the work for which a building permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the building permit or suspend the building permit until such time as the permit holder demonstrates that:
  - (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. Fee. The fee specified in or determined in accordance with the provisions set forth in § 78-16, Fees, 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.

**§ 78-5. Construction inspections.**

- A. Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an inspector authorized by the Code Enforcement Officer. The permit holder shall notify the Code Enforcement Officer when any element of work described in Subsection B 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, waterproofing, dampproofing and drainage;
  - (3) Preparation for concrete slab;
  - (4) Framing;
  - (5) Building systems, including underground and rough-in;
  - (6) Fire-resistant construction;
  - (7) Fire-resistant penetrations;
  - (8) Solid-fuel-burning heating appliances, chimneys, flues or gas vents;
  - (9) Energy Code compliance; and
  - (10) A final inspection after all work authorized by the building permit has been completed.
- C. Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.
- D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 78-16, Fees, of this chapter must be paid prior to or at the time of each inspection performed pursuant to this section.

**§ 78-6. Stop-work orders.**

- A. Authority to issue. The Code Enforcement Officer is authorized to issue stop-work orders pursuant to this section. The Code Enforcement Officer shall issue a stop-work order to halt:
- (1) Any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
  - (2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
  - (3) Any work for which a building permit is required which is being performed without the required building permit, or under a building permit that has become invalid, has expired, or has been suspended or revoked.
- B. Content of stop-work orders. Stop-work orders shall:
- (1) Be in writing;
  - (2) Be dated and signed by the 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 Code Enforcement Officer shall cause the stop-work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by certified mail, return receipt requested, and by regular first-class mail. The Code Enforcement Officer shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop-work order, personally or by certified mail, return receipt requested, and by regular first-class mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the effectiveness or enforceability 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 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 § 78-15, Penalties for offenses, 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.

**§ 78-7. Certificates of occupancy/certificates of compliance.**

- A. Certificates of occupancy/certificates of compliance required. A certificate of occupancy/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/certificate of compliance.
- B. Issuance of certificates of occupancy/certificates of compliance. The Code Enforcement Officer shall issue a certificate of occupancy/certificate of compliance if the work which was the subject of the building permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a certificate of occupancy/certificate of compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the certificate of occupancy/certificate of compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the certificate of occupancy/certificate of compliance:
- (1) A written statement of structural observations and/or a final report of special inspections; and
  - (2) Flood hazard certifications, where required.
- C. Contents of certificates of occupancy/certificates of compliance. A certificate of occupancy/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/certificate of compliance is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy/certificate of compliance is issued;
  - (5) The use and occupancy classification of the structure;
  - (6) The type of construction of the structure;
  - (7) The assembly occupant load of the structure, if any;
  - (8) If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
  - (9) Any special conditions imposed in connection with the issuance of the building permit; and
  - (10) The signature of the Code Enforcement Officer issuing the certificate of occupancy/certificate of compliance and the date of issuance.
- D. Temporary certificate. The Code Enforcement Officer shall be permitted to issue a temporary certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a building permit. However, in no event shall the Code Enforcement Officer issue a temporary certificate unless the Code Enforcement Officer determines that the building or structure, or the portion thereof covered by the temporary certificate, may be occupied safely, that any fire- and smoke-detecting or fire-protection equipment which has been installed is operational, and that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a temporary certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A temporary certificate shall be effective for a period of time, not to exceed 6 months, which shall be determined by the Code Enforcement Officer and specified in the temporary certificate. During the specified period of effectiveness of the temporary certificate, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.
- E. Revocation or suspension of certificates. If the Code Enforcement Officer determines that a certificate of occupancy/certificate of compliance or a temporary certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by

the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

- F. Fee. The fee specified in or determined in accordance with the provisions set forth in § 78-16, Fees, must be paid at the time of submission of an application for a certificate of occupancy/certificate of compliance or for a temporary certificate.

#### **§ 78-8. Notification of fire or explosion.**

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

#### **§ 78-9. Unsafe buildings and structures.**

Unsafe structures and equipment in this Town shall be identified and addressed in accordance with the procedures established by Chapter 56, Buildings, Unsafe, of the Code of the Town of New Paltz, as now in effect or as hereafter amended from time to time.

#### **§ 78-10. Operating permits.**

A. Operating permits required.

- (1) Operating permits shall be required for conducting the activities or using the categories of buildings listed below:
  - (a) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in 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 1225.1;
  - (b) 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;
  - (c) Use of pyrotechnic devices in assembly occupancies;
  - (d) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
  - (e) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board.
- (2) Any person who proposes to undertake any activity or to operate any type of building listed in this Subsection A shall be required to obtain an operating permit prior to commencing such activity or operation.

- B. Applications for operating permits. An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.
- C. Inspections. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an operating permit.
- D. Multiple activities. In any circumstance in which more than one activity listed in Subsection A of this section is to be conducted at a location, the Code Enforcement Officer may require a separate operating permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single operating permit to apply to all such activities.
- E. Duration of operating permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any operating permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each operating permit shall be specified in the operating permit. An operating permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.
- F. Revocation or suspension of operating permits. If the Code Enforcement Officer determines that any activity or building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code, such operating permit shall be revoked or suspended.
- G. Fee. The fee specified in or determined in accordance with the provisions set forth in § 78-16, Fees, must be paid at the time of submission of an application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit.

**§ 78-11. Firesafety inspections; property maintenance inspections.**

- A. Inspections required. Firesafety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at the following intervals:



- (1) Firesafety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every 12 months.
  - (2) Firesafety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every 12 months.
  - (3) Firesafety and property maintenance inspections of all multiple dwellings not included in Subsection A(1) or (2), and all nonresidential buildings, structures, uses and occupancies not included in Subsection A(1) or (2), shall be performed at least once every 36 months.
- B. Inspections permitted. In addition to the inspections required by Subsection A of this section, a firesafety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at any time upon the request of the owner of the property to be inspected or an authorized agent of such owner; receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this 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. Fee. The fee specified in or determined in accordance with the provisions set forth in § 78-16, Fees, must be paid prior to or at the time each inspection performed pursuant to this section. This subsection shall not apply to inspections performed by OFPC.

### **§ 78-12. Complaints.**

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this chapter, or any other local law or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a

complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

- 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 § 78-15, Penalties for offenses;
- 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.

**§ 78-13. Recordkeeping.**

- A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code enforcement personnel, including records of:
  - (1) All applications received, reviewed and approved or denied;
  - (2) All plans, specifications and construction documents approved;
  - (3) All building permits, certificates of occupancy/certificates of compliance, temporary certificates, stop-work orders, and operating permits issued;
  - (4) All inspections and tests performed;
  - (5) All statements and reports issued;
  - (6) All complaints received;
  - (7) All investigations conducted;
  - (8) All other features and activities specified in or contemplated by §§ 78-4 through 78-12, inclusive, of this chapter;
  - (9) All fees charged and collected.
- B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by state law and regulation.

**§ 78-14. Program review and reporting.**

- A. The Code Enforcement Officer shall at least annually submit to the Town Board a written report and summary of all business conducted by the Code Enforcement Officer and the inspectors, including a report and summary of all transactions and activities described in § 778-13, Recordkeeping, and a report and summary of all appeals or litigation pending or concluded.
- B. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this town, on a form prescribed by the Secretary of State, a report of the activities of this town relative to administration and enforcement of the Uniform Code.
- C. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this town is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this town in connection with administration and enforcement of the Uniform Code.

**§ 78-15. Penalties for offenses.**

- A. Compliance orders. The Code Enforcement Officer is authorized to order, in writing, the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this chapter. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a compliance order. The compliance order shall be in writing; be dated and signed by the Code Enforcement Officer; specify the condition or activity that violates the Uniform Code, the Energy Code, or this chapter; specify the provision or provisions of the Uniform Code, the Energy Code, or this chapter which is/are violated by the specified condition or activity; specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; direct that compliance be achieved within the specified period of time; and state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the compliance order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail, return receipt requested, and by regular first-class mail. The Code Enforcement Officer shall be permitted, but not required, to cause the compliance order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property personally or by certified mail, return receipt requested, and by regular first-class mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the effectiveness or the enforceability of the compliance order.

- B. Appearance tickets. The Code Enforcement Officer and each inspector are authorized to issue appearance tickets for any violation of the Uniform Code.
- C. Civil penalties. In addition to those penalties prescribed by state law, any person who violates any provision of the Uniform Code, the Energy Code or this chapter, or any term or condition of any building permit, certificate of occupancy/certificate of compliance, temporary certificate, stop-work order, operating permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this chapter, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of this town.
- D. Injunctive relief. An action or proceeding may be instituted in the name of this 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 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 this town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board.
- E. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in § 78-6, Stop-work orders, 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 § 78-6, Stop-work orders, in any other section of this local law, 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.

**§ 78-16. Fees.**

A fee schedule shall be established by resolution of the Town Board. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of building permits, amended building permits, renewed building permits, certificates of occupancy/certificates of compliance, temporary certificates, operating permits, firesafety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this chapter.

**§ 78-17. Intermunicipal agreements.**

The Town Board may, by resolution, authorize the Town Supervisor to enter into an agreement, in the name of this 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.



## ARTICLE II

**New York Energy Star® Labeled Homes  
[Adopted 12-18-2008 by L.L. No. 5-2008]****§ 78-18. Purpose and intent.**

It is the intention of this article to protect the public health, safety and welfare of its residents by requiring that certain new dwellings comply with the provisions of Article I of this chapter and additionally with the Energy Star® labeling program guidelines, thereby ensuring that such dwellings will use less energy than if built solely in accordance with the provisions of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code).

**§ 78-19. Applicable law.**

For purposes of this article, the provisions contained in Article I of this chapter are made applicable to the provisions of this article.

**§ 78-20. Definitions.**

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

ENERGY STAR QUALIFIED HOME — A one-family dwelling, a two-family dwelling or multifamily dwelling of three stories or less qualified as an Energy Star® qualified home under the Energy Star® labeling program of the United States Environmental Protection Agency and the United States Department of Energy.

HOME ENERGY RATER — A person trained to evaluate construction techniques, take key measurements and perform inspections under the Energy Star® labeling program of the United States Environmental Protection Agency and the United States Department of Energy.

WATER SENSE — A program of the U.S. Environmental Protection Agency (EPA) to encourage water efficiency through the use of special "WaterSense" labeled appliances and plumbing fixtures. **[Added 7-28-2011 by L.L. No. 3-2011]**

**§ 78-21. Energy Star® qualified homes. [Amended 7-28-2011 by L.L. No. 3-2011]**

- A. Building permits required. In addition to the provisions contained in Article I of this chapter, no building permit shall be issued on and after the effective date of Article II of this chapter for the construction of any one-family dwelling, two-family dwelling or multifamily dwelling of three stories or less unless the applicant certifies that the work will meet or exceed the minimum mandatory requirements for an Energy Star® Qualified Home which shall include "WaterSense" labeled appliances and plumbing fixtures.

- B. Certificates of occupancy/compliance required. In addition to the provisions contained in Article I of this chapter, no required certificate of occupancy or certificate of compliance shall be issued for any one-family dwelling, two-family dwelling or multifamily dwelling of three stories or less for which a building permit was issued on or after the effective date of Article II of this chapter unless the work which was the subject of such building permit has been independently inspected and verified by a Home Energy Rater as meeting or exceeding the minimum mandatory requirements for an Energy Star® Qualified Home which includes "WaterSense" labeled appliances and plumbing fixtures.



## **Chapter 82**

# **FLOOD DAMAGE PREVENTION**

### **GENERAL REFERENCES**

**Planning Board — See Ch. 31.**

**Sewers — See Ch. 113.**

**Fire prevention and  
construction — See Ch. 78.**

**building Subdivision of land — See Ch. 121.**

**Housing standards — See Ch. 93.**

**Wetlands and watercourses — See Ch. 139.**

**Zoning — See Ch. 140.**



ARTICLE I  
**Statutory Authorization; Purpose**

**§ 82-1. Findings.**

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

**§ 82-2. Statement of purpose.**

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages;
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands; and
- F. Qualify for and maintain participation in the National Flood Insurance Program.

**§ 82-3. Objectives.**

The objectives of this chapter are:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;

- E. To minimize damage to public facilities and utilities such as water and gas mains; electric, telephone, and sewer lines; streets, and bridges located in areas of special flood hazard;
- F. 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;
- G. To provide that developers are notified that property is in an area of special flood hazard; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

ARTICLE II  
**Definitions**

**§ 82-4. Definitions and word usage.**

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

APPEAL — A request for a review of the local administrator's interpretation of any provision of this chapter or a request for a variance.

AREA OF SHALLOW FLOODING — A designated AO or AH Zone on a community's Flood Insurance Rate Map (FIRM) with a one-percent-or-greater-annual chance of flooding to an average annual depth of one foot to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a one-percent-or-greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH or AO. It is also commonly referred to as the base floodplain or one-hundred-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 — The flood having a one-percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE) — The computed water surface elevation at a given location resulting from a flood having a one-percent chance of being equaled or exceeded in any given year (i.e., an average frequency and magnitude of a one-hundred-year recurrence interval).

BASEMENT — 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 — An enclosed area beneath the lowest elevated floor, 18 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.

CRITICAL FACILITIES — Public and private facilities particularly susceptible to the effects of flooding, which include the following:

- (1) Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- (2) Hospitals, nursing homes, and types of assisted living housing similar to group homes and age-restricted housing which may have occupants who may not be sufficiently mobile to avoid death or injury during the flood;
- (3) Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood; and
- (4) Public and private utility facilities, such as electrical power generation facilities and substations, telephone equipment buildings and the like that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.<sup>15</sup>

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

ELEVATED BUILDING — A nonbasement building built, in the case of a building in Zone AE, A, AO, AH, or X, 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 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. In the case of Zone AE, A, AO, AH, or X, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters.

FEDERAL EMERGENCY MANAGEMENT AGENCY — The federal agency that administers the National Flood Insurance Program.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) — An official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

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

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15. Editor's Note: The former definition of "cumulative substantial improvement," which immediately followed this definition, was repealed 12-8-2015 by L.L. No. 2-2015.

FLOOD HAZARD BOUNDARY MAP (FHBM) — An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY — See "flood elevation study."

FLOOD or FLOODING —

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (a) The overflow of inland or tidal waters;
  - (b) The unusual and rapid accumulation or runoff of surface waters from any source.
- (2) "Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1)(a) above.

FLOODPLAIN or FLOOD-PRONE AREA — Any land area susceptible to being inundated by water from any source. (See definition of "flooding.")

FLOODPROOFING — Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY — Has the same meaning as "regulatory floodway."

FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

HISTORIC STRUCTURE — Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (a) By an approved state program as determined by the Secretary of the Interior; or
  - (b) Directly by the Secretary of the Interior in states without approved programs.

LOCAL ADMINISTRATOR — The person appointed by the community to administer and implement this chapter by granting or denying development permits in accordance with its provisions. This person is often the Building Inspector, Code Enforcement Officer, or such other duly authorized representative of the Town.

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

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

MANUFACTURED HOME PARK OR SUBDIVISION — A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program, the 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 — Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the community, including any subsequent improvements to such structures.

ONE-HUNDRED-YEAR FLOOD — Has the same meaning as "base flood."

PRINCIPALLY ABOVE GROUND — At least 51% of the actual cash value of the structure, excluding land value, is above ground.

RECREATIONAL VEHICLE — A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal 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 — 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 § 82-13B of this chapter.

START OF CONSTRUCTION — The date of permit issuance for new construction and substantial improvements to existing structures, provided that the 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 — A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

**SUBSTANTIAL DAMAGE** — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.**[Amended 12-8-2015 by L.L. No. 2-2015]**

**SUBSTANTIAL IMPROVEMENT** — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:**[Amended 12-8-2015 by L.L. No. 2-2015]**

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

**VARIANCE** — A grant of relief from the requirements of this chapter which permits construction or use in a manner that would otherwise be prohibited by this chapter.

ARTICLE III  
**General Provisions**

**§ 82-5. Applicability.**

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of New Paltz, Ulster County.

**§ 82-6. Basis for establishing areas of special flood hazard.**

- A. The areas of special flood hazard for the Town of New Paltz, Community No. 360859, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
- (1) Flood Insurance Rate Map Panel Nos. 36111C0595E, 36111C0615E, 36111C0620E, 36111C0735E, 36111C0755E, and 36111C0760E, the effective date of which is September 25, 2009, 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, Ulster County, New York, All Jurisdictions" (FIS No. 36111CV001A) dated September 25, 2009.
- B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at: Town Clerk, Town of New Paltz, 1 Veteran's Drive, New Paltz, NY 12561.

**§ 82-7. Interpretation; conflict with other laws.**

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. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, or local laws, the most restrictive, or that imposing the higher standards, shall govern.

**§ 82-8. Penalties for offenses.**

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall,

upon conviction thereof, be fined no more than \$250 or be 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 Paltz from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under Article VI will be declared noncompliant, and notification will be sent to the Federal Emergency Management Agency.

**§ 82-9. Warning; 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 Paltz, 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 hereunder.

ARTICLE IV  
**Administration**

**§ 82-10. Designation of local administrator.**

The Building Inspector is hereby appointed local administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions. The Building Inspector may consult with the Town Engineer, qualified consultants or such other duly authorized representatives of the Town in carrying out the duties and responsibilities as described herein.

**§ 82-11. Floodplain development permit purpose; fees.**

- A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and 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 § 82-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures; fill; storage of materials; drainage facilities; and the location of the foregoing.
- B. Fees. Each application for a floodplain development permit shall be accompanied by an application fee as fixed from time to time by resolution of the Town Board. In addition, the applicant shall be responsible for reimbursing the Town of New Paltz for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of funds in addition to the application fee to reimburse the Town for the additional costs of the Town Engineer or other qualified consultants that the Building Inspector deems necessary to provide technical assistance in the processing the application.

**§ 82-12. Application for permit.**

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

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones AE, AH, AO or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

- B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- C. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 82-15C, Utilities.
- D. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 82-17, Nonresidential structures.
- E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will not be detrimental to the environment, or cause stream bank or other erosion, or cause increased floodwater velocities, or may cause any substantial adverse impact to flora and fauna species or their habitat. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 82-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- F. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property. Procedures consistent with 44 CFR Part 65 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective local administrator prior to commencing the analysis. The designated engineer or expert shall:
  - (1) Estimate peak discharge of the base flood.
  - (2) Calculate the water surface profile of the base flood based upon a hydraulic analysis of the stream channel and over bank areas.
  - (3) Compute the floodway necessary to convey or store the base flood without increasing flood stages more than 0.5 foot. A lesser stage increase than 0.5 foot shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
- G. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments

(including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either five dwellings or any commercial or light industrial development that proposes to disturb more than one acre of land and is subject to site plan review in accordance with § 140-52 of the Code of the Town of New Paltz.

**§ 82-13. Duties and responsibilities of local administrator.**

Duties of the local administrator shall include, but not be limited to, the following:

- A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:
  - (1) Review all applications for completeness, particularly with the requirements of § 82-12, Application for permit, and for compliance with the provisions and standards of this chapter.
  - (2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Article V, Construction Standards, and, in particular, § 82-14A, Subdivision proposals, and § 82-14B, Encroachments.
  - (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of Article V, Construction Standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.
  - (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.
- B. Use of other flood data.
  - (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (this area is designated Zone A 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 sources, including data developed pursuant to § 82-12F and § 82-12G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.

- (2) When base flood elevation and floodway data are not available and the development does not exceed the scale of development described in § 82-12G, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations and floodway limits within the areas of special flood hazard, for the purposes of this chapter if it:
  - (a) Reasonably reflects flooding conditions expected during the base flood;
  - (b) Is not known to be technically incorrect; and
  - (c) Represents the best available data.

C. Alterations of watercourses.

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.
- (2) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

D. Construction stage.

- (1) In Zones AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.



- E. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.
- F. Stop-work orders.
  - (1) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 82-8 of this chapter.
  - (2) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 82-8 of this chapter.
- G. Certificate of compliance.
  - (1) In areas of special flood hazard, as determined by documents enumerated in § 82-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
  - (2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.
  - (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in § 82-13E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.
- H. Information to be retained. The local administrator shall retain and make available for inspection copies of the following:
  - (1) Floodplain development permits and certificates of compliance;
  - (2) Certifications of as-built lowest floor elevations of structures, required pursuant to § 82-13D(1) and (2), and whether or not the structures contain a basement;
  - (3) Floodproofing certificates required pursuant to § 82-13D(1), and whether or not the structures contain a basement;

- (4) Variances issued pursuant to Article VI, Variance Procedure; and
- (5) Notices required under § 82-13C, Alteration of watercourses.

ARTICLE V  
**Construction Standards**

**§ 82-14. General standards.**

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 82-6:

- A. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):
- (1) Proposals shall be consistent with the need to minimize flood damage;
  - (2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and
  - (3) Adequate drainage shall be provided to reduce exposure to flood damage.
- B. Encroachments.
- (1) Within Zone A on streams without a regulatory floodway, no new construction and substantial improvements to structures, or other development (including fill), shall be permitted within the floodway area of the watercourse (as may be determined by the Town Building Inspector or other duly authorized representative of the Town after review of the flood data information provided as described in § 82-12F, § 82-12G and § 82-13B), unless: **[Amended 12-8-2015 by L.L. No. 2-2015]**
    - (a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than 1/2 foot at any location; and
    - (b) The Town of New Paltz agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received, and the applicant provides all necessary data, analyses and mapping and reimburses the Town of New Paltz for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of New Paltz for all costs related to the final map revision.
  - (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map

adopted in § 82-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

- (a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; and
- (b) The Town of New Paltz agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received, and the applicant provides all necessary data, analyses and mapping and reimburses the Town of New Paltz for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of New Paltz for all costs related to the final map revisions.
- (c) Whenever any portion of a floodplain is authorized for development, the volume of space occupied by any authorized fill or structure that will be located below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation at or adjacent to the development site. All such excavation shall be constructed to drain freely to the watercourse. No area below the waterline of a pond or other body of water or below the normal elevation at which groundwater is found can be credited as compensating excavation.

#### **§ 82-15. Standards for all structures.**

- A. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- B. Construction materials and methods.
  - (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
  - (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
  - (3) Enclosed areas below the lowest floor. **[Amended 12-8-2015 by L.L. No. 2-2015]**

- (a) For enclosed areas below the lowest floor of a structure within Zones AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
  - [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
  - [2] The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.
- (b) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.

C. Utilities.

- (1) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at or above the base flood elevation or 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 New York State Uniform Fire Prevention and Building Code<sup>16</sup> or the Residential Code of New York State for location of such items in wet locations;
- (2) New and replacement individual well water supplies shall be designed and constructed to prevent any contamination from inundation by floodwaters and eliminate infiltration of floodwaters into the system;
- (3) New and replacement sanitary sewage systems should be located outside floodplain areas whenever possible, and those systems that must be located within floodplain areas shall be elevated such that the minimum ground surface elevation of the sanitary sewage system shall be a minimum of three feet above the base flood elevation (BFE) to eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings

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**16. Editor's Note: See Ch. 78, Building Construction and Fire Prevention.**

below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall;

- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding; and
- (5) On-site waste disposal system shall not be located closer than 100 feet to the natural bank of a perennial or intermittent stream.

#### **§ 82-16. Residential structures.**

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in § 82-14A, Subdivision proposals, § 82-14B, Encroachments, and § 82-15, Standards for all structures:

##### **A. Elevation.**

- (1) Within Zones AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation. **[Amended 12-8-2015 by L.L. No. 2-2015]**
- (2) 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.

##### **B. Within Zone AH, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes. **[Amended 12-8-2015 by L.L. No. 2-2015<sup>17</sup>]****

#### **§ 82-17. Nonresidential structures.**

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures located in areas of special flood hazard, in addition to the requirements in § 82-14A, Subdivision proposals, § 82-14B, Encroachments, and § 82-15, Standards for all structures:

##### **A. Within Zones AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any**

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**17. Editor's Note: Former Subsections C, concerning access to a principal residential structure in various zones if base flood elevation data is provided, and D, concerning access to a principal residential structure located in Zone A when no base flood elevation information is provided, which immediately followed this subsection, were repealed 12-8-2015 by L.L. No. 2-2015.**

nonresidential structure, together with attendant utility and sanitary facilities, shall either:

- (1) Have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
  - (2) Be floodproofed so that the structure is watertight below two feet above the base flood elevation, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.<sup>18</sup>
- B. 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 § 82-17A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- C. Within Zone AH, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes. **[Amended 12-8-2015 by L.L. No. 2-2015]**
- D. 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.<sup>19</sup>

### **§ 82-18. Critical Facilities.**

In order to prevent potential flood damage to certain facilities that would result in serious danger to life and health, or widespread social or economic dislocation, no new critical facilities shall be located within any area of special flood hazard and shaded X Zone on the Town of New Paltz Flood Insurance Rate Maps.

### **§ 82-19. Manufactured homes and recreational vehicles.**

The following standards, in addition to the standards in § 82-14, General Standards, and § 82-15, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard:

- A. Recreational vehicles.

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18. Editor's Note: Former Subsection B, concerning new construction and substantial improvements in Zone AO, was repealed 12-8-2015 by L.L. No. 2-2015, which local law also redesignated former Subsections C through G as Subsections B through F, respectively.

19. Editor's Note: Former Subsections F, redesignated as Subsection E, concerning access to a commercial structure in various zones if base flood elevation data is provided, and G, redesignated as Subsection F, concerning access to a commercial structure located in Zone A when no base flood elevation information is provided, which immediately followed this subsection, were repealed 12-8-2015 by L.L. No. 2-2015.

- (1) Recreational vehicles placed on sites within Zones, AE and AH shall either:
    - (a) Be on site fewer than 180 consecutive days;
    - (b) Be fully licensed and ready for highway use; or
    - (c) Meet the requirements for manufactured homes in § 82-19B, C and D.
  - (2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.
- B. A manufactured home that is placed or substantially improved in Zones AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- C. 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.<sup>20</sup>

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**20. Editor's Note: Former Subsection D concerning elevation of the floor within Zone AO, which immediately followed this subsection, was repealed 12-8-2015 by L.L. No. 2-2015.**



ARTICLE VI  
**Variance Procedure**

**§ 82-20. Appeals Board.**

- A. The Zoning Board of Appeals as established by the Town of New Paltz shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
  - (1) The danger that materials may be swept onto other lands to the injury of others;
  - (2) The danger to life and property due to flooding or erosion damage;
  - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (4) The importance of the services provided by the proposed facility to the community;
  - (5) The necessity to the facility of a waterfront location, where applicable;
  - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (7) The compatibility of the proposed use with existing and anticipated development;
  - (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area;
  - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (10) The costs to local governments and the dangers associated with conducting search-and-rescue operations during periods of flooding;

- (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - (12) The costs of providing governmental services during and after flood conditions, including search-and-rescue operations and maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- E. Upon consideration of the factors of § 82-20D and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
  - F. The local administrator shall maintain the records of all appeal actions, including technical information, and shall report any variances to the Federal Emergency Management Agency upon request.

**§ 82-21. Conditions for variances.**

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that the items in § 82-20D(1) through (12) have been fully considered. As the lot size increases beyond 1/2 acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
  - (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure; and
  - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
  - (1) The criteria of Subsections A, D, E, and F of this section are met; and
  - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- F. Variances shall only be issued upon receiving written justification of:
- (1) A showing of good and sufficient cause;
  - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense; create nuisances; cause fraud on or victimization of the public; or conflict with existing local laws or ordinances.
- G. Written notice.
- (1) 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 base flood level 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 base flood level increases risks to life and property.
  - (2) Such notification shall be maintained with the record of all variance actions as required in § 82-13H of this chapter.

## **Chapter 86**

### **GAMES OF CHANCE**

#### **§ 86-1. Title; purpose.**

- A. This chapter shall be known and may be cited as the "Games of Chance Licensing Local Law."
- B. The Town Board of the Town of New Paltz hereby declares that the raising of funds for the promotion of bona fide charitable, educational, scientific, health, religious and patriotic causes and undertakings is in the public interest.

#### **§ 86-2. Statutory authorization.**

This chapter is authorized by Article 9-A of the General Municipal Law of the State of New York. All provisions of said Article 9-A of the General Municipal Law are hereby incorporated into this chapter by reference as though the same were fully set forth herein.

#### **§ 86-3. Regulation and supervision of games.**

The regulation of said games of chance and the supervision thereof shall be governed by Article 9-A of the General Municipal Law of the State of New York and shall be governed by the New York State Racing and Wagering Board.

#### **§ 86-4. Restrictions on conduct of games.**

The restrictions and regulations concerning the conduct of said games of chance shall be as set forth in Article 9-A of the General Municipal Law of the State of New York.

#### **§ 86-5. Licensing procedure.**

The application and procedure for the obtaining of a license to operate games of chance shall be governed by Article 9-A of the General Municipal Law of the State of New York.

#### **§ 86-6. Additional rules and regulations.**

Additional and further rules and regulations concerning the operation and running of games of chance shall be as set forth in Article 9-A of the General Municipal Law of the State of New York.

#### **§ 86-7. Referendum required; when effective.**

Except as may otherwise be provided in Article 9-A of the General Municipal Law of the State of New York, the provisions of this chapter shall not be effective in the Town of New Paltz, County of Ulster, State of New York,

unless and until a proposition submitted at a general or special election shall be approved by a vote of the majority of the qualified electors in said Town of New Paltz, County of Ulster, State of New York.<sup>21</sup> Upon an approving vote, this chapter shall take effect on the 30th day thereafter.

## **Chapter 89**

### **GARBAGE, RUBBISH AND REFUSE**

#### **GENERAL REFERENCES**

**Dumps and dumping — See Ch. 66.**

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#### **§ 89-1. Accumulation of waste; exception.**

Except as provided for in § 89-4 hereof, the owner, lessee, tenant or any other person who has the management or control of or who occupies any land in the Town of New Paltz shall keep such land at all times free and clear of accumulation of ashes, rubbish, refuse, grass cuttings, leaves, garbage and other waste material, except that in the event of the removal of leaves, grass cuttings and other lawn debris by the Town of New Paltz, its agents, servants or employees, such material may be placed alongside the curb in accordance with the announced removal schedule, notwithstanding any other provisions in this chapter.

#### **§ 89-2. Use of receptacles.**

- A. No person shall deposit any waste such as ashes, rubbish, refuse, grass cuttings, tree cuttings, leaves, garbage or other offensive substance on any lot or plot of land in the Town of New Paltz except in receptacles or containers which shall be kept covered at all times and shall be of metal or other impervious substances of sufficient strength and size to securely contain such waste material. Any waste material other than garbage, which cannot be readily deposited in any receptacles, must be compacted and securely bundled, tied or packed so as to be easily handled and not likely to be scattered and, when packed and secured, may be placed alongside such a receptacle.
- B. Each of such receptacles provided for in Subsection A of this section shall be watertight, kept covered with a cover and maintained in a sanitary condition by periodic cleaning.

#### **§ 89-3. Placement of receptacles.**

No receptacles or containers of rubbish, refuse, garbage or other waste or offensive material shall be placed at any time on any lot between the public

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**21. Editor's Note: This legislation passed at referendum 11-4-1986.**

street and a line extending across such lot at the front of the building line of the principal building on each lot.

**§ 89-4. Exceptions.**

- A. Nothing in this chapter shall be construed as denying any person the right to maintain a mulch pile or accumulation of grass cuttings, leaves or other inoffensive materials on his own or leased property as long as dust, odors or other nuisances are not permitted to develop from the resulting compost.
- B. Nothing in this chapter shall be construed as denying any person the right to use ashes or other clean material as fill on his property as long as dust or any other nuisance is not permitted to develop therefrom.
- C. For the purpose of being removed by an individual, partnership, corporation, association or joint-stock company actually engaged in the business of removing, collecting, transporting or disposing of garbage, rubbish or other refuse or waste material, nothing in this chapter shall be construed as prohibiting the placement of receptacles or containers as provided for herein nearer to a public street than that permitted herein for the purpose of being so removed; provided, however, that such placement shall be made commencing not earlier than six hours prior to 12:01 a.m. on the day regularly scheduled for such removal and shall end not later than six hours after 11:59 p.m. on the day regularly scheduled for such removal.

**§ 89-5. Filing of complaints.**

Any person who observes a violation of this chapter may file a complaint, under oath, with a Justice of the Town of New Paltz, specifying the nature of the violation, the date thereof and the name and residence, if known, of the person alleged to have committed such violation. Such complaint may serve as the basis for the issuance of an appearance ticket as hereinafter described.

**§ 89-6. Issuance of appearance tickets. [Amended 6-16-2011 by L.L. No. 1-2011]**

- A. Any peace officer, when acting pursuant to his special duties, or any police officer in the employ of or under contract to the Town of New Paltz observing a violation of this chapter committed in his presence shall issue and serve an appearance ticket upon the person alleged to have committed the violation.
- B. Any peace officer, when acting pursuant to his special duties, or police officer in the employ of or under contract to the Town of New Paltz, having reasonable cause to believe that a person has violated this chapter, shall issue and serve upon such person an appearance ticket for such violation.

- C. In addition to the enforcement of this chapter in the manner set forth in Subsections A and B above, the Building Inspector of the Town of New Paltz and the Code Enforcement Officer of the Town of New Paltz are hereby authorized to order, in writing, the remedying of any alleged violation of this chapter and to issue notices of violations and appearance tickets for violations of this chapter and to commence and to prosecute such violations in a court or courts of competent jurisdiction.

**§ 89-7. Penalties for offenses. [Amended 12-30-1987 by L.L. No. 9-1987]**

Upon conviction for a violation of this chapter, a person shall be guilty of a violation as defined in Article 10, § 10.00, Subdivision 3, of the Penal Law of the State of New York, which shall be punishable by a fine not to exceed \$250 or by imprisonment for a term not to exceed 15 days, or both.

**§ 89-8. Effect on other provisions.**

This chapter shall be in addition to all prior local laws, ordinances, rules and regulations relative to the accumulation of rubbish and trash and/or the use of receptacles or containers therefor within the Town of New Paltz.

**Chapter 90**

**GAS AND OIL BY-PRODUCTS**

**GENERAL REFERENCES**

**Sewers — See Ch. 113.**

**Zoning — See Ch. 140.**





## ARTICLE I

**Brine Prohibition****[Adopted 11-15-2012 by L.L. No. 4-2012<sup>22</sup>]****§ 90-1. Title.**

This article shall be known by and may be cited as the "Brine Prohibition Act."

**§ 90-2. Definitions.**

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

**APPLICATION** — The physical act of placing natural gas and oil production by-products on one or more Town roads or one or more pieces of Town property. Each physical act shall be deemed a separate violation. Each time a person stops the placement of natural gas and oil production by-products for any reason, including but not limited to stopping a vehicle used in the placement or reloading or replacing of any material or equipment and then resuming placement, shall be deemed a separate application.

**NATURAL GAS AND OIL EXPLORATION** — The use of land for geological or geophysical activities related to the search for natural gas, oil or other subsurface hydrocarbons, including prospecting, geophysical and geological seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation in the search and evaluation of natural gas, oil or other subsurface hydrocarbon deposits.

**NATURAL GAS AND OIL EXTRACTION** — The use of land for the purpose of extracting, developing and producing natural gas, oil or other subsurface hydrocarbons from subsurface deposits. Natural gas and oil extraction includes storage or construction staging yards associated with an oil or gas extraction operation, and gas pipelines, water lines and other gathering systems and components, including but not limited to drip stations, vent stations, injection stations and valve boxes associated with a natural gas or oil extraction operation.

**NATURAL GAS AND OIL PRODUCTION BY-PRODUCTS** — Any refuse, sludge or other waste materials, whether or not recycled or reused or intended to be recycled or reused, including solid, liquid, semisolid, or contained gaseous material that results from, is associated with or is produced as a by-product of natural gas and oil exploration or extraction, including, without limitation, production brine, produced waters, flowback, flowback fluids or hydraulic fracturing fluids.

**ROAD** — Any public road, street, or bridge owned, maintained or controlled by the Town of New Paltz.

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**22. Editor's Note: This local law was originally adopted as Ch. 54 but was renumbered to maintain the organizational structure of the Code.**

**§ 90-3. Application of by-products on roads and property.**

The application of natural gas and oil production by-products on any Town road or property, whether as a de-icing substance or for any other purpose, is prohibited.

**§ 90-4. Duties of Council and Highway Superintendent.**

The Town Council and Highway Superintendent are authorized to develop policies to ensure that Town employees are familiar with this article and to take such steps as are required to ensure that materials supplied to the Town or used on Town roads or properties comply with this article. This shall not excuse noncompliance by a contractor or vendor of the Town.

**§ 90-5. Penalties for offenses.**

Violation of this article is a misdemeanor and punishable by a maximum fine of \$500 and/or imprisonment for up to 15 days for each separate offense.

**Chapter 93**

**HOUSING STANDARDS**

**GENERAL REFERENCES**

Unsafe buildings — See Ch. 56.

Fire prevention and  
construction — See Ch. 78.

building

Electrical standards — See Ch. 69.

**Chapter 94**

**LANDLORD AND TENANT**



ARTICLE I  
**Security Deposits**

**§ 94-1. Purpose.**

- A. The Town of New Paltz has a significant landlord/tenant population;
- B. Fair and equitable laws regarding landlord-tenant relations are a matter of public welfare;
- C. Prompt, reasonable return of security deposits is an important factor in tenants being able to obtain subsequent housing; and
- D. The issue of return of security deposits is a source of potential conflict between landlords and tenants which may result in a burdensome effect on the court system.

**§ 94-2. Ownership of security deposit; trust provisions.**

Whenever a tenant shall deposit with the landlord a security deposit, such deposit, or any portion thereof, until returned to the tenant or lawfully applied for obligations of the tenant to the landlord, shall continue to be the money of the tenant and shall be held in trust by the landlord with whom such deposit shall be made and shall not be mingled with the personal moneys or become an asset of the landlord.

**§ 94-3. Notification to tenant.**

Whenever a tenant shall provide to the landlord a security deposit, the landlord shall provide to the tenant a written receipt for the security deposit and shall further inform the tenant, in writing, of the location where the deposit is held; if the deposit is being held in a banking organization, the name and address of the banking organization in which the security deposit is being held; and a statement as to whether or not the deposit is being held in an interest-bearing account.

**§ 94-4. Obligation of tenant to clean premises.**

Upon the termination of the tenancy or at the time that a tenant surrenders possession of the residential unit, whichever occurs later, the tenant shall have placed the residential unit in an overall clean condition as it was when the tenancy commenced, excepting normal wear and tear.

**§ 94-5. Return of security deposit landlord to tenant.**

- A. Within 21 days after the termination of tenancy or the surrender of the premises, whichever occurs later, the landlord shall return to the tenant the full amount of security deposited by the tenant with the landlord or, if there is actual cause for retaining the security deposit or any portion of it, the landlord shall provide to the tenant a written statement specifying the reasons for such retention, including a good-faith estimate of the costs to be incurred for each item of damage or if said

damage has already been repaired, documentation (e.g. receipts, invoices) of the costs incurred for each item of damage. The written statement specifying the reasons for the retention of any portion of the security deposit shall be accompanied by a full payment of the difference, if any, between the security deposit and the amount retained. Failure to return the security deposit or provide the aforesaid written statement within 21 days of termination of the tenancy or surrender of the premises shall preclude the landlord from any right to retain all or a portion of the security deposit unless good cause is shown for said failure by landlord. Nothing contained in this section shall preclude the landlord from retaining all or a portion of the security deposit to cover the costs of storing and/or disposing of unclaimed property, for nonpayment of rent and for nonpayment of utility charges which the tenant was required to pay directly to the landlord.

- B. If there is a provision in a rental agreement that a tenant is responsible to reimburse or apply from a security deposit any amounts due as the result of any violations issued to the landlord pursuant to the New Paltz Village Code or the New York State Uniform Fire Prevention and Building Code (the Uniform Code) for the property or residential unit being rented as a result of the actions of tenant or members of his/her household or their invitees or guests, it shall be the landlord's responsibility to give the tenant notice of such violation in a timely fashion as a condition to enforce this provision, and to help the tenant correct and prevent the condition for which the violation was issued. Timely notice shall be no later than 21 days from the date the violation is sent to the landlord from the municipal board, body, agency or official having jurisdiction. Failure to provide such notice shall serve as the landlord's waiver of reimbursement or application of security deposit for any violation for which notice was not given.
- C. Nothing in this section shall be construed to relieve the landlord of the landlord's responsibility to return the tenant's security deposit or balance as soon as reasonably possible.

#### **§ 94-6. Wrongful retention of security deposit.**

Absent good cause shown by the landlord, should the landlord fail to return the security deposit or provide the aforesaid written statement within the twenty-one-day period established in § 93-5, above, the landlord shall be liable to the tenant for an additional 25% of the entire security deposit in landlord's possession. Furthermore, in the event that the landlord willfully and without good cause fails to return all or a portion of the security deposit, a court may award to the tenant up to triple the amount of that portion of the security deposit wrongfully withheld from the tenant, together with reasonable attorney's fees and court costs. In determining whether to award such treble damages and/or attorney's fees, the court may consider the past practices of the landlord regarding return of other security deposits. Treble damages and/or attorney's fees shall not be awarded pursuant to this section where a landlord has made a good-faith

estimate or has properly documented (e.g. with receipts, invoices) the amounts which properly should be withheld from the security deposit and has returned to the tenant the balance of the security deposit in a timely manner. Should the landlord, within the aforesaid twenty-one-day period, fail to return the entire security deposit or fail to provide the aforesaid written statement specifying the reasons for the retention of all or a portion of the security deposit, accompanied by full payment of the difference between the security deposit and the amount retained, it shall be presumed that the landlord is willfully and without good cause retaining the security deposit.

**§ 94-7. Burden of proof.**

In any court action brought by a tenant for the return of the security deposit, the landlord shall bear the burden of proving that the withholding of the security deposit or any portion of it was justified.

**§ 94-8. Waiver of provisions void.**

Any attempted waiver of the terms of this article by a landlord or tenant, by contract or otherwise, shall be deemed to be against public policy and shall be considered void and unenforceable.

**Chapter 96****LITTERING****GENERAL REFERENCES**

**Dumps and dumping — See Ch. 66.**

**Garbage, rubbish and refuse — See Ch. 89.**

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**§ 96-1. Title.**

This chapter shall be known and may be cited as the "Town of New Paltz Anti-Littering Law."

**§ 96-2. Definitions and word usage.**

- A. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.
- B. For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein.

COMMERCIAL HANDBILL - Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet or any other printed or otherwise reproduced original or copies of any matter or literature which: —

- (1) Advertises for sale any merchandise, product, commodity or thing;
- (2) Directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales;
- (3) Directs attention to or advertises any meeting, theatrical performance, exhibition or event of any kind for which an admission fee is charged for the purpose of private gain or profits; but the terms of this clause shall not apply where an admission fee is charged or a collection is taken up wholly for a charitable or educational purpose or by a church or institution of religion for its lawful purposes or for the purpose of defraying the expenses incident to such meeting, theatrical performance, exhibition or event of any kind, whenever the same is held, given or taken place in connection with the dissemination of information which is not restricted under the ordinary rules of decency, good morals, public peace, safety and good order. Nothing contained in this clause shall be deemed to authorize the holding, giving or taking place of any meeting, theatrical performance, exhibition or event of any kind without a license, where such license is or may be required by any law of this state or under any provision of this Municipal Code; or



- (4) While containing reading matter other than advertising matter, is predominantly and essentially an advertisement and is distributed or circulated for advertising purposes or for the private benefit and gain of any person so engaged as advertiser or distributor.

**GARBAGE** — Putrescible animal and vegetable waste resulting from the handling, preparation, cooking and/or consumption of food.

**LITTER** — Garbage, refuse and rubbish, as defined herein, and/or all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

**NEWSPAPER** — Any newspaper of general circulation as defined by general law, any newspaper duly entered with the United States Postal Service in accordance with federal statute or regulation and any newspaper filed and recorded with any recording officer as provided by general law; and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not less than four issues per year and sold to the public.

**NONCOMMERCIAL HANDBILL** — Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, newspaper, magazine paper, booklet or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a "commercial handbill" or "newspaper."

**PARK** — A public park, reservation, playground, recreation center or any other public area in the Town devoted to active or passive recreation.

**PERSON** — Any natural person or any firm, partnership, association, corporation, company or organization of any kind.

**PRIVATE PREMISES** — Any privately owned parking lot and any dwelling, housing, building or other structure designed or used either wholly or in part for private residential purpose, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

**PUBLIC PLACE** — Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, squares, spaces, grounds, buildings and parking lots.

**REFUSE** — All putrescible and nonputrescible solid wastes (except body wastes), including but not limited to garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and/or solid, market and/or industrial wastes.

**RUBBISH** — Nonputrescible solid wastes consisting of combustible and/or noncombustible wastes and shall include but shall not be limited to paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

TOWN — The Town of New Paltz.

VEHICLE — Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

### **§ 96-3. Prohibitions.**

Except as may be otherwise permitted by any other local law of the Town of New Paltz, no person shall throw or deposit litter in or upon any street, sidewalk or other public place or upon private premises within the Town.

### **§ 96-4. Placement in receptacles.**

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

### **§ 96-5. Sweeping into public places.**

No person shall sweep into or deposit in any gutter, street or other public place within the Town the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk, if any, in front of their premises free of litter.

### **§ 96-6. Places of business.**

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the Town the accumulation of litter from any public or private sidewalks or driveways. Persons owning or occupying places of business within the Town shall keep the sidewalk in front of their business premises free of litter.

### **§ 96-7. Litter thrown from vehicles.**

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or other public place within the Town or upon private property.

### **§ 96-8. Vehicle loads causing litter.**

No person shall drive or move any truck or other vehicle, excluding private passenger vehicle, within the Town unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street, alley or other public place, nor shall any person drive or move any vehicle or truck within the Town the wheels or tires of which carry into or deposit in any street, alley or other public place mud, dirt, litter or foreign matter of any kind.

**§ 96-9. Parks.**

No person shall throw or deposit litter in any park within the Town except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere as provided herein.

**§ 96-10. Bodies of water.**

No person shall throw or deposit litter in any pond, lake, river or any other 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 or such permits.

**§ 96-11. Handbills.**

- A. Distributing in public places. No person shall throw or deposit any commercial or noncommercial handbills in or upon any sidewalk, street or other public place within the Town, nor shall any person hand out or distribute or sell any commercial handbill in any public place; provided, however, that it shall not be unlawful on any sidewalk, street or other public place within the Town for any person to hand out or distribute, without charge to the receiver thereof, any noncommercial handbill to any occupant of a vehicle who is willing to accept it.
- B. Placement on vehicles. No person shall throw or deposit any commercial or noncommercial handbill in or upon any vehicle; provided, however, that it shall not be unlawful in any public place for a person to hand out or distribute, without charge to the receiver thereof, a noncommercial handbill to any occupant of a vehicle who is willing to accept it.
- C. Placement on uninhabited or vacant premises. No person shall throw or deposit any commercial or noncommercial handbill in or upon any private premises which are temporarily or continuously uninhabited or vacant.
- D. Notice that handbills not desired. No person shall throw, deposit or distribute any commercial or noncommercial handbill upon any private premises if requested by anyone thereon not to do so or if there is placed on said premises in a conspicuous position near the entrance thereof a sign bearing the words "no trespassing," "no peddlers or agents," "no advertisements" or any similar notice, indicating in any manner that the occupants of said premises do not desire to be

molested or have their right of privacy disturbed or to have any such handbills left upon such premises.

- E. Inhabited private premises. No person shall throw, deposit or distribute any commercial or noncommercial handbill in or upon private premises which are inhabited, except by handing or transmitting any such handbill directly to the owner, occupant or other person then present in or upon such private premises; provided, however, that in case of inhabited private premises which are not posted as provided in this chapter, such person, unless requested by anyone upon such premises not to do so, may place or deposit any such handbill in or upon such inhabited private premises if such handbill is so placed or deposited as to secure or prevent such handbill from being blown or drifted about such premises or sidewalks, streets or other public places, and except that mailboxes may not be so used when prohibited by federal postal regulations or laws.
- F. Exemptions. The provisions of this section shall not apply to the distribution of mail by the United States nor to newspapers (as defined herein), except that newspapers shall be placed on private property in such a manner as to prevent their being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

#### **§ 96-12. Dropping litter from aircraft.**

No person in an aircraft shall throw out, drop or deposit within the Town any litter, handbill or any other object.

#### **§ 96-13. Litter on private property.**

No person shall throw or deposit litter on any occupied private property within the Town, whether owned by such person or not, except that the person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

#### **§ 96-14. Owner responsibilities.**

The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

#### **§ 96-15. Litter on vacant lots.**

No person shall throw or deposit litter on any open or vacant private property within the Town, whether owned by such person or not.

**§ 96-16. Notification of impropriety.**

The Building Inspector is hereby authorized and empowered to notify the owner of any open or vacant private property within the Town, or the agent of such owner, to properly dispose of litter located on such owner's property which is dangerous to public health, safety or welfare. Such notice shall be by mail, registered or certified, addressed to said owner at his last known address.

**§ 96-17. Noncompliance.**

Upon the failure, neglect or refusal of any owner or agent so notified to properly dispose of litter dangerous to the public health, safety or welfare within 10 days after receipt of written notice provided for in § 96-16 above, or within 15 days after the date of such notice in the event the same is returned to the Town because of the inability to make delivery thereof, provided that the same was properly addressed to the last known address of such owner or agent, the Building Inspector is hereby authorized and empowered to order its disposal by the Town.

**§ 96-18. Charges.**

When the Town has effected the removal of such dangerous litter or has paid for its removal, the actual cost thereof, plus accrued interest at the rate of 6% per annum from the date of the completion of the work, if not paid by such owner prior thereto, shall be charged to the owner of such property on the next regular tax bill forwarded to the owner by the Town; and said charge shall be due and payable by said owner at the time of such payment of such bill. Said charge, together with the costs and expenses, shall be collected in the manner fixed by law for the collection of taxes and shall be subject to a delinquent penalty of 6% in the event the same is not paid in full on or before the date the tax bill upon which said charge appears becomes delinquent. Sworn statements recorded in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily and shall be full notice to every person concerned that the amount of the statement, plus interest, costs and expenses, constitutes a charge against the property designated or described in the statement and that the same is due and collectible by law.

**§ 96-19. Penalties for offenses.**

- A. 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 by a fine not to exceed \$250 or by imprisonment for a term not to exceed 15 days, or by both.
- 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 100****NOISE****GENERAL REFERENCES**

**Alarm systems — See Ch. 46.**

**Peddling and soliciting — See Ch. 105.**

**Dogs — See Ch. 62.**

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**§ 100-1. Policy.**

It is hereby declared to be the policy of the Town Board to prevent unreasonably loud, disturbing and unnecessary noise and to reduce noise levels within the Town so as to preserve, protect and promote the public health, safety and welfare and to foster convenience, peace and quiet within the Town by the inhabitants and transients thereof. The Town Board finds that every person is entitled to have maintained noise levels which are not detrimental to life, health and the enjoyment of property and that excessive and unnecessary noise within the Town of New Paltz affects and is a menace to public health, safety, welfare and the comfort of the people of the Town.

**§ 100-2. Definitions.**

- A. All terminology used in this chapter, not defined below, shall be in conformance with the applicable publications of the American National Standards Institute (ANSI) or its successor body.
- B. As used in this chapter, the following terms shall have the meanings indicated:

COMMERCIAL LAND USE CATEGORY — Commercial zoning districts as defined in the Town of New Paltz Zoning Law. <sup>23</sup>

IMPULSIVE SOUND — Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include but are not limited to explosions, drop forge impacts, bird controlling devices (clackers) and the discharge of firearms.

INDUSTRIAL AREA — Industrial zoning districts as defined in the Town of New Paltz Zoning Law. <sup>24</sup>

MOTORCYCLE — An unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including but not limited to motor scooters and minibikes.

MOTOR VEHICLE — Any vehicle which is propelled or drawn on land by a motor, such as but not limited to passenger cars, trucks, truck-

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**23.Editor's Note: See Ch. 140, Zoning.**

**24.Editor's Note: See Ch. 140, Zoning.**

trailers, semitrailers, campers, go-carts, snowmobiles, amphibious craft on land, dune buggies or racing vehicles, but not including motorcycles.

MUFFLER or SOUND-DISSIPATIVE DEVICE — A device for abating the sound of escaping gases of an internal combustion engine.

NOISE — Any sound which causes or tends to cause an adverse psychological or physiological effect on humans.

NOISE DISTURBANCE — Any sound which endangers or injures the safety of humans or animals or disturbs a reasonable person of normal sensitivities.

PERSON — Any individual, association, partnership or corporation, and includes any officer, employee, department agency or instrumentality of a state or any political subdivision of a state.

PUBLIC RIGHT-OF-WAY — Any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

PUBLIC SPACE — Any real property or structures which are owned or controlled by a governmental entity.

REAL PROPERTY — An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intrabuilding real property divisions.

RESIDENTIAL AREA — Residential zoning districts as defined in the Town of New Paltz Zoning Law.<sup>25</sup>

SOUND — An oscillation in pressure, particle displacement, particle velocity or other physical parameter in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

WEEKDAY — Any day Monday through Friday which is not a legal holiday.

WEEKEND — Any Saturday, Sunday or legal holiday.

### **§ 100-3. Prohibited noises.**

- A. General prohibition. Except as otherwise hereinafter provided, it shall be unlawful within the limits of the Town of New Paltz for any person to make, continue, aid, countenance, cause to be made or assist in making any unreasonably loud, disturbing and unnecessary noise on Sunday commencing at 8:00 p.m. and continuing through and including Monday at 7:00 a.m. and during the same hours upon each successive evening and morning of each successive day of the week thereafter through and including Saturday at 7:00 a.m. and on Saturday commencing at 8:00 p.m. and continuing through and including Sunday

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25. Editor's Note: See Ch. 140, Zoning.

at 9:00 a.m.; provided, however, that the foregoing hours shall be extended until the hour of 9:00 am. on any day upon which there is celebrated a legal holiday. Any noise which unreasonably interferes with the sleep, comfort, repose, health or safety of others is prohibited during the hours above mentioned.

B. Specific prohibitions. The following acts are prohibited and declared to be a violation of this section, said enumeration not to be deemed exclusive:

- (1) Radio, phonograph or musical instrument: the operation of any radio, phonograph, sound-producing device or use of any musical instrument in such a manner or with such volume as to annoy or disturb the quiet, comfort, health, safety or repose of persons in any dwelling, hotel or other type of residence.
- (2) Animals and birds: the keeping, in any building or upon any premises, of any animal, bird or fowl which produces and creates noises of a degree and kind to disturb the comfort, repose and quiet of neighbors or persons residing in the vicinity. Persistent barking of dogs confined or chained on a premises or dogs roaming free on or off the owner's premises shall be a violation of this chapter. "Persistent barking" is defined herein as the continuous or intermittent barking of a dog which can be heard on other premises and which continues for a period of more than one hour. The owners or occupants of the premises shall be responsible to prevent the dog from barking or place it in an area where its barking cannot be heard.
- (3) Automobile, motorcycle or vehicle: the use of any automobile, motorcycle, trail bike, minibike, snowmobile, bus or vehicle so loaded or in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- (4) Steam whistle: the blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger.
- (5) Engine exhaust the discharge into the air of the exhaust of any steam engine, stationary internal combustion engine or motor vehicle engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (6) Adjacent school, court or hospital: the creation of any excessive noise on any street adjacent to any school, institution of learning or court while the same is in session, or adjacent to any hospital, which unreasonably interferes with the workings of such institutions, provided that conspicuous signs are displayed in such streets indicating that the same are school, hospital or court streets.



- (7) Loading and unloading vehicles: the creation of a loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates and containers in such a manner as to create an unreasonable or unnecessary noise of unreasonable extent and duration.
- (8) Peddlers, hawkers and vendors: the shouting and crying of peddlers, hawkers and vendors which disturbs the peace and quiet of the neighborhood.
- (9) Loudspeakers: the use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any sale or display of merchandise by the creation of noise.
- (10) Guns, firecrackers or combustible substances: the firing or discharging of a gun, firecracker, gunpowder or other combustible substance within the limits of the Town of New Paltz with the intention and for the purpose of making noise or for the purpose of attracting attention, except upon some special celebration or occasion, in which latter event the permission of the Town Board shall first be obtained and, if granted, shall indicate specifically the date, time and place that such activity is authorized.
- (11) Sound trucks: the creation of any sound or noise from any device known as a "sound truck" or motor vehicle containing an amplifying system whereby sounds, music or words are transmitted upon the public streets or highways of the Town of New Paltz, unless specific permission therefor is obtained from the Town Board, which such permit, if and when issued, shall indicate the specific dates and times that the operation of such sound truck or movable amplifying system shall be authorized.
- (12) Horn or signal: the sounding of any horn or signal device on any vehicle, motorcycle, bus or other device except as a warning signal, pursuant to the provisions of Subdivision 1 of § 375 of the Vehicle and Traffic Law of the State of New York.
- (13) Radio apparatus, talking machine or loudspeaker: the use of any radio apparatus, talking machine, loudspeaker or amplifier attached thereto in such a manner that the loudspeaker shall cause the sound from such radio apparatus or talking machine to be projected directly therefrom outside of any building or out of doors or the use of any radio apparatus, talking machine, loudspeaker or amplifier which is in any way fastened to or connected with any outside wall or window in any building or structure so that the sound therefrom is projected outside of such outside wall or window. Nothing herein contained shall be construed to prevent the operation of a radio apparatus or talking machine used in a reasonable manner by any person within any building or structure, provided that said radio apparatus or talking machine or

loudspeaker is not so arranged that such loudspeaker shall project the sound therefrom directly outside of any building or out of doors.

- (14) Demolition work: the erection, including excavation, demolition, alteration or repair, of any building other than between 7:00 a.m. and 9:00 p.m., except in the case of urgent necessity in the interest of public safety as determined by the applicable laws in the Code of the Town of New Paltz.
- (15) Construction work: in the process of any building operations between the hours of 8:00 p.m. and 7:00 a.m., to operate or use any pile driver, steam shovel, pneumatic hammer, derrick, steam or electrical hoist or other apparatus, the use of which is attended by loud or unusual noise, except by authorization pursuant to a resolution of the Town Board and then only granted in the event of an emergency.
- (16) Sound device prohibitions: It shall be unlawful for any person to use or operate, or cause to be used or operated, any sound device or apparatus in, on, near or adjacent to any public street, part or place for commercial or business advertising purposes or for any person to operate or drive any automobile, truck or other vehicle for commercial or business advertising by means of any sound device or apparatus. The use of any trade, business or corporate name or business advertising shall be presumptive evidence that such advertising was conducted by that person, business or corporation.
- (17) Annoying sounds: the creation of any noise which causes public inconvenience or alarm or disturbs the public's peace, comfort or tranquillity.
- (18) Loudspeakers or amplifiers for advertising, the using, operating or permitting to be placed, used or operated of any radio receiving set, musical instrument phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure, except as otherwise permitted by the Town of New Paltz.
- (19) Yelling, shouting, etc.: yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 11:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel or other type of residence or of any persons in the vicinity.
- (20) Exhausts: the discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motorboat or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

- (21) Schools, courts, churches or hospitals: the creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same is in use or adjacent to any hospital, which unreasonably interferes with the workings of such institution or which disturbs or unduly annoys patients in the hospital, provided that conspicuous signs are displayed in such streets indicating that the same are school, hospital or court streets.
- (22) Domestic animals: the harboring, maintenance, ownership or occupation, with the permission of a property owner or of property owners, of domestic animals, including but not limited to barking dogs, emitting excessive noises which annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of any resident or residents at any time within the Town.

**§ 100-4. Exceptions.**

- A. The following sounds shall not be deemed to be a violation of this chapter:
- (1) Sounds created by church bells or chimes.
  - (2) Sounds created by any government agency by the use of public warning devices.
  - (3) Sounds created by lawn mowers between the hours of 8:00 a.m. and 9:00 p.m. weekdays and 10:00 a.m. and 9:00 p.m. Sundays.
  - (4) Sounds created by public utilities in carrying out the operation of their franchises.
  - (5) Sounds connected with sporting events or any public or private school or authorized carnival, fair, exhibition, parade, etc., allowed by permit of the Town Board.
  - (6) Sounds on private property which do not carry beyond the boundary lines of the property on which they are created.
  - (7) The use of loudspeakers in connection with voter registration projects and, within 30 days prior to an election, the use of loudspeakers in connection with election campaigns between 9:00 a.m. and 8:00 p.m. prevailing time.
  - (8) Between the hours of 6:00 a.m. and 9:00 p.m., sounds created in the exercise of any trade, industry, business or employment, provided that it is not conducted in such a manner as to create any unreasonable or unnecessary noise of an unreasonable extent and duration.
- B. Nothing contained in this chapter shall be construed to prevent the production of music in connection with any military, civic or authorized parade, funeral procession or religious ceremony nor to prevent any

musical performance conducted by consent of the Town Board. The provisions of this chapter shall not apply to any authorized motor vehicle.

#### **§ 100-5. Suspension of provisions for special occasions.**

The Town Board is hereby authorized, by resolution, to suspend any of the provisions of this chapter in connection with any holiday celebration or upon any occasion of special public interest for such time and upon such conditions as shall be prescribed by the Town Board.

#### **§ 100-6. Construal of terms.**

The word "person," as used in this chapter, shall mean and include one or more persons of either sex, natural persons, corporations, partnerships, associations, joint-stock and membership societies and all other entities capable of being sued.

#### **§ 100-7. Penalties for offenses.**

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 any provision of this chapter shall constitute a separate and distinct offense hereunder for each period of 24 hours the offense is continued.

#### **§ 100-8. Enforcement.**

This chapter shall be administered and enforced by the Town of New Paltz Police Department or any police department created by the Town of New Paltz.

## **Chapter 101**

### **OFFICIAL MAP**

#### **GENERAL REFERENCES**

**Planning Board — See Ch. 31.**

**Wetlands and watercourses — See Ch. 139.**

**Flood damage prevention — See Ch. 82.**

**Zoning — See Ch. 140.**

**Subdivision of land — See Ch. 121.**

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#### **§ 101-1. Purposes; establishment.**

To conserve and protect the public health, safety and general welfare, the Town Board of the Town of New Paltz hereby establishes, pursuant to § 270 of the Town Law of the State of New York, an Official Map of that part of

the Town of New Paltz lying outside the limits of the incorporated Village of New Paltz showing the streets, highways, and parks theretofore laid out, adopted and established by law, which said map shall be final and conclusive with respect to the location and dimensions of the streets and highways and the location of parks shown thereon.

### **§ 101-2. Official Map.**

The map accompanying this chapter showing the streets, highways and parks heretofore laid out, adopted and established by law, is hereby declared to be a part of the Code of the Town of New Paltz and is hereby established as the Official Map of the Town of New Paltz, Ulster County, New York.<sup>26</sup>

## **Chapter 105**

### **PEDDLING AND SOLICITING**

#### **§ 105-1. Definitions.**

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

**BOARD** — The Town Board of the Town of New Paltz.

**PEDDLER** — Any person, whether a resident of the Town of New Paltz, State of New York, or not, traveling by foot, wagon, automotive vehicle or any other type of conveyance from place to place, from house to house or from street to street carrying, conveying or transporting goods, wares, merchandise, meat, fish, vegetables, fruits, truck garden or farm products or provisions, offering and exposing them for sale or making sales and delivering articles to purchasers or who, without traveling from place to place, sells or offers the same for sale from a wagon, automotive vehicle, railroad car or other vehicle or conveyance. The word "peddler" shall include the words "hawker" and "huckster."

**PERSON** — An individual, firm, partnership, corporation, voluntary association, incorporated association and principal or agent thereof.

**SOLICITOR** — Any person, whether a resident of the Town of New Paltz, State of New York, or not, traveling either by foot wagon, automobile, motor truck or any other type of conveyance from place to place, from house to house or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever, for future delivery or for services, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale or whether he is collecting advance payment on such sales or not.

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**26. Editor's Note: The official map is on file in the Town offices.**

**§ 105-2. Purpose.**

The purpose of this chapter is to assist in the government of the Town, the management of its business, the preservation of good order and the peace, health, safety and welfare of its inhabitants and the protection and security of their property.

**§ 105-3. License required.**

It shall be unlawful for any solicitor or peddler to sell, solicit or dispose of or to offer to sell or dispose of any goods, wares or merchandise within the Town of New Paltz without first obtaining a license and having paid the license fee hereinafter prescribed.

**§ 105-4. Exemptions. [Amended 4-24-2003 by L.L. No. 3-2003]**

The requirements of this chapter shall be held not to include the following persons, who are expressly exempt from its application:

- A. The peddling of meats, fish, fruit and farm products by farmers and persons who produce such commodities.
- B. Hawking or peddling by an honorably discharged soldier, sailor or marine who is crippled as a result of injuries received while in the naval or military services of the United States.
- C. The holder of a license granted pursuant to § 32 of the General Business Law.
- D. Any charitable or religious organization or society, which is recognized as tax exempt under the United States Internal Revenue Code, that shall conduct sales of personal property where the proceeds thereof shall be applied to the payment of the expenses thereof and to the charitable or religious purpose for which the society exists. Satisfactory proof of such tax exemption must be provided by the applicant.
- E. Any school, political or civic organization, benevolent society, service club or organization, not for profit, which is located in the Town or has a majority of its membership from the Town.

**§ 105-5. Application for license.**

Any person desiring a license shall file with the Town Clerk an application blank, separate blanks being provided for each class of license. The blanks shall contain the following information and must be under oath:

- A. For all license classes:
  - (1) The name of the applicant.
  - (2) The applicant's permanent home residence.

- (3) The name and address of the firm represented and the names and addresses of the person from whom goods making up the stock were or are to be purchased.
- (4) Three business references.
- (5) The place or places of residence of the applicant for the preceding three years.
- (6) The length of time for which the license is desired.
- (7) A description of the wares to be offered for sale.
- (8) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, felony or violation of any municipal law or ordinance and, if so, the nature of the offense and the punishment or penalty assessed therefor.
- (9) The specific location upon the particular parcel, identified by section, block and lot as shown on the Ulster County Tax Map for the Town of New Paltz, where the goods, wares or merchandise shall be sold or offered for sale. **[Added 4-24-2003 by L.L. No. 3-2003]**

B. For solicitors:

- (1) In addition to the foregoing items, the application shall show:
  - (a) A sworn statement of the true invoice of the amount, average quality or kind and value of the goods to be offered for sale.
  - (b) A statement of the location of such goods by street or number and whether on the premises from which it is sold or in warehouse.
- (2) To the application must be appended, in the discretion of the Town Clerk, the bills or invoices of purchase from such goods.

**§ 105-6. Issuance of license. [Amended 4-24-2003 by L.L. No. 3-2003]**

A. Following the filing of an application, the Town Clerk shall promptly refer the application:

- (1) To the Town of New Paltz Police Department or to any police department created by the Town of New Paltz for verification of the character of the applicant and of the information contained in the application; and
- (2) To the Building Inspector and to the Code Enforcement Officer of the Town to verify compliance with Chapter 140, Zoning, of the Code of the Town of New Paltz.

- B. The Town Clerk shall verify the moral character of the applicant, that the use of the location complies with the zoning provisions of the Code and the financial information. The Town Clerk shall approve or reject the application. Upon approval of the application and payment of the prescribed fee, the license(s) shall be issued by the Town Clerk.

**§ 105-7. Transferability of license.**

For all license classes, the license issued shall not authorize any person except the designated person named in said license to engage in business thereunder. Said license shall not be transferable from the person to whom issued to any other person. A separate license must be obtained by a licensed peddler or solicitor for every agent or employee working for him. Each license shall authorize the person to conduct business only at the location which is indicated therein.

**§ 105-8. Form of license.**

All licenses shall be issued on forms drawn in accordance with this chapter. They shall be printed in book form, with corresponding stubs, and shall be consecutively numbered. The license shall contain suitable blank spaces for writing in the name, the class of license granted, the location of the business and the amount of fees paid.

**§ 105-9. Records and reports.**

- A. There shall be kept in the office of the Town Clerk the necessary books for recording the time the application for license is received, showing in class, whether new or renewal, the name of the licensee, the regular number of the blank form, when the application was approved by the Town Clerk, the amount of fee received therefor and the date when the license was issued.
- B. The Town Clerk shall annually file a report with the Board, showing the number of licenses granted by class and the amount of fees received therefor. Each report shall state the number and class of licenses suspended or revoked.

**§ 105-10. Possession of license.**

Every person holding a license under this chapter shall be required to carry the license with him or at his business premises while engaged in the business licensed. He must produce the license at the request of any official of the Town and of any person of the Town with whom he wishes to conduct his said business.

**§ 105-11. Regulations on conduct of business.**

A peddler or solicitor or any person in his behalf shall not:



- A. Shout, make any outcry, blow a horn, ring a bell or use any sound device or musical instrument, including any loudspeaking radio or sound-amplifying system, on any of the streets, alleys, parks or other public places of the Town or on any private premises in the Town where sound of sufficient volume is emitted or produced therefrom capable of being plainly heard on the streets, avenues, alleys, parks or other public places for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.
- B. Be permitted to operate in any congested area where his operations might impede or inconvenience the public.
- C. Sell or offer for sale goods, wares or merchandise from vehicles on any of the public streets of the Town; provided, however, that the prohibition herein contained shall not include the peddling from door to door or from vehicles of fresh food products of farm or garden nor bona fide deliveries of goods, wares, merchandise or food made on a regular route to regular customers. **[Amended 12-30-1987 by L.L. No. 9-1987]**
- D. Solicit or peddle from 10:00 p.m. to 10:00 a.m. or at any time when or at a location where a sign has been posted on a building stating "No solicitors or peddlers," or words to that effect, except that a licensed solicitor or peddler may call upon the occupant of a residence at other times when he has received express prior permission from such occupant to do so.
- E. Solicit within the Town for a contribution of funds for a charitable, religious, educational, community, recreational or similar nonprofit purpose by means of calling upon places of residence or by means of direct personal contact in public places or upon public property without obtaining a permit as provided by this chapter. Any peddling or soliciting, as defined in this chapter, by means of representation that all or a portion of the proceeds thereof are to be used for a charitable or similar nonprofit purpose or are to be transmitted to any person, firm or corporation for any such purpose is unlawful unless a permit is first obtained as provided by this chapter.
- F. Cast, throw, distribute, deposit, scatter, pass out, give away, circulate or deliver any commercial or business handbill, dodger, circular or other advertising material or device to any residence or business or leave the same on any porch, doorstep or vestibule thereof or in any yard or public hallway thereof or on any vacant lot or other private property in the Town without first having obtained the express consent or without the express request of the owner of the premises upon which such activity is to be conducted or of such owner's duly authorized agent or personal representative.
- G. Cast, throw, deposit, leave upon, distribute, scatter, pass out, give away, circulate or deliver to any premises any commercial advertising sample

or device or other merchandise of any kind, except into the hands of an adult person who resides upon or occupies such premises.

**§ 105-12. Term of license.**

For the purpose of this chapter, every yearly license shall terminate at 10:00 p.m. on the 31st day of December of the year in which said license was issued.

**§ 105-13. License fees. [Amended 12-30-1987 by L.L. No. 9-1987]**

License fees for peddlers and solicitors shall be as set forth from time to time by resolution of the Town Board.

**§ 105-14. Daily licenses. [Amended 12-30-1987 by L.L. No. 9-1987]**

Any applicant, however, shall have the option to apply for and to receive a daily license, which shall be issued for a period of not less than three calendar days (Sunday through Saturday) at a cost to the applicant as set forth from time to time by resolution of the Town Board, provided that no person, as defined in this chapter shall be entitled to receive any license pursuant to the provisions of this section if such person has previously been granted a license at the rates prescribed by this section within the six-month period immediately preceding his application.

**§ 105-15. Revocation or suspension of licenses; hearing.**

A license may be revoked by the Board by reason of the violation of the terms of the license, the violation of any municipal ordinance or state or federal statute or falsification in applying for a license. The licensed person must be granted a hearing by the Board upon his request. A license may be suspended for not more than two weeks by the Town Clerk without a hearing.

**§ 105-16. Penalties for offenses. [Amended 12-30-1987 by L.L. No. 9-1987]**

Any person violating any of the provisions of any of the sections of this chapter shall, upon conviction thereof, be guilty of a violation as defined in Article 10, § 10.00, Subdivision 3, of the Penal Law of the State of New York, which shall be punishable by a fine not to exceed the sum of \$250 or by imprisonment for a term not to exceed 15 days, or by both such fine and imprisonment.

## **Chapter 109**

### **RECORDS, PUBLIC ACCESS TO**

#### **GENERAL REFERENCES**

**Meetings — See Ch. 24.**

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#### **§ 109-1. Purpose.**

- 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. This chapter provides information concerning the procedures by which records may be obtained from the Town of New Paltz, hereinafter the "Town."
- C. The Town personnel shall furnish to the public the information and records required by the Freedom of Information Law,<sup>27</sup> as well as records otherwise available by law.

#### **§ 109-2. Records access officer.**

- A. The Town Clerk's office shall be responsible for ensuring compliance with the regulations herein and shall designate one or more persons as records access officer by name or by specific job title and business address, who shall have the duty of coordinating response to public requests for access to records. The designation of one or more records access officers shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.
- B. The records access officer is responsible for assuring that the Town personnel:
  - (1) Maintain an up-to-date subject matter list.
  - (2) Assist the requester in identifying requested records, if necessary.
  - (3) Upon locating the records, take one of the following actions:
    - (a) Make records available for inspection.
    - (b) Deny access to the records, in whole or in part, and explain, in writing, the reasons therefor.
  - (4) Upon request for copies of records

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**27. Editor's Note: See § 84 et seq. of the Public Officers Law.**

- (a) Make a copy available upon payment or offer to pay established fees, if any; or
- (b) Permit the requester to copy those records.
- (5) Upon request, certify that a record is a true copy.
- (6) Upon failure to locate records, certify that
  - (a) The Clerk is not the custodian for such records; or
  - (b) The records of which the Clerk is a custodian cannot be found after diligent search.

**§ 109-3. Location of records available for inspection.**

Records shall be available for public inspection and copying at the Town Hall, 1 Veterans Drive, New Paltz, New York.

**§ 109-4. Hours for inspection.**

- A. Requests for public access to records shall be accepted during normal working hours of the Town Clerk.
- B. Records will be produced for examination and copying during hours that the Clerk's office is regularly open for business.

**§ 109-5. Requests for access.**

- A. All requests for records shall be made in writing.
- B. Requests for records shall be honored within five business days of receipt of such request.
- C. Requests shall reasonably describe the record or records sought. Whenever possible, the request shall specify dates, file designations or other information that might help in describing the record sought.
- D. Should the Clerk fail to provide or deny access to the records sought within five business days of the receipt of such request, the Clerk shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied. Failure of the Clerk to either grant or deny a request within 10 business days after the date of acknowledgment of receipt of a request shall be construed as a denial of access that may be appealed.

**§ 109-6. Subject matter list.**

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

- B. The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.
- C. The subject matter list shall be updated not less than twice per year. The most recent update shall appear on the first page of the subject matter list.

**§ 109-7. Denial of access; appeals.**

- A. The Town Board shall hear appeals or shall designate a person or body to hear appeals regarding denial of access to records under the Freedom of Information Law.<sup>28</sup>
- B. Denial of access shall be in writing, stating the reason therefor and advising the person denied access of his or her right to appeal to the person or body established to hear appeals, and that person or body shall be identified by name, title, business address and business telephone number. The records access officer shall not be the appeals officer.
- C. If an agency fails to respond to a request within five business days of receipt of a request as required in § 109-5D, such failure shall be deemed a denial of access by the agency.
- D. Any person denied access to records may appeal within 30 days of a denial.
- E. The time for deciding an appeal by the Town Board shall commence upon receipt of written appeal identifying
  - (1) The date and location of a request for records.
  - (2) The records that were denied.
  - (3) The name and return address of the appellant.
- F. The Town Board shall transmit to the Committee on Public Access to Records copies of all appeals upon receipt of an appeal. Such copies shall be addressed to:

Committee on Public Access to Records  
Department of State  
160 Washington Avenue  
Albany, New York 12210
- G. The Town Board shall inform the appellant and the Committee on Public Access to Records of the determination, in writing, within seven business days of receipt of an appeal. The determination shall be

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**28. Editor's Note: See § 84 et seq. of the Public Officers Law.**

transmitted to the Committee on Public Access to Records in the same manner as set forth in Subsection F of this section.

- H. A final denial of access to a requested record, as provided for in Subsection G of this section, shall be subject to court review, as provided for in Article 78 of the Civil Practice Law and Rules.

### **§ 109-8. Fees.**

Except when a different fee is otherwise prescribed by law.

- A. There shall be no fee charged for the following:
- (1) Inspection of records.
  - (2) Search for records.
  - (3) Any certification pursuant to this chapter.
- B. The per-page fee for photocopies of records not exceeding nine inches by 14 inches and shall be in an amount set forth from time to time by resolution of the Town Board.
- C. The fees for copying of records not covered by Subsections A and B above shall not exceed the actual reproduction costs, which is the average unit cost for copying a record, excluding fixed costs of the agency such as operator salaries.

### **§ 109-9. Public notice.**

The Town shall publicize, by posting in a conspicuous location and/or by publication in a local newspaper of general circulation:

- A. The location where records shall be made available for inspection and copying.
- B. The name, title, business address and business telephone number of the designated records access officer.
- C. The right to appeal by any person denied access to a record and the name and business address of the person or body to whom an appeal is to be directed.

## **Chapter 113**

### **SEWERS**

#### **GENERAL REFERENCES**

**Flood damage prevention — See Ch. 82.**

**Water — See Ch. 137.**

**Subdivision of land — See Ch. 121.**

**Zoning — See Ch. 140.**

ARTICLE I  
**Purpose; Definitions**

**§ 113-1. Purpose.**

- A. The purpose of this chapter is to ensure that the Town complies with all applicable state and federal laws regulating wastewater disposal and to address ongoing operational and maintenance problems faced by the Town's sewer districts. This is particularly crucial in Sewer District 6, which is located in an environmentally sensitive area and is served by a rudimentary treatment plant and technology that requires significant resources to operate properly.
- B. Included in this purpose are the following:
- (1) To prevent the introduction of pollutants into the wastewater systems, which will interfere with the operation of the systems or contaminate the resulting sludge, particularly by industrial users.
  - (2) To prevent the introduction of pollutants into the wastewater systems which will pass through the system inadequately treated into receiving waters or the atmosphere or otherwise be incompatible with the systems, particularly by industrial users.
  - (3) To regulate excess flows that strain existing treatment plants' pollutant removal capabilities and efficiencies.
  - (4) To eliminate grit, oils and grease from the sewer discharge because of its damaging effects on the sewer collection system piping, requiring greater than normal maintenance, and because of its detrimental effect on the treatment plants' primary treatment units, which substances are primarily released by industrial users.
  - (5) To improve the opportunity to recycle and reclaim wastewaters and sludges from the systems.
  - (6) To provide for a more equitable distribution of the cost of the wastewater systems.
  - (7) To protect both wastewater system personnel who may be affected by wastewater and sludge in the course of their employment and also to protect the general health and safety of the public and the environment.
  - (8) To protect the wastewater system in District 6 where nonresidential and industrial uses impact the system in terms of quantity and quality of sewage. Their waste includes inorganic materials, organic materials, chemicals, pollutants and other substances not typically discharged from residences into the sewer system, which discharges have a greater impact on the treatment facility.

**§ 113-2. Terms defined.**

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

BOD (denoting biochemical oxygen demand) — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in parts per million by weight.

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

BUILDING SEWER — The extension from the building drain to the public sewer or other place of disposal.

COMBINED SEWER — A sewer which carries both sanitary sewage and storm- and surface water.

DISTRICT — Sewer District Nos. 1, 5 and 6 of the Town of New Paltz, Ulster County, New York.

DISTRICT BOUNDARIES — The physical boundaries as presently established or as may be extended from time to time as duly provided by Town law for Sewer District Nos. 1, 5 and 6.

ENGINEER — The professional engineer retained as Engineer for the Town of New Paltz or his authorized deputy, agent or representative.

GARBAGE — Solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

INDUSTRIAL USER — Any nonresidential user of the Town's sanitary sewer system which user is identified in the 1997 NAICS (North American Industry Classification System) United States Structure, as amended and supplemented, under one of the following divisions:

- 11           Agriculture, Forestry, Fishing and Hunting
- 21           Mining
- 31-33       Manufacturing
- 56           Waste Management and Remediation Services
- 72           Accommodation and Food Services
- 81           Other Services (except Public Administration)

INDUSTRIAL WASTES — Any discarded matter, including any liquid, gaseous or solid substance, or combination thereof, resulting from any industrial user, excluding natural gas and oil production by-products.**[Amended 11-15-2012 by L.L. No. 3-2012]**

NATURAL GAS AND OIL EXPLORATION — The use of land for geological or geophysical activities related to the search for natural gas, oil or other subsurface hydrocarbons, including prospecting, geophysical and



geological seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation in the search and evaluation of natural gas, oil or other subsurface hydrocarbon deposits.**[Added 11-15-2012 by L.L. No. 3-2012]**

**NATURAL GAS AND OIL EXTRACTION** — The use of land for the purpose of extracting, developing and producing natural gas, oil or other subsurface hydrocarbons from subsurface deposits. Natural gas and oil extraction includes storage or construction staging yards associated with an oil or gas extraction operation, and gas pipelines, water lines and other gathering systems and components, including but not limited to drip stations, vent stations, injection stations and valve boxes associated with a natural gas or oil extraction operation.**[Added 11-15-2012 by L.L. No. 3-2012]**

**NATURAL GAS AND OIL PRODUCTION BY-PRODUCTS** — Any refuse, sludge or other waste materials, whether or not recycled or reused or intended to be recycled or reused, including solid, liquid, semisolid, or contained gaseous material that results from, is associated with or is produced as a by-product of natural gas and oil exploration or extraction, including, without limitation, production brine, produced waters, flowback, flowback fluids and hydraulic fracturing fluids.**[Added 11-15-2012 by L.L. No. 3-2012]**

**NATURAL OUTLET** — Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

**PERSON** — An individual, firm, company, association, society, corporation or group.

**pH** — The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

**PROPERLY SHREDDED GARBAGE** — The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than 1/2 inch in any dimension.

**PUBLICLY OWNED TREATMENT WORKS (POTW)** — A treatment works, as defined by Section 212 of the Federal Water Pollution Control Act, also known as the "Clean Water Act," as amended, (33 USC § 1292), which is owned by the Town. This shall include any sewers and appurtenances that transport wastewater to the POTW treatment plant but does not include pipes, sewers or other conveyances not connected directly or indirectly to a facility providing treatment.

**PUBLIC SEWER** — A sewer in which all owners of abutting properties have equal rights and which is controlled by public authority.

**SANITARY SEWER** — A sewer which carries sewage and to which storm-, surface and ground waters are not intentionally admitted.

**SEWAGE** — A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground-, surface and storm waters as may be present.

SEWAGE TREATMENT PLANT — Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS — All facilities for collecting, pumping, treating and disposing of sewage.

SEWER — A pipe or conduit for carrying sewage.

SLUG — Any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average twenty-four-hour concentration or flows during normal operation.

STANDARD INDUSTRIAL CLASSIFICATION (SIC) — A classification pursuant to the latest edition and amendments of the Standard Industrial Classification Manual issued by the US Office of Management and Budget.

STORM SEWER or STORM DRAIN — A sewer which carries storm- and surface waters and drainage but excludes sewage and polluted industrial wastes.

SUPERINTENDENT — Water and Sewer Supervisor as appointed by the Town of New Paltz to supervise the operation of the sewer and water systems of the Town.

SUSPENDED SOLIDS — Solids that either float on the surface or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

TOWN — The Town of New Paltz, Ulster County, New York.

TOWN BOARD — The duly elected Town Board of the Town of New Paltz or its authorized deputy or representative.

WATERCOURSE — A channel in which a flow of water occurs, either continuously or intermittently.

ARTICLE II  
**Use of Public Sewers Required**

**§ 113-3. Prohibited acts.**

- A. It shall be unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the district or in any area under the jurisdiction of the district any human or animal excrement, garbage or other objectionable waste.
- B. It shall be unlawful to discharge to any natural outlet within the district which is serviced by public sewers under the jurisdiction of the district any sanitary sewage, industrial wastes or other polluted wastes, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.
- C. Within the district, it shall be unlawful to construct, use or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage, except as hereinafter provided.
- D. It shall be unlawful to discharge into any outlet within the district which is serviced by public sewers under the jurisdiction of the district any natural gas and oil production by-products. **[Added 11-15-2012 by L.L. No. 3-2012]**

**§ 113-4. Connection and use required; exceptions.**

- A. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose situated within the area serviced by public sewers and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer within 100 feet of said property line is hereby required, at his expense, to install suitable plumbing facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within 90 days after the date of official notice to do so, provided that said public sewer is within 100 feet of the property line; and any septic tanks, cesspools and similar private sewage disposal facilities shall be discontinued and abandoned. It is required, as a public health and safety measure, that all abandoned septic tanks, cesspools and similar private sewage disposal facilities shall be cleaned of sludge and liquid and filled with a suitable material after connection to the public sanitary sewer.
- B. Owners of premises upon which a commercial car wash is operated and the superintendents of any such car washes may, if the premises on which any such car washes are located have adequate satisfactory sewage facilities to dispose of the water used in the car wash, continue to use such sewage facilities solely to dispose of the water used in actually washing vehicles but must separate the plumbing facilities for that water from the plumbing facilities carrying all other forms of sewage and connect the latter plumbing facilities directly with the

proper public sewer in accordance with all the provisions of this chapter. The owner and/or superintendent of any car wash continuing to use a private sewage system, as aforesaid, shall separate the pipes supplying water to the actual vehicle-washing operation from all waterlines to the premises on which said car wash operations are located and shall, at his own cost, connect the pipes supplying water to the actual vehicle-washing operation to a separate water meter so that the quantity of water used in the actual car wash operation is separately metered and measured.

- C. Where a public sanitary sewer is not available under the provisions of Subsection A above, the building sewer may connect to a public sewer, or it shall be connected to a private sewage disposal system complying with the rules and regulations established by the Ulster County Health Department.
- D. Hereafter, before commencement of construction of a private sewage disposal system within the district boundaries, the owner shall first obtain a written permit from the Ulster County Health Department. The permit shall be made on a form furnished by the Ulster County Health Department and shall be supplemented by any plans, specifications and other information as are deemed necessary by the Ulster County Health Department.
- E. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Ulster County Health Department. The applicant shall notify the Ulster County Health Department when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the Ulster County Health Department.
- F. The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the Department of Health of the State of New York and Ulster County Health Department. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- G. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at his own expense and at no expense to the district.
- H. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in this section, a direct connection shall be made to the public sewer in compliance with this chapter, and it is required, as a public health and safety measure, that all abandoned septic tanks, cesspools and similar private sewage disposal facilities shall be cleaned of sludge and liquid and filled with a suitable material after connection to the public sanitary sewer.

**§ 113-5. Construal of provisions.**

No statement contained in this article shall be construed to override or interfere with any additional requirements that may be imposed by statute, state or county rules and regulations or by the authorized representative of the County Department of Health or the New York State Department of Environmental Conservation.



ARTICLE III  
**Buildings Sewers and Connections**

**§ 113-6. Permit required.**

- A. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenances thereof without first obtaining a written permit from the Town Board.
- B. There shall be two classes of building sewer permits: one for residential and commercial services and one for industrial users. In either case, the owner or his agent shall make the application on a special form furnished by the Town. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Town Board. The Town Board, by resolution, shall have the right to fix a fee for the filing of permit application and inspection charge, which shall be paid to the Town Clerk at the time the application is filed.
- C. Industrial users shall be required to comply with the following permit requirements:
  - (1) Wastewater discharge permits.
    - (a) Wastewater discharges. No industrial user shall discharge wastewater to the POTW without having a valid wastewater discharge permit issued by the Town. Industrial users shall comply fully with the terms and conditions of their permits in addition to the provisions of this chapter. Violation of a permit term or condition is deemed a violation of this chapter.
    - (b) Discharge permits to storm sewers not authorized. The Town does not have the authority to issue permits for the discharge of any wastewater to a storm sewer.
    - (c) Groundwater discharges. All groundwater discharges to the Town of New Paltz POTW shall be issued a wastewater discharge permit.
  - (2) Application for wastewater discharge permits.
    - (a) Industrial users shall complete and file with the Superintendent an application in the form prescribed by the Town. The application shall be accompanied by a fee, as established by the Town Board. In support of any application, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:
      - [1] Name, address and location (if different from the address).
      - [2] SIC code of both the industry and any categorical processes.

- [3] Wastewater constituents and characteristics, including but not limited to those listed in this chapter, as determined by a reliable analytical laboratory approved by the NYSDOH. Sampling and analysis shall be performed in accordance with standard methods. This requirement may be waived by the Superintendent.
- [4] Time and duration of the discharge.
- [5] Average daily peak wastewater flow rates, including daily, monthly and seasonal variations, if any.
- [6] Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances.
- [7] Description of activities and facilities on the premises, including all materials which are or could be discharged to the POTW.
- [8] Each product produced by type, amount, process or processes and rate of production.
- [9] Type and amount of raw materials processed (average and maximum per day).
- [10] Number and type of employees, hours of operation and proposed or actual hours of operation.
- [11] The nature and concentration of any pollutants in the discharge which are limited by any county, state or federal standards, and a statement whether or not the standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet all applicable standards.
- [12] If additional pretreatment and/or O&M will be required to meet the standards, then the industrial user shall provide the shortest schedule to accomplish such additional treatment and/or O&M. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:
  - [a] The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. (Such events include hiring an engineer, completing preliminary plans, completing final plans, executing



contracts for major components, commencing construction, completing construction, beginning operation and beginning routine operation.)

[b] No increment referred to above shall exceed nine months, nor shall the total compliance period exceed 18 months.

[c] No later than 14 calendar days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Town Engineer including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return to the established schedule. In no event shall more than nine months elapse between such progress reports to the Town Engineer.

[13] Any other information as may be deemed by the Superintendent to be necessary to evaluate the permit application.

(b) The Superintendent will evaluate the data furnished by the industrial user and may require additional information. After evaluation and acceptance of the data furnished, the Town may issue a wastewater discharge permit subject to terms and conditions provided herein.

(3) Permit modifications.

(a) Wastewater discharge permits may be modified by the managing Superintendent, upon 30 days' notice to the permittee, for just cause. Just cause shall include, but not be limited to:

[1] Promulgation of an applicable National Categorical Pretreatment Standard.

[2] Revision of or a grant of a variance from such categorical standards pursuant to 40 CFR 403.13.

[3] Changes in general discharge prohibitions and local limits as per this chapter.

[4] Changes in processes used by the permittee, or changes in discharge volume or character.

[5] Changes in design or capability of any part of the POTW.

[6] Discovery that the permitted discharge causes or contributes to pass-through or interference.

[7] Changes in the nature and character of the sewage in the POTW as a result of other permitted discharges.

- (b) Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- (4) Permit conditions. Wastewater discharge permits shall be expressly subject to all the provisions of this chapter and all other applicable regulations, user charges and fees established by the Town. Permits may contain the following:
  - (a) Limits on the average and maximum rate and time of discharge or requirements for flow regulation and equalization.
  - (b) Limits on the average and maximum wastewater constituents and characteristics, including concentration or mass discharge limits.
  - (c) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.
  - (d) Requirements for installation and maintenance (in safe condition) of inspection and sampling facilities.
  - (e) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, standards for tests and reporting schedules.
  - (f) Compliance schedules.
  - (g) Requirements for submission of technical reports or discharge reports.
  - (h) Requirements for maintaining and retaining plant records relating to wastewater discharge, as specified by the Town, and affording the Superintendent access thereto.
  - (i) Requirements for notification of the Town of any new introduction of wastewater constituents or of any substantial change in the volume or character of the wastewater constituents being introduced into the POTW.
  - (j) Requirements for the notification of the Town of any change in the manufacturing and/or pretreatment process used by the permittee.
  - (k) Requirements for notification of excessive, accidental or slug discharges.
  - (l) Other conditions as deemed appropriate by the Town to ensure compliance with this chapter and state and federal laws, rules and regulations.

- (5) Permit duration. Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period of less than five years.
- (6) Permit reissuance. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification, by the Superintendent, during the term of the permit, as limitations or requirements, as identified in this section or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of the change. Any changes or new conditions in the reissued permit shall include a reasonable time schedule for compliance.
- (7) Permit transfer. Wastewater discharge permits are issued to a specific user for a specific operation or discharge at a specific location. A wastewater discharge permit shall not be reassigned, transferred or sold to a new owner, new user, different premises or a new or changed operation.
- (8) Permit fees. There shall be an administrative fee established by the Town Board for all permits and renewals or reissuances. Any other costs associated with said permit shall be charged to the applicant. This shall include any laboratory fees for testing and any other types of engineering or consultant fees that the Town will incur during the duration of the permit.

D. Reporting requirements for permittee.

- (1) The reports or documents required to be submitted or maintained under this section shall be subject to:
  - (a) The provisions of 18 U.S.C. § 1001 relating to fraud and false statements;
  - (b) The provisions of Section 309(c)(4) of the Clean Water Act, as amended, governing false statements, representation or certification; and
  - (c) The provisions of Section 309(c)(6) of the Clean Water Act, as amended, regarding corporate officers.
- (2) Types of reports.
  - (a) Baseline monitoring report. Within 180 days after promulgation of an applicable federal categorical pretreatment standard, a user subject to that standard shall submit, to the Superintendent and Town Engineer, the information required by this section.
  - (b) Ninety-day compliance report. Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following

commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit, to the Town Engineer, a report indicating the nature and concentration of all pollutants in the discharge, from the regulated process, which are limited by pretreatment standards and requirements, and the average and maximum daily flow for these process units in the user's facility which are limited by such pretreatment standards and requirements. The report shall state whether the applicable pretreatment standards and requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial user and certified to by a qualified professional.

- (c) Self-monitoring reports. Any user subject to a pretreatment standard, after the compliance date of such pretreatment standard or, in the case of a new source, after commencement of the discharge into the POTW, shall submit, to the Superintendent, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which, during the reporting period, exceeded the average daily flow reported in this section of such factors as local high or low flow rates, holidays, budget cycles, etc. No fewer than two reports shall be submitted per year.
  - (d) Violation report. If sampling, performed by the user, indicates a violation of this chapter and/or the user's discharge permit, the user shall notify the Superintendent within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within 30 days after becoming aware of the violation. The user is not required to resample if the POTW performs monitoring of the user's discharge at least once a month for the parameter which was violated, or if the POTW performs sampling, for the parameter which was violated, between the user's initial sampling and when the user receives the results of this sampling.
  - (e) Other reports. The Superintendent may impose reporting requirements equivalent to the requirements imposed by this section for users not subject to pretreatment standards.
- E. Additional requirements for industrial user. All industrial users shall also comply with the following additional regulations:

- (1) Industrial waste shall be discharged into the sewer systems, provided the rules, regulations and standards hereinafter prescribed are complied with, in the judgment of the Engineer. Periodic sampling may be necessary. Intervals are to be prescribed by the Engineer or Superintendent.
- (2) Sampling and analysis.
  - (a) Sampling shall be performed so that a representative portion of the wastewater is obtained for analysis.
  - (b) All measurements, tests and analyses of the characteristics of waters and waste required in any section of this chapter shall be carried out in accordance with standard methods, by a laboratory certified by NYSDOH to perform the analyses. Such samples shall be taken at the approved monitoring stations described in § 113-20 of this chapter, if such a station exists. If an approved monitoring station is not required, then samples shall be taken from another location on the industrial sewer lateral before discharge to the public sewer. Unless specifically requested otherwise, or unless specifically not allowed in federal regulation, samples shall be gathered as flow-proportioned (where feasible) composite samples made up of individual samples taken not less than once per hour for the period of time equal to the duration of industrial wastewater discharge during daily operations (including any cleanup shift).
- (3) Use of public sewers.
  - (a) No industrial wastewater shall be discharged to a trunk sewer or a sewer discharging directly or indirectly to a public sewer until a permit for industrial wastewater discharge has been approved by the Superintendent.
  - (b) Permit applications shall provide information concerning volume, constituents and characteristics of wastewater, flow rates, each product produced by type, amount and rate of production, and description of activities, facilities and plant process on the premises, including all materials processed and types of materials which are or could be discharged.
  - (c) Each industrial waste permit shall be issued for a period of one year and may be renewed annually. The permit's terms and conditions may be subject to modification and change by the Town at any time.
  - (d) Permits shall not be reassigned or transferred or sold to a new owner, new use, different premises, or a new or changed operation.

- (e) All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole in the public sewer shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (This particular analyses involved will determine whether a twenty-four-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from twenty-four-hour composites of all outfalls whereas pH's are determined from periodic grab samples.)
  - (4) No statement contained in this section shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefor, by the industrial concern.
- F. Revocation of permit. Wastewater discharge permits may be revoked for the following reasons:
- (1) Falsifying self-monitoring reports.
  - (2) Tampering with monitoring equipment.
  - (3) Refusing to allow the Superintendent timely access to the industrial premises.
  - (4) Failure to meet effluent limitations.
  - (5) Failure to pay fines.
  - (6) Failure to pay user charges.
  - (7) Failure to meet compliance schedules.
  - (8) Failure of a user to factually report the wastewater constituents and characteristics of his discharge.
  - (9) Failure of the user to report significant changes in operations or wastewater constituents and characteristics.

- (10) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring.
  - (11) Discharge of harmful substances as per § 113-24 or 113-44 or repeated instances of accidental discharges.
  - (12) Violation of conditions of the industrial wastewater discharge permit.
  - (13) Discharge of substances that cause interference to the POTW or cause the Town to violate any condition of its NPDES permit.
- G. Notice of violation and notice of revocation. Whenever the Superintendent finds that any user has violated or is violating his industrial wastewater discharge permit or any prohibition, limitation or requirements of this chapter or has violated conditions warranting revocation of the user permit, the Superintendent shall serve upon such person a written notice stating the nature of the violation or grounds for revocation. The notice shall provide a reasonable time limit for the correction of the violation and/or a date when revocation of the permit shall become effective. Failure to comply with the notice shall subject the violator to enforcement and penalties as set forth in §§ 113-31 and 113-32 of this chapter.
- H. Hearing.
- (1) Any person served with a notice of violation and/or revocation by the Superintendent under this section may request a hearing by filing within five days, excluding Saturday, Sunday and legal holidays, after the day the notice was given, in the office of the Town Clerk, a written letter requesting a hearing on the matter. Upon receipt of such request, the Clerk shall forward a copy to the Superintendent and the Board.
  - (2) The Board shall either designate a hearing officer to hold said hearing or set a time and place for such hearing before the Board. The Board shall inform the person in writing of the designation of the hearing officer or date for the hearing. At the hearing, the person shall be given an opportunity to be heard and to show why the order or decision of the Superintendent should be modified or withdrawn.
  - (3) If the Board authorizes a designee to conduct the hearing, the designee shall take the evidence and shall be authorized to issue in the name of the Board notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
  - (4) Upon conclusion of the hearing, the designee shall transmit a report of the evidence and hearing, together with recommendations, to the Board for action thereon.

- (5) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded by tape. The tape will be made available to any member of the public or any party to the hearing upon payment of usual charges.
  - (6) After the Board has reviewed the evidence, it may issue an order to the user cited directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.
- I. Suspension of services. The Superintendent may order immediate suspension of the wastewater treatment service and/or an industrial wastewater discharge permit of a user, pending compliance with a notice of violation and/or notice of revocation, when such suspension is necessary, in the opinion of the Superintendent, 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 or the POTW. Any user notified of a suspension of the wastewater treatment service and/or the industrial wastewater discharge permit shall immediately stop or eliminate the discharge or comply voluntarily with the suspension order. Failure to so comply shall cause the Town Board to take such steps as deemed necessary, including authorizing the Superintendent to immediately sever the sewer connection, to prevent or minimize damage to the POTW system or endangerment to individuals or the environment. The Town Board shall authorize reinstatement of the industrial wastewater discharge permit and/or the wastewater treatment service upon proof to the satisfaction of the Superintendent of the elimination of the noncomplying discharge.

**§ 113-7. Costs and expenses borne by owner.**

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall pay for, defend and hold harmless the Town from any loss, expense or damage that may directly or indirectly be occasioned by the installation of the building sewer.

**§ 113-8. Number of buildings per building sewer restricted; use of old building sewers.**

- A. 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 no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and shall be considered as a separate building sewer.



- B. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Engineer, to meet all requirements of this chapter.

**§ 113-9. Design standards for pipe.**

The building sewer shall be ductile iron soil pipe, AWWA C151, thickness Class 52 (2), or equal, or vitrified clay pipe, ASTM C700, extra-strength or equal, PVC sewer pipe, Class SDR 35, ASTM D3034 or other suitable material approved by the Engineer. Joints shall be gastight and watertight. Any part of the building sewer that is located within 10 feet of a water service pipe shall be constructed of ductile iron pipe. Ductile iron pipe may be required by the Engineer where the building sewer is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer shall be of ductile iron soil pipe, except that nonmetallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the Engineer. All pipe is to be bedded in at least six inches of gravel, crushed stone or sand. Bedding material is to be placed in the trench so as to obtain equal support for all sections of the pipe.

**§ 113-10. Size and slope.**

The size and slope of the building sewer shall be subject to the approval of the Engineer, but in no event shall the diameter be less than four inches. The slope of such four-inch pipe shall be not less than 1/8 inch per foot nor more than 1/2 inch per foot.

**§ 113-11. Laying of pipe.**

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade and in straight alignment, insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings. Where horizontal bends of more than 11 1/4° are required, cleanouts of a type approved by the Engineer are to be installed.

**§ 113-12. Effect of low building drains.**

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer, and the cost of installing, maintaining, repairing and replacing such artificial means shall be paid by the district. The cost of installation, maintenance, repair and replacement of any artificial means of lifting sanitary sewage from a building drain to the public sewer, as well as the utility costs incurred in the operation thereof, which are made necessary by the construction and installation of building drains subsequent to the installation of the public

sewer shall be paid by the owner of the premises on which any such building drain is located.

**§ 113-13. Excavations.**

All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Engineer. Pipe laying and backfill shall be performed in accordance with the section of the construction specifications for Sewer District Nos. 1, 5 and 6 entitled "Excavation, Trenching and Backfilling for Utilities Systems."

**§ 113-14. Connections; laterals.**

The connection of the building sewer into an existing public sewer shall be made at the property line. If a lateral connection has not previously been provided, the lateral will be constructed from the existing public sewer to the property line by the Town upon submittal of a written application by the property owner. The method of connection of the lateral to the public sewer will be dependent upon the type of sewer material used and, in all cases, shall be approved by the Engineer. The cost of constructing said lateral shall be paid by the district.

**§ 113-15. Inspections.**

- A. The applicant for the building sewer permit shall give at least a twenty-four-hour notice to the Town Supervisor and Engineer when the building sewer is ready for inspection and connection to the public sewer lateral. The connection shall be made under the supervision of the Engineer or his agent or representative or such other person approved by the Town Board.
- B. When trenches are opened for the laying of house sewer lateral pipes, such trenches shall be inspected by the Engineer or his deputy or representative before the trenches are filled, and the plumber performing such work shall notify the Engineer when the laying of house sewer is completed. If a trench is filled before inspection is made, the plumber to whom a permit is issued shall reexcavate the trench to permit the required inspection.
- C. All excavation 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 by the property owner in a manner satisfactory to the Town.

**§ 113-16. Use of storm sewers and natural outlets.**

Stormwater and all other unpolluted drainage shall be discharged only to such sewers as are specifically designed as storm sewers or to a natural outlet approved by the Engineer. Industrial cooling water or unpolluted

process waters may be discharged, upon approval of the Engineer, to a storm sewer or natural outlet.



ARTICLE IV  
**Sewer Extensions**

**§ 113-17. Compliance with standards required.**

All extensions to the public sanitary sewer system shall be properly designed in accordance with the Recommended Standards for Sewage Works, as adopted by the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers, and in strict conformance with all requirements of the County Health Department and/or New York State Department of Environmental Conservation. Plans and specifications for sewer extensions shall be submitted to and approval obtained from the Engineer, Ulster County Health Department and New York State Department of Environmental Conservation before construction may proceed. The design of sewers must anticipate and allow for flows from all possible future extensions or developments within the immediate natural drainage basin area.

**§ 113-18. Extensions not constructed by Town.**

If the Town does not elect to construct a sewer extension under public contract, the property owner, builder or developer may construct the necessary sewer extension if this extension is approved by the Town Board in accordance with the requirements of this article. He or they must pay for the entire installation, including all expenses incidental thereto. Each building sewer must be installed and inspected as required by this chapter, and the inspection fees shall be paid. Design of sewers shall be as specified in § 113-19. The installation of the sewer extension must be subject to full-time inspection by the Engineer, and the expenses for this inspection shall be paid for by the owner, builder or developer. The Engineer's decision shall be final in matters of quality and methods of construction. The sewer, as constructed, must pass the exfiltration test required in § 113-21 before it is to be used. The charges to be made for the use of any such sewer extension shall be determined by resolution of the Town Board.

**§ 113-19. Design standards.**

A. Sewer design shall be in accordance with the following provisions:

- (1) Pipe: shall be of a type approved by the Engineer.
- (2) Trench widths.
  - (a) Trench widths, as measured just above the crown of the pipe, shall not exceed the following:

**Pipe Diameter**

**(inches)**

8

10

**Trench Width**

3 feet 3 inches

3 feet 6 inches

**Pipe Diameter****(inches)**

12

**Trench Width**

3 feet 9 inches

- (b) If the trench widths are found, during field inspection, to exceed the limits in the above table, the sewer pipe shall be encased with a minimum of six inches of concrete.
- (3) Pipe shall be firmly and evenly bedded on a minimum of three inches of No. 1A or No. 1 crushed stone (New York State Department of Transportation Specification).
- (4) Pipe thickness and field strength shall be calculated on the following criteria:
  - (a) Safety factor: 1.5.
  - (b) Load factor: 1.7.
  - (c) Weight of soil: 120 pounds per cubic foot.
  - (d) Wheel loading: 16,000 pounds.
- B. Utilizing the above information, design shall then be made as outlined in Chapter IX of the Water Pollution Control Federation Manual of Practice No. 9, Design and Construction of Sanitary and Storm Sewers, as may be amended from time to time.

**§ 113-20. Manholes.**

- A. When required by the Superintendent, the owner of the property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.
- B. If there is more than one street lateral serving an industrial user, the Superintendent may require the installation of a control manhole on each lateral.
- C. The Superintendent may require that such monitoring station(s) include equipment for the continuous measurement and recording of wastewater flow rate and for the sampling of the wastewater. Such station(s) shall be accessibly and safely located, and the industrial user shall allow immediate access, without prior notice, to the station by the Superintendent, or his designated representative.

**§ 113-21. Tests.**

- A. All sewers shall satisfy requirements of a final infiltration/exfiltration test before they will be approved and sewage flow from them accepted by the Town. This test consists of filling the pipe with water to provide a head of at least five feet above the top of the pipe or five feet above groundwater, whichever is higher, at the highest point of the pipeline under test and then measuring the loss of water from the line by the amount which must be added to maintain the original level. In the first test, the line must remain filled with water for at least 24 hours prior to the taking of measurements. Exfiltration shall be measured by the drop of water level in a standpipe with closed bottom end or in one of the sewer manholes available for measurement.
- B. When a standard pipe and plug arrangement is used in the upper manhole of a line under test, there must be some positive method of releasing entrapped air in the sewer prior to taking measurements. The test length intervals for either type of test shall be as ordered approved, but in no event shall they exceed 400 feet. In the case of sewers laid on steep grades, the length of line to be tested by exfiltration at any one time may be limited by the maximum allowable internal pressure of the pipe and joints at the lower end of the line. The test period, wherein the measurements are taken, shall not be less than two hours in either type of test.
- C. The total leakage of any section tested shall not exceed the rate of 100 gallons per mile of pipe per 24 hours per inch of nominal pipe diameter. For purposes of determining the maximum allowable leakage, manholes shall be considered as sections of forty-eight-inch diameter pipe, five feet long. The equivalent leakage allowance shall be 4.5 gallons per manhole per 24 hours of forty-eight-inch diameter manholes. If leakage exceeds the specified amount, the necessary repairs or replacements required shall be made to permanently reduce the leakage to within the specified limit, and the tests shall be repeated until the leakage requirement is met.

**§ 113-22. Acceptance by Town; easements; guaranties.**

All sewer extensions constructed at the property owner's, builder's or developer's expense, after final approval and acceptance by the Engineer, shall become the property of the Town, at no cost to the Town, and shall thereafter be maintained by the Town. Those sewers not installed in public roads shall be installed in permanent utility easements. Easements shall be acceptable to the Town Attorney, approved by the Town Board and recorded in the Ulster County Clerk's office prior to acceptance of the sewer by the Town. Said sewers, after their acceptance by the Town, shall be guaranteed by the property owner, builder or developer against defects in materials or workmanship for 12 months. The guaranty shall be in a form provided for by the Town. At the sole discretion of the Town, a performance completion and maintenance bond or certified check may be required as part of the guaranty.

**§ 113-23. Effect on issuance of building permits.**

No builder or developer shall be issued a building permit for a new dwelling or structure requiring sanitary facilities within the area serviced by public sewers unless a suitable and approved method of waste disposal is proposed. All new developments shall be provided with an approved system of sanitary sewers.



ARTICLE V  
**Regulations for Use of Public Sewers**

**§ 113-24. Prohibited discharges.**

Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

- A. Any liquid or vapor having a temperature higher than 150° F. (65° C.).
- B. Any waters or wastes which contain grease or oil or other substances that will solidify or become discernibly viscous at temperatures between 32° F. and 150° F.
- C. Any waters or wastes containing emulsified oil and grease exceeding an average of 50 parts per million gallons ether-soluble matter.
- D. Any gasoline, benzene, naphtha, fuel oil or mineral oil or other flammable or explosive liquid, solid or gas.
- E. Any noxious or malodorous gas such as hydrogen sulfide, sulfur dioxide or nitrous oxide or other substance, which either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
- F. Any garbage that has not been properly pulverized or ground to fine powder.
- G. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, paunch manure, hair and fleshings, entrails, lime, residues, beer and distillery slops, chemical residue, paint residues, cannery waste, bulk solids or any other solid or viscous substance capable of causing obstruction to the flow of the sewers or other interference with the proper operation of the sewage system.
- H. Any waters or wastes, acid and alkaline in reaction, having corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the sewage system; free acids and alkalis must be neutralized at all times within a permissible pH range of 6.0 to 9.0.
- I. Any long half-life (over 100 days) of toxic radioactive isotopes without a special permit.
- J. Any waters or wastes that, for a duration of 15 minutes, have a concentration greater than five times the average of that of normal sanitary sewage, as defined in Subsection M of this section, as measured by suspended solids and BOD and/or which is discharged continuously at a rate exceeding 1,000 gallons per minute, except by special permit.

- K. Any stormwater, roof drains, spring water, cistern or tank overflow, cellar or footing drains, discharge from any vehicle rack or motor or the contents of any privy vault, holding tank, septic tank or cesspool or the discharge of effluent from any air-conditioning machine or refrigeration unit.
- L. Any waters or wastes containing a toxic or poisonous substance, a high chlorine demand or suspended solids in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters or the effluent of the Town's sewage treatment plant. Such toxic substances shall be limited to the average concentrations listed hereinafter in the sewage. If concentrations listed are exceeded, individual establishments will be subject to control in volume and concentration by the Engineer.
- M. Normal sanitary sewage shall be construed to fall within the following ranges at the effluent of the industrial plant in question:

**Normal Range**

<b>Constituents</b>	<b>(parts per million)</b>
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Suspended solids	180 to 350
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BOD	140 to 300
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Chlorine demand	5 to 15
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- N. Any natural gas and oil production by-products. **[Added 11-15-2012 by L.L. No. 3-2012]**

**§ 113-25. Grease, oil and sand interceptors.**

- A. Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, 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 shall be located as to be readily and easily accessible for cleaning and inspection. The Superintendent shall require grease interceptors on all restaurants and food processing establishments. A periodic inspection of these interceptors shall be made by the Superintendent at least four times per year.
- B. In the maintaining of these interceptors, the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal and a copy of the receipt provided by the industrial waste hauler indicating the waste transported and the location of the disposal, as required by the regulations of the New York State Department of Environmental Conservation, which are subject to

review by the Town. Any removal and hauling of the collected materials must be performed by state-licensed waste disposal firms. All restaurants and food handling or processing facilities shall install and maintain such interceptor and removal facilities. Failure to maintain and provide the records to the Town shall be presumptive evidence of noncompliance with this provision.

**§ 113-26. Flow equalization.**

No person shall cause the discharge of slugs to the POTW. Each person discharging into the POTW greater than 10,000 gallons per day or greater than 5% of the average daily flow in the POTW, whichever is lesser, shall install and maintain, on his property and at his expense, a suitable storage and flow control facility to ensure equalization of flow over a twenty-four-hour period unless exempted by the Superintendent of Sewers. The facility shall have a capacity for at least 50% of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the Superintendent. A wastewater discharge permit may be issued solely for flow equalization.

**§ 113-27. Restricted discharges.**

The admission into the public sewers of any waters or wastes having a five-day biochemical oxygen demand greater than 300 parts per million by weight, containing more than 350 parts per million by weight of suspended solids, containing more than 15 parts per million of chlorine demand, containing any quantity of substances having the characteristics above the previously described limits or having an average daily flow greater than 2% of the average daily sewage flow of the Town shall be subject to the review and approval of the Engineer. Where necessary, in the opinion of the Engineer, the owner shall provide, at his expense, such preliminary treatment as may be necessary to reduce the solids to 350 parts per million by weight, reduce the chlorine demand to 15 parts per million, reduce objectionable characteristics or constituents to within the maximum limits provided for or control the quantities and rates of discharge of such waters or wastes.

**§ 113-28. Preliminary treatment facilities.**

- A. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Engineer and of the New York State Department of Environmental Conservation, and no construction of such facilities shall be commenced until said approvals are obtained in writing.
- B. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

**§ 113-29. Measurements, tests and analyses.**

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made shall be determined in accordance with Ulster County Health Department Methods of Examination of Water and Sewage upon suitable samples taken at control manholes provided for above. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.

**§ 113-30. Construal of article.**

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, subject to payment therefor by the industrial concern.

ARTICLE VI  
**Administration and Enforcement**

**§ 113-31. Powers and authority of inspectors; Superintendent.**

- A. Application for permission to connect to the public sewer system or actual connection thereto shall constitute the continuing grant of permission by the owner, his successor and assigns to the Engineer, employees of the United States Environmental Protection Agency and the New York State Department of Environmental Conservation and duly authorized employees of the Town, bearing proper credentials and identification and having a reason for inspection, for permission to enter upon all properties for the purpose of inspection, observation, measurements, sampling and testing, in accordance with the provisions of this chapter. The Town shall have the authority to enforce industrial pretreatment standards promulgated by the United States Environmental Protection Agency pursuant to Section 307 of P.L. 92-500.
- B. The Town Board shall appoint a Superintendent for its public sewers, who shall have such duties and responsibilities for the management and operation of the sewers as the Town Board may from time to time establish.

**§ 113-32. Penalties for offenses.**

- A. Any person found to be violating any provision of this chapter, shall be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
- B. Any person, individual, firm, corporation or partnership who fails to comply with the provisions of this chapter, other than those provisions pertaining to the payment of charges for services established herein, shall be guilty of a violation and shall be subject to a fine not exceeding \$250, or to imprisonment for a term not to exceed 15 days, or both, for each offense. The continued violation of any provision of any section of this chapter, other than those pertaining to the payment of charges for services established herein, shall constitute a separate offense for each and every day such violation of any provision hereof shall continue.
- C. Additionally, upon violation of this chapter, the proper authorities of the Town, in addition to other remedies, may institute any appropriate action or proceedings, including an injunction to prevent such unlawful use, construction or maintenance of cesspools, septic tanks, sewage disposal systems, pipes or drains to restrain, correct or abate such violation to prevent the occupancy of any building, structure or land where said violations of this chapter are found.

- D. Any person violating any of the provisions of this chapter shall become liable to the Town for any expense, loss or damage occasioned the Town by reason of such violation, and the Town may initiate an action in a court of competent jurisdiction to recover such damages.

ARTICLE VII  
**Sewer Charges**

**§ 113-33. Purpose.**

Sewer charges shall be used for deriving revenues for financing and maintaining sewage collection and treatment facilities. The funds derived from these charges shall be used for all municipal expenses associated with constructing, improving or maintaining a sewerage system, including engineering, planning, construction, reconstruction of sewers and sewage treatment works and all necessary appurtenances thereto, including pumping stations, extensions, enlargement, replacement or additions to the sanitary sewer systems or the preliminary or other studies and surveys relative thereto, and for the acquisition of land or rights-of-way for any of the capital improvements.

**§ 113-34. Sewer District No. 1.**

Sewer use charges shall be charged to owners of properties located within or without the district boundaries who contribute sewage to the public sewers.

A. The following items will be funded by the sewer use charges:

- (1) The payment of the cost of operations, maintenance and repairs of the sewer system or such part or parts thereof for which sewer charges have been established and imposed.
- (2) The payment of the interest on and amortization of or payment of indebtedness which has been or shall be incurred for the construction of the sewer system or such part or parts thereof for which sewer charges have been established and imposed (other than indebtedness and the interest thereon, which is to be paid in the first instance from assessments upon benefited real property).
- (3) The construction of the sewage system disposal works with necessary appurtenances, including pumping stations, or for the extension, enlargement or replacement of or additions to such sewer systems or part or parts thereof.
- (4) The cost charged by the Village of New Paltz on the sewer district for the collection, conveyance and equipment replacement and treatment of the sewer district's sanitary sewer.

B. At such time when residential and other units are served by metered systems, the charges for usage for items set forth in Subsection A of § 113-33 above shall be charged on the measured amount of water used, at such rates per gallon or cubic foot as the Town Board of the Town of New Paltz may establish from time to time.

- C. The sewer use charges provided herein are charges in addition to any sewer assessments that may be levied from time to time against real property within the sanitary sewer district.

**§ 113-35. Cherryhill Sewer District No. 5.**

Sewer use charges shall be charged to owners of properties located within or without the district boundaries who contribute sewage to the public sewers.

- A. The following items will be funded by the sewer use charges:
- (1) The payment of the cost of operations, maintenance and repairs of the sewer system or such part or parts thereof for which sewer charges have been established and imposed.
  - (2) The payment of the interest on and amortization of or payment of indebtedness which has been or shall be incurred for the construction of the sewer system or such part or parts thereof for which sewer charges have been established and imposed (other than indebtedness and the interest thereon, which is to be paid in the first instance from assessments upon benefited real property).
  - (3) The construction of the sewage system disposal works with necessary appurtenances, including pumping stations, or for the extension, enlargement or replacement of or additions to such sewer systems or part or parts thereof.
  - (4) The cost charged by the Village of New Paltz on the sewer district for the collection, conveyance and equipment replacement and treatment of the sewer district's sanitary sewer.
- B. At any time when residential and other units are served by metered systems, the charges for usage for items set forth in Subsection A of § 113-34 above shall be charged on the measured amount of water used, at such rates per gallon or cubic foot as the Town Board of the Town of New Paltz may establish from time to time.
- C. The sewer use charges provided herein are charges in addition to any sewer assessments that may be levied from time to time against real property within the sanitary sewer district.

**§ 113-36. Ohioville Sewer District No. 6. [Amended 8-19-2004 by L.L. No. 5-2004]**

Sewer use charges shall be charged to owners of properties located within or without the district boundaries who contribute sewage to the public sewers.

- A. The following items will be funded by the sewer use charges:



- (1) The payment of the cost of operations, maintenance and repairs of the sewer system or such part or parts thereof for which sewer charges have been established and imposed.
  - (2) The payment of the interest on and amortization of or payment of indebtedness which has been or shall be incurred for the construction of the sewer system or such part or parts thereof for which sewer charges have been established and imposed (other than indebtedness and the interest thereon, which is to be paid in the first instance from assessments upon benefited real property).
  - (3) The construction of the sewage system disposal works with necessary appurtenances, including pumping stations, or for the extension, enlargement or replacement of or additions to such sewer systems or part or parts thereof.
- B. At any time when one-family homes, two-family homes, including one-family homes with an accessory apartment, and mobile homes are served by metered systems, the charges proportional to usage for items set forth in Subsection A of § 113-36 above shall be charged on the measured amount of water used, at such rates per gallon or cubic foot as the Town Board of the Town of New Paltz may establish from time to time.
- C. All other users shall be charged based on water use as measured through the individual user water supply meter or sewer use as measured through the individual user sewer usage meter proportional to usage for items set forth in Subsection A of § 113-36 above, at such rates per gallon or cubic foot as the Town Board of the Town of New Paltz may establish from time to time.
- D. Nothing herein contained shall be deemed to prohibit the Town from entering into separate or special agreements with owners of improved property or other persons with respect to the user charge or surcharge to be imposed in those cases where, due to special or unusual circumstances, the user charge set forth herein shall be deemed by the Town, in its sole discretion, to be inequitable or where it is in the best interests of this Town to do so.
- E. The sewer use charges provided herein are charges in addition to any sewer assessments that may be levied from time to time against real property within the sanitary sewer district.

#### **§ 113-37. Charges to be lien.**

Sewer charges shall be liens against real property within all of the Town of New Paltz sewer district(s) or sewer improvement area(s) to the extent as set forth in § 452 of the General Municipal Law.

#### **§ 113-38. Billing.**

- A. Sewer use charges shall be billed quarterly for the periods January 1 through and including March 31, April 1 through and including June 30, July 1 through and including September 30 and October 1 through and including December 31, and payment thereof shall be made to the Town Clerk at his office not later than 30 days next following the date of each such billing. In the event that such bill is not paid on or before the expiration of such thirty-day period, a penalty of 5% of the unpaid bill shall be added to the bill, and such new amount shall be payable to the Town Clerk at his office within 30 days next following the expiration of 30 days from the date of the original bill. Thereafter, a penalty of 1 1/2% upon the unpaid bill, together with penalties accrued thereon, shall be added to such bill for each successive thirty-day period, or portion thereof, until such time as such bill, together with all the penalties accrued thereon, is paid. Any and all payments received on account of delinquent accounts shall be applied first to the oldest outstanding gross bill, including any accumulated late fee.
- B. Sewer use charges and the interest and penalties thereon shall be a lien upon the real property which is using the public sewer and/or which is located within the district boundaries, and on or before the day when, under the Town Law, preliminary estimates or expenditures are required to be submitted, the Town Clerk shall prepare and file with the Town Board a statement showing all sewer charges, with penalties and interest thereon, which remain unpaid, which said statement shall contain a brief description of the property to which sewer services were supplied or which is within the district boundaries, the name of the owner liable to pay the same, so far as may be known, and the amount chargeable.

#### **§ 113-39. Review of costs by Town.**

The Town shall annually review the total cost of operation and maintenance of the treatment works and revise the charges in order to accomplish the following:

- A. Generate sufficient revenues to pay the total operation and maintenance costs necessary to the proper operation and maintenance (including replacement) of the treatment works; and
- B. Apply excess revenues collected to the cost of operation and maintenance for the next year and adjust the rate accordingly.

#### **§ 113-40. Breakdown of rates and charges.**

The annual bill shall give a breakdown of the rate and portion of the charges attributable to wastewater treatment services.

#### **§ 113-41. Connection charges.**

A charge of \$10 will be charged to all property owners who tap in on the public sanitary sewers. Minimum size shall be four inches in diameter. Any

sewers in excess of four inches in diameter will pay the additional charges. The property owner shall pay all costs of constructing the building sewer from the property line to the building sanitary sewer. After 90 days from the date of official notice to connect to the public sewers as provided for in Article III of this chapter, a charge as fixed by resolution of the Town Board will be levied as a penalty for failure to connect to the sewer within 90 days.

**§ 113-42. Outside area users.**

Property owners situated outside the sewer improvement area who received approval from the Town Board to connect to the proper public sewer, in accordance with Article III of this chapter, shall pay an initial fee and shall pay sewer use charges in accordance with this chapter and in such amounts as may be determined from time to time by the Town Board of the Town of New Paltz.

**§ 113-43. Cooperation of owners required.**

The Water Superintendent may require every owner and/or occupant of real property within the sanitary sewer districts established in the Town of New Paltz to furnish him with such information as may be necessary and reasonable in order to carry out the provisions of this chapter. It shall be permissible for the Water Superintendent or other properly authorized person employed by the Town of New Paltz to enter upon such real property at reasonable times for the purpose of obtaining such information as may be necessary to carry out the provision of this chapter, and, in addition to any other remedy available to the Town, the owner of said real property shall be fully responsible for all charges incurred by the Town arising as the result of the failure or refusal on the part of the owner and/or occupant to comply with the provisions of foregoing section.

**§ 113-44. Toxic discharges prohibited.**

- A. 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 the sludge of any municipal systems or to injure or interfere with any sewage treatment process or to constitute a hazard in or have an adverse affect on the waters receiving any discharge from the treatment works is hereby prohibited.
- B. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristic which, in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:
  - (1) Reject the wastes;
  - (2) Require pretreatment to an acceptable condition for discharge to the public sewer;

- (3) Require control over the quantities and rates of discharge; and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges or rents.

**§ 113-45. Surcharge for certain pollutants.**

- A. Where, in the opinion of the Superintendent, pollution concentrations of BOD, suspended solids and/or other pollutants consistently exceed that of domestic sewage, a surcharge may be levied. This surcharge will be based on the formula which follows:

$$Cs = (BcB + ScS + PcP) Vu$$

Where:

Cs = A surcharge

Bc = O & M costs for treatment of a unit of BOD

B = Concentration of BOD from a user above a base level

Sc = O & M costs for treatment of a unit of suspended solids

S = Concentration of suspended solids from a user above a base level

Pc = O & M costs for treatment of a unit of any other pollutant

P = Concentration of any pollutant from a user above a base level

Vu = Volume contribution from a user

- B. The base level for BOD should be considered as 200 parts per million (ppm) and, for suspended solids, 240 ppm.
- C. The levy of a surcharge shall be made by the Town Board upon recommendation of the Superintendent and shall become effective 90 days after notification to the user that a surcharge will be levied.

**§ 113-46. Distribution of costs.**

The total operation and maintenance costs for all flow not directly attributable to users, including the cost of transport and treatment of extraneous inflow-infiltration will be added to the sewer use charges as the same are provided for in this chapter.

**§ 113-47. Water meters required.**

Accurate water meters and associated plumbing shall be mandatory under this chapter and shall be installed, inspected and approved by the Town at a cost to the property owners who tap in on the public sanitary sewers as the Town may from time to time establish, and such meters shall be used to determine water consumption and conversion to units.

**Chapter 114**  
**SOLID WASTE**

**GENERAL REFERENCES**

**Garbage, rubbish and refuse — See Ch. 89.      Streets and sidewalks — See Ch. 118.**

**Littering — See Ch. 96.**



ARTICLE I  
**Residential Collection**  
**[Adopted 5-17-2018 by L.L. No. 3-2018<sup>29</sup>]**

**§ 114-1. Title.**

This article shall be known and may be cited as the "Town of New Paltz Residential Solid Waste Collection Law."

**§ 114-2. Purpose.**

The purpose of this article is to institute a licensing plan for the collection and management of residential solid waste and recyclable materials generated or originated in the Town of New Paltz, to promote the safety, health and well-being of persons and property within the Town. It has been determined jointly by the Town and Village of New Paltz that it is appropriate to award a single hauling license to an entity that has submitted a proposal to the Town and Village through the competitive bidding process that is determined to be most beneficial to Town and Village residents.

**§ 114-3. License required.**

No person shall engage in the business of removing, collecting, transporting or disposing of garbage, rubbish or other refuse or waste material from residential properties within the Town of New Paltz without first obtaining a license therefor issued by the Licensing Officer of the Town of New Paltz.

**§ 114-4. Licensing procedure.**

A. Licensing Officer; application.

- (1) Licensing Officer. The Town Clerk shall serve as Licensing Officer for the purposes of this section.
- (2) Application. Application for a residential garbage, rubbish and recyclables collector's license shall be made, in writing, to the Town Clerk and shall be issued upon approval of such application and payment of the required annual fee. The application shall be furnished by the Town Clerk on forms approved annually by resolution of the Town Board.

B. Conditions.

- (1) Assumption of liability. As a condition to the issuance of a license under this article, the private residential garbage and rubbish collector shall assume all liability for injury to person or property growing out of performance of the work required and shall agree to indemnify and save harmless the Town of New Paltz from all demands, claims, suits and actions on account of any injury or

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**29. Editor's Note: This local law was adopted as Ch. 88, but was renumbered to maintain the alphabetical organization of the Code.**

alleged injury to persons or property that may occur in the performance of the work or on account of any act or omission or alleged act or omission of the private garbage or rubbish collector, its agents, servants or employees.

(2) Insurance.

- (a) As a condition to the issuance of a license under this article, the private residential garbage and rubbish collector shall procure, at its own expense, a motor vehicle liability insurance policy and a general public liability insurance policy in which it is the named insured with policy limits as follows:

[1] For bodily injury: as set annually by resolution of the Town Board per person.

[2] For property damage: as set annually by resolution of the Town Board.

- (b) The said liability insurance policies shall insure the private residential garbage and rubbish collector against any and all claims, demands, causes of action and judgments which may arise in any manner whatsoever, out of the collection and disposal of garbage, for damages to person or property caused by the negligence of the private garbage and rubbish collector, his agents, servants or employees.

- (c) Certificates of insurance shall be filed with the Town Clerk which shall be revocable only on 30 days' notice in writing. It is understood that the collection and disposal of residential garbage and rubbish under this article shall be performed under the direction of and to the satisfaction of the Town of New Paltz, and as a condition to the issuance of a license under this article, the private residential garbage and rubbish collector must agree to comply with all reasonable regulations of the Town of New Paltz relating to the collection and disposal of residential garbage and rubbish, along with all conditions set forth in any franchise agreement entered into between the licensee, Town and Village, and to comply with all the laws of the State of New York relating to the collection and disposal of residential garbage, rubbish and recyclable materials.

(3) Sanitation Code; recycling.

- (a) Ulster County Sanitation Code. In addition to the conditions and requirements of the Town, the licensee shall comply with all of the requirements of the Sanitation Code of the Ulster County Health Department and shall apply for and receive from such department the permit provided for in said code and shall also comply with all of the requirements of the Ulster County Health Commissioner in the issuance of such permit.



All definitions set forth in the Ulster County Sanitation Code shall apply to this article.

- (b) Recycling mandated. The applicant must agree to provide and collect all recyclable materials produced at residential properties in question, pursuant to § 304-13A of the Ulster County Code. Failure to provide recycling containers, or failure to provide an adequate number of recycling containers, shall result in a fine as determined by the Town Board at the last meeting at which the amount of such fine was established or amended, in addition to any fine or fee payable to any other state or local government entity with jurisdiction.
- C. Grounds for refusal. If the Licensing Officer shall determine that the applicant is not a fit and proper person to carry on the business of garbage and rubbish collection, the Licensing Officer may refuse to grant a license. Upon written request of the applicant, the Licensing Officer shall specify, in writing, the grounds for refusal. For purposes of this article, the term "fit and proper person" shall mean the applicant for such license with which the Town of New Paltz has entered into a franchise agreement effective as of the date of the issuance of the license.

#### **§ 114-5. License fee and expiration.**

- A. License fee. At the time of the issuance of a license, the Town Clerk shall collect a fee therefor, the amount of which shall be that determined by the Town Board by annual resolution, in addition to any fee payable to any other state or local governmental entity having jurisdiction over the licensee.
- B. License expiration. The license issued pursuant to this article shall expire 12 months following the date of issuance.

#### **§ 114-6. Operating regulations.**

- A. Pickup schedule. Any person or firm licensed under the provisions of this article shall maintain a pickup schedule of at least once a week for all of customers.
- B. Blocking of traffic. Any licensee under the provisions of this article shall not operate or permit to be operated any vehicle or equipment so as to block any crosswalk or interfere with the movement of traffic on any public street or highway.
- C. Use of containers. Garbage, refuse and recycling containers shall be provided in accordance with the franchise agreement awarded to the licensee and of sufficient strength and size to securely contain such waste material and shall be kept covered at all times except for loading and unloading. Such containers shall not be stored or placed in front of the building line of the principal residential building on each lot except

to facilitate refuse collection during a period beginning not earlier than six hours prior to 12:01 a.m. on the day regularly scheduled for such removal and ending not later than six hours after 11:59 p.m. on the day regularly scheduled for such removal.

**§ 114-7. Revocation of license; hearing; appeal.**

- A. Revocation. Whenever the Licensing Officer shall determine that a licensee is violating any applicable provision of the Town of New Paltz Municipal Code, the franchise agreement or any applicable state or county law, rule or regulation, the Licensing Officer, after notice and hearing, may revoke said license upon recommendation of the Town Board.
- B. Notice of hearing. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint, and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address, at least 10 days prior to the date set for hearing.
- C. Appeals. Any person aggrieved by the action of the Licensing Officer in the denial of an application for a license or in the decision of the Licensing Officer with reference to the revocation of a license as provided for in this section shall have the right to appeal to the Town Board. Such appeal shall be taken by filing within 14 days after notice of the action complained of has been mailed to such person's last known address, together with a written statement setting forth fully the grounds for the appeal. The Town Board shall set a time and place for hearing on such appeal, and notice of such hearing shall be mailed to the applicant at his last known address at least five days prior to the date set for the hearing. The decision and order of the Town Board on such appeal shall be final and conclusive.
- D. Suspension. In case of an emergency or a serious threat to public safety, health or welfare, the Licensing Officer may suspend a license until such time as a final determination can be had on the revocation of a license under this section. For a good cause, the Town Board may remove such suspension pending final determination, subject to such terms and conditions as it deems appropriate or necessary to safeguard the public safety, health or welfare.

**§ 114-8. Penalties for offenses; enforcement.**

Any person or firm who shall violate any provisions of this article shall be guilty of a violation pursuant to the Penal Law; provided, however, that in no case shall the fine imposed exceed \$250. In addition, the Town Board may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this article.

**§ 114-9. Conflict between franchise agreement and this article.**

In the event that the terms of any franchise agreement for the collection of residential solid waste and recyclable materials entered into between the licensee and the Town and Village conflict with or deviate from this article, the terms of the franchise agreement then in effect shall govern.

**Chapter 115**  
**STORM SEWERS**

**GENERAL REFERENCES**

**Flood damage prevention — See Ch. 82.                      Subdivision of land — See Ch. 121.**

**Stormwater management and erosion and Zoning — See Ch. 140.**  
**sediment control — See Ch. 116.**

## ARTICLE I

**Illicit Discharges, Activities and Connections**  
**[Adopted 12-22-2016 by L.L. No. 2-2017<sup>30</sup>]****§ 115-1. Purpose.**

The purpose of this article is to provide for the health, safety, and general welfare of the citizens of the Town of New Paltz through the regulation of nonstormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable, as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems. The objectives of this article are:

- A. To meet the requirements of the current SPDES General Permit for Stormwater Discharges from MS4s, as that General Permit may hereafter be amended or revised;
- B. To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge nonstormwater wastes;
- C. To prohibit illicit connections, activities and discharges to the MS4;
- D. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article; and
- E. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

**§ 115-2. Definitions.**

Whenever used in this article, unless a different meaning is stated in a definition applicable to only a portion of this article, the following terms will have meanings set forth below:

303(d) LIST — A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the Department as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

BEST MANAGEMENT PRACTICES (BMPs) — Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution

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**30. Editor's Note: This local law was originally adopted as Ch. 136 but was renumbered to maintain the organization of the Code.**

prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT — The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY — Activities requiring authorization under the SPDES Permit for Stormwater Discharges from Construction Activity, GP-0-015-02, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

DEPARTMENT or DEC — The New York State Department of Environmental Conservation.

DESIGN PROFESSIONAL — New York State licensed professional engineer, licensed architect, registered landscape architect or other NYSDEC recognized professionals qualified by training or experience, such as certified professional in erosion control (CPESC) and certified professional in stormwater quality (CPSWQ). All components that involve the practice of engineering, as defined in the New York State Education Law (see Article 145) shall be prepared by, or under the direct supervision of, a professional engineer licensed to practice in this State of New York.

HAZARDOUS MATERIAL — Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLICIT CONNECTION — Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:

- A. Any conveyances which allow any nonstormwater discharge, including treated or untreated sewage, process wastewater, and wash water, to enter the MS4, and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- B. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE — Any direct or indirect nonstormwater discharge to the MS4, except as exempted in § 115-6 of this article.

**INDIVIDUAL SEWAGE TREATMENT SYSTEM** — A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility, that treats sewage or other liquid wastes for discharge into the groundwaters of New York State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

**INDUSTRIAL ACTIVITY** — Activities requiring the current SPDES General Permit for Stormwater Discharges from Industrial Activities Except Construction, as that General Permit may be amended or revised.

**MS4** — Municipal separate storm sewer system.

**MUNICIPAL SEPARATE STORM SEWER SYSTEM** — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

- A. Owned or operated by the Town of New Paltz;
- B. Designed or used for collecting or conveying stormwater;
- C. Which is not a combined sewer; and
- D. Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

**MUNICIPALITY** — The Town of New Paltz.

**NONSTORMWATER DISCHARGE** — Any discharge to the MS4 that is not composed entirely of stormwater.

**PERSON** — Any individual, association, organization, partnership, firm, corporation, limited-liability company, or other entity recognized by law and acting as either the owner of any interest in real property, or as the owner's agent.

**POLLUTANT** — Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the New York State water quality standards set forth in 6 NYCRR 703.

**PREMISES** — Any building lot, parcel of land, or portion of land, whether improved or unimproved, including improvements on such land, and adjacent sidewalks and parking strips under the control of the owner or operator of such lot or land.

**SPECIAL CONDITIONS** —

- A. Discharge compliance with water quality standards. The condition that applies where a municipality has been notified that the discharge of stormwater authorized under its MS4 permit may have caused or has

the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition the municipality must take all necessary actions to ensure future discharges do not cause or contribute to that violation of water quality standards.

- B. 303(d) listed waters. The condition in the municipality's MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.
- C. Total maximum daily load (TMDL) strategy. The condition in the municipality's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a water body or watershed into which the MS4 discharges.
- D. The condition in the municipality's MS4 permit that applies if a TMDL is approved in the future by EPA for any water body or watershed into which an MS4 discharges. Under this condition the municipality must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the municipality must, within six months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) STORMWATER DISCHARGE PERMIT — A permit issued by the Department that authorizes the discharge of pollutants to waters of the state.

STORMWATER — Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT OFFICER (SMO) — An employee, the municipal engineer or other public official(s) designated by the Town of New Paltz to enforce this article. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

TMDL — Total maximum daily load.

TOTAL MAXIMUM DAILY LOAD — The maximum amount of a pollutant to be allowed to be released into a water body so as not to impair uses of the water, allocated among the sources of that pollutant.

WASTEWATER — Water that is not stormwater, is contaminated with pollutants, and is or will be discarded.

### **§ 115-3. Applicability.**

This article shall apply to all water entering the MS4 that is generated on any developed or undeveloped lands, unless explicitly exempted by an authorized enforcement agency.



**§ 115-4. Responsibility for administration.**

The Stormwater Management Officer(s) (SMO) shall administer, implement, and enforce the provisions of this article. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the SMO as may be authorized by the municipality.

**§ 115-5. Severability.**

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article.

**§ 115-6. Discharge prohibitions.**

- A. Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in § 115-6A(1). The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:
- (1) The following discharges are exempt from discharge prohibitions established by this article, unless the Department or the municipality has determined them to be substantial contributors of pollutants: waterline flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising groundwater, uncontaminated groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains, crawl space or basement sump pumps, air-conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from firefighting activities, and any other water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.
  - (2) Discharges, approved in writing by the SMO to protect life or property from imminent harm or damage, provided that such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this article.
  - (3) Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.

- (4) The prohibition shall not apply to any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Department, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been duly granted by the Department for any discharge to the MS4.

B. Prohibition of illicit connections.

- (1) The construction, use, maintenance or continued existence of illicit connections to the MS4, whether or not such connection is in use, is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was then permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this article if the person connects a line conveying sewage to the municipality's MS4, or allows such a connection to continue.

**§ 115-7. Prohibition against failing individual sewage treatment systems.**

No person shall operate a failing individual sewage treatment system in areas tributary to the municipality's MS4. A failing individual sewage treatment system is one which has been determined by the SMO, or an agency with jurisdiction over such system, to meet one or more of the following conditions:

- A. The backup of sewage into a structure.
- B. Discharges of treated or untreated sewage onto the ground surface.
- C. A connection or connections to a separate stormwater sewer system.
- D. Liquid level in the septic tank above the outlet invert.
- E. Structural failure of any component of the individual sewage treatment system that could lead to any of the other failure conditions as noted in this section.
- F. Contamination of off-site groundwater.

**§ 115-8. Prohibition against activities contaminating stormwater.**

- A. Activities that are subject to the requirements of this section are those types of activities that:

- (1) Cause or contribute to a violation of the municipality's MS4 SPDES permit.
  - (2) Cause or contribute to the municipality being subject to the special conditions as defined in § 115-2, Definitions, of this article.
- B. Such activities include, but are not limited to, failing individual sewage treatment systems as defined in § 115-7, improper management of pet waste or any other activity that causes or contributes to violations of the municipality's MS4 SPDES permit authorization.
- C. Upon notification by the SMO to a person that he or she is engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

**§ 115-9. Prevention, control and reduction of stormwater pollutants by use of best management practices.**

- A. Best management practices. Where the SMO has identified illicit discharges as defined in § 115-2 or activities contaminating stormwater as defined in § 115-8, the municipality may require implementation of best management practices (BMPs) to control those illicit discharges and activities.
- (1) The owner or operator of a commercial or industrial establishment shall provide, at his/her own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and nonstructural BMPs.
  - (2) Any person responsible for a property or premises which is, or may be, the source of an illicit discharge, as defined in § 115-2, or an activity contaminating stormwater, as defined in § 115-8, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to reduce or eliminate, to the maximum extent practicable, the source of pollutant(s) to the MS4.
  - (3) Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.
- B. Individual sewage treatment systems; response to special conditions requiring no increase of pollutants or requiring a reduction of pollutants. Where individual sewage treatment systems are contributing to the municipality's being subject to the special conditions as defined in § 115-2 of this article, the owner or operator of such individual sewage treatment systems shall be required to:

- (1) Maintain and operate individual sewage treatment systems as follows:
  - (a) Inspect the septic tank annually to determine scum and sludge accumulation. Septic tanks must be pumped out whenever the bottom of the scum layer is within three inches of the bottom of the outlet baffle or sanitary tee or the top of the sludge is within 10 inches of the bottom of the outlet baffle or sanitary tee.
  - (b) Avoid the use of septic tank additives.
  - (c) Avoid the disposal of excessive quantities of detergents, kitchen wastes, laundry wastes, and household chemicals; and
  - (d) Avoid the disposal of cigarette butts, disposable diapers, sanitary napkins, trash and other such items.
- (2) Repair or replace individual sewage treatment systems as follows:
  - (a) The repaired or replaced system shall be designed and installed in accordance with 10 NYCRR Appendix 75A to the maximum extent practicable.
  - (b) A design professional licensed to practice in New York State shall prepare design plans for any type of absorption field that involves:
    - [1] Relocating or extending an absorption area to a location not previously approved for such field;
    - [2] Installation of a new subsurface treatment system at the same location; or
    - [3] Use of alternate system or innovative system design or technology.
  - (c) A written certificate of compliance, including certification that the installation of the repaired or replaced system has been inspected to the extent necessary to determine it was installed in substantial conformance with the design plans, shall be submitted by the design professional to the municipality at the completion of construction of the repair or replacement system.

**§ 115-10. Suspension of access to MS4; illicit discharges in emergency situations.**

- A. The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such

suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons, including requesting that the Town Board authorize the SMO to apply to a court of competent jurisdiction for an injunction, order to remedy the violation or other appropriate relief.

- B. Termination of MS4 access due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this article may have his/her MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefor. Such notice shall include the time and date on which the termination will become effective. Prior to that time, the violator may petition the SMO for reconsideration. The SMO may allow the restoration of terminated access if he/she finds that the illicit discharge has ceased and the discharger has taken appropriate steps to prevent its recurrence. The SMO may continue to deny access to the MS4 if the SMO determines in writing that the illicit discharge has not ceased or is likely to recur. It shall be a violation of this Chapter if any person takes action to reinstate MS4 access to premises terminated pursuant to this section, or causes such action to be taken, without the prior approval of the SMO.

**§ 115-11. Industrial or construction activity discharges.**

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. The municipality may require acceptable proof from the permittee that discharges from the regulated industrial or construction activities will be in compliance with said permit prior to allowing discharges to the MS4.

**§ 115-12. Access and monitoring of discharges.**

- A. Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this article, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this article.
- B. Access to facilities.
- (1) The SMO shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.

- (2) Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this article.
- (3) The municipality shall have the right to set up on any facility subject to this article such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (4) The municipality has the right to require the facilities subject to this article to install monitoring equipment as is reasonably necessary to determine compliance with this article. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (5) A person who is the operator of a facility subject to this article commits an offense if the person denies the SMO reasonable access to the facility for the purpose of conducting any activity authorized or required by this article when the SMO has probable cause to believe that there is a violation of this article on the premises, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder.
- (6) If the SMO is refused access to any part of the premises from which stormwater is discharged, and he/she has probable cause to believe that there may be a violation of this article on the premises, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Chapter or any order issued hereunder, then the SMO may apply to any court of competent jurisdiction for a search warrant.

#### **§ 115-13. Notification of spills.**

- A. Emergency response. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release.
- B. Notice of potential release to MS4. In the event such release involves hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the municipality in person or by telephone or facsimile no later

than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the municipality within three business days of the telephone notice. The notification provisions of this Section are in addition to any other applicable notification provisions required by federal, state or local laws or regulations, and such person shall also comply with those notification requirements.

- C. Retention of records. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge, the actions to contain and clean up the discharge, and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

**§ 115-14. Enforcement; penalties for offenses.**

- A. Notice of violation. When the SMO finds that a person has violated a prohibition or failed to meet a requirement of this article, he/she may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:
- (1) The elimination of illicit connections or discharges;
  - (2) That violating discharges, practices, or operations shall cease and desist;
  - (3) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
  - (4) Submission of a plan to avoid recurrence of the violation(s);
  - (5) The performance of monitoring, analyses, and reporting;
  - (6) Payment of fine; and
  - (7) The implementation of source control or treatment BMPs.
- B. Abatement of violation. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.
- C. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this article shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a

fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this article shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation. In addition, any person who violates this article shall pay any fines or penalties that the Town of New Paltz is required to pay by reason of said person's violations.

#### **§ 115-15. Corrective measures.**

- A. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.
- B. If refused access to the subject private property, the SMO may seek a warrant or order in a court of competent jurisdiction to be authorized to enter upon the property. Upon determination that a violation is continuing, the SMO may request authorization from the Town Board to seek a court order to require the discharger to take any and all other measures reasonably necessary to abate the violation and/or restore the property, or to collect the fines and penalties set forth above. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

#### **§ 115-16. Injunctive relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the Town Board may authorize the SMO to apply to a court of competent jurisdiction for a temporary restraining order and/or preliminary and/or permanent injunction restraining the person from activities which would create further violations, compelling the person to perform abatement or remediation of the violation, or for such other relief as the Town Board deems appropriate.

#### **§ 115-17. Alternative remedies.**

- A. Where a person has violated a provision of this article, he/she may be eligible for alternative disposition in lieu of the penalties set forth in § 115-14C upon a determination of the Municipal Code Enforcement Office that:
  - (1) The violation was unintentional;



- (2) The violator has no history of previous violations of this article;
- (3) Environmental damage was minimal;
- (4) The violator acted quickly to remedy violation; and
- (5) The violator cooperated in investigation and resolution.

B. Alternative remedies may consist of one or more of the following:

- (1) Attendance at compliance workshops;
- (2) River, stream or creek cleanup activities;
- (3) Other community service related to restoration or protection of environmental resources.

**§ 115-18. Violations deemed public nuisance.**

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this article which is a threat to public health, safety, and welfare may be summarily abated or restored by the Town, at the violator's expense, and/or a civil action may be brought by the Town Board, in the name of the Town, to abate, enjoin, or otherwise compel the cessation of such nuisance.

**§ 115-19. Remedies not exclusive.**

The remedies provided by this article are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the Town, as the enforcement agency, to seek cumulative remedies.

**§ 115-20. Appeal.**

Any person, firm or corporation claiming to be adversely affected or aggrieved by any ruling, decision, determination or order of the SMO may appeal such ruling, decision, or determination to the New York State Supreme Court within 30 days after said determination, ruling, or decision is filed in the office of the Town Clerk. To the extent that said time limit is at variance with the time limit set forth in § 217 of the New York State Civil Practice Law and Rules, it is the express intention of this article to supersede same.

## **Chapter 116**

# **STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL**

### **GENERAL REFERENCES**

**Flood damage prevention — See Ch. 82.**

**Water conservation — See Chs. 138 and 138A.**

**Storm sewers — See Ch. 115.**

**Wetlands and watercourse protection — See  
Ch. 139.**

**Subdivision of land — See Ch. 121.**

**Zoning — See Ch. 140.**

**Tree conservation — See Ch. 130.**

ARTICLE I  
**General Provisions**

**§ 116-1. Findings of fact.**

It is hereby determined that:

- A. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;
- B. This stormwater runoff contributes to increased quantities of waterborne pollutants, including siltation of aquatic habitat and an increase in the water temperature, which are detrimental to fish and other desirable species;
- C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- D. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- E. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation;
- F. Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- H. Proper design, construction and maintenance of stormwater management practices can greatly increase their effectiveness in water quality treatment and water quantity control;
- I. Green infrastructure is an effective and desirable method to reduce impacts from stormwater runoff and should be implemented in order to restore natural hydrologic regimes, increase infiltration, slow water, and protect communities from the risks associated with stormwater runoff and soil erosion;
- J. Stormwater management practices involving infiltration recharge the groundwater table and provide a high degree of water quality treatment;
- K. Stormwater practices involving bioretention provide a high degree of water quality treatment;

- L. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety;
- M. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development more compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development;
- N. Climate change and the increased risk of severe storms with the capacity to increase stormwater runoff and soil erosion pose a significant threat to a community's sustainability and the safety of its citizens through potential increases in pollution of its waterways and damage to infrastructure, economic assets, and natural resources;
- O. Stream buffers and vegetated floodplains treat stormwater, improve water quality, reduce floodwater velocity, and provide a right-of-way for flood events; and
- P. Fitting the development design to the terrain and avoiding steep slopes, floodplains, and wetlands helps to preserve the natural hydrology and drainageways of a site, reduces the need for grading and land disturbance, and provides a framework for site design and layout.

### **§ 116-2. Purpose.**

The purpose of this chapter is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town of New Paltz and to address the findings of fact in § 116-1 hereof. This chapter seeks to meet those purposes by achieving the following objectives:

- A. Meet the requirements of minimum measures 4 and 5 of the current version of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from municipal separate sewer systems (MS4s);
- B. Require regulated land development activities to conform to the substantive requirements of the most current version of the NYS Department of Environmental Conservation (SPDES) General Permit for Construction Activities;
- C. Encourage the use of green infrastructure practices as part of all land development activities, but especially those activities requiring site plan or subdivision plan approval, to control stormwater runoff, protect natural areas, reduce impervious cover, maintain natural hydrology, and using runoff reduction techniques to the maximum extent practicable;

- D. Require that regulated land development activities be designed so that there is no net increase in stormwater runoff from those activities in order to reduce flooding, siltation, increases in stream temperature and stream bank erosion and maintain the integrity of stream channels;
- E. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality and harm fish and wildlife habitats;
- F. Minimize the total annual volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable;
- G. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety;
- H. Adapt to current and projected climate change impacts, decrease risk of storm-related flooding, and increased resilience to severe storm surge; and
- I. Reduce the impact on the environment, protect water quality, reduce the potential for erosion and protect sensitive habitats by locating development away from floodplains, ecologically sensitive areas, and permeable soils to the extent practicable, and limiting the amount of clearing and grading.

### **§ 116-3. Statutory authority.**

This chapter is enacted pursuant to § 10 of the Municipal Home Rule Law of the State of New York, which gives the Town Board of New Paltz the authority to enact local laws and amend local laws, for the purpose of promoting the health, safety or general welfare of the Town of New Paltz and for the protection and enhancement of its physical environment. The Town Board of New Paltz may appoint municipal officers, employees, or independent contractors to effectuate, administer and enforce such local law.

### **§ 116-4. Applicability.**

- A. This chapter shall be applicable to all water discharged into the MS4 of the Town of New Paltz that is generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.
- B. This chapter shall be applicable to all land development activities as defined in Article II, § 116-6.
- C. The municipality shall designate a Stormwater Management Officer ("SMO"), who shall accept and review all stormwater pollution prevention plans (SWPPPs) and forward such plans to the applicable

municipal board. The Stormwater Management Officer shall engage the services of the designated Town Engineer to review the plans, specifications and related documents at a cost established in accordance with a fee structure that is periodically updated and adopted by the Town Board, the cost of the review being reimbursable to the Town by the applicant.

- D. All land development activities subject to review and approval by the Town Planning Board pursuant to the subdivision and site plan regulations of this Code<sup>31</sup> shall also be reviewed subject to the standards contained in this chapter.
- E. All land development activities not subject to review as stated in § 116-4D and not listed as an exempt activity in § 116-5 herein shall be required to submit a SWPPP to the SMO, who will then engage the services of the designated Town Engineer as necessary to review the submitted SWPPP. After considering the review and recommendations of the Town Engineer, the SMO shall accept the SWPPP if it complies with the requirements of this chapter.

#### **§ 116-5. Exemptions.**

The following activities are exempt from review under this chapter:

- A. Agricultural activity, as defined in this chapter;
- B. Silviculture activity, except that landing areas on log haul roads are subject to this chapter;
- C. Routine maintenance activities that disturb less than one acre of land and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility;
- D. Repairs to any stormwater management practice or facility deemed necessary by the SMO, after consultation with the Town Engineer, to accomplish the purposes of this chapter;
- E. Any construction on a lot shown on a plat of subdivision or a site plan which has received final approval by the Town of New Paltz and on which construction has commenced or for which a building permit was properly issued on or before the effective date of this chapter, and remains valid. However, site plans and subdivisions, or any part thereof, that have received final approval by the Town of New Paltz and construction has not commenced on or before the effective date of this chapter shall comply to the maximum extent practicable with the applicable requirements of this chapter, as directed by the SMO and the Town Engineer;
- F. Land development activities being conducted on land not incorporated within an approved subdivision, but for which a building permit has

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**31. Editor's Note: See Ch. 121, Subdivision of Land.**

been approved on or before the effective date of this chapter, and which permit remains valid.

- G. Cemetery graves;
- H. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.
- I. Emergency activities determined by the Town Board to require immediate implementation in order to protect life, property or natural resources;
- J. Activities of an individual engaging in home gardening by growing flowers, vegetables and other plants primarily for use by that person and his or her family;
- K. Landscaping and horticultural activities in connection with an existing structure and/or existing site improvements.





ARTICLE II  
**Stormwater Control**

**§ 116-6. Definitions.**

The terms used in this chapter or in documents prepared or reviewed under this chapter shall have the meaning as set forth in this section.

**AGRICULTURE** — All agricultural operations and activities related to the growing or raising of crops, livestock or livestock products, and agricultural products, as such terms are defined in or governed by the Agriculture and Markets Law of the State of New York on lands qualified under Ulster County and New York State law for an agricultural exemption by the Assessor of the Town of New Paltz.

**APPLICANT** — A person who owns or controls the property on which a proposed regulated activity would be located, including the property owner or any person who has filed an application for a permit or approval required for a land development activity regulated by this chapter with the consent of the owner, and any person who would actually control and direct the proposed regulated activity.

**BEST MANAGEMENT PRACTICES (BMP)** — Physical, structural, and/or managerial practices that, when used singly or in combination, prevent or reduce pollution of water, and have been approved by the Department of Environmental Conservation.

**BUILDING** — Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

**CHANNEL** — A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

**CLEARING** — Destruction and removal of areas of vegetation by manual, mechanical, biological or chemical methods.

**DEDICATION** — The deliberate appropriation of property by its owner.

**DEPARTMENT or DEC** — The New York State Department of Environmental Conservation.

**DESIGN MANUAL** — The current version of the New York State Stormwater Management Design Manual, applicable to the proposed SWPPP including applicable updates, which serves as the official guidance document for stormwater management principles, methods and practices.

**DEVELOPER** — A person who undertakes land development activities.

**ENFORCEMENT OFFICIAL** — The Stormwater Management Officer ("SMO") or any other official or representative of the Town of New Paltz duly designated by the Town Board to enforce any provision of this chapter (collectively the "enforcement official").

**EROSION CONTROL** — Measures that prevent the soil from eroding.

EROSION CONTROL MANUAL — The most recent version of the New York Standards and Specifications for Erosion and Sediment Control Manual, commonly known as the "Blue Book."

FLOODPLAIN, FIVE-HUNDRED-YEAR — The area adjoining a river, stream, or watercourses covered by water in the event of a five-hundred-year flood, either as shown on current FEMA mapping or as required to be determined when FEMA mapping information is not available. The five-hundred-year flooding event is the flood having a two-tenths-percent chance of being equaled or exceeded in magnitude in any given year.

FLOODPLAIN, ONE-HUNDRED-YEAR — The area adjoining a river, stream, or watercourses covered by water in the event of a one-hundred-year flood, either as shown on current FEMA mapping or as required to be determined when FEMA mapping information is not available. The one-hundred-year flooding event is the flood having a one-percent chance of being equaled or exceeded in magnitude in any given year.

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 one foot, as shown on current FEMA mapping and as required to be determined when FEMA mapping information is not available.

GRADING — Excavation or fill of material, including the resulting conditions thereof.

GREEN INFRASTRUCTURE — Green infrastructure approaches infiltrate, evapotranspire or reuse stormwater, using soils and vegetation rather than hardscape collection, conveyance and storage structures. Common green infrastructure approaches include green roofs, trees and tree boxes, rain gardens, vegetated swales, pocket wetlands, infiltration planters, vegetated median strips, reforestation, and protection and enhancement of riparian buffers and floodplains.

HYDROLOGIC SOIL GROUP (HSG) — A Natural Resource Conservation Service classification system in which soils are categorized into four runoff potential groups.

IMPERVIOUS COVER — Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snowmelt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

INDUSTRIAL STORMWATER PERMIT — A State Pollutant Discharge Elimination System (SPDES) permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION — The process of percolating stormwater into the subsoil.

LAND DEVELOPMENT ACTIVITY — Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than 1.0 acre, or activities disturbing less than 1.0 acre of total land area that are part of a larger

common plan of development or sale totaling equal to or greater than 1.0 acre of land disturbance, even though multiple separate and distinct land development activities may take place at different times on different schedules.

**LANDOWNER** — The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

**LOW-IMPACT DEVELOPMENT (LID)** — A land planning and engineering design approach to manage stormwater runoff which emphasizes conservation and use of on-site natural features to protect water quality. This approach implements engineered small-scale hydrologic controls to replicate, to the extent practicable, the predevelopment hydrologic regime of watersheds through infiltrating, filtering, storing, evaporating, and detaining runoff close to its source.

**MAINTENANCE AGREEMENT** — A legally recorded document that sets forth restrictions on the use of property, in the form of a deed restriction or covenant, and which establishes the legal responsibility of the property owners and others for long-term maintenance of stormwater management practices.

**MEAN HIGH WATER MARK** — The average annual high water level.

**NONPOINT SOURCE POLLUTION** — Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

**ORDINARY HIGH WATER MARK** — That line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

**PHASING** — Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

**POLLUTANT OF CONCERN** — Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

**PROJECT** — Land development activity.

**QUALIFIED INSPECTOR** — A person that is knowledgeable in the principles and practices of erosion and sediment control, such as a licensed professional engineer, a certified professional in erosion and sediment control (CPESC), a certified professional in stormwater quality (CPSWQ), registered landscape architect, or other Department-endorsed individual. It can also mean someone working in the direct supervision of, and at the same company as, the licensed professional engineer or registered

landscape architect, provided that person has received Department-endorsed training in the principles and practices of erosion and sediment control.

RECHARGE — The replenishment of underground water reserves.

RIPARIAN — Belonging or related to the bank of a water body, including rivers, streams, wetlands, lakes, ponds, or impoundments.

RIPARIAN BUFFER — A vegetated area, including trees, shrubs, and herbaceous vegetation, adjacent to a water body.

RUNOFF REDUCTION VOLUME (RRv) — Reduction of the total water quality volume (WQv) by application of runoff reduction techniques and standard stormwater management practices (SMPs) with RRv capacity to replicate predevelopment hydrology.

SEDIMENT CONTROL — Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREA — Cold-water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, regulated wetlands, habitats for threatened, endangered or special-concern species, highly erodible soils and/or soils with slopes greater than 15%, one-hundred- and five-hundred-year floodplains, unique geological features, and mature forests.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM CONSTRUCTION ACTIVITIES — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards.

STABILIZATION — The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER — An order issued which requires that all construction activity on a site be stopped.

STORMWATER — Rainwater, surface runoff, snowmelt and drainage.

STORMWATER DESIGN PLAN (SDP), FINAL — A detailed plan set outlining the stormwater management system(s) and water quality controls for the proposed development, including all computations and specifications, and incorporated as appropriate in the final subdivision plan, final site plan or construction plan for the proposed development.

STORMWATER DESIGN PLAN, CONCEPTUAL — A preliminary plan set demonstrating a stormwater management system(s) and water quality controls for a proposed development at a level of detail to demonstrate its

compliance with all applicable requirements, which may be incorporated in a stormwater pollution prevention plan for the proposed development.

**STORMWATER HOTSPOT** — A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

**STORMWATER MANAGEMENT** — The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

**STORMWATER MANAGEMENT FACILITY** — One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

**STORMWATER MANAGEMENT OFFICER (SMO)** — An employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board or Town Engineer and inspect stormwater management practices, and to enforce the provisions of this chapter.

**STORMWATER MANAGEMENT PRACTICES (SMPs)** — Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

**STORMWATER POLLUTION PREVENTION PLAN (SWPPP)** — A plan for controlling stormwater runoff and pollutants from a site during and after construction activities as further detailed in this chapter.

**STORMWATER RUNOFF** — Flow on the surface of the ground, resulting from precipitation.

**SURFACE WATERS OF THE STATE OF NEW YORK** — Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, wetlands, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

**TEMPORARILY CEASED** — That an existing disturbed area will not be disturbed again within 14 calendar days of the previous soil disturbance.

**TRAINED CONTRACTOR** — An employee from the contracting (construction) company that will be responsible for implementing the SWPPP, who has received four hours of Department-endorsed training in proper erosion and sediment control principles. After receiving the initial

training, the trained contractor shall receive four hours of training every three years. It can also mean an employee from the contracting (construction) company that meets the qualified inspector qualifications.

**WATER QUALITY VOLUME (WQv)** — The quantity of stormwater that is captured and received water quality treatment with the utilization of a stormwater management practice. The water quality volume represents 90% of the average annual stormwater runoff volume and its quantity is directly related to the impervious cover in the drainage basin. The volume is calculated in accordance with the Design Manual.

**WATERCOURSE** — A permanent or intermittent stream, river, creek, ditch, or channel in which water flows as listed (classified or unclassified) by the NYS Department of Environmental Conservation in 6 NYCRR Article X.

**WATERWAY** — A channel directing surface runoff to a watercourse or public storm drain.

**WETLAND** — Areas regulated under federal, state, and/or Town law that comprise hydric soils and/or are inundated or saturated by surface- or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions and regulated. Wetlands generally include marshes, bogs, vernal pools, wet meadows, fens and similar areas.

#### **§ 116-7. Stormwater pollution prevention plans.**

##### **A. Stormwater pollution prevention plan requirement.**

- (1) No application for approval of a land development activity shall be deemed complete until the appropriate board has received a proposed stormwater pollution prevention plan (SWPPP), prepared in accordance with the DEC General Permit for Stormwater Discharges of Construction Activities that will be applicable to the proposed land development activity, as that permit may be amended from time to time, and the supplemental standards set forth below in Subsection B.
- (2) The applicant shall also provide a copy of the SWPPP prepared in accordance with the specifications of this chapter to the engineering department or other designated stormwater office of the County of Ulster. The applicant shall also provide GPS (Global Positioning System) reference data in a form suitable to the SMO for stormwater outfalls and permanent structures constructed in accordance with the New York State Stormwater Management Design Manual.

##### **B. Contents of stormwater pollution prevention plans.**

- (1) All SWPPPs shall document and describe the selection, design, installation, implementation and maintenance of control measures and practices and describe the erosion and sediment control

practices and, where required, postconstruction stormwater management practices used to reduce pollutants. The contents of all SWPPPs will include erosion and sediment control practices designed in conformance with the technical standard, New York State Standards and Specifications for Erosion and Sediment Control, most current edition, and shall also include the following information:

- (a) At a minimum, the site plan shall be drawn at a scale no smaller than one inch equals 100 feet;
- (b) Buffer (adjacent) areas regulated by the NYS DEC and the Town of New Paltz;
- (c) Description of ground cover/vegetation along watercourses;
- (d) Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP. All silt fences and other applicable erosion and sediment control measures shall be removed from the site after the site has been stabilized;
- (e) Description of the ground cover conditions throughout the site, as well as any changes to ground cover that have occurred in the previous five years;
- (f) For all land development activities that require site plan approval under Town Code, a description of salt usage for control of snow and ice shall be included. The frequency, type, quantity, etc., of salt usage as well as measures to reduce salt usage shall be included;
- (g) Description of construction and waste materials expected to be stored on site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
- (h) The percent of impervious ground cover should be clearly noted for preconstruction and postconstruction conditions;
- (i) Temporary practices that will be converted to permanent control measures;
- (j) Name(s) of the receiving water(s);
- (k) Delineation of SWPPP implementation responsibilities for each part of the site;
- (l) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and

the discharge of pollutants from exposed areas of the site to the degree attainable; and

- (m) Any existing data that describes the stormwater runoff at the site.
- (2) Land development activities as defined in § 116-6 of this article and meeting Condition A, B and/or C below shall include water quantity and water quality controls (postconstruction stormwater runoff controls) as set forth in § 116-7B(3) and (4) below.
  - (a) Condition A: stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
  - (b) Condition B: stormwater runoff from land development activities disturbing 5.0 or more acres.
  - (c) Condition C: stormwater runoff from land development activity disturbing between 1.0 and 5.0 acres of land during the course of the project, exclusive of the construction of single-family residences.
- (3) General requirements for the contents of all SWPPPs for land development activities that meet Conditions A, B and/or C shall be the same as is required in the SPDES General Permit for Stormwater Discharges From Construction Activity, most current version, and shall also include the following:
  - (a) All information in § 116-7B(1) of this chapter.
  - (b) Description of each postconstruction stormwater management practice, a stormwater modeling and analysis report, testing results, operation and maintenance plan and, where required, compliance with the enhanced phosphorous removal standards.
  - (c) Documentation that the stormwater management planning process using green infrastructure has been followed as required in the Design Manual using the stormwater management practices in Schedules A1, A2 and A3.<sup>32</sup> A detailed description as to why each green infrastructure practice cannot be utilized in the design must be provided. The planning process steps are as follows:
    - [1] Prepare an initial site plan and conceptual design that preserves natural features and reduces impervious cover

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**32.Editor's Note: Schedules A1, A2 and A3 are included as attachments to this chapter.**



by incorporating green infrastructure practices listed in Schedule A1 as appropriate to achieve runoff reduction goals and using the evaluation process in the Design Manual;

- [2] Determine the water quality volume (WQv) using the sizing criteria in the Design Manual;
  - [3] Apply runoff reduction techniques to reduce total WQv using the green infrastructure practices in Schedule A2 and standard stormwater management practices with runoff reduction capacity as described in Schedule A3 and using the sizing and performance criteria in the Design Manual;
  - [4] Determine the minimum runoff reduction volume (RRv) needed using the sizing criteria in the Design Manual;
  - [5] Apply standard stormwater management practices in Schedule A3 to address remaining WQv using the sizing and performance criteria in the Design Manual; and
  - [6] Apply volume and peak rate control practices only if still needed to meet the requirements in the Design Manual.
- (d) Comparison of postdevelopment stormwater runoff conditions with predevelopment conditions.
  - (e) Increases in stormwater runoff volume as a result of the land development activity shall be presented. Potential downstream impacts due to increased volume and proposed methods to lessen the volume shall be discussed.
  - (f) Infiltration practices for water quality treatment are preferred after the use of green infrastructure practices in the design have been exhausted (per the requirements of the Design Manual) if soils and other physical characteristics are suitable and if the project does not involve a stormwater hot spot (See Section 4.11 of the Design Manual). If infiltration practices are not used, a detailed description as to why this cannot be achieved must be provided.
  - (g) Bioretention practices for water quality treatment are preferred after the use of green infrastructure practices in the design have been exhausted (per the requirements of the Design Manual) if physical characteristics of the site are suitable. If bioretention practices are not used, a detailed description as to why this cannot be achieved must be provided.
  - (h) The method of soil compaction should be discussed. During construction, compaction of landscaped or pervious areas

should be avoided to allow infiltration of stormwater into the subsoil.

- (i) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
  - (j) Inspection and maintenance agreement shall be binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Article IV of this chapter.
- (4) Requirements for postconstruction runoff controls shall comply with the standards established in the current editions of the Design Manual and the New York State Standards and Specifications for Erosion and Sediment Control, and including the following standards for land development activities that meet Conditions A, B and/or C:
- (a) Pond practices.
    - [1] The maximum bottom area of any individual stormwater management pond or series of stormwater management ponds, including the forebay area, shall not exceed 0.5 acre, unless specifically accepted by the Town's reviewing Engineer upon an investigation of the specific site conditions that could justify an increase in stormwater management pond area.
    - [2] The minimum length to width ratio for the pond shall be 2:1, or the pond must be designed so that the flow path within the pond is equal to two times the pond width. The pond inlet and outlet shall be located on the opposite sides of the pond.
    - [3] Maintain a long flow path through the system to the greatest extent possible, and design ponds with irregular shape.
    - [4] The pond shoreline shall be planted with barrier riparian vegetation in accordance with the Design Manual.
    - [5] Sediment removal from the forebay shall occur every three years or when it becomes 30% full.
    - [6] Sediment removal from the main basin shall occur every five years or when it becomes 30% full (30% of the permanent pool depth), whichever occurs sooner.
    - [7] All low-flow orifices (six-inch diameter or less) shall be adequately designed to prevent clogging.

- [8] Pond side slopes shall be 3H:1V to allow regular maintenance (e.g., mowing).
- [9] The principal spillway and large culverts shall not permit access by small children.
- [10] Pond practices shall meet all requirements set forth in the Design Manual.

(b) Infiltration practices.

- [1] The infiltration practice shall operate as an offline treatment system, with a bypass overflow to a detention basin or other stable downstream receptacle.
- [2] Remove sediment/gross solids from the infiltration surface annually, to ensure the maximum surface area for treatment.
- [3] Rehabilitate/replace at least the top six inches of filter media when flow-through rate reduces to less than 60% design treatment flow rate (replace greater than six inches as necessary to restore design treatment flow rate).
- [4] Infiltration practices shall meet all requirements set forth in the Design Manual.

(c) Bioretention practices.

- [1] Bioretention soil media:
  - [a] The media shall have 0% clay content. Any clay greatly hastens failure, especially in the presence of geotextiles.
  - [b] The required organic component of the soil media shall be peat.
- [2] A landscaping plan is required for each bioretention practice. To the extent practicable, native plant species shall be used.
- [3] Remove sediment/gross solids from the bioretention surface annually or when depth exceeds three inches.
- [4] Rehabilitate/replace mulch and bioretention media (top six inches minimum) when flowing through rate reduces to less than 60% design treatment flow rate.
- [5] Bioretention practices shall meet all requirements set forth in the Design Manual.

**§ 116-8. Plan certification and MS4 acceptance.**

- A. The SWPPP shall be prepared by a New York State registered landscape architect, an international erosion control association certified professional in erosion and sediment control (CPESC), an international erosion control association certified professional in stormwater quality (CPSWQ) or a New York State licensed professional engineer, and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this chapter and any other applicable laws or regulations. All components of the SWPPP that involve the practice of engineering, as defined by the New York State Education Law (see Article 145), shall be prepared by, or under the direct supervision of, a professional engineer licensed to practice in the State of New York.
- B. The notice of intent (NOI) acceptance form shall be reviewed and approved by the Town's authorized and designated MS4 representative prior to filing the NOI with the DEC to obtain coverage under any SPDES General Permit for Stormwater.

#### **§ 116-9. Other permits.**

The applicant shall provide the SMO with acceptable evidence that all other applicable environmental and/or other required permits have been, or will be, acquired for the land development activity prior to approval of the final stormwater design plan.

#### **§ 116-10. Contractor certification.**

- A. Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity:

"I certify under penalty of law that I have read, understand and agree to comply with the terms and conditions of the stormwater pollution prevention plan and agree to implement any corrective actions identified by the qualified inspector during a site inspection. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."
- B. The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
- C. The certification statement(s) shall be filed with the SMO and become part of the SWPPP for the land development activity.

#### **§ 116-11. SWPPP copy retention and availability.**

A copy of the SWPPP shall be retained at the site of the land development activity in a prominent place for public viewing during construction, from

the date of initiation of construction activities until the date of the filing of a notice of termination of coverage from the General Permit evidencing that all disturbed areas have achieved final stabilization and the notice of termination has been accepted by the designated Town MS4 representative. The documents must be maintained in a secure location, such as a job trailer, on-site construction office, or mailbox with lock. The secure location must be accessible during normal business hours to an individual performing a compliance inspection.



ARTICLE III  
**Performance and Design Criteria**

All land development activities shall be subject to the following performance and design criteria.

**§ 116-12. Technical standards.**

For the purpose of this chapter, the current version of the following documents shall serve as the official standards and specifications for stormwater management. A SWPPP or SDP that incorporates stormwater management practices that are designed, constructed and maintained in accordance with these technical documents, as well as other requirements included in this chapter applicable to the regulated activity, shall be presumed to meet the standards imposed by this chapter:

- A. The New York State Stormwater Management Design Manual:
  - (1) Stormwater management practices must be selected, design, installed and maintained to meet the performance criteria in the most current version of the Design Manual using sound engineering judgment.
  - (2) Stormwater management practices must be designed to meet the applicable sizing criteria in the most current version of the Design Manual.
- B. The New York State Standards and Specifications for Erosion and Sediment Control, (the Erosion Control Manual);
- C. The standards imposed by this chapter are intended to be consistent with DEC SWPPP standards and the standards of the SPDES General Permit for Stormwater Discharges From Construction Activities, most current version, unless a supplemental standard is expressly identified in this chapter.
- D. Technical standards equivalents shall additionally provide:
  - (1) Where erosion and sediment control measures are not designed in conformance with the design criteria included in the Erosion Control Manual, the applicant or developer must include in the SWPPP the reason(s) for the deviation or alternative design and provide information which demonstrates that the deviation or alternative design is equivalent to the technical standards set forth in § 116-12A and B above; and
  - (2) Where postconstruction stormwater management practices are not designed in conformance with the performance criteria in the Design Manual, the applicant or developer must include in the SWPPP the reason(s) for the deviation and demonstrate that the alternative design is equivalent to the technical standard.
- E. Performance standards required:

- (1) The applicant or developer shall minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters using clean water only. Soaps, detergents and solvents shall not be used.
- (2) The applicant or developer shall minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials present on the site to precipitation and to stormwater. Minimization of exposure is not required in cases where the exposure to precipitation and to stormwater will not result in a discharge of pollutants, or where exposure of a specific material or product poses little risk of stormwater contamination (such as final products and materials intended for outdoor use).
- (3) The applicant or developer shall prevent the discharge of pollutants from spills and leaks and implement chemical spill and leak prevention and response procedures.

**§ 116-13. Water quality standards.**

Any land development activity shall not cause an increase in turbidity in surface waters of the State of New York that will result in substantial visible contrast to natural conditions.



## ARTICLE IV

**Maintenance, Inspection and Repair of Stormwater Facilities****§ 116-14. Maintenance during construction.**

- A. When land is disturbed in connection with a regulated land development activity, the owner, applicant or developer shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.
- B. The applicant or developer or their representative shall be on site daily when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.
- C. Inspections by a qualified stormwater inspector shall be completed every seven calendar days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. The inspection reports shall be delivered to the Stormwater Management Officer and also copied to the site logbook.
- D. Where soil disturbance activity has temporarily or permanently ceased, the application of soil stabilization measures must be initiated by the end of the next business day and completed within 14 calendar days from the date the current soil disturbance activity ceased. If five acres or more have been disturbed at one time and soil disturbance activity has temporarily or permanently ceased, the application of soil stabilization measures must be initiated by the end of the next business day and completed within seven days of the date the current soil disturbance activity ceased. The soil stabilization measures selected shall be in conformance with the Erosion Control Manual.
- E. The following activities are subject to the requirements in § 116-14A and B, but are exempt from the requirements in § 116-14C and D above:
  - (1) Construction on agricultural property that involves the soil disturbance of one acre or more but less than five acres of land.
  - (2) Construction of a single-family subdivision with 25% or less impervious cover at total site build-out that involves soil disturbance of one acre or more but less than five acres of land.
  - (3) Construction of a single-family home that involves soil disturbance of one acre or more but less than five acres of land.
- F. Land development activities where the applicant or developer has received authorization from the Department to disturb five acres or more at any one time shall be inspected by a qualified inspector twice

every seven days. The two inspections shall be separated by a minimum of two full calendar days.

#### **§ 116-15. Registration statement.**

Prior to the issuance of any permit to an applicant to commence a land development activity that has a SWPPP that includes a stormwater management facility as one of the requirements, the applicant or developer shall complete and file with the SMO a stormwater facility registration statement, which shall include a copy of any proposed permanent stormwater management facility design, the operations and maintenance plan in the SWPPP for the permanent facility, the entity that will be responsible for implementing each practice in the plan, including contact information for a responsible person, and such fee as required by resolution of the Town Board. The statement shall be updated within 30 days of a change or modification in the design, operation or maintenance of the facility, the designated entity responsible for implementing any practice or the contact information provided on the statement, or when the owner or operator of the facility submits a notice of termination of coverage to the MS4. The statement shall be renewed every three years thereafter.

#### **§ 116-16. Maintenance agreements.**

- A. Prior to the issuance of any permit to an applicant to commence a land development activity that has a SWPPP which includes a stormwater management facility as one of the requirements, the applicant or developer shall submit to the SMO a formal maintenance agreement for the stormwater management facilities in recordable form, together with all documents and fees required to record that agreement in the office of the Ulster County Clerk as a deed restriction on the property. The maintenance agreement shall be reviewed by the Town Attorney, in consultation with the SMO and the Town Engineer, to determine that: it will be binding on all subsequent landowners; it is consistent with the terms and conditions of Schedule B of this chapter,<sup>33</sup> entitled "Sample Stormwater Control Facility Maintenance Agreement"; it provides for access to the facility at reasonable times for periodic inspection by the Town of New Paltz to ensure that the facility is maintained in proper working condition to meet design standards; that it meets any other applicable standards of this chapter; and that it is in proper form for recording. Permits to commence the land development activity may be issued by the issuing official on receipt of appropriate evidence that the maintenance agreement has been duly recorded in the Clerk's office.
- B. The Town of New Paltz, in lieu of a maintenance agreement, at its sole discretion may establish a Town drainage district in accordance with the Town Law and accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this chapter and includes adequate and perpetual

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33.Editor's Note: Schedule B is included as an attachment to this chapter.

access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

**§ 116-17. Maintenance after construction.**

The owner or operator of permanent stormwater management practices installed in accordance with this chapter shall operate and maintain the stormwater management practices to achieve the goals of this chapter. Proper operation and maintenance also includes, as a minimum, the following:

- A. A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this chapter.
- B. Written procedures for operation and maintenance and training new maintenance personnel.
- C. Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations.



ARTICLE V  
**Administration and Enforcement**

**§ 116-18. Construction inspection.**

A. Inspection schedule.

- (1) The Town of New Paltz Stormwater Management Officer may require such inspections as necessary to determine compliance with this chapter and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this chapter and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the SMO and any other Town of New Paltz official designated by the SMO at least 48 hours before any of the following:
  - (a) Start of construction.
  - (b) Installation of sediment and erosion control measures.
  - (c) Completion of site clearing.
  - (d) Completion of rough grading.
  - (e) Completion of final grading.
  - (f) Close of the construction season.
  - (g) Completion of final landscaping.
  - (h) Successful establishment of landscaping in public areas.
  - (i) Dewatering activities involving the pumping of water.
- (2) If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted, except for site stabilization, until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

B. Stormwater management practice inspections and as-built survey.

- (1) The Town of New Paltz Stormwater Management Officer, or at the Town Board's discretion, a New York State licensed professional engineer, or certified professional in erosion and sediment control (CPESC), or certified professional in stormwater quality (CPSWQ) shall be responsible for conducting inspections of stormwater management practices (SMPs).
- (2) The SMO, or at the Town Board's discretion, a New York State licensed professional engineer or certified professional in erosion and sediment control, or certified professional in stormwater

quality may also conduct random inspections during construction, clearing and grading or site disturbance as necessary to determine compliance with this chapter. If deficiencies or violations are found, the SMO shall notify the applicant and/or developer in writing of the nature of the deficiency or violation and any required corrective actions.

- (3) The SMO may inspect the site in response to complaints associated with turbid water, flooding, or other potential violations of the stormwater pollution prevention plan.
  - (4) All applicants are required to submit as-built plans for any stormwater management practices located on site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.
- C. Inspection of stormwater facilities after project completion. After filing of a NOT or completion of the regulated activities, inspection programs shall be established on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher-than-typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher-than-usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.
- D. Submission of reports. The SMO may require monitoring and reporting from entities subject to this chapter as are necessary to determine compliance with this chapter.
- E. Right of entry for inspection.
- (1) Every owner and applicant undertaking a land development activity that requires review or approval pursuant this chapter shall be deemed to have given their respective consents to the enforcement official and to any consultants or other representatives of the Town reasonably required to assist the SMO in the performance of the SMO's duties (the Town MS4 representatives) to access any part of the site or premises upon which that activity is being conducted at any reasonable time for the purpose of performing his or her duties under this chapter. Therefore, when any new stormwater management facility is installed on private property or when any

new connection is made between private property and the public stormwater system, the owner or operator shall allow the enforcement official or other duly authorized Town MS4 representatives, upon the presentation of credentials and other documents as may be required by law, to: enter upon the owner's or operator's premises where a regulated stormwater facility or activity is located or conducted or where records must be kept pursuant to the requirements of this chapter or the conditions of coverage of any SPDES permit; have access to, and copy at reasonable times, any records that must be kept pursuant to this chapter or the conditions of a SPDES permit; inspect at reasonable times any facilities or equipment (including monitoring and control equipment), practices or operations regulated or required by this chapter; sample or monitor at reasonable times, for purposes of assuring compliance with this chapter, any substances or parameters at any location.

- (2) The enforcement official shall provide reasonable advance notice to the owner and to the applicant under the circumstances prevailing at the time that such notice is given, and thereafter the enforcement official and any other Town MS4 representatives are authorized to enter upon any site or premises upon which any regulated land development activity is being conducted at any reasonable time for the purpose of performing his or her duties under this chapter.
- (3) Application for search warrant. Should an owner or applicant revoke its consent to inspection(s) believed to be necessary by the enforcement official for the purpose of performing his or her duties under this chapter and the enforcement official has reasonable cause to believe that a violation of this chapter has occurred, the enforcement official is hereby authorized to apply to the Town Justice Court, or any other court of competent jurisdiction, for an administrative search warrant (pursuant to such legal requirements as may apply) to permit such inspection(s). The application for a search warrant shall in all respects comply with the applicable laws of the State of New York. Upon the issuance of said warrant the enforcement official and any other consultants reasonably required to assist the enforcement official in the performance of the enforcement official's duties shall execute the warrant and shall conduct the inspection as per the conduct and procedures provided for by applicable laws of the State of New York.

#### **§ 116-19. Performance guarantee.**

- A. Construction completion guarantee. In order to ensure the full and faithful completion of those aspects of land development activities that are related to compliance with all conditions set forth by the Town of New Paltz in its acceptance or approval of a SWPPP, the Town may

require the applicant or developer to provide, prior to construction, a cash escrow, or irrevocable letter of credit from an appropriate financial institution which guarantees satisfactory completion and maintenance of the stormwater management and water quality facilities and names the Town of New Paltz as the beneficiary. Security shall be in an amount determined by the Town of New Paltz based on submission of final design plans, with reference to actual construction and landscaping costs, and in a form acceptable to the attorney for the Town of New Paltz. The performance guarantee shall remain in force until the applicant is released from liability by the Town of New Paltz provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) has (have) been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facility(ies) has (have) been found to be acceptable to the Town of New Paltz. Per annum interest on cash escrow deposits shall be reinvested in the account until the applicant is released from liability.

- B. Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required by the Town Board or official accepting or approving the SWPPP to provide the Town of New Paltz with an irrevocable letter of credit from an approved financial institution or other security acceptable to the Town in an amount and in a form satisfactory to the Town to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town Board of the Town of New Paltz may authorize such draw upon the account as is necessary to cover the costs of proper operation and maintenance, including engineering and inspection costs.
- C. Recordkeeping. The Town of New Paltz may require entities subject to this chapter to maintain records demonstrating compliance with this chapter.

#### **§ 116-20. Enforcement and penalties.**

- A. This chapter may be enforced by the Stormwater Management Officer ("SMO") or any other official or representative of the Town of New Paltz duly designated by the Town Board (collectively the "enforcement official").
- B. The enforcement official is authorized to issue a notice and order to remedy violation for any violation of any provision of this chapter and, in the event that the responsible party fails to remedy the violation in accordance with the order, to request that the Town Board authorize and commence in any court of competent jurisdiction a prosecution for



such violation and arrange for the issuance of process pursuant to the Criminal Procedure Law to secure the attendance of the accused.

- C. The enforcement official is authorized to include as a condition in any notice and order to remedy violation a direction that the person to whom such notice and order is directed to cure any specified condition that creates a danger to the health, safety or welfare of the public.
- D. Any person who fails to comply with the directives in a notice and order to remedy violation issued by the enforcement official within the time limit stated thereon shall be deemed to have committed a separate offense against this chapter and shall also thereafter be liable for any such violation or the penalty therefor.
- E. The enforcement official may issue a stop-work order for violations of this chapter. Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Town of New Paltz confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this chapter.
- F. The enforcement official may request that the Town Board enforce compliance with this chapter by authorizing and instituting a proceeding in a court of competent jurisdiction for fines and/or injunctive relief, or to impose civil penalties for violations of this chapter, or both.
- G. The reasonable and necessary costs and expenses incurred by the Town, including but not limited to contractor charges, reasonable attorney, engineering and consultant fees, employee salaries and administrative costs associated with the enforcement of this chapter including an action to enjoin the performance of any work in violation of this chapter, or to compel the cure, correction, removal or prevention of any condition existing in violation of the provisions of this chapter, shall be charged to the owner of such real property.
- H. If costs and expenses are not paid in full within 30 days of service of a duly audited voucher upon the owner by certified mail to the address on the Town assessment roll, the charge and costs shall be assessed and levied against and constitute a lien on the real property upon which it is levied until paid or otherwise satisfied and discharged, and shall be collected in the same manner and at the same time as other Town real property taxes.

#### **§ 116-21. Penalties for offenses.**

- A. For purposes of this section, each week's continued violation of a requirement of this chapter shall constitute a separate violation.

- B. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation. In addition, in the event that the Town of New Paltz incurs any monetary fines or penalties due to acts or omissions of the persons or entities who violated this chapter, said individual or entity shall be liable to the Town of New Paltz for payment of all such fines or penalties imposed upon or paid by the Town of New Paltz.
- C. In addition to the penalties provided for in this chapter, above, the Town shall not issue a building permit or other permit, any temporary certificate of occupancy, certificate of occupancy or variance for any property for which a violation of this chapter has been served until said violation has been finally determined to be cured or otherwise resolved to the satisfaction of the Town.
- D. No penalty provided for by this chapter shall be deemed exclusive. The enforcement official shall have discretion to seek one or more of the penalties provided herein in a court of competent jurisdiction.

#### **§ 116-22. Restoration of lands.**

- A. Any violator may be required to restore land to its undisturbed condition.
- B. In the event that restoration is not undertaken within a reasonable time after notice, the Town of New Paltz may at its own option cause necessary corrective action to restore land to be performed and assess the cost thereof through a special tax assessment to the owners of the property until paid.

#### **§ 116-23. Fees for services.**

The Town of New Paltz may require any person undertaking land development activities regulated by this chapter to pay reasonable costs at prevailing qualified professional fee rates for review of SWPPPs, inspections, or SMP maintenance performed by the Town of New Paltz or performed by a third party for the Town of New Paltz.

**Chapter 118**

**STREETS AND SIDEWALKS**

**GENERAL REFERENCES**

**Subdivision of land — See Ch. 121.**

**Zoning — See Ch. 140.**

**Vehicles and traffic — See Ch. 133.**



ARTICLE I  
**Notification of Defects**  
**[Adopted 11-6-1986 by L.L. No. 8-1986]**

**§ 118-1. Prior notice required.**

- A. No civil action shall be maintained against the Town of New Paltz or the Town Superintendent of Highways of the Town of New Paltz or against any improvement district in the Town of New Paltz for damages or injuries to person or property sustained by reason of any highway, bridge, culvert or any other property owned by the Town of New Paltz or any property owned by any improvement district therein being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge, culvert or any other property owned by the Town of New Paltz or any property owned by any improvement district was actually given to the Town Clerk of the Town of New Paltz or the Town Superintendent of Highways of the Town of New Paltz and there was a failure or neglect, within a reasonable time after the giving of such notice, to repair or remove the defect, danger or obstruction complained of; and no such action shall be maintained for damages or injuries to persons 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 of New Paltz or any property owned by any improvement district in the Town of New Paltz unless written notice thereof, specifying the particular place, was actually given to the Town Clerk of the Town of New Paltz or to the Town Superintendent of Highways of the Town of New Paltz and there was a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.
- B. No civil action shall be maintained against the Town of New Paltz and/or the Town Superintendent of Highways of the Town of New Paltz for damages or injuries to person or property sustained by reason of any defect in the sidewalks of the Town of New Paltz or in consequence of the existence of snow or ice upon any of its sidewalks unless such sidewalks have been constructed or are maintained by the Town of New Paltz or the Superintendent of Highways of the Town of New Paltz pursuant to statute, nor shall any action be maintained for damages or injuries to person or property sustained by reason of such defect or in consequence of such existence of snow or ice unless written notice thereof, specifying the particular place, was actually given to the Town Clerk of the Town of New Paltz or to the Town Superintendent of Highways of the Town of New Paltz and there was a failure or neglect to cause such defect to be remedied, such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

**§ 118-2. Transmittal of notices to Town Clerk.**

The Town Superintendent of Highways of the Town of New Paltz shall transmit, in writing, to the Town Clerk of the Town of New Paltz, within 10 days after receipt thereof, all written notices received by him pursuant to this article, and he shall take any and all corrective action with respect thereto as soon as possible.

**§ 118-3. Record of notices.**

The Town Clerk of the Town of New Paltz shall keep an index record, in a separate book, of all written notices which he or she shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon or of an accumulation of ice and snow upon any Town highway, bridge, culvert or sidewalk or any other property owned by the Town of New Paltz or by any improvement district, which record shall state the date of receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. The record of such notice shall be preserved for a period of five years from the date it is received. The Town Clerk, upon receipt of such written notice, shall immediately and in writing notify the Town Superintendent of Highways of the Town of New Paltz of the receipt of such notice.

**§ 118-4. Construal of provisions.**

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 causes of action 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 rule of law relative to the question of contributory negligence nor to impose upon the Town of New Paltz, its officers and employees and/or any of its improvement districts any greater duty or obligations than that it shall keep its streets, sidewalks and public places in a reasonably safe condition for public use and travel.

## ARTICLE II

**Snow and Ice Removal**

**[Adopted 2-25-1987 by L.L. No. 2-1987; amended in its entirety  
3-7-2019 by L.L. No. 2-2019]**

**§ 118-5. Definitions.**

The following words and phrases when used in this article shall have the following meanings:

ABUT — A parcel of real property shall be deemed to abut a sidewalk which is located on an adjoining state, county or municipal right-of-way, notwithstanding that the property line does not cross or touch the sidewalk.

OCCUPANT — Any person who has lawfully entered upon and is in the possession of real property as a tenant, manager or person having charge of any building or lot of ground or any use thereof or who has in interest in the land which he possesses.

OWNER — Any person having legal interest in real property.

PEDESTRIAN — Any person making use of a sidewalk for foot passage.

PERSON — An individual, partnership, association, corporation, executor, administrator, trustee, guardian, receiver or other person having a legal interest in real property.

SIDEWALK — A walkway along the margin of a street or highway designed and prepared for the use of pedestrians, to the exclusion of motor vehicles.

TOWN — That portion of the Town of New Paltz lying outside the geographical boundaries of the incorporated Village of New Paltz.

**§ 118-6. Removal of snow and ice required.**

- A. The owner or occupant of any real property, whether vacant or improved by any building or structure, abutting any sidewalk in the Town of New Paltz shall keep such sidewalk free and clear of snow and ice at all times.
- B. Within 12 hours after cessation of every fall of snow or the formation of any ice on the sidewalk abutting the premises, the owner or occupant shall remove or cause the same to be removed or cleared entirely from the width of said sidewalk or to a width of 30 inches, whichever is greater. If the snow or ice shall be frozen so hard that it cannot practicably be removed, the owner or occupant shall, within the time above specified, cause the sidewalk to be covered and strewn with salt, ashes, sand or other dissolving or disintegrating material and shall, as soon thereafter as the weather will permit, thoroughly clean the sidewalk and remove the ice and snow therefrom.
- C. Where a sidewalk has not been set aside along the margin of a street or highway adjoining that portion of business or commercial premises used for access and parking, including but not limited to individual

stores, shopping centers and gasoline service stations, the owner or occupant shall clear a path at least 30 inches in width throughout the length of the premises free from snow and ice for use by pedestrians as a walkway in compliance with the provisions of Subsections A and B of this section.

- D. The owner or occupant of any real property, whether vacant or improved by any building or structure in front of which or adjacent to which property there is a fire hydrant, shall cause snow to be removed for a distance of 30 inches around the hydrant and between the hydrant and the street and to keep the fire hydrant and access to the street free from snow throughout the winter.
- E. The owner or occupant of any real property, whether vacant or improved by any building or structure, located at an intersection of two streets shall clear a path at the intersection at least 30 inches in width through any piles or accumulation of snow or ice on the sidewalk or street so as to enable pedestrian access from the sidewalk at the corner to the cleared portion of the roadway.
- F. If snow or ice shall remain on a sidewalk and/or around a fire hydrant for more than 12 hours after the cessation of snowfall or the formation of ice, the Town may provide for the removal thereof at the expense of the owner or occupant of the abutting premises. The charge to be collected for the removal of snow or ice from a sidewalk or for covering the sidewalk with salt, ashes, sand, or other dissolving or disintegrating material shall be at the rate set annually by resolution of the Town Board (administrative fee) plus an amount set annually by resolution of the Town Board per linear foot for the length of the sidewalk cleared or treated by the Town on each such occasion. The charge to be collected for the removal of snow or ice from around a fire hydrant and between the hydrant and the street shall be at the rate set annually by resolution of the Town Board (administrative fee) plus a charge set annually by resolution of the Town Board per fire hydrant.

#### **§ 118-7. Enforcement.**

- A. The Code Enforcement Officer of the Town of New Paltz is authorized to enforce this article by sending a statement to the owner or occupant of the premises cleared or treated by the Town on each such occasion together with a notice to appear in the Justice Court of the Town of New Paltz on a date and time specified in the notice to be given the opportunity to be heard regarding the charge to be imposed and to assert any objections thereto.
- B. A notice shall be deemed sufficient if delivered to the owner or occupant in person or by certified mail to the property postal address and, if different, to the last known address of the owner appearing on the most recent tax rolls of the Town.



- C. In the event the owner or occupant is found liable by the Court for the charge or fails to appear on the date and time specified in the notice and fails to pay the charge due within 10 days thereafter, the charge shall be a lien upon the premises abutting the sidewalk and shall be collected by the Town as an assessment upon said premises on the real property tax statements issued by or on behalf of the Town on the tax collection date next following as provided by law.
- D. The collection of this charge shall not preclude the Town from pursuing any other civil or criminal remedies which may be available to enforce the violation of this article.

**§ 118-8. Penalties for offenses.**

- A. Upon conviction for a violation of this article, a person shall be guilty of a violation as defined in Article 10, § 10.00, Subdivision 3, of the Penal Law of the State of New York, which shall be punishable by a fine not to exceed \$250 or by imprisonment for a term not to exceed 15 days, or both.
- B. For purposes of this section, each sidewalk abutting lands of an owner or occupant not cleared pursuant to this article shall constitute a separate violation. Each day upon which such prohibited activity occurs shall be deemed a separate violation.
- C. In addition to the penalties above provided, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this article.



ARTICLE III

**Sidewalk Construction and Use; Use of Streets**

**[At  
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streets  
and  
sidewalks  
and  
construction  
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was  
undergoing  
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by  
the  
Town.  
Upon  
completion  
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review,  
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legislation  
and  
revisions,  
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will  
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included  
as  
Article  
III  
of  
this  
chapter.]**

## **Chapter 121**

### **SUBDIVISION OF LAND**

#### **GENERAL REFERENCES**

**Planning Board — See Ch. 31.**

**Streets and sidewalks — See Ch. 118.**

**Fire prevention and  
construction — See Ch. 78.**

**building Water — See Ch. 137.**

**Zoning — See Ch. 140.**

**Sewers — See Ch. 113.**



ARTICLE I  
**General Provisions**

**§ 121-1. Authority of Planning Board.**

By authority of the resolution unanimously adopted by the Town Board at a regular meeting on April 9, 1969, pursuant to the provisions of § 276 of the Town Law, the Planning Board of the Town of New Paltz has the power and authority to approve, modify and disapprove plats for subdivisions within the Town of New Paltz.

**§ 121-2. Policy and purposes. [Amended 11-26-2002 by L.L. No. 6-2002]**

- A. It is declared to be the policy of the Town of New Paltz to provide for the orderly growth of the Town of New Paltz and for the efficient, coordinated development and use of land and public roads and other infrastructure in the Town so to assure the comfort, convenience, health, welfare and safety of its citizens. Accordingly, the standards below, together with applicable requirements of the Town Zoning Law, other provisions of the Town Code, the State Environmental Quality Review Act, and the Town's Comprehensive Plan, as most recently updated, shall guide the Planning Board in its review and approval of any proposed subdivision of land within the Town:
- (1) All land to be subdivided shall be of such character that it can be safely used for building or other purposes without peril or adversely affecting the public health, safety or welfare of the public, the occupants of the land, or adjoining residences or uses. In addition, land to be subdivided for residential purposes shall be suitable for such purposes and provide sufficient usable area around proposed buildings.
  - (2) The proposed subdivision plan shall be consistent, where practicable, with the relevant community-wide goals, objectives and standards set forth in the Comprehensive Plan.
  - (3) The proposed subdivision plan shall, where practicable, protect significant cultural landmarks and resources and their surrounding visual context; protect significant agricultural lands and resources; and encourage protection of the rural appearance of the Town of New Paltz, including the preservation of valued natural features, such as open space, significant viewsheds, streams, ponds, fields, trees, and critical habitat areas, and artifacts, such as stone walls.
  - (4) The proposed subdivision plan shall be designed to incorporate such contemporary engineering and planning techniques and standards as the Planning Board determines shall result in a subdivision design, including adequate provision for vehicular traffic, fire protection and surface water runoff, that is consistent

with best practices and other uses in the applicable zoning district or districts.

- (5) The proposed subdivision plan shall be designed so as to provide for and/or consider the adequacy of the community facilities needed to support the contemplated use, such as parks and recreation facilities, school sites, firehouses and off-street parking and drainage.
- (6) The proposed subdivision plan shall make adequate provision for water supply, drainage, sanitary facilities and other necessary public improvements and infrastructure needed to serve the proposed subdivision.
- (7) The proposed subdivision plan shall be designed to provide streets, driveways, and any other necessary access ways of sufficient grade, width and location as to accommodate present and reasonably anticipated traffic and to provide access for police, fire and other emergency services.
- (8) The proposed subdivision plan shall be designed to provide areas for parks, playgrounds and other recreational areas needed to meet the recreational needs of the occupants of the land being subdivided, when the Planning Board determines that land within the subdivision is of suitable location, size and character for such purposes.
- (9) The proposed subdivision plan of lands that are located within the Floodplain Zoning District shall comply in all respects with Chapter 82, Flood Damage Prevention, and § 140-19, Floodplain District, of the Code of the Town of New Paltz. Uses and activities within floodplain areas shall protect the natural beneficial functions of floodplains, shall not be susceptible to damage by flooding or flood-related hazards and shall not increase the danger to human life.  
**[Added 5-20-2010 by L.L. No. 2-2010]**

- B. In the event that any regulation herein shall conflict with or be inconsistent with any provision of the Town Law of the State of New York, the relevant provisions of the Town Law shall apply unless the local law enacting such provision properly superseded such provision of the Town Law.

### **§ 121-3. Word usage.**

Except where specifically defined herein, all words used in these regulations shall carry their customary meanings. Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary. The word "shall" is always mandatory. The word "may" is permissive. "Building" or "structure" includes any part thereof. A "building" includes all other



structures of every description, except fences and walls, regardless of dissimilarity to conventional building forms. The word "lot" includes the word "plot" or "parcel." The word "person" includes a corporation as well as an individual. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

#### **§ 121-4. Definitions.**

For the purpose of these regulations, certain words used herein are defined as follows:

**ARTERIAL STREET** — A street which serves or is designed to be used primarily for fast or heavy traffic.

**BASE FLOOD ELEVATION (BFE)** — The computed water surface elevation at a given location resulting from a flood having a one-percent chance of being equaled or exceeded in any given year (i.e., an average frequency and magnitude of a one-hundred-year recurrence interval). **[Added 5-20-2010 by L.L. No. 2-2010]**

**BOARD or PLANNING BOARD** — The Planning Board of the Town of New Paltz.

**CLUSTER DEVELOPMENT** — A residential subdivision plan, approved pursuant to § 121-25 of this chapter and § 278 of the Town Law, that modifies the requirements of the Town of New Paltz Zoning Law<sup>34</sup> concerning lot area and dimensions that would otherwise be applicable to the plan in order to provide alternative layouts, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks and landscaping for the purpose of providing one or more of the following benefits to the public: furthering the goals of the Town's Master Plan; enabling and encouraging flexibility of design and development of land with the Town in such a manner as to promote the most appropriate use of land; facilitating the adequate and economical use of streets, utilities and other public infrastructure in the development; and preserving agricultural soils and/or the natural and scenic qualities of open or wooded lands. **[Added 9-10-2003 by L.L. No. 5-2003]**

**COLLECTOR STREET** — A street which carries traffic from minor streets to the major system of arterial streets, including the principal entrance streets of a residential development and streets for circulation within such a development

**CUL-DE-SAC STREET** — A street with only one means of vehicular ingress and egress and with a turnaround at its terminus.

**CURB** — A low barrier, usually along the pavement line of a street, road or highway, controlling surface drainage and separating vehicular areas from pedestrian and/or landscaped areas.

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining,

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**34. Editor's Note: See Ch. 140, Zoning.**

dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.**[Added 5-20-2010 by L.L. No. 2-2010]**

EASEMENT — An acquired right of use on the property of another.

ENGINEER or TOWN ENGINEER — The duly designated Engineer of the Town of New Paltz or, in lieu of such an official, the Superintendent of Highways, the Building Inspector or the planning consultant or engineer employed by or assigned to the Planning Board. <sup>35</sup>

FLOODPLAIN or FLOOD-PRONE AREA — Any land area susceptible to being inundated by water from any source, including those areas specifically mapped by the National Flood Insurance Program as shown on the community's Flood Insurance Rate Map (FIRM).**[Added 5-20-2010 by L.L. No. 2-2010]**

MARGINAL ACCESS STREET — A minor street which is parallel to and adjacent to an arterial street and which provides access to abutting properties and protection from through traffic.

MASTER PLAN or DEVELOPMENT PLAN — A comprehensive plan which indicates the general locations recommended for the various functional classes of public works, places and structures and for the general physical development of the Town of New Paltz and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.**[Amended 5-20-2010 by L.L. No. 2-2010]**

MINOR STREET — A street intended to serve primarily as access to abutting properties.

OFFICIAL MAP — A map established by the Town Board under § 270 of the Town Law, showing streets, highways and parks theretofore laid out, adopted and established by law and any amendments thereto adopted by the Town Board or additions thereto resulting from approval of subdivision plats by the Planning Board and the subsequent filing of such approved plats.

OFFICIAL SUBMITTAL DATE — The date when a sketch plan, a preliminary layout or a subdivision plat shall be considered submitted to the Planning Board, hereby defined to be the date of the meeting of the Planning Board at least 10 days after all required surveys, plans and data described in Article IV have been submitted.

PLAT — The final map, drawing or chart on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, will be submitted to the County Clerk for recording.

PRELIMINARY LAYOUT — A preliminary drawing showing the proposed layout of a subdivision which is submitted to the Planning Board for its consideration and conditional approval.

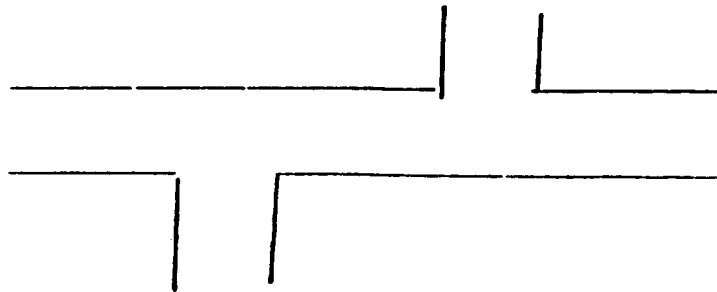
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35. Editor's Note: The definitions of "interior lot" and "major subdivision," which immediately followed this definition, were deleted 2-28-2002 by L.L. No. 2-2002.

**SKETCH PLAN** — A freehand sketch made on a topographic survey map showing the layout of streets, lots and other features of a proposed subdivision in relation to existing conditions.

**STREET** — A way for vehicular traffic, dedicated to public use by deed, grant or right of use, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place or other designation. Unless otherwise provided in the Town Code, a proposed street shall conform to all requirements for dedication as a public highway and shall be shown on a subdivision plan approved by the Town of New Paltz Planning Board. Notwithstanding such approval, a proposed highway is not dedicated to public use until it is offered for dedication to, and accepted by, the Town of New Paltz in accordance with the New York State Highway Law. **[Amended 11-26-2002 by L.L. No. 6-2002]**

**STREET JOG** — See diagram below.



**STREET PAVEMENT** — The wearing or exposed surface of the roadway used by vehicular traffic.

**STREET WIDTH** — The width of the right-of-way or the distance between property lines on opposite sides of a street.

**SUBDIVIDER** — Any person, firm, corporation, partnership or association which shall lay out, for the purpose of development and/or sale, any subdivision, as defined herein, either for himself, itself or for others.

**SUBDIVISION** — The division of any parcel of land into two or more lots, plots, blocks, parcels, sites or other divisions of land for the purpose, whether immediate or future, of sale, transfer of ownership, development, or change of existing use to any use regulated by the Zoning Law.<sup>36</sup> The term "subdivision" includes any alteration or modification of lot lines or dimensions of any lots or parcels previously created, whether created by deed or other instrument prior to adoption of subdivision regulations by the Town of New Paltz or by a subdivision plat filed in the office of the County Clerk, but does not include conveyances for the purpose of combining lots or parcels. Where a parcel of land is held in single ownership or control, the existence of a road, highway or natural feature does not create a "natural" subdivision of such parcel or tract of land unless such road or highway was shown on a subdivision plan approved by the Town of New Paltz Planning

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**36. Editor's Note: See Ch. 140, Zoning.**

Board pursuant to these regulations. **[Amended 11-26-2002 by L.L. No. 6-2002]**

ARTICLE II  
**Approval Procedure**

**§ 121-5. General provisions. [Amended 2-28-2002 by L.L. No. 2-2002]**

Any subdivider who proposes to develop a subdivision shall follow the procedures specified in this article and in the applicable provisions of the Town Law of the State of New York. The Planning Board shall designate, by resolution, the number of days before its regular meeting that it requires applications, subdivision plats, supporting documents and fees to be filed in the office of the Planning Board Clerk in order to allow sufficient time for the Board and its consultants to review them. Submission of plats by the designated deadline shall make the matter eligible for review by the Planning Board at such meeting, subject to the constraints of the Board's agenda. Neither the acceptance of an application and plat by the Clerk nor an appearance before the Board for discussion shall constitute a determination that the application is complete, as that term is defined in Article 16 of the New York State Town Law; a determination of completeness shall only be made by resolution of the Planning Board duly adopted at a regular meeting and shall be reflected in the minutes of said meeting. The date on which such resolution is approved shall be considered the official date of submission.

**§ 121-6. Preapplication review and classification.**

- A. Prior to filing an application or before preparing a preliminary layout, the subdivider shall submit to the Planning Board a sketch plan of the proposed subdivision layout, together with data concerning the area, including the information specified in § 121-13, in order to discuss the appropriateness of the proposed layout, the suitability of the land for development and the general requirements for improvements.
- B. The Planning Board shall inform the subdivider, within 30 days after the official submittal date, whether his sketch plans and data, as submitted or as modified, do or do not meet the objectives of these regulations. If said plans and data do not meet the objectives, the Board shall express its reasons therefor.
- C. The preapplication review does not require formal application to the Planning Board or payment of fee.<sup>37</sup>

**§ 121-7. Preliminary approval.**

- A. Submission of preliminary layout. Upon receiving an informal agreement by the Planning Board regarding the general program and objectives, in accordance with § 121-6, the subdivider shall prepare a

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**37. Editor's Note: Former Subsection D, as amended 12-30-1987 by L.L. No. 9-1987, and Subsection E, which immediately followed this subsection, were deleted 2-28-2002 by L.L. No. 2-2002.**

preliminary layout, together with improvement plans and other supplementary documents as specified in § 121-14 and following standards set forth in Article V of these regulations.

- B. Submission and fees. The submission to the Planning Board for conditional approval of a preliminary layout shall be accompanied by a standard handling fee as set forth from time to time by resolution of the Town Board, payable to the Town of New Paltz. Fees are not refundable. **[Amended 12-30-1987 by L.L. No. 9-1987]**
- C. Procedure. A preliminary plat shall then be prepared and submitted, clearly marked "preliminary subdivision plat" and showing in detail how the subdivision is to be designed. **[Amended 2-28-2002 by L.L. No. 2-2002<sup>38</sup>]**
- (1) The Planning Board shall comply with the requirements of the State Environmental Quality Review Act<sup>39</sup> prior to considering the application for preliminary subdivision approval complete by filing a negative declaration or notice of completion of a draft environmental impact statement.
  - (2) A public hearing on the preliminary plat shall be noticed in accordance with Article XVI, Public Hearings, of Chapter 140, Zoning, of the Code of the Town of New Paltz. **[Amended 5-24-2007 by L.L. No. 2-2007]**
  - (3) The hearing shall be closed within 120 days after it has been opened, or at such other time as the subdivider and Planning Board may set by mutual agreement.
  - (4) The Planning Board shall act to approve, with or without modification, or disapprove such plat in accordance with § 276 of the Town Law, as amended from time to time. The Board shall state in writing any modifications that it deems necessary for submission of the plat in final form. The grounds for modification, if any, or the grounds for disapproval shall be stated in writing and filed in accordance with § 276 of the Town Law, as amended from time to time.
  - (5) In the event that the Planning Board fails to take action on a preliminary plat within the time prescribed for such action by the

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38. Editor's Note: Section 121-7C was amended by Sec. 6 of L.L. No. 2-2002. Section 14 of that local law provided as follows: "The Town Board is aware that § 277(7) of the Town Law of the State of New York specifically provides that a Planning Board may rescind its preliminary approval if a final subdivision plat is not filed within six months of the date of that approval. By adopting Section 6 herein, the Town Board intends to supersede that provision, as well as any other provision of the Town Law that may be deemed inconsistent with the provisions of Section 6, and require that such preliminary approval shall become null and void unless the subdivider applies to extend such approval for good cause shown, and the Planning Board acts to extend the approval, so as to avoid stale approvals. The purpose of the Town Board in doing so is to protect the health, safety and welfare of the public by ensuring that final plats are promptly reviewed and processed in accordance with current subdivision regulations and standards."

39. Editor's Note: See Art. 8 of the Environmental Conservation Law.

Town Law, after completion of all requirements established by the State Environmental Quality Review Act (SEQRA) and § 239 of the General Municipal Law, or within such extended time as may have been established by mutual consent of the Planning Board and the applicant, the preliminary plat shall be deemed to have been approved.

- (6) Within five business days of the adoption of a resolution granting approval, the approved plat shall be certified by the Clerk of the Planning Board as having been granted preliminary approval, a copy of the plat and resolution shall be filed in the Planning Board Clerk's office, a copy of the resolution shall be mailed to the applicant, and a copy of the resolution shall be filed in the office of the Town Clerk.
  - (7) The applicant and the Planning Board may, by mutual consent, extend any time periods set forth in this chapter or in the Town Law. Termination of such consent by an applicant shall only be effective following receipt of notice of termination at a regular meeting of the Planning Board.
- D. Applicant to attend Planning Board meeting. The subdivider shall be prepared to attend a regular meeting of the Planning Board to discuss the preliminary plat and the Planning Board's tentative conclusions.
- E. Other agency review. Where review is required by other agencies, such as the Ulster County Health Department, tentative written recommendations of these agencies shall be filed by the subdivider with the Planning Board.

#### **§ 121-8. Final approval.**

- A. Procedure. Within six months after the date of approval of the preliminary plat, the subdivider shall file the plat in final form with the Planning Board, accompanied by any required fees and information required in Article IV. If the final plat and accompanying materials are not submitted within six months, approval of the preliminary plat shall lapse and become null and void unless the subdivider requests, and the Planning Board grants, extension of the approval, upon a showing of good cause for such extension. **[Amended 2-28-2002 by L.L. No. 2-2002]**
- (1) Upon finding the application for final plat approval complete, a public hearing on the preliminary plat shall be held in the manner required by § 276 of the Town Law, as that law may be amended from time to time, provided that when the Planning Board deems the final plat to be in substantial agreement with the approved preliminary plat and satisfactorily modified in accordance with the requirements, if any, of such approval, the Planning Board may by resolution waive the requirement for a public hearing on the final plat.

- (2) A public hearing on the final plot shall be noticed in accordance with Article XVI, Public Hearings, of Chapter 140, Zoning, of the Code of the Town of New Paltz. The hearing shall be closed within 120 days after it has been opened, or at such other time as the subdivider and Planning Board shall set by mutual agreement. **[Amended 5-24-2007 by L.L. No. 2-2007]**
- (3) The Planning Board shall act to approve, with or without modification, or disapprove such plat in accordance with § 276 of the Town Law, as amended from time to time. The grounds for modification, if any, or the grounds for disapproval shall be stated in writing and filed in accordance with § 276 of the Town Law, as amended from time to time.
- (4) In the event that the Planning Board fails to take action on a final plat within the time prescribed for such action by the Town Law, after completion of all requirements established by the State Environmental Quality Review Act (SEQRA) and § 239 of the General Municipal Law, or within such extended time as may have been established by mutual consent of the Planning Board and the applicant, the final plat shall be deemed to have been approved, and a certificate of the Town Clerk as to the date of submission and the failure to take action within such time shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required.
- (5) Within five business days of the adoption of a resolution granting approval, the approved plat shall be certified by the Clerk of the Planning Board as having been granted final approval, a copy of the plat and resolution shall be filed in the Planning Board Clerk's office, a copy of the resolution shall be mailed to the applicant, and a copy of the resolution shall be filed in the office of the Town Clerk.
- (6) The applicant and the Planning Board may, by mutual consent, extend any time periods set forth in this chapter or in the Town Law. Termination of such consent by an applicant shall only be effective following receipt of notice of termination at a regular meeting of the Planning Board. Receipt of such notice shall be reflected in the minutes of said meeting.

B. Conditional approval.

- (1) Upon resolution of conditional approval of such final plat, the Planning Board shall empower a duly authorized officer to sign the plat, subject to completion of such requirements as may be stated in the resolution. Within five days of such resolution, the plat shall be certified by the Clerk of the Planning Board as conditionally approved, and a copy shall be filed in his office, and a certified copy mailed to the owner, including a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved final plat. Upon completion of such



requirements, the plat shall be signed by said duly authorized officer of the Planning Board.

- (2) Conditional approval of a final plat shall expire within 180 days after the date of the resolution granting conditional approval unless such requirements have been certified as completed.
- (3) Conditional approval of the final plat shall expire within 180 days after the resolution granting such approval, unless all requirements stated in such resolution have been certified as completed. Notwithstanding the foregoing provisions of this section, the Planning Board may extend the time in which a conditionally approved plat in final form must be submitted for signature, if, in its opinion, such extension is warranted by the particular circumstances thereof, for periods of 90 days each.  
**[Amended 12-15-2011 by L.L. No. 6-2011]**

C. Approval.

- (1) Prior to granting conditional or final approval of a plat in final form, the Town Planning Board may permit the plat to be subdivided into two or more sections and may, in its resolution granting conditional or final approval, state that such requirements as it deems necessary to ensure the orderly development of the plat be completed before such sections may be signed by the duly authorized officer of the Planning Board. Conditional or final approval of the sections of a final plat, subject to any conditions imposed by the Board, shall be granted concurrently with conditional or final approval of the plat.
- (2) Approval of the final plat by the Planning Board does not constitute acceptance by the Town of the dedication of any street, highway, park or other public open space.
- (3) The signature of the duly authorized officer of the Planning Board constituting final approval by a Planning Board of a plat showing lots, blocks or sites, with or without streets or highways, or the approval by such Board of the development of a plat or plats already filed in the office of the County Clerk or register of the county in which such plat or plats are located if such plats are entirely or partially undeveloped, or the certificate of the Town as to the date of the submission of the final plat and the failure of the Planning Board to take action thereon within the time prescribed, shall expire within 60 days from the date of such approval or from the date such certificate is issued unless, within such sixty-day period, such plat or a section thereof shall have been duly filed or recorded by the owner in the office of the County Clerk or register. In the event that the owner shall file only a section of such approved plat in the office of the County Clerk, the entire approved plat shall be filed within 30 days of the filing of such section with the Town Clerk in each Town in which any portion of the land

described in the plat is situated. Such section shall encompass at least 10% of the total number of lots contained in the approved plat, and the approval of the remaining sections of the approved plan shall expire unless said sections are filed before the expiration of the exemption period to which such plat is entitled under the provisions of Subdivision 2 of § 265-a of the Town Law. **[Amended 12-30-1987 by L.L. No. 9-1987]**

- (4) No plat which is an extension, section or portion of any previously submitted plat shall be approved until and unless all conditions necessary for approval of such previously submitted plat have been satisfied and final approval shall have been granted in accordance with these regulations.
  - (5) If the Planning Board disapproves the final plat, reasons for such disapproval shall be so stated upon its records.
- D. Endorsement by County Health Department. Where review and/or approval by the County Health Department of the proposed water supply and septic disposal systems is required, the proposed subdivision plat shall be properly endorsed by the County Health Department as meeting all applicable standards and requirements of the State or County Health Department before final subdivision approval may be granted by the Planning Board. **[Amended 2-28-2002 by L.L. No. 2-2002]**
- E. Approval by county agencies. After the establishment of a County Official Map, no subdivision plat shall be approved when such proposed structures or proposed new streets shall have frontage on, access to or be otherwise directly related to any county road, existing or proposed, as shown on the County Official Map, except in accord with § 239 of the General Municipal Law. The Town Planning Board shall notify the County Planning Board, if any, and the County Superintendent of Highways or Commissioner of Public Works of such subdivision, and the County Superintendent of Highways or Commissioner of Public Works of such subdivision, and the County Superintendent of Highways or Commissioner of Public Works shall report to the Board within 30 working days of its approval or disapproval or its approval subject to stated conditions. The final plat may be approved by the Town Planning Board, subject to stated conditions, notwithstanding such report, when the application of such report will act to deprive the owner of the reasonable use of his land. **[Amended 12-30-1987 by L.L. No. 9-1987]**
- F. Filing with county.
  - (1) Seven black-and-white prints of the final plat, showing the recording date of the County Clerk thereon, shall be submitted to the Planning Board after filing with the County Clerk.

- (2) It shall be the duty of the County Clerk, in accordance with § 278 of the Town Law,<sup>40</sup> to notify the Planning Board, in writing, within three days of the filing of any plat approved by the Planning Board, identifying such plat by its title, date of filing and official file number.
- G. Alterations to approved plats. No changes, erasures, modifications or revisions, other than those requested by the County Health Department or other such agency or to correct metes and bounds, shall be made on any subdivision plat after final approval has been given by the Planning Board and the plat has been duly filed with the County Clerk, unless such plat has first been resubmitted to the Planning Board and such change, erasure, modification or revision has been approved by the Board. Any plat so changed without first being resubmitted to the Planning Board and reapproved shall be considered null and void, and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

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**40. Editor's Note: Section 278 was renumbered as § 279 by L. 1992, c. 727.**



ARTICLE III  
**Permits and Certificates**

**§ 121-9. Issuance of building permits.**

No building permit shall be issued following revocation of approval of a final plat in accordance with § 121-30B until another application for approval of the final plat has been filed and approval granted by the Planning Board.

**§ 121-10. Issuance of certificates of occupancy.**

- A. Certificates of occupancy shall only be issued upon certification by the Building Inspector that all required public improvements in a subdivision have been completed in accordance with Town standards and in accordance with the Zoning Local Law and the Town Building Code.<sup>41</sup>
- B. No certificate of occupancy shall be issued until the grading and resspreading of topsoil has been completed in accordance with § 121-19F, unless a bond, in an amount sufficient to guarantee the proper grading of the property and the resspreading of the topsoil, has been posted as per § 121-16I.

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**41. Editor's Note: See Ch. 140, Zoning, and Ch. 78, Fire Prevention and Building Construction, respectively.**



## ARTICLE IV

**Required Documents, Bonds, Improvements and Utilities****§ 121-11. General provisions.**

Any subdivider who proposes to develop a subdivision in the Town of New Paltz shall submit plats and documents and comply with the regulations regarding the posting of bonds and the construction of improvements and utilities as provided in this article.

**§ 121-12. Requirements for drawings and documents.**

- A. One original drawing and four black-and-white prints of all required plans, plats or surveys and four copies of all other supplementary documents and written applications shall be filed with the Town Clerk.
- B. All original drawings shall be submitted on sheets of translucent material, suitable for reproduction, 20 inches by 40 inches or 20 inches by 20 inches. A horizontal scale of one inch equals no more than 100 feet and a vertical scale of one inch equals no more than 20 feet shall be used. When more than one sheet is required to show the plat within the prescribed scale, an index sheet of the same size shall be submitted showing the entire proposed subdivision with lot and block numbers clearly legible, at a scale of one inch equals no more than 600 feet. In addition, the outlines of the development shall be accurately shown on a scale of one inch equals 1,000 feet, for transposition to the Official Map, if any.
- C. All submissions shall bear the following information: the proposed subdivision name, identifying title, the words "Town of New Paltz, Ulster County, New York," the date of submission and survey and the name and address of the record owner or subdivider. Names and addresses, certification and seals of registered engineers or surveyors engaged to prepare drawings, North arrows and graphic scales shall also appear.
- D. Space shall be provided on all submission for required endorsements by appropriate agencies.

**§ 121-13. Preapplication documents.**

- A. The sketch plan may be a freehand sketch made directly on a print of the topographic survey of the proposed subdivision area. It shall show, in simple sketch form, the relationship between existing physical conditions and the proposed layout of streets, lots and other features and all topographic data required for the preliminary layout or such of these data as the Planning Board considers necessary for its review of the sketch plan.
- B. The location map shall show the relationship of the proposed subdivision to existing community facilities which serve it. It shall

include main traffic arteries and general information on surrounding land uses.

- C. General subdivision information shall describe or outline the existing conditions of the site of the proposed development wherever necessary to explain and supplement the sketch plan and location map. This information shall include existing data on covenants, land characteristics, natural resources including perennial and/or intermittent streams, watercourses, water bodies, wetlands and floodplains, available community facilities and utilities and data as to the proposed number of residential lots, typical lot width and depths, business areas, playgrounds, parks and other public areas, protective covenants, utilities and street improvements. **[Amended 5-20-2010 by L.L. No. 2-2010]**

**§ 121-14. Preliminary approval documents.**

- A. The preliminary layout, in addition to the requirements of § 121-12C, shall show both the existing topographic data and proposed conditions as follows:
- (1) Existing topographic data (required).
    - (a) The following existing topographic data is required:
      - [1] Boundary lines bearings and distances of lines and total acreage.
      - [2] Easements: location, width, identification and purpose.
      - [3] Streets on and adjacent to the tract.
        - [a] Name, width of right-of-way and location.
        - [b] Type, width and elevation of surfacing.
        - [c] Any legally established center-line elevations.
        - [d] Walks, curbs, gutters, culverts, etc.
      - [4] Utilities (existing or proposed by public agencies or utility companies) on and adjacent to the tract
        - [a] Location of septic tanks, septic disposal areas and wells. **[Amended 11-26-2002 by L.L. No. 6-2002]**
        - [b] Location, direction or flow, size and invert elevation of sanitary sewers, storm sewers, culverts, water mains and gaslines (if water mains and sewers are not on or adjacent to the tract, indicate the direction and distance to and size of nearest ones and invert elevations).



- [c] Location of fire hydrants, utility poles and streetlighting standards.
  - [5] Ground elevations on the tract: Minimum two-foot contour intervals on the parcel and extending 100 feet beyond the property boundary lines. Five-foot contour intervals may be utilized for areas of land slopes greater than 20%. Additionally, include spot elevations on lands that slope less than 2%. **[Amended 11-26-2002 by L.L. No. 6-2002]**
  - [6] Other conditions on the tract: watercourses, lakes, ponds, wetland areas, floodplains, rock outcrops, wooded areas, isolated trees having a diameter at breast height (dbh) of 12 inches or more, buildings, other structures, rock or stone walls and other significant features. Include plan notes which provide the regulatory classification of streams, lakes, ponds and wetlands, if any such classifications apply. **[Amended 11-26-2002 by L.L. No. 6-2002]**
  - [7] Other conditions on adjacent land: approximate direction and gradient of ground slope, including any embankments or retaining walls; character and location of buildings and structures which are located within 50 feet beyond the property boundary line; boundaries of any power line or other utility easements and transmission towers or other utility structures; any other nearby residential land uses, public open spaces or similar uses which may either be adversely influenced by the proposed development or adversely influence it; and the location and the approximate area of impervious surfaces, wells, septic facilities and drainage structures on adjoining lands. **[Amended 11-26-2002 by L.L. No. 6-2002]**
- (b) Upon application, the Planning Board may waive any of the preceding requirements.
  - (2) Existing topographic data (at the discretion of the Planning Board):
    - (a) Subsurface conditions on the tract.
      - [1] Location and results of tests made to ascertain subsurface soil.
      - [2] Rock and groundwater conditions.
      - [3] Depth to groundwater unless test pits are dry at a depth of five feet.
      - [4] Location and results of soil percolation tests if individual sewage disposal systems are proposed.

- (b) Photographs: camera location, directions of views and key numbers.
- (3) Proposed site improvements:
  - (a) The following proposed site improvements are required:
    - [1] Streets: names, right-of-way and roadway widths, grades and profiles.
    - [2] Other rights-of-way or easements: location, width and purpose.
    - [3] Location of utilities, if not shown on other exhibits.
    - [4] Lot lines, lot areas, lot numbers and block numbers.
    - [5] Sites, if any, to be reserved or dedicated for parks, playgrounds or other public uses.
    - [6] Sites, if any, for multifamily dwellings, shopping centers, churches, industry or other nonpublic uses, exclusive of single-family dwellings.
    - [7] Minimum building setback lines and proposed house and driveway locations. **[Amended 11-26-2002 by L.L. No. 6-2002]**
    - [8] Site data, including number of residential lots, typical lot size, park acreage, etc.
    - [9] Approximate location, size, grades and profiles of all proposed waterlines and sewer lines. Indicate connections with existing lines, location of valves, hydrants, manholes and drop inlets, and if individual sewage disposal system is proposed, the location of septic tanks and leaching fields or seepage pits shall be shown.
    - [10] Approximate grading plan if natural contours are to be changed more than two feet.
    - [11] Location and species of new street trees.
  - (b) Upon application, the Planning Board may waive any of the preceding requirements.
- (4) Proposed development in floodplain areas: **[Added 5-20-2010 by L.L. No. 2-2010]**
  - (a) Provide the location of the watercourse's floodway boundary when located on or adjacent to the property to be subdivided and the elevation and location of the base flood elevation, where such determination has been provided in the National Flood Insurance Program community Flood Insurance Rate

Map (FIRM), and which information is more particularly described in Chapter 82, Flood Damage Prevention, in the Code of the Town of New Paltz.

- (b) For lands within floodplain areas where watercourse floodway boundaries and base flood elevation have not been determined by the National Flood Insurance Program community Flood Insurance Rate Map (FIRM), information regarding historical flooding within the immediate area shall be submitted by the applicant, if available. The following information shall be provided by the applicant when four or more lots are proposed, or whenever required by the Planning Board, for determination of whether the proposed use is in the floodway and to establish development areas that will not be susceptible to damage from flooding and/or flood-related hazards:

- [1] Typical valley cross sections showing the channel of the stream, elevation of land areas along each side of the channel, cross-sectional areas to be occupied by the proposed development, and high water information.

- [2] Plan view showing elevations or contours of the ground, existing fills or land depressions, existing structures on the site, and the location and elevations of roadways.

- [3] Photographs showing the existing land uses, vegetation upstream and downstream, and soil types.

- [4] Profile showing the slope of the bottom of the channel or flowline of the stream for least 500 feet in either direction from the proposed development.

- (c) Plan indicating preliminary siting of principal structures, water and sewer systems and provisions for safe access on existing, private and/or public roadways as well as to the building site, all in compliance with § 140-19, Floodplain District, and Chapter 82, Flood Damage Prevention, of the Code of the Town of New Paltz.

- B. A vicinity map, drawn at a scale of one inch equals not more than 600 feet, showing the relation of the proposed subdivision to the adjacent properties and to the general surrounding area, shall indicate:

- (1) All existing adjacent parcels of land, together with the names of the record owners, platted and unplatted; namely, those directly abutting or directly across any and all streets adjoining the proposed subdivision. Platted land shall be referred to by name, recordation date and subdivision number.

- (2) Highways or other major improvements planned by public authorities for future construction on or near the tract.

- (3) The boundaries and designations of zoning districts affecting the tract.
  - (4) An outline of the platted area together with its street system. If the preliminary layout submitted covers only a part of the subdivider's entire holding, an indication of the future probable street and drainage system of the remaining portion of the tract shall be shown.
- C. A deed description and survey map of tract boundaries made and certified by a licensed land surveyor shall be required.
- D. A stormwater pollution prevention plan (SWPPP) consistent with the requirements of the Stormwater Management and Erosion and Sediment Control Law<sup>42</sup> of the Town of New Paltz Code shall be required for preliminary subdivision plat approval. Whether a stormwater pollution prevention plan is required or not, the subdivision plan will include GPS (Global Positioning System) reference data in a form suitable to the Stormwater Management Officer for stormwater outfalls and permanent structures built in accordance with the New York State Stormwater Management Design Manual. **[Added 12-22-2016 by L.L. No. 3-2017<sup>43</sup>]**
- E. Other preliminary plans may be required by the Planning Board, including the following:
- (1) Street profiles showing existing surface and proposed street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision.
  - (2) Typical cross-sections of the proposed grading, roadway and sidewalk, type and depth of surfacing and subbase.
  - (3) Construction details of proposed drainage improvements. **[Added 11-26-2002 by L.L. No. 6-2002]**

#### **§ 121-15. Final approval documents.**

- A. The final plat, in addition to the requirements of § 121-12C, shall show the following:
- (1) Required information:
    - (a) Primary control points, approved by the Town, with descriptions and ties to such control points. All dimensions, angles, bearings and similar data on the plat shall be shown.
    - (b) Tract boundary lines, street right-of-way lines, easement and other right-of-way lines and property lines of residential lots and other sites. Accurate dimensions, bearings, deflection

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42.Editor's Note: See Ch. 116, Stormwater Management and Erosion and Sediment Control.

43.Editor's Note: This local law also redesignated former Subsection D as Subsection E.

angles and radii, arcs and central angles of all curves shall be shown.

- (c) Name and right-of-way width of each street or other right-of-way.
- (d) Location to identify each lot or site; lot areas in square feet or a statement by the surveyor or engineer that all lots meet area requirements.
- (e) Location, dimensions and purpose of easements.
- (f) Designation of purpose of all areas to be dedicated or reserved for public use for which deeds of cession are included and any other spaces which are not to be dedicated.
- (g) Block, lot and section numbers.
- (h) Minimum building setback line on all lots and other sites.
- (i) Location and description of monuments.
- (j) Names of record owners of adjoining unplatted land.
- (k) Reference to recorded subdivision plats of adjoining platted land by record name, date and number.
- (l) Certification by surveyor or engineer certifying to accuracy of the survey and plat.
- (m) Certification of title showing that the applicant is the owner.
- (n) Statement by the owner dedicating streets, rights-of-way, sites for public use and easements for public utilities.
- (o) Plans and profiles showing the exact location, size, type and invert elevations of existing and proposed water mains, sanitary sewers and stormwater drains; profiles of all utility lines at points of interference; and the location of fire hydrants and all gas or other underground utilities or structures.
- (p) The location and type of the following improvements: street paving, sidewalks, curbs and private sewage disposal systems.
- (q) Grading plan showing present and proposed contours at two-foot intervals.
- (r) Sufficient data acceptable to the Town Engineer to determine readily the location, bearing and length of every street line, lot line and boundary line in order to reproduce such lines upon the ground. Where practicable, these should be referenced to monuments, included in the state system of plan coordinates and in any event should be tied to reference points previously established by public authority.

- (s) For each street, the length of all straight lines and the deflection angle, radius, central angle, tangent distances and bearings and length of all curves shall be given for subsequent inclusion on the Town Official Map.
  - (t) All dimensions shall be shown in feet and decimals of a foot All angles of the lines of each lot shall be given to the nearest 10 seconds.
- (2) Upon application, the Planning Board may waive any of the preceding requirements.
- (3) Proposed development in floodplain areas: **[Added 5-20-2010 by L.L. No. 2-2010]**
  - (a) The floodway and floodplain boundaries, the base flood elevation or similar elevation established to minimize the risk of flood damages and associated hazards caused by flooding, and the required elevation of all access roads to principal structures, including minimum elevations of private and public roadways which provide access thereto, in compliance with the requirements of § 140-19, Floodplain District, and Chapter 82, Flood Damage Prevention, of the Code of the Town of New Paltz, shall be clearly labeled on all required subdivision plans and map documents.
  - (b) Minimum floor elevations of principal structures, elevations of fills within the floodplain, including those associated with on-site sewage disposal systems, and information regarding compensatory storage in the floodplain in compliance with the requirements of § 140-19, Floodplain District, and Chapter 82, Flood Damage Prevention, of the Code of the Town of New Paltz shall be shown on the required subdivision plans and map documents.
- B. Cross sections and profiles of all proposed streets shall be submitted, showing grades approved by the Planning Board's engineer, the Town Highway Superintendent or other Town representative designated by the Planning Board; width of roadway; type and depth of surfacing and subbase; location, size and type of curbs; locations and width of sidewalks; and the location and size of utility mains. The profiles shall be drawn to standard scales along center lines of streets showing existing and proposed elevations. Where a proposed new street intersects an existing street, the elevation of such existing streets shall be drawn for 100 feet from each such intersection. All elevations must be referenced to USGS mean sea level datum (NGVD 1929 adjustment, or NAVD 1988) or reference to such other established local benchmarks as are approved by the Town Engineer. Preliminary designs for any bridges or culverts, if required, shall also be included. **[Amended 11-26-2002 by L.L. No. 6-2002; 5-20-2010 by L.L. No. 2-2010]**

- C. A stormwater pollution prevention plan (SWPPP) consistent with the requirements of the Stormwater Management and Erosion and Sediment Control Law<sup>44</sup> of the Town of New Paltz Code shall be required for final subdivision plat approval. Whether a stormwater pollution prevention plan is required or not, the subdivision plan will include GPS (Global Positioning System) reference data in a form suitable to the Stormwater Management Officer for stormwater outfalls and permanent structures built in accordance with the New York State Stormwater Management Design Manual. **[Added 12-22-2016 by L.L. No. 3-2017<sup>45</sup>]**
- D. A certificate by the Town Clerk shall be submitted certifying that the subdivider has complied with one of the following alternatives:
- (1) That all public improvements have been installed to the satisfaction of the Town Engineer and any other official or body authorized by law to act and in accordance with requirements specified in § 121-17 of these regulations and not specifically waived by the Planning Board as provided in Article VI: or
  - (2) That a performance bond or certified check in compliance with § 277 of the Town Law and § 121-16 of these regulations has been posted in a sufficient amount to assure such completion of all required improvements and is available to the Town of New Paltz.
- E. Written agreement between the subdivider and the Town Board tendering cession of all land included in streets, highways, parks or public open spaces not specifically reserved by the subdivider shall be submitted. Such agreement shall bear the endorsement of the Town Attorney as to its legal sufficiency. For all public open spaces for which deed of cession are not included, there shall be submitted documents showing the manner in which such areas are to be maintained and the provision made therefor.
- F. A written agreement, in accordance with § 121-18A, that public utility companies will make necessary service installations where required by the Planning Board shall be submitted.
- G. Such other certificates, affidavits, endorsements or approvals as may be required by the Planning Board shall also be submitted.

#### **§ 121-16. Bonds.**

- A. Bonds posted by the subdivider in compliance with § 121-15C shall be in an amount determined by the Planning Board or other appropriate Town departments designated by the Planning Board to cover the full cost of required public improvements.

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44. Editor's Note: See Ch. 116, Stormwater Management and Erosion and Sediment Control.

45. Editor's Note: This local law also redesignated former Subsections C through F as Subsections D through G, respectively.

- B. Such performance bonds shall be approved by the Town Attorney as to form, sufficiency, surety and manner of execution.
- C. Such performance bonds shall run for a term to be fixed by the Planning Board, but in no case for longer than three years. Such term may be extended by the Planning Board with the consent of the parties thereto.
- D. If the Planning Board shall decide at any time during the term of the performance bond that the extent of the building development which has taken place in the subdivision is not sufficient to warrant all the improvements covered by such performance bond; improvements have been installed in accordance with § 277 of the Town Law and as required by the Planning Board in sufficient amount to warrant reduction in the face amount of such bond; or the character and extent of such development requires additional improvements previously waived for a period stated at the time of fixing the original terms of such bonds, then the Planning Board may, upon approval by the Town Board and after due notice and public hearing, modify its requirements for any or all such improvements, and the face value of such performance bond shall thereupon be reduced or increased by an appropriate amount so that the new face value will cover the cost in full of the amended list of improvements required by the Planning Board, and any security deposited with the bond may be reduced or increased proportionately.
- E. In the event that any improvements have not been installed as required by the Planning Board within the term of such performance bond, the Town Board may thereupon declare such bond to be in default and collect the sum remaining payable thereunder. On receipt of the proceeds thereof, the Town shall install the improvements covered by such bond which are commensurate with the extent of building development that has taken place in the subdivision, but not exceeding in cost the amount of such proceeds.
- F. If the Planning Board or an appropriate Town officer appointed by it finds, upon inspection, that any of the required improvements have not been constructed in accordance with the plans and conditions approved and specified by the Planning Board, then the subdivider and the bonding company, if any, shall be severally and jointly liable for the costs of completing said improvements originally specified by the Planning Board.
- G. Such performance bonds shall be released to the subdivider only upon certification by the Town Board that all required improvements have been satisfactorily completed.
- H. The subdivider shall also post with the Town Clerk a bond in the amount determined by the Planning Board to be adequate to assure the satisfactory conditions of all required improvements for a period of one calendar year next following the date of certification of satisfactory completion, installation or construction of such improvements.



- I. A bond in an amount sufficient to guarantee the proper grading of the property and the resspreading of the topsoil shall be posted before issuance of a certificate of occupancy.

**§ 121-17. Improvements.**

- A. In making determinations regarding the necessity and extent of the installation of such public improvements, the Planning Board shall take into consideration the prospective character and uses in the proposed subdivision, whether dense residential, open residential, business or industrial.
- B. The Planning Board shall require the installation of the following public improvements in accordance with the Town Law, unless it shall specifically waive any such improvements as provided in § 121-28.
  - (1) Streets and highways suitably placed, paved and improved with the following:
    - (a) Sidewalks.
    - (b) Curbs.
    - (c) Water mains.
    - (d) Storm sewers.
    - (e) Sanitary sewers.
    - (f) Street signs.
    - (g) Street trees.
  - (2) Monuments suitably placed and installed.
- C. All improvements as required shall be installed in accordance with standards, specifications and procedures acceptable to the appropriate Town departments or as provided in these regulations.
- D. Unless a bond is posted in accordance with § 121-16, all improvements as required shall have been completed, installed or constructed and so certified before approval of the final plat shall be granted and before any building permits or certificates of occupancy shall be issued in accordance with Article III.

**§ 121-18. Utilities.**

- A. When public utility facilities are to be installed, the subdivider shall submit to the Planning Board written assurance from each public utility company that such company will make the necessary service installations within a reasonable time after acceptance of streets by the Town.

- B. The final plat shall show statements by the owner granting the necessary easements or other releases for installation of required public utilities.

ARTICLE V  
**Design Standards**

**§ 121-19. General provisions.**

The subdivider shall observe all design standards for land subdivision as hereinafter provided. These standards shall be considered minimum standards and shall be varied from or waived only as provided in Article VI. Particular attention should be given to matters outlined in § 277 of the Town Law as well as to the specific requirements of these regulations with regard to parks, playgrounds, open spaces, streets, pedestrian ways, lots and blocks and public utilities.

- A. Character of land. Only land that is of such character that it can be used without danger to health or peril from fire, flood or other menace shall be subdivided for building purposes.
- B. Preservation of natural features. The Planning Board may require 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 spots and similar irreplaceable assets.
- C. Conformance to the Zoning Local Law and Master Plan. Subdivision plats and improvements provided shall conform to the Zoning Local Law of the Town of New Paltz, if one exists,<sup>46</sup> and shall be in harmony with the Comprehensive Master Plan for the area in which the subdivision is located.
- D. Plats with access through other municipalities. Whenever access to a subdivision is through land of another municipality, the Planning Board may require certificates from authorities having jurisdiction that such access is adequately improved or that a legally adequate performance bond has been duly posted and is sufficient in amount to assure the construction of the necessary road or roads.
- E. Replatting. Replatting of all or part of the land covered by an existing plat which has been laid out prior to compulsory filing shall follow these regulations now required for an original plat, including the vicinity map. Such replat shall show clearly what area or areas have been vacated. It shall also show the file number of all previous plats of the same area with dates of filing.
- F. Preservation of topsoil. No topsoil shall be removed from any land in the Town except that in areas over which heavy equipment will be operated, the topsoil shall be stripped and piled on the property. When final grades have been established and construction activities have been completed, the entire property shall be suitably graded and recovered with the topsoil to a depth of at least four inches after compaction.

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**46. Editor's Note: See Ch. 140, Zoning.**

- G. Watercourses. Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by bridges, culverts or other permanent structures of a design approved by Town officials. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way according to specifications of the Town Engineer or Town Superintendent of Highways.
- H. Floodplains. Where a development is located within a floodplain area as shown on the National Flood Insurance Program community's Flood Insurance Rate Map (FIRM), all aspects of the proposed development must comply with the standards, criteria and restrictions of § 140-19, Floodplain District, and Chapter 82, Flood Damage Prevention, of the Code of the Town of New Paltz. **[Amended 5-20-2010 by L.L. No. 2-2010]**

**§ 121-20. Parks, playgrounds and open spaces.**

- A. Recreation land required. Areas for parks, open spaces and playgrounds shall be of reasonable size for the neighborhood they will serve. No arbitrary percentage of area shall be insisted upon by the Board, but, in general, the subdivider shall set aside not more than 10% of the area of his total subdivision for these purposes. However, if the Planning Board finds that, due to size, topography or location of the subdivision, land for parks, open spaces, playgrounds or other recreational purposes cannot be properly located therein or if, in the opinion of the Board, it is not desirable, the Board shall require, prior to the signing of the plat, a payment to the Town of New Paltz Recreation Trust Fund of a sum of money in such amount as is duly established by resolution of the Town Board for recreation fees per dwelling lot in the subdivision or section thereof being considered for approval at this time, whether such dwelling unit is a single dwelling unit or a dwelling unit within a proposed multiple dwelling. Such amount shall be paid to the Town at the time of final plat approval, and no plat shall be signed until such payment is made. The lot encompassing the residence of the subdivider shall be exempt from this fee. **[Amended 5-26-1982 by L.L. No. 4-1982; 2-28-2002 by L.L. No. 2-2002]**
- B. Large-scale developments. In large-scale developments or developments of a size and nature not proposed or anticipated by the Master Plan, the Planning Board may request the subdivider to dedicate or reserve sites for playgrounds and parks whose character, extent and location will be suitable to the needs created by such development, whether or not such sites are shown on the Master Plan. Such areas dedicated for playgrounds and/or parks shall be, in the judgment of the Planning Board, of reasonable size for neighborhood playgrounds or other recreation uses. In general, the Planning Board shall require and the subdivider shall dedicate 10% of the gross area of the subdivision for this purpose.
- C. Minimum size.

- (1) In general, the Planning Board will not require the dedication of open public space as required by Subsections A and B if the total acreage of such public land is below the following sizes:
  - (a) In A Zoning Districts: one acre.
  - (b) In R-1, R-V and B Zoning Districts: 1/2 acre. **[Amended 12-30-1987 by L.L. No. 9-1987]**
- (2) The Planning Board will require the dedication of even smaller parcels if they can be made contiguous to existing public parks, and it reserves the right to waive or modify all dedications if the character and location of such potential parkland cannot be utilized to advantage by the Town.

### § 121-21. Streets.

- A. General objectives. No streets shall be built without prior approval of the Planning Board. Streets shall be of sufficient width, suitably graded and located and adequately constructed to accommodate the prospective traffic and to afford adequate light and air, to facilitate fire protection and to provide access for fire-fighting, snow removal and other road maintenance equipment and shall be coordinated so as to compose a convenient system properly related to the proposals shown on the Master Plan. The arrangement of streets shall be such as to cause no undue hardship to adjoining properties, and no property shall be rendered inaccessible from an existing public street or from a proposed street in a subdivision for which a completion bond has been posted.
- B. Arrangement. The arrangement of streets in the subdivision shall provide for the entrance and continuation of principal streets from adjoining subdivisions and for the extension of principal streets into adjoining land which has not yet been subdivided. Such arrangement shall be required in order to facilitate fire protection, movement of traffic and the construction or extension, currently or as needed in the future, of necessary utilities and public services, such as sewers, water and drainage facilities.
- C. Street widths.
  - (1) Streets shall have the following minimum right-of-way and minimum paving widths:

	Right-of-Way	Paving Width	Shoulders	
			Right	Left
	(feet)	(feet)	(feet)	(feet)
Collector streets	60	24	10	10
Minor streets	50	24	6	6

- (2) The amount of street width apportioned to planting strips and sidewalks may vary with the character of the proposed subdivision and shall be subject to the approval of the Planning Board but, in general, should follow the requirements of § 121-22.
- D. Drains, culverts and ditches. All drains, culverts, ditches and other necessary street drainage improvements required by the Planning Board shall provide adequate drainage of all roads and other public lands, shall conform to the Town's specifications and shall be acceptable to the Superintendent of Highways. The installation of these improvements shall be at the expense of the subdivider.
- E. Arterial streets. Where the proposed subdivision contains or is adjacent to an existing or proposed arterial street, the Planning Board may require service streets, dead-end streets, reverse-frontage lots, screen planting and other treatment to protect adjacent properties, to separate arterial and local traffic and to create lots suitable for the appropriate use of the land between the streets and the right-of-way of the arterial street. Arterial streets within a floodplain area shall be constructed to a minimum elevation that is not more than 0.5 foot below the base flood elevation. **[Amended 5-20-2010 by L.L. No. 2-2010]**
- F. Minor streets. Minor streets shall be laid out in a manner to discourage their use by through traffic. Minor and collector street openings onto an arterial road shall normally be at least 500 feet apart. Minor streets within a floodplain area shall be constructed to a minimum elevation that is not more than 1.5 feet below the base flood elevation. **[Amended 5-20-2010 by L.L. No. 2-2010]**
- G. Street connections. Subdivisions containing 50 lots or more shall have at least two connections with existing streets.
- H. Driveway access. **[Added 5-20-2010 by L.L. No. 2-2010<sup>47</sup>]**
- (1) Wherever possible, lots shall be laid out so that driveways have access to a street which is intended to carry the least traffic.
- (2) Within floodplain areas, all driveways must comply with § 140-19 of Chapter 140 and with the provisions of Chapter 82 of the Code of the Town of New Paltz. **[Amended 12-8-2015 by L.L. No. 4-2015]**
- I. Grades and curves.
- (1) Grades of all streets shall conform to the general terrain and shall be no less than 1/2 of 1% nor more than 8%, except that minor streets with grades up to 10% may be approved by the Planning Board. A combination of steep grades and curved streets shall be avoided.

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47. Editor's Note: This local law also provided for the redesignation of former Subsections H through T and Subsections I through U, respectively.

- (2) All changes in grade shall be connected by vertical curves of such length and radius as will meet with the approval of the Superintendent of Highways, but in no case shall the following minimum standards be violated:

<b>Type of Street</b>	<b>Minimum Length of Vertical Curves (feet)</b>	<b>Minimum Sight Distance (feet)</b>
Collector streets	200, but not less than 30 for each 1% algebraic difference of grade	250
Minor streets	100, but not less than 20 for each 1% algebraic difference of grade	100

- (3) All corners of pavement at street intersections shall be rounded by curves of at least 25 feet of radius. The corner property lines also shall be rounded so as to maintain a margin between the street curb and the property line equal to that along the minor intersecting street.
- (4) In general, street lines deflecting from each other at any one point more than 10° shall be connected with a curve, the radius of which, for the inner pavement lines, shall be no less than as follows:
- (a) Collector streets: 250 feet.
  - (b) Minor streets: 100 feet.
- (5) The outer street line in each case shall be concentric with the inner street line.
- (6) Wherever possible, reverse curves shall be separated with tangents at least 100 feet long.

J. Street intersections.

- (1) Intersection of streets shall be at angles of approximately 90° but in no case shall two streets intersect at any angle smaller than 60°. To achieve this, an oblique street should be curved when approaching an intersection.
- (2) On a corner lot in any residence district, no fence, wall, hedge, structure or planting more than 2 1/2 feet in height shall be erected, placed or maintained within the triangular area formed by the intersecting pavement lines or their projections where corners are rounded and a straight line joining the pavement lines at points 50 feet distance from their point of intersection. Land at the corners of intersecting streets shall be graded so as not to exceed in elevation, at any point, the surface of an imaginary triangular

plane established as follows: the apex shall be at a point 2 1/2 feet above the intersection of the street center lines; the other two corners shall be a vertical distance of 2 1/2 feet above points 100 feet from the apex along the center line of the intersecting streets.

- K. Street jogs. Street jogs with center-line offsets of less than 150 feet shall not be permitted.
- L. Dead-end streets. No dead-end streets without proper turnarounds are permitted.
- M. Culs-de-sac. Culs-de-sac shall not exceed 750 feet in length, measured from the center-line of the continuous street providing the only access to the cul-de-sac, along the center-line of the cul-de-sac, to the center of the turnaround or, if the cul-de-sac has several branches, to the center of the farthest turnaround. The cul-de-sac shall terminate in a circular turnaround having a minimum radius of 50 feet for the outside curb at the closed end.
- N. Easements in culs-de-sac. Where needed or desirable, the Planning Board may require the reservation of a twenty-foot-wide easement at the end of culs-de-sac to provide for continuation of pedestrian traffic and utilities into the next streets.
- O. Street names. All streets shown on the preliminary layout or the subdivision plat shall be named, and all street names shall be substantially different in order not to be confused in sound or spelling with present street names in the Town of New Paltz, except that streets which join or align with streets of an abutting subdivision or area shall bear the same name.
- P. Street signs. Street signs shall be installed at the expense of the developer at such times as the grading and paving of the highway or street is completed and with the approval of the Planning Board and Town Highway Superintendent.
- Q. Clearing and grading. The right-of-way shall be completely cleared of all brush and scrub trees and completely graded for its entire width so that additional work by the Town of this nature will not be necessary.
- R. Subbase and paving. Any unsatisfactory material within the limits of the proposed pavement shall be removed, and the proposed road alignment shall be filled and compacted with not less than 12 inches of hard shale, well-graded gravel or quarry rubbish, as may be approved for the particular project by the Superintendent of Highways. The subbase shall be covered with not less than six inches of approved hard shale or graded gravel. The wearing course shall consist of not less than two inches of No. 2 compacted stone. This stone shall be penetrated with one gallon per square yard of P434 oil and chipped with No. 1 stone, dragged and rolled and penetrated with 3/10 gallon per square yard of RC-2 oil, chipped with No. 1A stone and rolled lightly.



- S. Street trees. Trees may be planted on both sides of a street, in locations approved by the Planning Board, except where unnecessary because of existing tree growth or undesirable because of special circumstances. They shall generally:
- (1) Be located near the property line and be spaced approximately 50 feet apart, subject to variations made necessary by driveways and street corners as well as by the species of trees planted.
  - (2) Have a caliper of two inches or larger measured at a height of at least six inches above ground level and shall have a minimum height of 12 feet from the ground level. The species of trees shall be approved by the Planning Board.
- T. Utility poles. Utility poles shall be set in such a location that they will normally be in back of the curbline and between the curbline and the theoretical sidewalk line. Where overhead utility wires are to exist, trees of a type that will grow to a limited height and not interfere with the wiring shall be used.
- U. Release from requirements. Any deviation from any of the above specific engineering and construction requirements can only be made by a written release from the Town Superintendent of Highways, such release to accompany the owner's petition for the acceptance of the proposed Town highway.

#### **§ 121-22. Sidewalks.**

- A. Sidewalks on collector streets. All streets designated as collector streets shall have a sidewalk at least four feet wide on both sides of the street, except that, at the discretion of the Planning Board, sidewalks may be eliminated. All such sidewalks shall be so placed that there will be a distance of at least four feet between the sidewalk and the street paving and a distance of at least three feet between the outer edge of the sidewalk and the right-of-way line. Planting of street trees will be permitted in the space between the sidewalk and the right-of-way line only.
- B. Sidewalks on minor streets. All minor streets shall be provided with sidewalks on both sides of the street, except that, at the discretion of the Planning Board, sidewalks may be eliminated. The size and location of such sidewalks shall be the same as for collector streets.

#### **§ 121-23. Lots and blocks.**

- A. Lot layout. Lots shall be laid out and arranged to avoid any foreseeable difficulties by reason of unusual topography or other natural conditions and to permit construction of buildings in full compliance with the Zoning Local Law.<sup>48</sup>

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48. Editor's Note: See Ch. 140, Zoning.

- B. Deep lots. Lots shall not be of unreasonable depth, thus encouraging the later creation of a second building lot at the rear, but if such depth is unavoidable, provision should be made wherever possible in the layout of the subdivision for streets which may be added later, through resubdivision, to serve the development of the rears of deep lots.
- C. Corner lots. Corner lots shall be of sufficient dimensions so that any structure placed thereon shall conform to the building setback line and side yard requirements of the zoning district in which the lot is located and generally should be of increased size.
- D. Double-frontage lots. Double-frontage lots shall be avoided, except where necessary to separate residential areas from major traffic arteries or other incompatible use. In such cases, a planting screen easement at least 10 feet wide providing no right of access to the lot shall extend along the lot line abutting the traffic artery right-of-way or incompatible use.
- E. Lots on private streets. Lots fronting on existing private streets shall be deemed acceptable only if such streets are designed and improved and the lots serviced in accordance with these regulations. No new private streets will be allowed.
- F. Minimum lot size. Each lot shall be no smaller than the minimum lot size required by the Zoning Local Law<sup>49</sup> for the district in which it is located, with the exception that smaller lot sizes may be allowed in a clustered subdivision development approved in accordance with § 121-25. **[Amended 12-30-1987 by L.L. No. 9-1987; 9-10-2003 by L.L. No. 5-2003]**
- G. Side yard lines. All side yard lines of lots shall be approximately at right angles to straight street lines and radial or nearly radial to curved street lines.
- H. Driveway access. Wherever possible, lots shall be laid out so that driveways have access to a street which is intended to carry the least traffic.
- I. Block design. Each block shall normally be designed to provide two rows of lots, but irregularly shaped blocks indented by cul-de-sac streets and which contain interior parks will be acceptable when properly designed. Block lengths generally shall not exceed 1,500 feet in length. In long blocks, the Planning Board may require the reservation through the block of a twenty-five-foot-wide easement to accommodate utilities and/or pedestrian traffic.
- J. Lots in floodplain areas. All lots proposed to be developed on lands within the Floodplain District shall strictly comply with the site development restrictions and design criteria specified in § 140-19, Floodplain District, and Chapter 82, Flood Damage Prevention, of the

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49. Editor's Note: See Ch. 140, Zoning.

Code of the Town of New Paltz. A floodplain development permit shall be issued, when required to allow construction of any public or private improvements shown on the final subdivision plan, for the proposed development prior to final subdivision approval. All final subdivision plans shall include a note identifying lots included within the Floodplain District and state that a floodplain development permit is required for any construction or other regulated activities within that area. **[Added 5-20-2010 by L.L. No. 2-2010]**

**§ 121-24. Improvements and utilities.**

A. Placement.

- (1) Underground public improvements and utilities required by the Planning Board shall be placed within the street right-of-way in accordance with standards designated by the Town Engineer. Where topography makes such placement impracticable, perpetual unobstructed easements at least 15 feet wide shall be provided for utilities along lot frontages abutting the street lines, with satisfactory access to the street. Wherever possible, easements shall be continuous from block to block, and their layout shall be as regular as possible. If placed in the street right-of-way, underground utilities required by the Planning Board shall be placed between the paved roadway and the sidewalk or right-of-way line to simplify location and repair of lines.
- (2) The subdivider shall install, at his own expense, such additional drainage structures as may be required by the Town Engineer if, in his opinion, such additional structures will further improve the durability and maintenance of rights-of-way.
- (3) Subject to the discretion of the Town Board, an underground public improvement or utility operated for revenue by the Town may be installed by the Town in an existing private street, provided that a public easement of satisfactory size is obtained for all required public improvements or utilities to the property line of each lot within the subdivision.

B. Water mains. Where a water main does not exist or is not accessible but the subdivision is located reasonably near a water supply network, the subdivider shall install such main, together with all necessary valves, cutoffs, fire hydrants, pumps, booster tanks, storage tanks, meters and other equipment necessary to make such water system conform to the standards of the Town. All such mains and appurtenant items of the water system equipment as may be necessary shall be installed at the expense of the subdivider in accordance with Town specifications and subject to the approval of the Town Engineer and all other authorities having jurisdiction.

C. Sanitary sewer systems.

- (1) Where a public sanitary sewer system is reasonably accessible, the subdivider shall connect into the sewer and provide a sewer connection for each lot.
  - (2) Where a public sanitary sewer is not reasonably accessible but where the plans for the sanitary sewer district in which the subdivision is located have been prepared, the subdivider shall install sewers in conformity with those plans although a connection with an existing main may not be immediately possible. In such cases and until such connection can be made with the sewer system of the district, the subdivider shall provide private separate sewer facilities which shall conform to the requirements of all authorities having jurisdiction.
  - (3) Where no existing or planned public sewers exist, lots shall be provided with separate sewer facilities. Such lots shall be of sufficient size, according to the character of the land and the size of the system, to provide adequate leaching or satisfactory performance of the system, in compliance with regulations of the Town, the Ulster County Health Department and other appropriate authorities.
  - (4) Where no existing or planned public sewer providing service to the proposed lots exists, on-site sanitary disposal systems shall be located outside floodplain areas whenever possible, and those systems that must be located within a floodplain area shall be elevated such that the minimum ground surface elevation of the on-site sanitary disposal system shall be a minimum of three feet above the base flood elevation to eliminate infiltration of floodwaters, and otherwise designed in a manner that is acceptable to the Health Department and to the Town Engineer. A licensed engineer shall certify that the system was constructed in accordance with a design approved by the Health Department. **[Added 5-20-2010 by L.L. No. 2-2010]**
  - (5) On-site sanitary disposal systems proposed to be constructed on lands located within a floodplain area shall not be located closer than 100 feet to the natural bank of a perennial or intermittent stream. **[Added 5-20-2010 by L.L. No. 2-2010]**
- D. Stormwater management. The subdivider shall install all necessary storm sewers, culverts and appurtenant stormwater management facilities at his expense in accordance with the standards of the Superintendent of Highways and the engineer for the Town and in strict conformity with Chapter 116, Stormwater Management and Erosion and Sediment Control, of the Code of the Town of New Paltz. **[Amended 12-22-2016 by L.L. No. 3-2017]**

ARTICLE VA  
**Cluster Development**  
**[Added 9-10-2003 by L.L. No. 5-2003<sup>50</sup>]**

**§ 121-25. Residential cluster subdivision design.**

- A. To further the goals of the Town of New Paltz Master Plan, enable and encourage flexibility of design and development of land within the Town in such a manner as to promote the most appropriate use of land, facilitate the adequate and economical use of streets and utilities, and preserve the natural and scenic qualities of open or wooded lands, the Town Board authorizes the Planning Board to approve, in the R-1, A-1.5 and A-3 Zoning Districts of the Town (hereafter referred to collectively as the “residential zoning districts”), a residential subdivision plan with clustered development, and further authorizes the Planning Board to require, in appropriate circumstances, the submission of a clustered development plan as a condition of subdivision plan approval.
- B. Any such plan shall be consistent with the requirements of this section and of Article VI, § 140-41 of the Town Code and of § 278 of the Town Law. The number of building lots or dwelling units shown on a clustered development plan shall in no case exceed the number of building lots or dwelling units which could be permitted, in the Planning Board’s judgement, if the land were subdivided into lots conforming to the minimum lot size and density requirements of the Zoning Law<sup>51</sup> applicable to the land in question and conforming to all other applicable requirements.
- C. The following standards and procedure shall be utilized by the Planning Board in reviewing applications for approval of a cluster subdivision within the Town of New Paltz:
  - (1) Applicability.
    - (a) A subdivider of property in any residential zoning district of the Town may request that the Planning Board approve a clustered residential development plan for the property.
    - (b) In appropriate cases, the Planning Board may require that a cluster development plan for the property be prepared if, in the Board’s judgement, cluster development would be in the best interest of the Town and achieve one or more of the objectives set forth in Subsection C below.
    - (c) Before making a determination of completeness for a preliminary subdivision application involving 15 or more acres of land or four or more residential lots, the Planning Board

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**50. Editor’s Note: This ordinance also provided for the renumbering of former § 121-25 as § 121-25.1.**

**51. Editor’s Note: See Ch. 140, Zoning.**

shall require that a cluster development plan be submitted and determine that the proposed cluster plan incorporates the general intent and spirit of these regulations to the maximum extent possible.

(2) Sketch plan.

- (a) Normally, a request by a subdivider for authority to allow cluster development should be made concurrently with presentation of a sketch plan to the Planning Board for discussion pursuant to the procedure described in Article II, § 121-6 of this chapter.
- (b) When a cluster development plan is proposed or required, at the time of sketch plan discussion, the subdivider shall present:
  - [1] A proposed cluster sketch plan in accordance with the provisions of § 278 of the Town Law and this section; and
  - [2] A standard sketch plan which is consistent with all the criteria established by this chapter, including lots fully consistent as to the applicable bulk and other requirements of the Zoning Law and this chapter, except that the Planning Board may allow such waivers of this chapter, except as to lot area and other dimensional requirements affecting the density of development, that would, in its judgment, otherwise be permitted by the Planning Board for such standard plan.
- (c) When a cluster development plan is requested, the cluster sketch plan shall be accompanied by a narrative describing the objectives to be accomplished by cluster development, including (as applicable):
  - [1] Preservation of contiguous prime important agricultural soils (having a crop productivity rating of four or less, as established by New York State Department of Agriculture and Markets);
  - [2] Maintenance of active agricultural land;
  - [3] Protection of the ground or surface water, wetlands, steep slopes (slopes greater than 15%), floodplains or areas of natural, scenic, or historical significance;
  - [4] Preservation of trails, scenic highways, and scenic vistas/viewsheds; bikeways and pedestrian routes of Town, county, state or federal significance, or the opportunity to create such trails, bikeways or pedestrian routes;
  - [5] Protection of significant vegetated areas, especially rare vegetation and/or wildlife habitat, especially that of

threatened or endangered wildlife species or species of special concern;

- [6] Mitigation of potentially significant environmental impacts identified during SEQRA review through application of the SEQRA criteria of significance;
  - [7] Preservation of open space to provide a visual screen or separation between structures and places commonly occupied by the public, or to protect the natural and scenic quality, environmental features and resources of land or open space use identified as important to the Town;
  - [8] Enhancement of the overall aesthetic aspects of residential development in the area;
  - [9] Reduction in the amount of new roads or driveways that require access from existing roads;
  - [10] Reduction in the amount of new roads that are dedicated to the Town;
  - [11] Accomplishment of specific goals set forth in the Town's Master Plan; and
  - [12] Promotion of the health and general welfare of the community.
- (d) Dwellings in a clustered development shall conform to the following standards:
- [1] The lot size for a single-family residential dwelling shall not be less than 1/2 acre, or not less than 1/4 acre for dwellings served by a Town sewer district central sewer system.
  - [2] All lots shall have frontage on a public right-of-way unless located within an open development area approved by the Town Board. The required frontage shall not be less than 25 feet for half the lots in a clustered group nor less than 50 feet for the remaining lots in the clustered group. Not more than two (2) twenty-five-foot frontages shall be adjacent to each other.
  - [3] An open development area using common driveway access may be provided, to the extent determined by the Planning Board to be practicable, provided that a maintenance agreement is established that will bind the owners of all lots using the driveway for access, and duly recorded in the office of the Ulster County Clerk prior to, or concurrently with, filing of the subdivision plan.

- [4] A pedestrian circulation and/or trail system shall be designated and installed sufficient for the needs of the residents.
- [5] Water supply and sewage disposal facilities shall be designed by a licensed engineer for any such residential cluster development in accordance with the requirements of the Town of New Paltz and the Ulster County Health Department. If central water and sewer facilities are proposed, such facilities shall also be approved by the Planning Board and Town Board. Underground water supply and sanitary sewage facilities may be located in areas to be set aside as permanent open space.
- [6] The dwelling units permitted as a part of the proposed residential cluster development shall be, at the discretion of the Planning Board and subject to the conditions of this article, detached, semidetached or attached structures. No individual structure shall contain more than four dwelling units, and the overall maximum density coverage of the zoning district in which the land is located shall not be exceeded.
- [7] The building height shall not be more than 35 feet.
- [8] All newly installed utilities shall be installed underground in the manner prescribed by the regulations of the state, local and/or utility companies having jurisdiction.
- [9] The lot width at the actual or proposed building line shall not be less than 100 feet, or not less than 75 feet for dwellings served by a Town sewer district central sewer system.
- [10] The lot depth shall not be less than two hundred (200) feet, or not less than one hundred fifty (150) feet for dwellings served by a Town sewer district central sewer system.
- [11] The side yard shall not be less than 20 feet and the distance between principal buildings shall be no less than 40 feet. For dwellings served by a Town sewer district central sewer system, the side yard shall not be less than 15 feet and the distance between principal buildings shall be no less than 30 feet.
- [12] The front and rear yard shall not be less than 50 feet, except that, if adjacent to a designated open space area of the clustered development providing at least 200 feet to the nearest property line, then the front and rear yard shall not be less than 25 feet. For dwellings served by a Town sewer district central sewer system, the front yard



shall not be less than 25 feet and the rear yard shall not be less than 35 feet.

- [13] All areas of clustered development on a property shall be separated by a minimum of 300 feet of open space, or for dwellings served by a Town sewer district central sewer system all areas of clustered development on a property shall be separated by a minimum of 150 feet of open space.
- [14] In cluster developments exceeding 20 single-family residences or other dwelling units, the Planning Board shall consider the layout of smaller groupings, each having some open space immediately surrounding it, so that large concentrations of units with little or no differentiation can be avoided and so that cluster development will be more compatible with the neighborhood in which it is located.
- [15] The minimum distance between the boundary line of any lot in a cluster development and the boundary line of other tracts of property shall be 150 feet, or 100 feet for dwellings served by a Town sewer district central sewer system, and the land in between shall contain plantings, either existing or proposed, sufficient to constitute a buffer area that will screen the cluster development from adjacent uses.
- [16] The minimum tract area for any residential cluster development shall be 10 acres in the A-3 Zoning District and five acres in the A-1.5 and R-1 Zoning Districts, and the cluster development shall result in a minimum of three and a maximum of 49 dwelling units if central sewer and water service is not provided.
- [17] The permanently restricted open space area shall be not less than 50% of the area of the cluster development tract and shall be comprised of one or more undivided lots, parcels or tracts of land, of which at least one shall have a minimum area of 2.5 acres, exclusive of street right-of-way use. A plan for maintenance or landscaping of common open space shall be reviewed and approved by the Planning Board. Other than underground water and sanitary sewage facilities, no portion of this minimum required open space shall be utilized for roads, driveways, utility structures, stormwater treatment facilities, or similar infrastructure facilities.
- [18] The open space land shall be shown on the plat and shall be labeled in a manner to indicate that such land is not to be further divided or used for building lots or any other form of development, is permanently reserved for open

space purposes and is subject to a perpetual conservation easement recorded in the office of the Ulster County Clerk.

[19] In no case shall the permitted number of dwelling units exceed the number of dwelling units that would be permitted, in the Planning Board's judgment, if the land had been divided into lots conforming to the minimum lot size of this chapter applicable to the zone or zones in which said land is situated and conforming to all other applicable requirements.

[20] The provisions of this section shall not be deemed to authorize a change in the permissible use of lands within the zoning district in which the cluster development is proposed, as provided in the Town zoning regulations applicable to such lands.

[21] In accordance with New York State Town Law, developments may be phased and completion dates established by the Planning Board as conditions of approval.

[22] In anticipation of future development, the Planning Board may require the design of a schematic open space network so that when subsequent cluster developments are built within separate tracts of land in the vicinity of the proposed clustered development, respective open spaces will complement each other, to the maximum extent practicable, thereby creating continuous, functional greenbelts.

[23] In appropriate cases, the Planning Board may require that such plans also include land set aside for recreation uses in accordance with § 121-20 of this chapter. The permissible number of lots or dwelling units for the cluster development will be calculated excluding the area of land set aside for recreation uses.

D. Upon review of the standard subdivision sketch plan, the Planning Board shall, by resolution, determine the number of lots or dwelling units that could be accommodated on the land under a conventional subdivision approach and, thus, the maximum number of lots or dwelling units that would be authorized through application of the cluster subdivision concept.

(1) A cluster development shall in no case result in a permitted number of building lots or dwelling units which exceeds the number that could be permitted, in the Planning Board's judgement, if the land were subdivided into lots conforming to the minimum lot size and all other applicable requirements pertaining to the district or districts in which the land is situated, including federal, state and local laws and regulations.

- (2) Where the plat falls within two or more contiguous districts, the Planning Board may approve a cluster development representing the cumulative density as derived from the summing of all units allowed in such districts pursuant to all other applicable requirements, and may authorize actual construction to take place in all or any portion of such districts.
  - (3) Notwithstanding any other provision of this section to the contrary, the Planning Board may, in an instance where a developer has proposed a plan for development that is not consistent with all of the requirements of Subsection C above, but which the Planning Board finds would achieve the objectives of this section and the goals of the Comprehensive Master Plan, waive or modify the minimum requirements of Subsection C(2)(d)[1] through [4] and [8] through [17] in order to accomplish those objectives. Following full compliance with SEQRA, the Planning Board shall set forth in its resolution of approval the facts and circumstances that warrant the waiver or modification and the objective(s) that will be achieved. Any such waiver or modification shall ensure that the public health, safety and welfare is protected, that the resulting plan is consistent with the surrounding community, that the plan as developed will not increase any adverse impact on the environment and maintain conformance with the general intent and spirit of these regulations.
- E. Lands for park, recreation or other community purposes. Conditions regarding the long-term ownership, use, maintenance and permanent protection of all open space within a cluster subdivision that is to be used for park, recreation or other community purposes, whether included within individual lots or as common lands, shall be set forth by the subdivider in consultation with the Planning Board.
- F. Conservation easement and open space.
- (1) In order to accomplish the purposes of this section, the Planning Board shall establish such conditions on the ownership, use and maintenance of open space lands as it deems necessary to assure the preservation of such lands, and provide that open space lands be owned in common by a homeowners' association, a qualified not-for-profit conservation land trust or other lawful entity acceptable in form to the Town Board, or dedicated to the Town.
  - (2) The imposition by the subdivider of a perpetual conservation easement, in form satisfactory to the Town Attorney, on open space lands sufficient to ensure that such land will be left forever wild or limiting use of such open space land to agricultural, managed forest land, passive recreational or open space use, and prohibiting residential, industrial or commercial use of such open space land, pursuant to § 247 of the General Municipal Law and/or §§ 49-0301 through of 49-0311 of the Environmental Conservation Law will normally constitute compliance with such conditions. The

easement shall be irrevocably offered for dedication to the Town of New Paltz and shall also be irrevocably offered to a qualifying not-for-profit conservation land trust, on terms which allow the land trust or other entity to accept the easement either as a joint holder of the easement with the Town or as the sole holder. In either case, the easement shall provide that the Town has the right, but not the obligation, to enforce the terms of the easement. The subdivision plan shall show the easement area and include a map note referencing such filed offer to a qualifying not-for-profit conservation land trust or offer of dedication to the Town of New Paltz. In addition, the subdivider shall file a declaration of restriction in the office of the County Clerk adequate to give notice of the easement.

- (3) Prior to final approval of the subdivision plan, the subdivider shall obtain a letter from the Town Board advising the Planning Board whether it will accept the offer of dedication of the open space lands or of a easement over such lands, and, if so, whether the easement proposed by the subdivider is acceptable as to form. If the Town Board declines to issue such letter, the subdivider shall either obtain a binding letter of agreement from a land trust or other qualified not-for-profit conservation land trust organization acceptable to the Town Board stating that it will accept the easement for the purpose of protecting the open space lands, or demonstrate to the satisfaction of the Planning Board and Town Board that satisfactory arrangements have been made to assure the preservation of such lands. In any case, the subdivider shall make suitable arrangements for an endowment to cover the costs of monitoring and enforcing any easement or restriction on open space lands. Absent special circumstances, a binding agreement by the subdivider to donate funds to the entity responsible for monitoring and enforcement of the easement or restrictions in order to establish an endowment in an amount consistent with the schedule set forth in Paragraph 7 of the Town Board's resolution of December 17, 1998, as that schedule may be amended from time to time, will be considered to satisfy the requirement for an endowment.
- (4) Any conservation easement that is to be granted to a conservation land trust organization shall expressly provide that it may not be amended to permit commercial, industrial or residential development and shall be reviewed and approved by the Planning Board and Town attorney as to form.
- (5) Submission of a fully executed easement, or of other binding restrictions approved by the Planning Board, in form suitable for recording shall be a condition of approval of a cluster development subdivision plan. The subdivider shall cause the document imposing restrictions to be recorded in the Ulster County Clerk's office prior to or simultaneously with the filing of the approved

cluster development subdivision plat and provide evidence of that filing to the Planning Board prior to any conveyance of title to any lot shown on the plan and in no event later than 62 days after the date of the signing of the plat.

- (6) In the course of review and approval of a cluster development subdivision plan, the Planning Board shall assure that proper provision has been made for ownership and maintenance of the open space land by means of an enforceable agreement among the members of the homeowners' association or other means acceptable to the Town Board.
  - (a) If the open space land is held in common ownership, the ownership interests shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against all individual owners in the homeowners' association and the dwelling units each owns.
  - (b) It shall be a condition of subdivision approval of a clustered plan that ongoing maintenance standards be established by the subdivider to assure that the open space land does not detract from the character of the neighborhood and imposed on lots by the deed of conveyance and bylaws of the homeowners association, if one is established. Provision shall be made for the homeowners' association, or such other lawful entity, if any, to enforce such standards and to allow, but not require, the Town to enforce such standards against an owner or occupant of open space lands who acts in violation of the maintenance standards or restrictions on the use of open space lands.

G. Plat submission.

- (1) Upon determination that such sketch plat is suitable for the procedures under this section and subsequent resolution by the Planning Board authorizing the subdivider to proceed, a preliminary plat meeting all of the requirements of the resolution shall be submitted to the Planning Board within six months.
- (2) Any subdivision plan submitted for preliminary approval as a cluster development plan shall contain a table of bulk requirements for all lots clearly setting forth the dimensional requirements approved by the Planning Board for each lot.
- (3) Thereafter the Planning Board shall proceed with required public hearings and satisfy all other procedural requirements of this chapter. All such notices shall include a provision that the applicant is seeking approval for a clustered development plan.

H. Filing; notation on Zoning Map. Upon the filing of a cluster development plat in the office of the Ulster County Clerk, the subdivider shall file a copy of the filed plat with the Town Clerk, who shall make

appropriate notations and reference thereto on the Town Zoning Map. The Clerk of the Planning Board shall notify the Building Inspector when such subdivision plat is filed and provide the Building Inspector with a copy of the filed plan showing a table of the lot size and dimensional requirements for each lot as approved by the Planning Board.

ARTICLE VI  
**Special Conditions**

**§ 121-25.1. Requests for variations, modifications, waivers or time extensions. [Amended 5-20-2010 by L.L. No. 2-2010]**

- A. Requests by the subdivider, excepting as noted in Subsection C of this section, for variations, modifications, waivers or time extensions in connection with the provisions of these regulations shall be presented, in writing, to the Planning Board prior to any regular meeting; shall explain the request in detail, making reference to the specific provisions of these regulations which are concerned; shall state the interpretation, change or permission desired; and shall present the specific reasons for such request.
- B. The Planning Board, within 30 days next following the date of such request, shall reply, in writing, to the subdivider, granting either approval or disapproval of such request, and in case of disapproval, shall state the reasons therefor.
- C. Requests for variations, modifications, or waivers of the specific requirements and standards for development of land located within floodplain areas within the Town, as same requirements and standards are specified in § 140-19, Floodplain District, of the Code of the Town of New Paltz, shall not be accepted by the Planning Board. Variances from requirements specified in Chapter 82, Flood Damage Prevention, shall be subject to the conditions and procedures specified in §§ 82-20 and 82-21 thereof, and, if the requested variance is granted, it may be applied to the design and construction of the proposed development without any further procedural requirements or variance approvals required by this chapter.

**§ 121-26. Variances.**

- A. Wherever extraordinary hardship may face the subdivider as a result of the strict application of these regulations, the Planning Board may approve variations from these regulations in order to provide substantial justice and secure the public interest. Such variations shall, however, not have the effect of negating the intent purpose and policies of the Zoning Local Law,<sup>52</sup> the Master Plan and these or other applicable regulations.
- B. Wherever, due to unusual topographic conditions, the continuation of streets or the placement of lots and improvements are rendered undesirable or impractical, the Planning Board may approve variations from these regulations.
- C. In granting variances and modifications, the Planning Board may require such alternative conditions as will secure substantially the

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**52. Editor's Note: See Ch. 140, Zoning.**

same objectives of the standards or regulations so varied from or modified.

#### **§ 121-27. Modifications.**

- A. The Planning Board may modify the standards and requirements of these regulations in the case of a plan and programs for a neighborhood unit or other large-scale development which, in its judgment, provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs for the tract when fully developed and populated and which also provides such covenants or other legal provisions to assure conformity with and achievement of the general policies and objectives of these regulations.
- B. The Planning Board is empowered to make reasonable modifications, changes or supplements to the Zoning Local Law of the Town of New Paltz or any portion thereof,<sup>53</sup> as applied to a subdivision plat showing new streets, simultaneously with the approval of such subdivision plat. Such action is authorized in accordance with and subject to the provisions of § 281 of the Town Law.<sup>54</sup>
- C. The Planning Board may, at any time during the term of a performance bond, modify its requirements for any or all improvements covered by such bond in accordance with § 121-16 of these regulations.

#### **§ 121-28. Waivers.**

The Planning Board may waive, subject to appropriate conditions and guaranties, for such period as it may determine, the requirements of these regulations relative to the provision and design of any or all such public lands and improvements which, in its judgment of the special circumstances of a particular plat or plats, are not requisite to the interests of the public health, safety and general welfare of the Town or are not appropriate because of inadequacy or lack of connecting facilities adjacent to or in the proximity of the proposed subdivision.

#### **§ 121-29. Time extensions. [Amended 2-28-2002 by L.L. No. 2-2002]**

The Planning Board may, upon proper application by the subdivider and for good cause show, extend:

- A. The six-month period provided in § 121-8A for submission of a final subdivision plat following approval of the preliminary subdivision plat; and/or
- B. The one-year period provided in § 121-30A following filing of the subdivision plat with the County Clerk to either post a performance bond or begin construction.

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53.Editor's Note: See Ch. 140, Zoning.

54.Editor's Note: Section 281 was renumbered as § 278 by L. 1992, c. 727.



ARTICLE VII  
**Administration and Enforcement**

**§ 121-30. Revocation of plat approval.**

- A. If, within one calendar year next following the date of filing of an approved final plat with the County Clerk, no construction of improvements has begun or no performance bond in lieu of construction has been posted by the subdivider as provided in these regulations, then the Planning Board is empowered to revoke its approval of said final plat.
- B. Formal action by the Planning Board revoking approval of a final plat shall require a subdivider to file another application for approval in accordance with these regulations in order for any building permits to be issued to him and for any construction to proceed.

**§ 121-31. Expiration of approval.**

- A. Approval by the Planning Board of a final plat shall automatically expire after 60 days next following the date of such approval as provided in § 121-8C(3), unless the subdivider, within this period, shall have duly filed such plat with the County Clerk and the County Clerk shall have duly notified the Planning Board of the filing in accordance with § 278 of the Town Law.<sup>55</sup>
- B. On and after such expiration date, any formal offers of cession submitted by the subdivider shall be deemed to be invalid, void and of no effect

**§ 121-32. Bonds in default.**

Performance bonds in default shall subject the subdivider to action in accordance with § 121-16F and G.

**§ 121-33. Penalties for offenses.**

- A. If any person transfers or sells or agrees to sell, as owner or agent, any land which forms a part of a subdivision on which, by ordinance or local law, the Planning Board is required to act without submitting the subdivision for review or before favorable referral and final approval has been obtained, such person shall be subject to a fine not to exceed \$250 or to imprisonment for not more than 15 days or both. Each parcel, plot or lot so disposed of shall be deemed a separate violation.  
**[Amended 12-30-1987 by L.L. No. 9-1987]**
- B. In any such action, the transferee, purchaser or grantee shall be entitled to a lien upon the tract of the land from which the subdivision was made that remains in the possession of the subdivider or his

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55. Editor's Note: Section 278 was renumbered as § 279 by L. 1992, c. 727.

assigns or successors to secure the return of any deposit made or purchase price paid and also reasonable search fee, survey expense and title closing expense, if any. Any such action must be brought within one year after the date of the recording of the instrument of transfer, sale or conveyance of said land.

**§ 121-34. Authorized signatures for plats.**

The Chairman and the Secretary of the Planning Board or, in their absence, the Acting Chairman and the Acting Secretary are hereby authorized to sign approved subdivision plats.

**§ 121-35. Amendments.**

These regulations or any portion thereof may be amended, supplemented or repealed at any time by the Town Board on its own motion or by petition or by recommendation of the Planning Board following a public hearing which had been preceded by at least 10 days of duly advertised and published official notice of such proposed change. All proposed amendments shall be referred to the Planning Board for study and recommendation prior to such public hearing.

§ 121-35

(RESERVED)

§ 121-35

**Chapter 124**

**(RESERVED)**

**Chapter 127**

**TAXATION**



ARTICLE I  
**Property of Nonprofit Organizations**  
**[Adopted 3-31-1982 by L.L. No. 1-1982]**

**§ 127-1. Definitions.**

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

NONPROFIT ORGANIZATION — Any corporation or association which is not organized or conducted exclusively for religious, charitable, hospital, educational, moral or mental improvement of men, women or children, or cemetery purposes, or for two or more such purposes, but which is organized or conducted exclusively for bible, tract, benevolent, missionary, infirmary, public playground, scientific, literary, bar association, medical society, museum, environmental and conservation, patriotic or historical purposes, for the enforcement of laws relating to children or animals, or for two or more such purposes, and used exclusively for carrying out thereupon one or more of such purposes, either by the owning corporation or association or by another such corporation or association.

**§ 127-2. Taxation of property of certain organizations.**

All properties of nonprofit organizations, as defined in § 127-1 hereof, in the Town of New Paltz shall be taxable by the Town of New Paltz for all purposes, including special ad valorem levies and special and regular assessments by districts established pursuant to the Town Law.



## ARTICLE II

**Exemptions for Improvements to Facilitate Handicapped Persons  
[Adopted 11-28-1984 by L.L. No. 6-1984]****§ 127-3. Legislative intent.**

The Town of New Paltz has determined that it is in the best interests of the Town of New Paltz, as well as in the best interests of the persons residing therein, that its resident owners of real property who are physically disabled be granted special considerations with respect to real property taxation to the extent that it increases value attributable to improvements made to real property for the purpose of facilitating and accommodating the use and accessibility of such real property by those physically disabled.

**§ 127-4. Authorization to grant exemption.**

Any improvement to any real property used solely for residential purposes as a one-, two- or three-family residence shall be exempted from taxation to the extent of any increase in value attributable to such improvement if such improvement is used for the purpose of facilitating and accommodating the use and accessibility of such real property by a resident owner of the real property who is physically disabled or a member of the resident owners' household who is physically disabled, if such member resides in the real property.

**§ 127-5. Certification of disability.**

To qualify as physically disabled for the purposes of this article, an individual shall submit to the Assessor of the Town of New Paltz a certified statement from a physician duly licensed to practice in the State of New York, on a form prescribed and made available by the State Board of Equalization and Assessment of the State of New York, which states that the individual has a permanent physical impairment which substantially limits one or more of such individual's major life activities, except that an individual who has obtained a certificate from the State Commission for the Blind and Visually Handicapped stating that such individual is legally blind may submit such certificate in lieu of a physician's certified statement.

**§ 127-6. Application for exemption.**

Any exemption provided for pursuant to the provisions of this article shall be granted only upon application by the owner or all of the owners of the real property on a form prescribed and made available by the State Board of Equalization and Assessment of the State of New York, and the applicant or applicants therefor shall furnish such information as such State Board of Equalization and Assessment shall from time to time require. The application shall be filed, together with the appropriate certified statement of physical disability or certificate of blindness, with the assessor of the Town of New Paltz on or before the taxable status date of the Town of New Paltz.

**§ 127-7. Grant of exemption.**

Consistent with the provisions of Subdivision 4 of § 459 of the Real Property Tax Law of the State of New York, if the Assessor is satisfied that the improvement is necessary to facilitate and accommodate the use and accessibility by a resident who is physically disabled and that the applicant is entitled to an exemption pursuant to this article, the Assessor shall approve the application and enter the taxable assessed value of the parcel for which an exemption has been granted pursuant to this section on the assessment roll with the taxable property, with the amount of the exemption as determined pursuant to § 127-4 of this article in a separate column. Once granted, the exemption shall continue on the real property until the improvement ceases to be necessary to facilitate and accommodate the use and accessibility of the property by the resident who is physically disabled.



## ARTICLE III

**Senior Citizens Tax Exemption**

**[Adopted 11-28-1984 by L.L. No. 7-1984; amended in its entirety  
2-25-1987 by L.L. No. 1-1987]**

**§ 127-8. Legislative intent.**

The intent of this article is to amend Local Law No. 7-1984 of the Town of New Paltz, County of Ulster, State of New York, regulating partial tax exemption for persons over the age of 65 years and of limited income, so as to increase the maximum income exemption eligibility level consistent with authority granted to the Town of New Paltz to do so as provided for in § 467, Subdivision 1(b), of the Real Property Tax Law of the State of New York.

**§ 127-9. Grant of exemption; computation; exceptions.**

- A. The maximum income exemption eligibility level for partial tax exemption for persons over the age of 65 years and of limited income is hereby increased to the extent as provided in the following schedule:  
**[Amended 2-22-1990 by L.L. No. 2-1990; 5-23-1991 by L.L. No. 2-1991; 1-23-2003 by L.L. No. 2-2003]**

<b>Annual Income</b>	<b>Percentage of Assessed Valuation Exempt From Taxation</b>
Less than \$21,000	50%
\$21,500 to \$22,499	45%
\$22,500 to \$23,499	40%
\$23,500 to \$24,499	35%
\$24,500 to \$25,399	30%
\$25,400 to \$26,299	25%
\$26,300 to \$27,199	20%
\$27,200 to \$28,099	15%
\$28,100 to \$28,999	10%
\$29,000 to \$29,900	5%

- B. Consistent with the provisions of the Real Property Tax Law of the State of New York, any exemption provided by this article shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed.
- C. Consistent with the provisions of the Real Property Tax Law of the State of New York, the real property tax exemption provided herein on real property owned by husband and wife, one of whom is 65 years of age or over, once granted, shall not be rescinded by a municipal corporation solely because of the death of the older spouse so long as the surviving spouse is 62 years of age.

- D. Consistent with the provisions of the Real Property Tax Law of the State of New York, exemption from taxation, as provided herein, for school purposes shall not be granted in the case of real property where a child resides if such child attends a public school of elementary or secondary education.
- E. Consistent with the provisions of the Real Property Tax Law of the State of New York, no exemption shall be granted pursuant to this article:
- (1) If the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of \$3,000 or such other sum not less than \$3,000 nor more than \$15,000. "Income tax year" shall mean the twelve-month period for which the owner or owners filed a federal personal income tax return or, if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset, which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings and net income from self-employment, but shall not include a return of capital, gifts or inheritances. In computing net rental income and net income from self-employment, no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income. **[Amended 5-23-1991 by L.L. No. 2-1991]**
  - (2) Unless the title of the property shall have been vested in the owner or one of the owners of the property for at least 24 consecutive months prior to the date of making application for exemption; provided, however, that in the event of the death of either a husband or wife in whose name title of the property shall have been vested at the time of death and then becomes vested solely in the survivor by virtue of the devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor, and such ownership shall be deemed continuous for the purposes of computing such period of 24 consecutive months. In the event of a transfer by either a husband or wife to the other spouse of all or part of the title to the property, the time of ownership of the property by the transferor spouse shall be deemed also a time of ownership by the transferee spouse, and such ownership shall be deemed continuous for the purpose of computing such period of 24 consecutive months. Where property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with

the period of ownership of the property for which application is made for exemption, and such periods of ownership shall be deemed to be consecutive for purposes of this section. Where a residence is sold and replaced with another within one year and both residences are within the State of New York, the period of ownership of both properties shall be deemed consecutive for purposes of the exemption from taxation pursuant to this article.

- (3) Unless the property is used exclusively for residential purposes; provided, however, that in the event that any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation, and the remaining portion only shall be entitled to the exemption provided by this article.
  - (4) Unless the real property is the legal residence of and is occupied in whole or in part by the owner or by all of the owners of the property, provided that an owner who is absent while receiving health-related care as an inpatient of a residential health-care facility, as defined in § 2801 of the Public Health Law of the State of New York, shall be deemed to remain a legal resident and an occupant of the property while so confined, and income accruing to that person shall be income only to the extent that it exceeds the amount paid by such owner, spouse or co-owner for care in the facility; and provided, further, that during such confinement, such property is not occupied by other than the spouse or co-owner of such owner.
- F. Application for the exemption as provided for herein must be made by the owner or all of the owners of the property on forms prescribed by the State Board of Equalization and Assessment of the State of New York, to be furnished by the Town of New Paltz, and shall furnish the information and be executed in the same manner required or prescribed in such forms and shall be filed in the office of the Assessor of the Town of New Paltz on or before the appropriate taxable status date.
- (1) Any person otherwise qualifying under this chapter shall not be denied the exemption pursuant to this chapter if he or she becomes 65 years of age after the appropriate taxable status date and before December 31 of the same year. **[Added 2-22-1990 by L.L. No. 2-1990]**

#### **§ 127-10. Filing of application for renewal.**

Notwithstanding the provisions of Subdivisions 5 and 6 of § 467 of the Real Property Tax Law, the Assessor of the Town of New Paltz is hereby authorized and empowered to accept applications for renewal of exemptions pursuant to this article after the taxable status date under the following condition: In the event that the owner or all of the owners of property which has received an exemption pursuant to Local Law No.

7-1984 of the Town of New Paltz on the assessment roll immediately preceding the date upon which this article shall become effective fail to file the application required pursuant to this article on or before taxable status date occurring on or after the effective date of this article, such owner or owners may file the application, executed as if such application had been filed on or before such taxable status date, with the Assessor on or before the date for the hearing of complaints.

ARTICLE IV  
**Veterans Exemptions**  
**[Adopted 5-22-2003 by L.L. No. 4-2003<sup>56</sup>]**

**§ 127-11. Purposes and intent.**

- A. Section 458-a of the Real Property Tax Law provides a limited exemption from real property taxes for real property owned by persons who rendered military service to the United States, provided such property meets the requirements set forth in the law.
- B. Section 458-a of the Real Property Tax Law of the State of New York additionally provides that a town may by local law grant an alternative exemption from real property taxation for qualified, residential real property owned by veterans of defined periods of war, veterans who received expeditionary medals, or certain members of their family, based on a percentage of assessed value.
- C. The Town of New Paltz finds and determines that it is in the best interests of the community and especially in the best interests of owners of real property who have rendered military service to the United States of America to provide increased exemptions to such veterans and to provide enhanced exemptions where the veteran can document service in a combat theater or combat zone and where a veteran has received a service connected disability rating from the Veterans Administration or the Department of Defense, as those terms are used in Real Property Tax Law § 458-a.

**§ 127-11.1. Statutory authorization.**

This local law is enacted pursuant to the authority contained at Paragraph (d) of Subdivision 2 of § 458-a of the Real Property Tax Law of the State of New York.

**§ 127-11.2. Increase of exemptions.**

The maximum exemptions allowable pursuant to Paragraphs (a), (b) and (c) of Subdivision 2 of § 458-a of the Real Property Tax Law of the State of New York are increased to \$27,000, \$18,000 and \$90,000, respectively.

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**56. Editor's Note: This local law also repealed former Art. IV, Alternative Veterans Exemption, adopted 12-19-1984 by L.L. No. 10-1984.**



## ARTICLE V

**Disposition of Certain Tax Revenues  
[Adopted 5-20-1987 by L.L. No. 4-1987]****§ 127-12. Applicability of statutory provisions.**

The Town Board hereby adopts § 1262, Subdivision (2), of the Tax Law of the State of New York and elects to be paid directly the revenues from taxes imposed by cities under 1,000,000 counties and school districts situated within the County of Ulster where said amounts are not set aside for county purposes or educational purposes.

**§ 127-13. Use of revenues.**

The Town shall provide that these moneys shall be applied first to reduce county taxes levied upon real property situated within the town, with any balance remaining to be applied to reduce general Town taxes levied upon real property in said town, or that said moneys shall first be applied to reduce general Town taxes levied upon real property within the town, with any balance remaining to be used to reduce county taxes levied upon real property within the town, or that the amount which would be so applied to reduce the county taxes and general Town taxes levied upon real property in such Town shall be used for any Town purpose, or any combination thereof, the discretion of which shall remain with the Town Board.





## ARTICLE VI

**Exemption for Persons with Disabilities**  
**[Adopted 2-15-2001 by L.L. No. 3-2001]**

**§ 127-14. Legislative intent.**

The intent of this article is to amend the Code of the Town of New Paltz to provide an exemption so as to increase the maximum income eligibility level for certain persons with disabilities so as to provide for an exemption eligibility consistent with the authority granted to the Town of New Paltz to do so as provided for in § 459-c of the Real Property Tax Law of the State of New York.

**§ 127-15. Grant of exemption; computation.**

Subject to and consistent with all of the provisions contained at § 459-c of the Real Property Tax Law of the State of New York, the maximum income exemption eligibility level for partial tax exemption for persons with disabilities and of limited income is hereby established pursuant to the following schedule:

<b>Annual Income</b>	<b>Percentage of Assessed Valuation Exempt From Taxation</b>
\$17,500 or less	50%
\$17,500.01 or more, but less than \$18,500	45%
\$18,500 or more, but less than \$19,500	40%
\$19,500 or more, but less than \$20,500	35%
\$20,500 or more, but less than \$21,400	30%
\$21,400 or more, but less than \$22,300	25%
\$22,300 or more, but less than \$23,200	20%
\$23,200 or more, but less than \$24,100	15%
\$24,100 or more, but less than \$25,000	10%



## ARTICLE VII

**Override of Tax Levy Limit<sup>57</sup>**

**[Adopted 10-19-2017 by L.L. No. 7-2017<sup>58</sup>; amended in its entirety 10-17-2019 by L.L. No. 8-2019]**

**§ 127-16. Legislative intent.**

It is the intent of this article to override the limit on the amount of real property taxes that may be levied by the Town of New Paltz pursuant to General Municipal Law § 3-c and to allow the Town of New Paltz to adopt a budget for the fiscal year 2020 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law § 3-c.

**§ 127-17. Authority.**

This article is adopted pursuant to Subdivision 5 of General Municipal Law § 3-c, which expressly authorizes the Town Board to override the tax cap by the adoption of a local law approved by vote of 60% of the Town Board.

**§ 127-18. Tax levy override.**

The Town Board of the Town of New Paltz, County of Ulster is hereby authorized to adopt a budget for the fiscal year 2020 that requires a real property tax levy in excess of the amount otherwise proscribed in General Municipal Law § 3-c.

**§ 127-19. Severability.**

If any clause, sentence, paragraph, subdivision or part of this article or the application thereof to any person, firm or corporation, or circumstance be adjudged invalid or unconstitutional by any court of competent jurisdiction, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision or part of this article or in its application to the person, firm or corporation, or circumstance directly involved in the controversy in which such order or judgment shall have been rendered and shall not affect or impair the validity of the remainder of this article or the application thereof to any other person, firm or corporation or circumstance and the Town Board hereby declares that it would not have enacted this article or the remainder thereof had the invalidity of such provision or application thereof been apparent.

**§ 127-20. Effective date.**

This article shall take effect immediately upon filing with the Secretary of State.

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57. Editor's Note: Former Art. VII, Grievance Day for Real Property Assessment Review, adopted 3-23-2009 by L.L. No. 1-2009, was repealed 4-28-2016 by L.L. No. 1-2016.

58. Editor's Note: This local law also superseded former Art. VII, Override of Tax Levy Limit, adopted 10-20-2016 by L.L. No. 3-2016.



## ARTICLE VIII

**Assessments for Collection of Fees and Costs  
[Adopted 4-20-2017 by L.L. No. 5-2017]****§ 127-21. Legislative findings.**

- A. The Town Board finds that certain costs incurred by the Town, and fees and penalties owed to the Town, related to individual properties remain unpaid, unreimbursed or uncollected due to the difficulty and delay of collection, the legal costs of collection and the unavailability of the property owner to local or state court jurisdiction. The difficulty and inability to collect fees, costs, and expenses incurred on behalf of a specific property owner to bring the property into compliance with applicable laws or regulations, or penalties lawfully imposed by order of a court of competent jurisdiction in order to compel a property owner to do so, adversely affects the public fiscally and unnecessarily and unfairly burdens the taxpayers of the Town with costs and expenses incurred for the benefit of individual properties or because of the failure of the owner or responsible party of individual properties to comply with applicable laws and regulations.
- B. The Town Board further finds that:
- (1) Village Law § 4-414 and § 5-518 provide a mechanism for assessment of such costs by villages, but that the Town Law does not contain the analogous authority and procedure.
  - (2) Municipal Home Rule Law § 10(1)(ii)(a)(9-a) provides that the Town may adopt a local law related to the fixing, levy, collection and administration of local government rentals, charges, rates or fees, penalties and rates of interest thereon, liens on local property in connection therewith and charges thereon.
  - (3) The Town may, pursuant to Municipal Home Rule Law § 10(1)(ii)(d)(3), adopt a local law amending or superseding the Town Law, notwithstanding it is a general law, unless the Legislature has expressly prohibited the adoption of such a local law.
  - (4) The Legislature has not expressly or implicitly prohibited a town from adopting a local law similar to Village Law § 4-414 and § 5-518, or this article.
  - (5) It is the intent of the Town Board that this article be effective as to outstanding costs incurred by the Town to review any pending application that was made by the owner of real property, which costs are unpaid at the time of the adoption of this article, and to unpaid costs incurred in connection with all future applications, whether made by, or consented to, the owner of real property, but not to unpaid costs incurred by the Town prior to the adoption of

this article to review any application where the owner only consented to the application.

**§ 127-22. Assessments for required work performed by Town.**

- A. Whenever an owner of real property or responsible party is required by general, special or local law, or by any agreement or stipulation with the Town, or by any court of competent jurisdiction, in the interest of public safety, health or general welfare, to make an improvement to the property or perform any work or act on the property, or to pay any fee, cost, expense or penalty related to the property, and such owner or responsible party shall fail to make the improvement or perform the work or act required, or to pay the fee, cost, expense or penalty, the Town Board may cause such improvement, work or act to be done on such property, by contract or otherwise, and thereafter furnish the property owner of record a statement of the audited costs paid by the Town and a demand for payment of such costs by a date certain, which shall be the demand date.
- B. When the owner of record of real property has made, or consented to the making of, any application for permits or approvals related to the use of real property, and the Town has thereafter duly incurred reasonable and necessary fees, costs and expenses, including but not limited to engineering, legal or other professional or consultant costs and expenses, for the review of such application, and escrowed funds are not available to reimburse the Town for its payment of such fees, costs and expenses, including but not limited to engineering, legal or other professional or consultant costs and expenses, then the Town shall provide to the owner of record and to any other or additional responsible party a statement of the audited costs paid by the Town together with a demand for payment of same by a date certain, which shall be the demand date.
- C. In the event the fees, costs, penalties or other expenses referred to in Subsections A and B remain unpaid after the demand date, the Town Board may determine that such fees, costs, penalties or other expenses duly paid by the Town and for which the Town has not been reimbursed shall be assessed, levied and collected as provided herein.

**§ 127-23. Procedure.**

- A. Mailing of statement and demand for payment.
  - (1) Any amount which may be assessed against the property of an owner pursuant to the provisions of Subsection A of § 127-22 of this article shall, in the first instance, be billed to the property owner by first class United States mail addressed to the owner as identified by the assessment records of the Town;
  - (2) Any amount which may be assessed against the property of an owner pursuant to the provisions of Subsection B of § 127-22 of this

article shall be billed to an applicant that is not the owner for payment, with a copy of the billing statement sent to the owner by first class United States mail together with a notice that the owner is ultimately responsible for any unpaid bill. The records of the Town shall be deemed sufficient to verify such mailing address.

- B. Fee dispute. The amount so billed shall be deemed presumptively valid, but may be challenged by the property owner. Any such challenge shall be made by submitting a written request that the Town Board audit and review the billed costs, which request shall be submitted to the Town Clerk no later than 65 days after the date of mailing of the bill. Such request shall specify in detail the basis of the challenge. Upon review of such challenge, the Town Board shall issue a written decision. The property owner may seek review of the decision of the Town Board by bringing a proceeding to review the decision of the Town Board in the manner provided by Article 78 of the Civil Practice Law and Rules in a court of record on the ground that such decision is illegal, in whole or in part. Such proceeding must be commenced within 30 days next following the filing of the decision in the office of the Town Clerk.
- C. Levy procedures. The Town Supervisor shall include, with the Supervisor's proposed budget, the total amount of such monies which may be assessed against individual properties in accordance with this article. The Town Clerk shall prepare a roll of such amounts specifying the individual properties against which the amount shall be assessed, together with the name and address of the property owner as shown on the most current Town assessment roll. The total amount shall be included with the final budget of the Town. The Town Board shall approve the roll of individual assessments, and the same shall be assessed and levied against the properties at the same time as Town taxes.
- D. As an alternative to the procedure set forth in Subsection A, above, if an assessment against a particular property is not yet final in accordance with the procedure set forth in Subsection A, above, the Town may mail notice of the preparation of the individual assessment roll to such particular property owner. Such notice shall be mailed not less than 20 days prior to a hearing on the roll to be held at the time of the preliminary budget hearing, or such other date as the Town Board shall specify. The Town Board, following such hearing, shall approve, modify, or reject any assessment which was challenged at such hearing. The decision of the Town Board shall be final, but subject to review as set forth in Subsection B, above.

#### **§ 127-24. Administrative fees and interest.**

All amounts which are assessed in accordance with the procedure herein shall have added thereto, as an administrative fee, an amount equal to ten per centum (10%) of the original amount billed or noticed. Unpaid assessments shall accrue interest and penalties at the same rate and in the same manner as unpaid real property taxes.





ARTICLE IX

**Business, Commercial and Industrial Exemptions**  
**[Adopted 8-16-2018 by L.L. No. 5-2018]**

**§ 127-25. Exemptions allowed.**

The per centum of business, commercial and industrial exemptions otherwise allowed pursuant to Real Property Tax § 485-b is zero in all years one through 10.

## **Chapter 130**

### **TREE CONSERVATION**

#### **GENERAL REFERENCES**

**Environmental  
Commission — See Ch. 12.**

**Conservation Streets and sidewalks — See Ch. 118.**

**Subdivision of land — See Ch. 121.**

**Flood damage prevention — See Ch. 82.**

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#### **§ 130-1. Findings; purpose.**

- A. The Town Board finds that the destruction and damage of shade, ornamental and evergreen trees and the excessive and indiscriminate cutting of those trees in and on private property causes barren and unsightly conditions, creates increased surface drainage problems, destabilizes the soil, increases municipal costs to control drainage, impairs the stability and value of improved and unimproved real property and deteriorates the aesthetic and historic values of the community, as well as the health, safety, environment, ecological systems and general welfare of the inhabitants of the Town of New Paltz.
- B. The Town Board finds that procedures and penalties are necessary to preserve and, when necessary, to restore the health, welfare and rural character of the community which is reflected in the woodlands and trees of the Town of New Paltz.

#### **§ 130-2. Definitions.**

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

**ENVIRONMENTAL CONSERVATION BOARD** — The Environmental Conservation Board of the Town of New Paltz.

**PERSON** — Any individual, firm, partnership, association, corporation, company or organization who or which resides or occupies property or premises in the Town of New Paltz or who or which engages in actions regulated by this chapter, including any individual, firm, partnership, association, corporation, company or organization that has a lease, oral or in writing, either as landlord or tenant, for any such property or premises within the Town of New Paltz.

**PROTECTED AREAS** — Lands within the bounds of any property lying within 55 feet of any public highway upon which such lands adjoin, measured at right angles to the existing center line thereof, except that, in any industrial or commercial zoning district, the protected area shall be 75 feet in depth from the center line of the public highway.

**TOWN** — The Town of New Paltz, County of Ulster, State of New York.

TREE — A living, woody, perennial plant having a trunk of at least seven inches or more in diameter, measured at a height of 12 inches above the average natural ground level at its base, that is not grown, owned, held or maintained for sale as a nursery product, or for the production or sale of its fruit or nuts, or for agricultural purposes as defined in the Agriculture and Markets Law of the State of New York.

**§ 130-3. Restricted activities.**

No person shall purposely, intentionally, carelessly or negligently cut down, kill, remove or otherwise destroy, or commit any act that will lead to the eventual killing, destruction or removal of, any tree, as defined in this chapter, within the protected area, unless said person shall be in possession of a permit issued pursuant to this chapter.

**§ 130-4. Permit application.**

Any person seeking to cut down, kill, or otherwise destroy or remove a tree, or seeking to commit any act that will lead to the same, shall submit a complete application, in writing, to the office of the Town Building Inspector, who shall immediately cause the same to be delivered to the Chairperson of the Environmental Conservation Board. In addition to such other information as may be required by this chapter, the application shall set forth:

- A. The name and address of the applicant.
- B. The owner and location of the property upon which such tree or trees are located.
- C. A sketch or plot plan, accurately dimensioned, showing adjoining highways, adjoining lot lines, and the nature and locations of buildings, structures and other improvements.
- D. A statement as to the tree or trees to be cut down, killed or otherwise destroyed or removed.
- E. A brief statement of the reasons for the same.

**§ 130-5. Fees.**

- A. The Town Board of the Town of New Paltz shall establish, by resolution, the fee to be charged, collected and received for the granting of each permit required by this chapter.
- B. The fees required pursuant to the provisions of this chapter shall be paid in advance upon submission of an application, and the failure to submit the full payment required shall render the application incomplete.
- C. Nothing contained in the provisions of this chapter shall limit or impair the authority of the Environmental Conservation Board to adopt such

rule, regulation or resolution providing for the ability of the Environmental Conservation Board to waive the fee for a permit for good cause shown and under such circumstances as will serve to carry out the legitimate and lawful intentions of this chapter.

**§ 130-6. Issuance or denial of permit; display; appeals; extension of deadlines.**

- A. The granting of a permit by the Environmental Conservation Board shall be based upon the following criteria:
  - (1) The physical condition of the tree.
  - (2) The proximity of the tree or trees to existing or proposed improvements.
  - (3) The effect of the removal upon ecological systems, including the erosion potential of the property.
  - (4) The effect of the removal on the property values and aesthetics of the neighborhood.
  - (5) Any hardship or danger to the public or to the person or property of the owner of the subject premises.
  - (6) The interference, if any, of the tree with a permitted use of the property.
- B. The Environmental Conservation Board shall, within 35 days of the date that a complete application in final form is accepted by the Building Inspector and referred by the Building Inspector to the Environmental Conservation Board, approve or disapprove the application for permit, including its plan for the restoration of the site.
- C. Any permit issued pursuant to this chapter may be issued with such conditions as the Environmental Conservation Board deems necessary. Such conditions shall be attached to the permit and signed by the Chairman and the applicant to ensure compliance with the policies and provisions of this chapter.
- D. Prior to the performance of any work and for the duration thereof, the permit shall be displayed so that it is visible from the road fronting the property.
- E. In the event that the Environmental Conservation Board fails to act upon the application within the aforesaid period of 35 days, such application shall be deemed approved, and the applicant shall be entitled to the issuance of the permit required hereunder in accordance with the application.
- F. Appeals.

- (1) Any applicant aggrieved by a decision of the Environmental Conservation Board with regard to the application may, within 30 days of the date on which the decision is mailed to the applicant, appeal such decision to the Town Board.
  - (2) The appeal shall be in writing and shall include a copy of all papers filed with the Building Inspector and the decision of the Environmental Conservation Board.
  - (3) The appeal shall be deemed filed when it is received by the Town Clerk.
  - (4) The Town Board shall act upon such appeal within 30 days after said notice of appeal is filed with the Town Clerk.
  - (5) In the event that the Town Board fails to act with respect to such appeal within 30 days after the appeal is filed with the Town Clerk, the application shall be deemed approved, and the applicant shall be entitled to the issuance of the permit required hereunder in accordance with the application.
- G. Nothing contained in the foregoing subsections of this section shall alter, limit or prohibit the authority of the Environmental Conservation Board and/or of the Town Board, with the consent of the applicant, to extend the time periods within which either the Environmental Conservation Board or the Town Board is required to act hereunder.

#### **§ 130-7. Annual report of Environmental Conservation Board.**

The Environmental Conservation Board shall submit, not later than the first business day in the month of October of each year, an annual report to the Town Board concerning the activities and work of the Environmental Conservation Board and, from time to time, shall submit such reports and recommendations as may be necessary to fulfill the purpose of this chapter.

#### **§ 130-8. Removal of trees; restoration plan; replanting; deadlines.**

- A. All persons who remove, or cause to be removed, trees with a permit shall promptly comply with the conditions of the permit requiring restoration. Anyone who removes, or causes to be removed, trees without a required permit shall, upon order of the Building Inspector, proceed diligently to restore the area by backfilling all holes and by creating an acceptable grade and covering all disturbed land. Said persons shall then submit a restoration plan to the Building Inspector, who shall review the plan in consultation with the Environmental Conservation Board. Such plan shall include all work necessary to restore the property within the protected area so as to avoid, minimize or mitigate damage that, in the judgment of the Building Inspector, following consultation with the Environmental Conservation Board, causes any of the adverse impacts identified in § 130-1 of this chapter and shall include a schedule, acceptable to the Building Inspector, to

complete any plan for restoration required by the Building Inspector. The restoration plan shall provide for any tree removed without a permit, or damaged during the permitted work and/or during construction or development of the property, to be replaced in kind, or, if the Building Inspector determines, in consultation with the Environmental Conservation Board, that the existing trees were so large and mature that they cannot be replaced, the Building Inspector may require the planting of multiple trees instead. Minor tree damage shall be repaired in accordance with accepted tree surgery practice. Nothing in this section shall be deemed to prevent the Building Inspector from also seeking any penalty or remedy provided for by this Code or other applicable laws.

- B. Tree stumps shall be cut flush to ground level. After the planting of trees, the removal of all debris in the disturbed area shall be made immediately. The property where such planting is done must be left in a neat and orderly condition in accordance with good and acceptable planting and tree surgery practice.
- C. All tree planting, tree dressing and associated restoration work must be substantially completed within six months from the date of issuance of the permit, except that, for good cause shown, the permit may be extended by the Environmental Conservation Board.
- D. All trees that fail to survive for a period of two calendar years following planting shall be replaced by the permit holder or by the owner of the land, if other than the holder of the permit. Said replacement shall be within 60 days following written demand for such replacement from the Environmental Conservation Board, the Building Inspector or the Code Enforcement Officer or within such greater time as may be specified in the written demand in order to allow planting within an appropriate planting season.

#### **§ 130-9. Exemptions.**

- A. Anything in this chapter to the contrary notwithstanding, the provisions of this chapter shall not apply:
  - (1) To trees severely damaged by storms or other natural causes and that are located on lots used solely for residential purposes.
  - (2) To trees that would endanger the public or the person or property of the owner.
  - (3) To trees located upon that portion of the property lying within the protected area to a distance of 10 feet around the perimeter of any existing building or structure lawfully permitted on the property.
  - (4) To trees cut down, removed, trimmed, topped or otherwise disturbed by any person or his agents, servants or employees actually engaged in customary agricultural endeavors, which trees are located upon lands lying within the protected area, which lands

form a part of and/or which are contiguous with agricultural lands owned, operated or controlled by such person and devoted to the production, for commercial purposes, of crops, field crops, fruits, vegetables and livestock as such terms are defined in § 301 of the Agriculture and Markets Law of the State of New York.

- (5) To trees removed in compliance with any site plan and/or subdivision plan that has previously been lawfully approved by the appropriate governmental body, board and/or agency having jurisdiction to issue such approval.
  - (6) To trees removed from the bed of any street, roadway or highway proposed to be constructed, whether as a private roadway or for dedication to and acceptance by the Town as a Town highway and shown on a subdivision map lawfully approved by the appropriate governmental body, board and/or agency having jurisdiction to approve such subdivision map.
- B. Nothing herein shall create any obligation on the part of the Highway Departments of the Town, Ulster County or the State of New York; the New York State Thruway Authority; the State University of New York at New Paltz; and any franchised public utilities regulated by the New York State Public Service Commission or the Federal Energy Regulatory Commission to obtain a permit to cut, prune or remove trees in the conduct of their regular work on streets, rights-of-way or utility lines.

**§ 130-10. Enforcement; notice to remedy violations.**

- A. This chapter may be enforced by the Building Inspector, the Code Enforcement Officer, or any other official or representative of the Town of New Paltz duly designated by the Town Board.
- B. The Code Enforcement Officer is authorized to issue a notice and order to remedy violation for any violation of any provision of this chapter and to commence, in any court of competent jurisdiction, a prosecution for such violation and arrange for the issuance of process pursuant to the Criminal Procedure Law to secure the attendance of the accused.
- C. The Building Inspector or Code Enforcement Officer is authorized to include, as a condition in any notice and order to remedy violation, a direction that the person to whom such notice and order is directed appear and attend before the Environmental Conservation Board at a time and place to be determined by the Environmental Conservation Board, upon reasonable advance notice, for the purpose of securing from such Environmental Conservation Board a plan for its recommendations for the restoration of the site, including any conditions that the Environmental Conservation Board may recommend to be included in any order issued by the Building Inspector or Code Enforcement Officer to direct the implementation of the restoration plan in order to ensure compliance with the purposes and intent of this chapter. Such recommendations may provide for the posting of security

in favor of the Town and acceptable in form to the Town Attorney, in an amount sufficient to insure the full and faithful performance of the work to be completed.

- D. Any person who shall fail to comply with the directives in a notice and order to remedy violation issued by the Code Enforcement Officer within the time limit stated thereon, including obtaining a restoration permit required by § 130-8, shall be deemed to have committed a separate offense against this chapter and shall also thereafter be liable for any such violation or the penalty therefor.
- E. In the event that an appearance ticket is issued following a violation of the provisions of this chapter, an answer to such appearance ticket shall be made to the Town Court of the Town of New Paltz on the return date at the time specified in said appearance ticket.

### **§ 130-11. Penalties for offenses.**

- A. For the purposes of this section, each cutting, killing, destroying or removing of each tree, or the committing of any act that would lead to the same, shall constitute a separate violation.
- B. A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both, for conviction of a second offense, both of which offenses were committed within a period of five years; and punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both, upon conviction of a third or subsequent offense, all of which offenses were committed within a period of five years. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- C. In addition to the penalties provided for in § 130-11B, above, the Town shall not issue a building or other permit, any temporary certificate of occupancy, certificate of occupancy or variance for any property for which a violation of this chapter has been served until said violation has been finally determined to the satisfaction of the Town.
- D. In addition to the penalties provided for in § 130-11B, above, any person violating this chapter shall be subject to a civil penalty, enforceable and collectible by the Town, not exceeding \$1,000 for a first offense; for a second violation committed within five years next following a first violation, to a civil penalty, enforceable and collectible by the Town, not exceeding \$2,000, and for each subsequent violation, to a civil penalty, enforceable and collectible by the Town, not exceeding \$3,500.



- E. In addition to the penalties above provided, the Town Board may also maintain an action or proceeding in the name of the Town, in a court of competent jurisdiction, to compel compliance with or to restrain by injunction the violation of this chapter.
- F. No penalty provided for by this chapter shall be deemed exclusive. The Building Inspector shall have discretion to seek one or more of the penalties provided herein in a court of competent jurisdiction.

## **Chapter 133**

### **VEHICLES AND TRAFFIC**

#### **GENERAL REFERENCES**

**Traffic Violations Bureau — See Ch. 40.**

**Streets and sidewalks — See Ch. 118.**



ARTICLE I  
**Vehicles Upon Town Property**  
**[Adopted 7-27-2000 by L.L. No. 4-2000]**

**§ 133-1. Definitions.**

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

**MOTOR-DRIVEN VEHICLE** — Every device in, upon or by which any person or property is or may be transported, except devices moved by human power, and shall include snowmobiles, minibikes and other recreational vehicles.

**§ 133-2. Prohibited acts.**

- A. No person shall operate a motor-driven vehicle in or upon any park or public place within the jurisdiction of the Town of New Paltz, except licensed motor vehicles when operated upon a street, road, highway, parking lot or driveway for access to such park or public place.
- B. Specific Rail Trail prohibitions. The use of motor-driven vehicles or of any motorized equipment (other than the use of mechanized or motor-driven wheelchairs or other similar personal conveyance devices by physically impaired persons) on the Wallkill Valley Rail Trail is prohibited, including, without limitation, the use of automobiles or other motor vehicles, all-terrain vehicles, motorcycles, motor bikes, snowmobiles or similar contrivances or devices.

**§ 133-3. Exemptions.**

Motor-driven vehicles and motorized equipment authorized by Town personnel to perform maintenance activities or emergency vehicles utilized by police, fire, rescue or other like personnel in the performance of their official duties shall be exempt from the provisions of this chapter.

**§ 133-4. Penalties for offenses.**

Upon conviction for a violation of this chapter, a person shall be guilty of a violation as defined in Article 10, § 10.00, Subdivision 3, of the Penal Law of the State of New York, which shall be punishable as follows:

- A. For the first offense: by the payment of a fine not to exceed \$50.
- B. For a second offense: by the payment of a fine not to exceed \$100.
- C. For a third or subsequent offense: by payment of a fine not to exceed \$250 or by imprisonment for a term not to exceed 15 days, or by both such fine and imprisonment.



ARTICLE II  
**Vehicle Weight Limits**  
**[Adopted 11-21-2013 by L.L. No. 2-2013]**

**§ 133-5. Trucks over certain weights excluded.**

Trucks, tractors, tractor-trailer combinations, tractor-semitrailer combinations, tractor-trailer-semitrailer combinations and other motor vehicles having a gross weight of 10,000 pounds are hereby excluded from the Town highways described in the following schedule:

Name	Location
Lent Drive	From its intersection with Waring Lane to the terminus of Lent Drive
Old Mill Road	From its intersection with Henry W. DuBois Drive generally northerly to its intersection with Waring Lane
Waring Lane	From its intersection with Henry W. DuBois Drive generally northerly to its intersection with Old Mill Road

**§ 133-6. Exemptions.**

The above exclusions shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles are excluded.

**§ 133-7. Penalties for offenses.**

Any person violating any of the provisions of any of the sections of this chapter shall, upon conviction thereof, be guilty of a violation as defined in Article 10, § 10.00, Subdivision 3, of the Penal Law of the State of New York, which shall be punishable by a fine not to exceed the sum of \$100 or imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of one year, punishable by a fine not less than \$250 nor more than \$350 or imprisonment for a period not to exceed 15 days, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$500 or imprisonment for a period not to exceed 30 days, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations.



ARTICLE III  
**Parking, Stopping and Standing**  
**[Adopted 3-7-2019 by L.L. No. 1-2019]**

**§ 133-8. Definitions.**

The following words and phrases when used in this article shall have the following meanings:

**HIGHWAY** — The entire width between the boundaries of every publicly maintained way within the Town of New Paltz, County of Ulster, State of New York, lying outside the geographical boundaries of the incorporated Village of New Paltz, when any part thereof is open to the use of the public for purposes of vehicular travel.

**MOTOR VEHICLE** — Every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, including electrically/driven chairs being operated or driven by physically impaired person; vehicles which run only upon rails or tracks (except construction vehicles actually engaged in the performance of work) and snowmobiles as defined in this article.

**PARKING** — The standing of a motor vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or in receiving or discharging passengers.

**PERSON** — Every natural person, firm, partnership, association or corporation.

**ROADWAY** — That portion of a highway improved, designed, marked, or ordinarily used for vehicular travel, exclusive of the shoulder and slope.

**SHOULDER** — That improved portion of a highway contiguous with the roadway.

**SLOPE** — That portion of a highway exclusive of the roadway and shoulder.

**SNOWMOBILES** — Any motorized vehicle designed for travel on snow or ice, steered by skis or runners and supported in whole or in part by one or more skis, belts or cleats.

**STANDING** — The stopping of a motor vehicle, whether occupied or not, other than temporarily for the purpose of and while engaged in receiving or discharging passengers.

**STOPPING** — Any halting, even momentarily, of a motor vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control signal or sign.

**TOWN** — The Town of New Paltz, Ulster County, New York lying outside the geographical boundaries of the incorporated Village of New Paltz.

**§ 133-9. General prohibitions.**

The parking, stopping, or standing of any motor vehicle by any person upon any highway within the Town in violation of this article is prohibited.

**§ 133-10. Emergency conditions.**

The parking, stopping, or standing of any motor vehicle by any person upon the roadway or upon the shoulder or upon the slope of any highway within the Town in the vicinity of any flood, fire or other public emergency where the parking, stopping or standing of motor vehicles constitutes an obstruction to traffic or to emergency or rescue operations, is prohibited.

**§ 133-11. Snowfall conditions.**

- A. The parking, stopping, or standing of any motor vehicle by any person upon the roadway or upon the shoulder or upon the slope of any highway within the Town commencing from the time that the accumulation of snow reaches a level of at least two inches and continuing until such time as the highway has been fully plowed and cleared;
- B. It is the responsibility of the owner or operator of any vehicle parked on any highway within the Town or in a parking lot owned, leased or maintained by the Town to be aware of the forecast of weather conditions which may result in an accumulation of greater than two inches of snow.

**§ 133-12. Temporary signs.**

- A. In addition to any other lawful duty or responsibility, the Highway Superintendent is authorized to post temporary signs at locations along highways throughout the Town prohibiting the parking, stopping or standing of motor vehicles for a designated period of time to facilitate the provisions, purposes and intents of this article.
- B. The New Paltz Police Department, with the advice and consent of the Highway Superintendent, is authorized to post temporary signs at locations along highways throughout the Town prohibiting the parking, stopping or standing of motor vehicles for a designated period of time to facilitate the provisions, purposes and intents of this article.

**§ 133-13. Removal of vehicles.**

- A. In addition to any other penalties imposed for a violation of this article, the Town of New Paltz Police Department is authorized to provide for the removal and storage of motor vehicles found in violation of this article where such motor vehicle impairs, impedes or obstructs the movement of motor vehicles upon Town highways or impairs, impedes or obstructs emergency or rescue operations or snow removal.



- B. Except where a motor vehicle which is lawfully parked is caused to immediately be removed at the direction of the Town of New Paltz Police Department as the result of fire, flood, water or sewer main breaks or other condition which threatens or impairs the general health, safety or welfare, the payment of the reasonable charges for the removal and storage of motor vehicles removed pursuant to the provisions of this article shall be the sole and exclusive responsibility of the owner or operator of such motor vehicle.
- (1) The owner of the facility at which the vehicle is stored shall be entitled to collect a fee for storage as set from time to time by resolution of the Town Board.
  - (2) The vehicle so removed shall be retained under the custody of the storage facility until such time that the removal and storage charges have been paid.
  - (3) Any person who removes a motor vehicle from the premises to which it had been removed and is stored without payment of the removal and storage charges then due shall be deemed to have committed a violation and, upon conviction, shall be liable to a fine not to exceed that set annually by resolution of the Town Board.

**§ 133-14. Penalties for offenses.**

- A. The violation of any of the provisions of this article shall constitute a violation as defined in the Penal Law of the State of New York.
- B. Every person convicted of a violation of any provision of this article shall:
- (1) For a first conviction thereof be punished by a fine of not more than \$50 or by imprisonment for not more than 15 days or by both such fine and imprisonment;
  - (2) For a second such conviction within 18 months thereafter by a fine of not more than \$100 or by imprisonment for not more than 45 days or by both such fine and imprisonment;
  - (3) For a third or subsequent conviction by a fine of not more than \$250 or by imprisonment of not more than 90 days or by both such fine and imprisonment.



## ARTICLE IV

**Parking, Stopping and Standing on Designated Highways**  
**[Adopted 5-16-2019 by L.L. No. 6-2019]****§ 133-15. Definitions.**

The following words and phrases when used in this article shall have the following meanings:

**HIGHWAY** — The entire width between the boundaries of every publicly maintained way within the Town of New Paltz, County of Ulster, State of New York, lying outside the geographical boundaries of the incorporated Village of New Paltz, when any part thereof is open to the use of the public for purposes of vehicular travel.

**MOTOR VEHICLE** — Every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, including electrically/driven chairs being operated or driven by physically impaired person; vehicles which run only upon rails or tracks (except construction vehicles actually engaged in the performance of work) and snowmobiles as defined in this article.

**PARKING** — The standing of a motor vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or in receiving or discharging passengers.

**PERSON** — Every natural person, firm, partnership, association or corporation.

**ROADWAY** — That portion of a highway improved, designed, marked, or ordinarily used for vehicular travel, exclusive of the shoulder and slope.

**SHOULDER** — That improved portion of a highway contiguous with the roadway.

**SLOPE** — That portion of a highway exclusive of the roadway and shoulder.

**SNOWMOBILES** — Any motorized vehicle designed for travel on snow or ice, steered by skis or runners and supported in whole or in part by one or more skis, belts or cleats.

**STANDING** — The stopping of a motor vehicle, whether occupied or not, other than temporarily for the purpose of and while engaged in receiving or discharging passengers.

**STOPPING** — Any halting, even momentarily, of a motor vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control signal or sign.

**TOWN** — The Town of New Paltz, Ulster County, New York lying outside the geographical boundaries of the incorporated Village of New Paltz.

**§ 133-16. General prohibitions.**

The parking, stopping, or standing of any motor vehicle by any person upon any highway within the Town in violation of this article is prohibited.

**§ 133-17. Designated highways.**

The parking, stopping, or standing of any motor vehicle by any person upon the roadway or upon the shoulder or upon the slope of the following portions of the following highways within the Town is prohibited:

- A. Lewis Lane, from its intersection with Red Barn Road to its intersection with Charles Road;
- B. Butternut Road, generally northerly from its intersection with Pine Road for a distance of approximately 1,000 feet on the west side of the road and for a distance of 800 feet on the east side of the road; and
- C. Gate House Road, from its intersection with White Oaks Road to its intersection with N.Y.S. Route 299.

**§ 133-18. Temporary signs.**

- A. In addition to any other lawful duty or responsibility, the Highway Superintendent is authorized to post signs at locations along those portions of the highways designated in § 133-17, above, prohibiting the parking, stopping or standing of motor vehicles thereon.
- B. The New Paltz Police Department, with the advice and consent of the Highway Superintendent, is authorized to post signs at locations along those portions of the highways designated in § 133-17, above, prohibiting the parking, stopping or standing of motor vehicles thereon.

**§ 133-19. Removal of vehicles.**

- A. In addition to any other penalties imposed for a violation of this article, the Town of New Paltz Police Department is authorized to provide for the removal and storage of motor vehicles found in violation of this article.
- B. The payment of the reasonable charges for the removal and storage of motor vehicles removed pursuant to the provisions of this article shall be the sole and exclusive responsibility of the owner or operator of such motor vehicle.
  - (1) The owner of the facility at which the vehicle is stored shall be entitled to collect a fee for storage as set from time to time by resolution of the Town Board.
  - (2) The vehicle so removed shall be retained under the custody of the storage facility until such time that the removal and storage charges have been paid.

- (3) Any person who removes a motor vehicle from the premises to which it had been removed and is stored without payment of the removal and storage charges then due shall be deemed to have committed a violation and, upon conviction, shall be liable to a fine not to exceed that set annually by resolution of the Town Board.

**§ 133-20. Penalties for offenses.**

- A. The violation of any of the provisions of this article shall constitute a violation as defined in the Penal Law of the State of New York.
- B. Every person convicted of a violation of any provision of this article shall:
  - (1) For a first conviction thereof be punished by a fine of not more than \$50 or by imprisonment for not more than 15 days or by both such fine and imprisonment;
  - (2) For a second such conviction within 18 months thereafter by a fine of not more than \$100 or by imprisonment for not more than 45 days or by both such fine and imprisonment;
  - (3) For a third or subsequent conviction by a fine of not more than \$250 or by imprisonment of not more than 90 days or by both such fine and imprisonment.



ARTICLE V  
**General Provisions**

**[At the time of publication of this volume, the Town Board was considering adoption of a Comprehensive Vehicles and Traffic Local Law. Upon the adoption of such, it will be included in this chapter. All currently effective vehicles and traffic legislation is available to the public for inspection in the office of the Town Clerk during regular office hours.]**

**Chapter 137****WATER****GENERAL REFERENCES**

**Sewers — See Ch. 113.**

**Water conservation — See Ch. 138A.**

**Subdivision of land — See Ch. 121.**

**Zoning — See Ch. 140.**

**Water conservation within improvement districts — See Ch. 138.**

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**§ 137-1. Title.**

The sections herein shall be and be known as the "Rules and Regulations of New Paltz Water District."

**§ 137-2. Designation of Water Inspector.**

There is hereby designated in the Town of New Paltz a public official to be known as the "Water Inspector," who shall be appointed by the Town Board and who may be an employee of the Town with other duties assigned to him.

**§ 137-3. Acting Water Inspector.**

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

**§ 137-4. Powers and duties of Water Inspector.**

- A. Except as otherwise specifically provided by law, ordinances or regulations or except as herein otherwise provided, the Water Inspector shall administer and enforce all the provisions of law, ordinances, rules and regulations applicable to the construction, alteration, repair and installation of water service and the location, use, occupancy and maintenance thereof.
- B. The Town Clerk, together with the Water Inspector, shall receive applications and issue permits for the installation of water service.
- C. The Water Inspector shall issue all appropriate notices or orders to remove illegal conditions, to require the necessary safeguards during construction and to ensure compliance during the entire course of construction with the requirements of such laws, rules and regulations. He shall make all inspections which are necessary or proper for the carrying out of his duties.



**§ 137-5. Records.**

The Town Clerk shall keep permanent official records of all transactions conducted by the Water Inspector, including all applications received, permits and certificates issued, fees charged and collected, inspection reports and notices and orders issued. All such records shall be public records open to public inspection during business hours.

**§ 137-6. Incorporation of rules into contracts.**

The following rules shall be considered as part of the contract between the Town of New Paltz and every person who takes water supplied by the New Paltz Water District, and every person using this utility shall be bound thereby, and whenever any one of said rules is violated, the right is reserved to cut off the water service with due notice.

**§ 137-7. Application for service; responsibility for charges.**

All applications for the introduction or supply of water into any premises or for the extension of any pipe for the conveyance of water must be made in writing by the owner of the premises or his duly authorized agent on forms provided for that purpose at the office of the Town Clerk. If more than one service is desired for the same premises, a separate application shall be made for each service. The owner of such premises shall be held responsible and liable for all charges for such service and water consumption charges to said premises, to be collected, in case of default of payment, in the manner provided by the Town Law relating thereto.

**§ 137-8. Independent service pipes.**

Each building or other premises shall be provided with a separate and independent water service from the main; provided, however, that a group of buildings under the same tenant occupancy, use and/or exclusive control may be served by a single principal water service upon permission and terms granted by the Town Board. Where two or more branch water service lines from the main service pipe are used for separate tenants in the same premises, each branch shall be provided by the owner with proper fittings for separate and independent meter installations in the respective branches, and each such branch shall be provided with a compression stop and waste cock ahead of the meter.

**§ 137-9. Disposition of revenues.**

All revenues derived from water service and operation of the system shall be applied towards the payment of the purchase of water, cost of operation and maintenance of plant and equipment, extensions and improvements, the payment of the principal and interest, obligations on the outstanding water bonds and the creation of a reserve for extraordinary replacements, extension and improvements of the water system.

**§ 137-10. Rates.**

- A. The Town Board shall from time to time determine and fix the rates for water service connection and consumption and shall establish such periods of payment as may be desirable.
- B. All such rates and terms of payment shall constitute a part of the rules and regulations of the Town Board relating to water service as though fully set forth herein and shall be on file in the office of the Town Clerk.

**§ 137-11. Amendments.**

The Town Board reserves the right to change, by local law, from time to time, the rules and regulations relating to the water supply and the rates for the use of water.

**§ 137-12. Liability for charges.**

- A. All water rents, accounts or other charges relating to water service shall be a charge against the owner or agent of the premises connected with the Town water system, and such owner or agent shall be held responsible for all such accounts and charges.
- B. In default of payment of any such charges within 60 days after becoming due, the water may be cut off such premises without further notice. Any service and consumption charge shall be a lien upon the premises served and shall be collectible as provided by Article 12 of the Town Law.

**§ 137-13. Plumbing in buildings. [Amended 12-30-1987 by L.L. No. 9-1987]**

Any building that is to be served by the Town water system must have its plumbing checked by the Water Inspector, and the plumbing shall comply with the plumbing standards of the New York State Uniform Fire Prevention and Building Code, latest revision.

**§ 137-14. Inspections; records; right of entry.**

- A. All materials and work shall be subject to the approval of the Water Inspector. No work shall be covered until such inspection and approval shall have been made.
- B. All inspections shall be promptly recorded by the Water Inspector in the water permit book, and he shall keep a correct plan of such waterline installed to be recorded on the water district maps.
- C. The Water Inspector must, at all reasonable hours, have free access to all parts of the premises to which water is delivered for the purpose of inspection, examination of fixtures, et cetera, and all persons using water must, at all times, frankly and without concealment, answer all questions put to them relating to its consumption.

**§ 137-15. Easements.**

In case the proposed waterline passes through premises other than those making connection with the water, no connection will be made until a deed or easement, satisfactory to the Town Board, shall have been secured and filed in the office of the Town Clerk.

**§ 137-16. (Reserved)<sup>59</sup>****§ 137-17. Installation of water mains.**

Except where water mains cross bridges and except when variations are specifically approved by the Board, all water mains connecting with the Town water system must be lined cast-iron pipe meeting the specifications of the American Water Works Association. All proposed plans and specifications for water mains must be approved by the Town Board and installed under the supervision and inspection of the Water Inspector.

**§ 137-18. Cross-connections.**

- A. No person, firm or corporation shall install or permit to be installed any cross-connection, whether permanent or temporary, between the Town water system and any other source of supply of water.
- B. Upon discovery of violation of this section by any person, firm or corporation, the Town water service to such person, firm or corporation shall forthwith be disconnected and remain disconnected until this section is complied with.

**§ 137-19. Furnishing water to other customers.**

No owner or tenant of any premises supplied with water from the Town mains shall be permitted to furnish water to other consumers, and no multiple-consumer service shall be permitted in the same premises except as provided in § 137-8.

**§ 137-20. Installation and maintenance of service pipes.**

- A. After the Town water system has been constructed, the installation of all service pipes between the water main and meter shall be at the expense of the owner of the premises served. When the service pipe of Type K soft copper, or such other material as may hereafter be approved as permanent, shall have been installed at the expense of the owner, such installation between the main and curb box shall be considered to be a part of the Town water system and shall be so maintained.

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**59. Editor's Note: Former § 137-16, Plumber's permit, was repealed 5-24-1990 by L.L. No. 9-1990.**

- B. In the event, however, that larger or different service is requested by the owner or required by reason of the use of the property served, such larger or different service shall be installed at the expense of the owner.
- C. All abandoned service pipes shall be shut off at the main at the expense of the owner.
- D. Whenever leaks occur in the service pipes at any point between the main and the meter, they must be repaired immediately by the owner or agent of the premises in accordance with the previous subsections of this section. If repairs are not made within 15 days after notice of such leaks, the Town Board may shut off the water until such repairs are made.
- E. The Town Board reserves the right to repair any leaking service pipe without notice and charge the expense thereof against the owner of the premises, to be collected in the manner provided by the rules and regulations or the provisions of the Town Law relating thereto.
- F. All lateral or service pipes for public or private use and all necessary fixtures connected therewith shall be subject to the approval and laid under the supervision of the Water Inspector. Said pipes, et cetera, should be laid not less than four feet deep and must be kept in good repair and protected from the frost by and at the expense of the owner of the premises, as herein outlined.

**§ 137-21. Tapping mains.**

- A. All tapping of the Town water mains will be done under the direction of the Water Inspector, and no other person will be allowed to make such taps. The tapping will be done at the expense of the applicant, and the fee therefor fixed by the Board shall be paid in advance. In all cases, an approved stopcock with box and cover shall be put in at the curb or outer edge of the walk, and such curb box shall be set and kept visible and flush with the grade and put as near as practicable to the curb, at the property owner's expense, the whole to be subject to the approval of the Water Inspector.
- B. In locations where the Town forces do not dig the road for services, notice must be left at the office of the Town Clerk on the day previous to the one on which the tapping will be required, stating the hour when the road will be open at the main and ready for tapping, giving the road number of the location and the name of the person owning or occupying the premises. In case the trench is not ready for tapping the main at the time specified, an extra charge will be made for overtime or lost time as provided in the rates and fees fixed by the Town Board. In cases where it is necessary to excavate a Town road, the appropriate application and bond must be filed with the Town Clerk.

**§ 137-22. Service pipe materials and sizes.**

All water service sizes shall be determined by consultation with the Town and shall be governed by its recommendation.

- A. A minimum of three-fourths-inch diameter for house service will be used.
- B. For services of 3/4 inch to one inch in diameter, Type K soft copper water tubing is required.
- C. For services of 1 1/4 inch to two inches in diameter, Type K soft copper tubing or cold-drawn, semiannealed seamless red brass pipe or two-inch cement line, mechanical joint, cast-iron pipe meeting American Water Works Association specifications may be used.
- D. For services of over two-inch diameter, a minimum of four-inch diameter cast-iron hub and spigot water pipe meeting American Water Works Association specifications with tyton joints shall be used and shall join the main with tapping a sleeve and valve to be installed by the Town Board at the expense of the property owner.

**§ 137-23. Joints and fittings.**

- A. Where Type K soft copper water tubing is used, heavy flared brass fittings as approved by the American Water Works Association shall be used.
- B. Where cold-drawn semiannealed seamless red brass pipe is used, extra-heavy red brass fittings having standard iron pipe threading shall be used.
- C. Where cast-iron pipe, four-inch or larger is used, all fittings must be tyton or mechanical and shall meet specifications of the American Water Works Association.
- D. Except in cases of emergency and to be consistent with the normal length of pipe sections, no joints will be allowed under the road pavement area between the corporation stop connection and the curb stop connection. All services two inches and under shall be connected to the main with a corporation stop tapped directly into the main or tapped through a tapping saddle.
- E. All curb shutoffs on copper and brass services will be of the inverted, ground key, roundway type. Curb shutoffs on cast-iron services will be American Water Works Association approved gate valves.
- F. Curb and valve boxes and manholes providing access to shutoffs shall be of the Town of New Paltz standard.

**§ 137-24. Stop and waste cock.**

A compression stop and waste cock must be located inside the building as near as practicable to the wall where the service pipe enters, and the pipe shall be so arranged that the water can be drawn from them whenever there is danger of freezing.

**§ 137-25. Bypasses and valves.**

Bypasses and the specified valves shall be provided in connection with large meters, as described in connection with the rules relating to meters and their installation.

**§ 137-26. Notice of completion of work.**

After completion of installation and connection, all services shall be shut off at the curb box and disconnected inside, and notice of such completion shall be filed in the office of the Town Clerk on forms provided therefor.

**§ 137-27. Turning on water.**

After completion of the work and disconnection as provided in § 137-26, no person shall turn on the water until application by the owner of the premises has been filed in the office of the Town Clerk setting forth the purposes for which the water is to be used and written consent therefor given.

**§ 137-28. Replacing service pipes.**

For any service in which any other variety of pipe shall be placed than that specified in §§ 137-21 through 137-27, the Town Board reserves the right to have the water shut off from said premises until such pipe has been installed in accordance with the rules.

**§ 137-29. Standpipes and automatic sprinklers.**

Standpipes or pipes for automatic suppression of fires in buildings, which fixtures are intended only for such use, will be permitted to be attached to the Town water supply system, and no charge will be made for the use of water for such purposes. All such pipes must be provided with a suitable valve outside of the building, which shall be under the exclusive control of the Town Board. Also, in the case of standpipes, a valve must be provided, placed at the bottom of the standpipe and at each hose opening, which valve shall be sealed by the Town. In case such seals shall be broken for the extinguishment of any fire, the party breaking the seal shall immediately thereafter notify the Town Clerk, and the valve shall be resealed.

**§ 137-30. Protection from freezing.**

- A. Service pipes and meters in buildings shall be located in the parts thereof best protected from frost. In buildings where there is no cellar,

the pipes shall be carried to the center of the building or to an unexposed part previous to being carried upward.

- B. In all cases where the service pipe passes through areas of basements having windows, gratings or traps open to the weather, the openings shall be closely covered and the windows and doors closed to the outside air during the cold weather. In all exposed situations, the service pipes and fixtures shall be properly wrapped with felt or other nonconducting substance if necessary to protect said service from freezing. Said protection shall be at the expense of owner, and in case he neglects to protect his service as aforesaid, the Town Board may cut off the water therefrom. It shall be the duty of the plumber to protect from frost all work done by him. He will not be released from the responsibility by having the owner of the premises or others do the work for him.

**§ 137-31. Meters.**

- A. All services shall be metered, except as provided under §§ 137-32 and 137-36. Meters will not be placed in coal bins or situations not easily accessible to the meter inspector. Meters must be accessible to the Town employees at all reasonable hours.
- B. After the meter is attached, any damage which said meter may sustain from freezing or from hot water being forced back through the meter or from any external cause will be repaired by the Town and the cost thereof charged to the owner or agent.
- C. If meters need attention, the Town Clerk must be notified at once. No person other than Town employees shall be allowed to remove meters for repairs or for any other purpose.
- D. All persons are forbidden to break meter seals, disconnect or in any way tamper with meters after they have been installed on the premises.
- E. In case of any changes or additions in piping for the use of distribution of water which is not accounted for by the meter, a proper charge for such unmetered water shall be made, and in default of prompt payment thereof, on notice by the Town Clerk, the water shall be shut off from the premises.
- F. Where the place provided for installing a meter is unsuitable, the Water Inspector may make such changes as are necessary to locate the meter in a suitable place, and the expense thereof shall be charged to the owner of the premises.
- G. Every meter shall be provided with a compression stopcock on each side, and on all meters over one inch in diameter a suitable bypass with valves on each side of it and a locked valve on the bypass shall be provided, which installation of bypass and valve shall meet with the approval of the Town Board.

- H. The Town Board reserves the right to attach or detach meters at any time, whenever it shall deem it expedient, and charge for the quantity of water measured or used. All water passing through a meter will be charged for, whether used or wasted.

**§ 137-32. Vacant premises.**

- A. The owner or agent of vacated premises must give notice, in writing, at the office of the Town Clerk that the water may be shut off, and said owner or agent will be held responsible for the water rate until such notice is given. The owner of any such premises shall be held liable for all charges not otherwise satisfied by tenants.
- B. In any case where the meter has to be removed, except for temporary repairs, the service must be shut off at the curb stop. If the curb stop cannot be operated from the ground surface, it must be dug and repaired at the property owner's expense.

**§ 137-33. Hydrants.**

- A. No person shall open, use, draw water from or in any manner interfere with any hydrant in the Town without authority from the Town Board. This prohibition shall not apply to firemen in the pursuit of their duties. No person shall break, deface, injure, remove or in any manner tamper with any hydrant or any part thereof, and no person shall open any hydrant with any wrench other than standard hydrant wrench.
- B. No person shall erect or plant any obstruction within 3 1/2 feet of any hydrant or cause any obstruction that will in any way hinder a fire company from hooking onto or operating any hydrant. No obstruction shall be placed so as to obstruct the view of any hydrant for a distance of at least 200 feet up and down the road.
- C. No person shall paint or in any way change the color from the standard used by the Town Board in painting hydrants.

**§ 137-34. Termination of service.**

In case of fraud, misrepresentation on the part of the applicant, abuses in the use of water, violations of any of the rules and regulations relating thereto or nonpayment of rates and charges when due, in addition to the penalties specifically provided by the rules and regulations and the Town Law, the water may be cut off without notice, and the water will not be turned on again unless satisfactory assurance shall be given that no further cause of complaint shall arise, and the payment of such fees as the Town Board may prescribe.

**§ 137-35. Nonliability of Town.**

The Town Board reserves the right to shut off the water for alterations, extension and repairs and to stop or restrict the supply of water whenever



it may be found necessary, and the Town Board shall not be held liable under any circumstances for a deficiency or failure to supply water, whether occasioned by shutting off water to make repairs, connection, extension or any other cause whatsoever.

**§ 137-36. Water used during construction; deposit. [Amended 12-30-1987 by L.L. No. 9-1987]**

The Town Board shall determine and fix the rates for water to be used for building or construction or repairs, the volume of water to be estimated upon the basis of the amount required per unit of the square area or cubic content for the various classes of construction involved. Such estimated schedule charge for such service shall be paid in advance. In lieu of a schedule charge for such service, a meter may be installed, in which case a deposit of \$100 shall be required as security against damage to such meter, any surplus thereof to be applied toward the consumption charges.

**§ 137-37. Water used for air conditioning or refrigeration.**

- A. No person shall install, operate or use any equipment for air conditioning or refrigeration which requires a supply of water from the Town water system without first having procured written permit therefore from the Town Board.
- B. Application for permit shall be made to the office of the Town Clerk.

**§ 137-38. Penalties for offenses. [Added 12-30-1987 by L.L. No. 9-1987]**

Any person violating any provision of this chapter shall, upon conviction thereof, be subject to a fine not exceeding \$250 or to imprisonment for a term not exceeding 15 days, or both.

## Chapter 138

### WATER CONSERVATION WITHIN IMPROVEMENT DISTRICTS

#### GENERAL REFERENCES

Fire prevention and construction — See Ch. 78.

building Water — See Ch. 137.

Water conservation — See Ch. 138A.

Sewers — See Ch. 113.

**§ 138-1. Water-saving fixtures.**

- A. All water fixtures installed on or after June 1, 1990, shall be in conformance with the performance standards of § 15-0314 of the New York State Environmental Conservation Law, and all sink and lavatory

faucets, shower heads, urinals and toilets shall conform to the following water-saving performance standards:

- (1) For sink and lavatory faucets, at a constant water pressure of 60 pounds per square inch, the maximum flow shall not exceed three gallons per minute.
  - (2) For shower heads, at a constant water pressure of 60 pounds per square inch, the maximum flow shall not exceed three gallons per minute.
  - (3) For urinals and associated flush valves, if any, each flush shall not exceed 1 1/2 gallons of water per flush.
  - (4) For toilets and associated flush valves, if any, each flush shall not exceed 3 1/2 gallons per flush.
- B. Fixtures installed on or after June 1, 1990, which fail to meet the above performance standards shall, within 90 days of notification by appropriate Town of New Paltz personnel, be replaced with fixtures meeting or exceeding the foregoing water-saving performance standards.
- C. The Town Board of the Town of New Paltz may permit the installation of toilets and associated flush valves, if any, which do not meet the standards provided for in Subsection A of this section, if after application therefor, it is determined by the Town Board that the installation of fixtures which meet such standards would be detrimental to the operation of the existing sewage system or part of such system servicing such fixtures.
- D. The provisions of this section shall not apply to fixtures installed prior to the effective date of this section which are removed and relocated to another room or area of the same building after the effective date of this section, nor shall they apply to fixtures, such as safety showers and aspirator faucets, which, in order to perform a specialized function, cannot meet the standards specified in Subsection A of this section.

#### **§ 138-2. Air-conditioning systems.**

- A. All commercial and industrial air-conditioning systems, refrigeration or other water-cooling equipment installed on or after June 1, 1990, shall be equipped with a water-recycling system.
- B. On or before January 1, 1991, all existing commercial and industrial water-operative air-conditioning systems, refrigeration or other water-cooling equipment shall be equipped with a water-recycling system or shall be converted to an air-operative system.

#### **§ 138-3. Retrofitting of nonresidential water fixtures.**

- A. On or before January 1, 1991, all commercial, industrial and governmental customers using in excess of 1,500 gallons of water per day shall be required to retrofit all sink and lavatory faucets, shower heads, urinals and toilets so as to be in conformance with § 138-1 of this chapter.
- B. All such retrofitting must be completed and approved no later than January 1, 1991. In addition to any other fine or penalty which may be imposed for any violation of this chapter, the failure to comply with the provisions of this section shall result in a customer surcharge of 50% for each billing period wherein said retrofitting has not been completed and approved.

#### **§ 138-4. Car wash installation.**

- A. All commercial and industrial installations for the washing of automobiles and other motor vehicles installed on or after June 1, 1990, shall be equipped with a water-recycling system.
- B. On or before January 1, 1991, all existing commercial and industrial installations for the washing of automobiles and other motor vehicles shall be equipped with water-recycling systems.

#### **§ 138-5. Applicability.**

The provisions of this chapter shall be applicable to residential and nonresidential, commercial and industrial installations located within and/or receiving the benefit of water services provided by the several established water improvement districts and/or sewer improvement districts as have been previously established prior to the effective date of this chapter or as may be hereafter established by the Town of New Paltz following the effective date of this chapter.

#### **§ 138-6. Penalties for offenses.**

- A. 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 by a fine not to exceed \$250 or by imprisonment for a term not to exceed 15 days, or both.
- B. Any person violating this chapter shall be subject to civil penalty in the sum of \$50 per week, enforceable and collectible by the Town. Such penalty shall be collectible by and in the name of the Town for each week that such violation shall continue.
- C. 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 any violation of this chapter.

### **Chapter 138A**

**WATER CONSERVATION****GENERAL REFERENCES**

**Fire prevention and building Water — See Ch. 137.**  
**construction — See Ch. 78.**

**Sewers — See Ch. 113.** **Water conservation within improvement districts — See Ch. 138.**

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**§ 138A-1. Water-saving fixtures.**

- A. All water fixtures installed on or after June 1, 1990, shall be in conformance with the performance standards of § 15-0314 of the New York State Environmental Conservation Law and all sink and lavatory faucets, shower heads, urinals and toilets shall conform to the following water-saving performance standards:
- (1) For sink and lavatory faucets, at a constant water pressure of 60 pounds per square inch, the maximum flow shall not exceed three gallons per minute.
  - (2) For shower heads, at a constant water pressure of 60 pounds per square inch, the maximum flow shall not exceed three gallons per minute.
  - (3) For urinals and associated flush valves, if any, each flush shall not exceed 1 1/2 gallons of water per flush.
  - (4) For toilets and associated flush valves, if any, each flush shall not exceed 3 1/2 gallons per flush.
- B. Fixtures installed on or after June 1, 1990, which fail to meet the above performance standards shall, within 90 days of notification by appropriate Town of New Paltz personnel, be replaced with fixtures meeting or exceeding the foregoing water-saving performance standards.
- C. The Town Board of the Town of New Paltz may permit the installation of toilets and associated flush valves, if any, which do not meet the standards provided for in Subsection A of this section, if after application therefor, it is determined by the Town Board that the installation of fixtures which meet such standards would be detrimental to the operation of the existing sewage system or part of such system servicing such fixtures.
- D. The provisions of this section shall not apply to fixtures installed prior to the effective date of this section which are removed and relocated to another room or area of the same building after the effective date of this section, nor shall they apply to fixtures, such as safety showers and aspirator faucets, which, in order to perform a specialized function, cannot meet the standards specified in Subsection A of this section.

**§ 138A-2. Air-conditioning systems.**

All commercial and industrial air-conditioning systems, refrigeration or other water-cooling equipment installed on or after June 1, 1990, shall be equipped with a water-recycling system.

**§ 138A-3. Car wash installation.**

All commercial and industrial installations for the washing of automobiles and other motor vehicles installed on or after June 1, 1990, shall be equipped with a water-recycling system.

**§ 138A-4. Applicability.**

The provisions of this chapter shall be applicable to residential and nonresidential, commercial and industrial installations not receiving the benefit of water services provided by the several established water improvement districts and/or sewer improvement districts as have been previously established prior to the effective date of this chapter or as may be hereafter established by the Town of New Paltz following the effective date of this chapter.

**§ 138A-5. Penalties for offenses.**

- A. 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 by a fine not to exceed \$250 or by imprisonment for a term not to exceed 15 days, or both.
- B. Any person violating this chapter shall be subject to civil penalty in the sum of \$50 per week, enforceable and collectible by the Town. Such penalty shall be collectible by and in the name of the Town for each week that such violation shall continue.
- C. 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 any violation of this chapter.

**Chapter 139****WETLANDS AND WATERCOURSE PROTECTION****GENERAL REFERENCES**

<b>Environmental Commission — See Ch. 12.</b>	<b>Conservation</b>	<b>Subdivision of land — See Ch. 121.</b>
		<b>Tree conservation — See Ch. 130.</b>
<b>Agriculture and open space preservation and acquisition — See Ch. 44.</b>		<b>Water conservation — See Chs. 138 and 138A.</b>
<b>Flood damage prevention — See Ch. 82.</b>		<b>Zoning — See Ch. 140.</b>
<b>Sewers — See Ch. 113.</b>		

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**§ 139-1. Title; purpose.**

- A. This chapter shall be known as the "Wetland and Watercourse Protection Law of the Town of New Paltz."
- B. It is the purpose of this chapter to protect the health, safety and well-being of the citizens of the Town of New Paltz and of property therein by preventing the despoliation and destruction of wetlands, waterbodies and watercourses, and associated buffer areas, collectively referred to in § 139-5 herein as "regulated areas," recognizing their varying ecological, water quality, and recreational values. The Town of New Paltz hereby regulates activities that may cause a substantial adverse effect on the function served by regulated areas or the benefits derived therefrom.

**§ 139-2. Findings.**

The Town Board of the Town of New Paltz has reviewed, finds and affirms the following:

- A. The Town has the authority to conserve and protect the regulated areas described in § 139-5 pursuant to the police power vested in and granted to the Town of New Paltz under the Municipal Home Rule Law, which recognizes the right of local governments to protect the general health, safety and well-being of persons and property therein.
- B. The Town has the authority to conserve and protect certain of the regulated areas described in § 139-5 by local statute under the New York State Freshwater Wetlands Act, found in Article 24 of the Environmental Conservation Law, provided that the provisions of such local statute are at least as protective of the regulated areas as the Freshwater Wetlands Act and regulations promulgated thereunder.
- C. Federal, state, and local agencies and private researchers highlight numerous values and beneficial services of wetlands, which are

important to the health and welfare of the people of the Town of New Paltz. These include, but are not limited to, the following:

- (1) The protection of water quantity and quality by preserving sources of surface water, recharging groundwater and aquifers, serving as chemical and biological oxidation basins, serving as nutrient traps for nitrogen and phosphorus, filtering pollutants, and/or functioning as settling basins for naturally occurring sedimentation.
- (2) The protection of aquifers and waterbodies that are and may be used for water supply purposes.
- (3) The protection of stream channel and stream bank stability, thereby controlling and reducing erosion, flooding, and related property damage.
- (4) The control of floodwater and stormwater by slowing water runoff and absorbing and temporarily storing water, thus helping to protect downstream areas from flooding. Public health and private property in one part of a watershed may be harmed if wetlands are destroyed in a different part of that watershed.
- (5) The provision of important breeding, nesting, feeding, migratory, cover, and wintering habitat for diverse fish and other wildlife species, including many listed as "special concern," "threatened," "endangered" and "rare" by New York State or other government entities, including the United States Fish and Wildlife Service. The perpetuation of scores of species depends upon them. Many of the species are migratory and must have nesting, migration, and wintering habitat. The destruction of one kind of wetland habitat in one place may reduce populations of wildlife elsewhere. Vernal pools in particular are unique and critical habitats for native species of amphibians and reptiles.
- (6) Supplying food and organic detritus that support the fish and wildlife of adjacent waters.
- (7) The support of distinctive and less common noninvasive vegetative associations specifically adapted for survival in low-oxygen environments.
- (8) The provision of areas of unusually high productivity that support significant biological diversity and help to maintain ecological integrity.
- (9) The provision of recreational uses throughout the Town directly and by supporting recreation provided by other areas. Such recreation includes hunting, fishing, boating, hiking, bird-watching, photography, camping and other uses, which are a social and economic value to the Town.

- (10) The provision of outdoor laboratories and living classrooms for environmental studies.
  - (11) The provision of open space and visual relief from residential and commercial development and sense of connection with the natural world.
- D. New Paltz is benefited by water resources that have contributed and continue to contribute greatly to agriculture, commerce, outdoor recreation, property values, scenery and quality of life. Adequate and suitable water for water supply; domestic, municipal, industrial, agricultural and commercial uses; the growth of forests; the support of fish and wildlife; recreational enjoyment; and other uses is essential to the health, safety and welfare of the economic growth and prosperity of the Town.
- E. In recent years, population growth and economic and recreational activities have made and will continue to make new and greater demands on waterbodies and watercourses for boating, fishing, bathing and water sports and on the lands adjacent thereto for access areas and recreation. Urban development has in many cases resulted in the filling in, diversion and destruction of watercourses, necessarily destroying aquatic habitat and lessening supplies of water for multiple use purposes. The unreasonable, uncontrolled and unnecessary interference with or defilement and disturbance of watercourses can create hazards to the health, safety and welfare of the people of the Town, causing great economic loss by erosion of soil, increased costs of water purification and treatment, flooding, the destruction and failure of natural propagation of fish and aquatic resources and the loss of water for domestic, industrial, navigational, municipal, agricultural, recreational and other beneficial uses and purposes. The Town of New Paltz has the authority and responsibility to preserve, protect and conserve such resources from destruction and damage and to promote the natural propagation of associated biota.
- F. The integrity of wetlands, waterbodies and watercourses, and the maintenance of their full function and benefit, is inextricably linked to the presence of intact surrounding natural communities on adjacent buffer areas. As boundaries between ecosystems, such riparian zones are exceptionally rich in biodiversity and can protect or ameliorate water quality impacts from adjacent land uses. Among the essential functions and values provided by riparian buffers are:
- (1) Providing important, often critical, travel corridors and wetland-to-upland transitional habitats vital to many wetland/watercourse-dependent species, including many amphibians, reptiles, birds and mammals. While undisturbed adjacent buffer areas comprise a relatively small portion of the landscape, they, in combination with wetlands and watercourses, are irreplaceable habitat links in the life cycles of the greatest proportion of area wildlife, including game and nongame species, a number of which are federal-, state-



and county-listed as special concern, rare, threatened or endangered.

- (2) Serving as visual and noise barriers, protecting wetland/watercourse wildlife from human disturbance.
  - (3) Ameliorating potentially harsh environmental conditions by absorbing wind and solar energy, facilitating the warming of surface waters during early spring to produce water temperatures vital to the initiation of the breeding cycles of many water-dependent invertebrates, amphibians, reptiles and fish; and providing shade, particularly during the growing season when the ambient heat load progresses, and allowing wetlands, watercourses and waterbodies to maintain cool, well-oxygenated water supplies during dry or warm periods.
  - (4) Controlling flooding by slowing overland runoff and absorbing and storing substantial amounts of sheet flow, thereby assisting wetlands and watercourses in controlling flooding and gradually releasing flood flows to lower watersheds.
  - (5) Trapping sediments in sheet flow, removing and assimilating excess nutrients from runoff and floodwaters, and intercepting soil-erosive waters, thereby protecting wetlands, waterbodies and watercourses against eutrophication (excess nutrient enrichment) and sedimentation, which can adversely affect proper wetland and watercourse functions and values.
  - (6) Providing the first line of defense in the protection of wetlands, waterbodies and watercourses against the adverse impacts of stormwater-borne pollutants, including fertilizers, herbicides, pesticides, heavy metals, viral and bacterial agents associated with septic leachate, and various types of petroleum products. Buffer areas work synergistically with aquatic resources to protect groundwater and surface water quality. Buffers provide a practical and cost-effective means of protecting wetlands and watercourses and reducing or preventing pollution.
  - (7) Providing often unique wetland-to-upland transitional communities, with their own distinctive flora and fauna, unlike the habitat of wetlands, waterbodies and watercourses and drier uplands between which they lie. Consequently, buffer areas are critical ecological communities in their own right and serve as unique areas of substantial value for passive recreation, outdoor education and scientific research.
- G. Unregulated land development activities and water withdrawals (wells and surfacewater intakes), and sewage collection systems may alter the hydrology of ground- and surface waters, which can lead to a substantial adverse effect on the function served by regulated areas or the benefits derived therefrom, thus posing a threat to the general

health, safety and well-being of the persons and property of the Town of New Paltz and the surrounding region.

- H. Destruction of wetlands has taken place in the past in numerous land use projects, and the present state and federal permitting system does not adequately protect local resources. First, state and federal permitting requirements are subject to change from time to time. The likelihood that all state and federal regulations are followed is undermined because local officials may not engage these regulations on a routine basis and therefore may be ineffective in securing the integrity of the regulated areas. Second, both state and federal permitting systems lack adequate staffing for enforcement and compliance, which particularly allows for the destruction of smaller wetlands because there is no effective local presence available to monitor these resources.
- I. Considerable acreage of freshwater wetlands in the state of New York has been lost, despoiled or impaired by unregulated draining, dredging, filling, excavating, building, pollution or other acts inconsistent with the natural uses of such areas. Other freshwater wetlands are in jeopardy of being lost, despoiled or impaired by such unrelated acts. Any loss of freshwater wetlands deprives the public of some or all of the many and multiple benefits to be derived from wetlands.
- J. Some wetlands in New York State and adjacent buffers have no regulatory oversight from the state or federal governments. State regulatory jurisdiction typically extends only to wetlands of greater than 12.4 acres, unless officially recognized as of "unusual local importance," and recent court and administrative decisions have limited federal regulatory jurisdiction over certain wetlands. Additionally, federal regulations do not regulate adjacent buffers of any size around federal wetlands. The State Legislature has not enacted legislation to close these jurisdictional loopholes.
- K. "Mitigation" projects provide uncertain benefits and are unreliable to replace the value inherent in a natural wetland that may be degraded.
- L. Nonpoint source pollution is the primary cause of water quality problems in more than 90% of New York State's impaired waterbodies. Nonpoint source pollution results from the activities of the population as a whole, including small and large businesses, farmers, developers, large and small landowners and individuals. Local legislation to avoid the destructive impacts of such activities, by protecting watercourse and wetland buffers, is warranted to reduce the damage from water-polluting and degrading activities.
- M. The objectives of the Town of New Paltz Comprehensive Master Plan ("Master Plan") include protecting the community's many resources for the future by enhancing the natural beauty and rural quality of the community and protecting environmentally sensitive areas and natural resources, waterways, floodplains and wetlands. The Master Plan also

encourages the Town to consider techniques for "protecting the unique physical attributes of the community." State agencies such as New York State Department of Environmental Conservation (NYSDEC) and the Department of State encourage towns to preserve wetlands and open spaces, including by local regulatory legislation. In the case of wetlands, this responsibility lends itself to local legislation to preserve, protect, and conserve wetlands currently not included under pertinent federal and state regulatory protection.

**§ 139-3. Intent.**

- A. It is the intent of this chapter to conserve and protect the regulated areas, described herein, within the municipality but outside the jurisdiction of the incorporated Village under the police power vested in and granted to the Town of New Paltz pursuant to Municipal Home Rule Law § 10, to protect the general health, safety and well-being of persons and property therein.
- B. It is the intent of this chapter to conserve and protect the regulated areas described herein and, consistent with this objective, to avoid the loss or impairment of the natural functions and values of regulated areas.
- C. It is the intent of this chapter to protect areas that are not currently regulated under state and federal programs and to provide locally increased protection to areas currently regulated by state and federal programs. It is also the intent of this chapter to discourage impacts by activities that are not dependent on aquatic resources, as exemplified in federal Environmental Protection Agency regulations prohibiting discharges of dredged or fill material in wetlands when less damaging alternatives are available, and presuming such alternatives to be available if a project is not a water-dependent project.
- D. It is the intent of this chapter to exercise concurrent jurisdiction rather than to supersede that of the New York State Department of Environmental Conservation, under Environmental Conservation Law Article 24, and the United States Army Corps of Engineers, under Section 404 of the federal Clean Water Act (33 U.S.C. § 1344), for wetland areas within the Town. This chapter does not intend to exercise jurisdiction over activities subject to regulation by the New York State Department of Environmental Conservation under Title 5 of Environmental Conservation Law Article 15.
- E. It is the intent of this chapter to establish policy and controls reasonably necessary to avoid a substantial adverse effect on the functions served by regulated areas or the benefits derived therefrom.
- F. It is consistent with the intent and purpose of this chapter to further coexistence with wildlife, including beavers, to the extent that they enhance the regulated areas described herein.

- G. It is the intent of this chapter to further the goals and objectives stated herein by strictly regulating activities with potential to substantially degrade the Town's wetlands, watercourses and waterbodies and to separately strengthen and concurrently enhance a goal of the State Environmental Quality Review Act (SEQRA) in reducing the likelihood of significant adverse environmental impacts on important resources. It is the intent of this chapter to avoid such impacts wherever feasible and appropriate, particularly where a reasonable alternative to the proposed regulated activity exists, and to favor the avoidance and reduction of impacts over mitigative or compensatory projects.
- H. It is the intent of this chapter to administer the provisions of this chapter to ensure administrative efficiency with the Town's separate land use regulatory processes.

**§ 139-4. Word usage; definitions.**

- A. Words and phrases used in this chapter shall be interpreted as defined below and, if not listed below, then as defined in Article 16 of the New York State Town Law, or as defined in New York State Department of Environmental Conservation regulations promulgated in 6 NYCRR §§ 663.2 and 664.2, or as found elsewhere in the Code of the Town of New Paltz. Where ambiguity exists, words or phrases shall be interpreted so as to give this chapter its most reasonable application in carrying out the regulatory purpose and intent as set forth herein.
- B. As used in this chapter, the following terms shall have the meanings indicated:

ADJACENT AREAS — See "associated buffer area."

AGRICULTURE — Activities comprising "farm operations," as defined in § 301, Subdivision 11, of the State of New York Agriculture and Markets Law (AML), as the same may be amended from time to time, excepting such activities that pose a threat to public health or safety within the meaning of § 305-a, Subdivision 1a, of the AML.

APPLICANT — A person, as defined herein, who files an application for a permit under this chapter, including the owner of the property on which the proposed regulated activity would be located, and any contract vendee, lessee of the land, or person who would actually control and direct the proposed regulated activity, and/or the authorized agent of such person.

APPLICATION FEE — A sum paid by an applicant to accompany either a short-form or long-form application and collected by the Town in accordance with a fee schedule, as shall be established from time to time by action of the Town Board and made available by the office of the Town Clerk, the Building Department, and the Planning Board.

ASSOCIATED BUFFER AREA — A regulated area surrounding or adjacent to wetlands, watercourses, or water bodies that provides benefits important in maintaining their functional integrity and

protection from human activity or other encroachment associated with regulated activities. The extent of associated buffer areas is described in § 139-5, Regulated areas.

**BANK** — That land area immediately adjacent to, and which slopes toward, the bed of a watercourse. For purposes of this chapter, a bank will not be considered to extend more than 50 feet horizontally from the mean high-water line, with the following exception: Where a generally uniform slope of 45° (100%) or greater adjoins the bed of the watercourse, the bank is extended to the crest of the slope or the first definable break in slope, either a natural or constructed (i.e., road or railroad grade) feature, lying generally parallel to the watercourse.

**BEAVER DAMS** — Usually built along perennial streams and result in the formation of a pond deep enough for the construction of beaver lodges. A typical dam consists of cut tree sticks jammed into the streambed and anchored with rocks; this foundation is then piled with branches, leaves, roots and other debris.

**BEAVER IMPOUNDMENTS** — The wetland area created by beaver dams. Beaver impoundments enlarge existing wetlands or create ponded water conditions in watercourse areas.

**BEAVER LODGES** — A dome of woody debris that is partly above the waterline, while the foundation of the structure is deep into the watercourse bed with hollow tunnels to allow the beavers safe entry and exit. A lodge provides shelter for beavers, storage of nutrients, and refuge for waterfowl, fish and other furbearers.

**BERM** — The land area immediately adjacent to, and which has been constructed to slope toward, the bed of a watercourse, and which is necessary to maintain the integrity of a watercourse.

**BERMING** — The process of building up stream banks higher than the surrounding floodplain elevations to contain water in the channel.

**BOUNDARY OF A WETLAND** — The outer limit of a regulated area characterized by wetland soils, wetland hydrology, and wetland vegetation as defined under "wetland/freshwater wetland."

**BUFFER AREA** — See "associated buffer area."

**BUILDING** — As defined in § 140-4 of Chapter 140, Zoning, of the Town of New Paltz Code.

**CEO** — The Code Enforcement Officer of the Town of New Paltz.

**CERTIFICATE OF COMPLIANCE** — A certificate issued by the Wetlands Inspector to certify that the regulated activity has been satisfactorily completed in accordance with permit approval in consultation with the Building Inspector, prior to the issuance of a certificate of occupancy and/or other relevant permit for the proposed use of the property.

**CHANNELIZATION** — The process of straightening, widening, and excavating gravel, rock and soil from a bed within a watercourse.

**CLEARING** — The Destruction and removal of areas of vegetation by manual, mechanical, biological or chemical methods.

**CONSERVATION CERTIFICATE** — A certificate issued by the Wetlands Inspector to indicate that work undertaken pursuant to a conservation plan approved by the Planning Board, in lieu of permit denial, has been completed in a satisfactory manner or that a bond or letter of credit has been received by the Town to ensure performance of any work that is incomplete or unsatisfactory prior to the issuance of a certificate of occupancy and/or other relevant permit for the proposed use of the property.

**CONSERVATION FEE** — The payment by an applicant to the Town of New Paltz of a fee to protect or enhance regulated areas from impacts due to a regulated activity and/or to mitigate such impacts. Among other things, a conservation fee may ensure that an off-site regulated area will not have any regulated activity within the Town in the future, or it may fund natural resource protection and/or restoration projects within Town boundaries. A conservation fee will be held by the Town of New Paltz in a dedicated account and will correspond to the amount required to create the off-site mitigation, including land costs, costs of maintenance and monitoring and costs to administer the conservation plan. Such funds shall only be dispersed by resolution of the Town Board.

**CONSERVATION PLAN** — A plan prepared and implemented by an applicant in accordance with this chapter in order to mitigate a substantial adverse effect on regulated areas.

**CONSERVATION RESTRICTION** — An imposition on lands by deed restriction to preserve the environmental, ecological, biological, hydrological, or other functional values of regulated areas. Such a restriction shall run with the land and bind subsequent owners and shall be documented on a survey map or plan, which shall be filed in the office of the County Clerk in such form as is adequate to provide notice of the restriction. A conservation restriction does not require a dedication of lands for public use, and the owners of the property, their successors and assigns otherwise retain their rights to full use and quiet enjoyment of their property.

**CRITICAL TERRESTRIAL HABITAT** — An upland area adjacent to a quality vernal pool that provides essential habitat for amphibians during the nonbreeding season for foraging, dispersing, and hibernating and migration to the pool during breeding season.

**DAMS AND WATER CONTROL MEASURES** — Barriers that intentionally or unintentionally obstruct the natural flow of water, either to raise it, lower it, or artificially maintain its level.

**DATE OF RECEIPT OF APPLICATION BY PLANNING BOARD** — An application shall be deemed "received" by the Planning Board on the date of the first regular meeting of the Planning Board following the

filing of an application and supporting plans pursuant to the provisions of this chapter.

DEPOSIT or DEPOSITING — The act of filling, grading, discharging, emitting, dumping or the placement of any material.

DISCHARGE — The emission of any water, substance, or material into a regulated area as defined herein.

DOMINANT SPECIES — A species that, alone or in combination with an assemblage of other species, exhibits the greatest areal extent (ground or canopy cover) or greatest density (number of plants per unit area) within one or more layers (tree, shrub, or herb) of a naturally occurring plant community.

DRAIN — To deplete or empty of water by drawing off by increments.

DREDGE — To excavate, move, or remove sediment, soil, mud, sand, shells, gravel, or other aggregate, either by hand or machine.

ENVIRONMENTAL CONSERVATION BOARD (ENCB) — The Environmental Conservation Board of the Town of New Paltz, New York.

ENVIRONMENTAL CONSERVATION LAW (ECL) — The Environmental Conservation Law of the State of New York.

EPA — The United States Environmental Protection Agency.

EXCAVATE — To dig out, move, or remove any material, either by hand or machine.

FEMA — The United States Federal Emergency Management Administration.

FILL or FILLING — Placing material in a regulated area so as to alter its elevation or topography, including bottom elevation or topography if submerged, or its aquatic function.

FLOODPLAIN — A land area adjoining a river, stream, lake, intermittent or perennial watercourse, waterbody or wetland, which area is inundated by water from any source, usually associated with the one-hundred-year storm event return interval. Flood Insurance Rate Maps, Drainage Reports, and Flood Insurance Studies produced by the Federal Emergency Management Administration (FEMA) are definitive for the purposes of this chapter.

GIS — Maps and data presented by Geographic Information System technology.

GRADIENT — The general direction of surface water flow paths which can be inferred from local topography.

GRADING — To adjust the degree or inclination of the contours of the land, including leveling, smoothing, and other modifications of the land surface by any means, including filling or excavation.

**GROWING SEASON** — The portion of the year when soil temperatures are above biologic zero (5° C.); the growing season for Ulster County is approximately May 15 through September 15.

**HYDROPHYTIC VEGETATION** — The readily observable plant species growing as dominant species in inundated, saturated, or periodically inundated or saturated soils, as listed on the United States Fish and Wildlife Service National List of Vascular Plant Species that Occur in Wetlands: 1996 National Summary.

**IN-KIND REPLACEMENT** — A constructed mitigation or replacement wetland, watercourse or waterbody, usually by flooding or excavating lands not previously occupied by a wetland, watercourse or waterbody, that re-creates as nearly as possible the type and function of the original resource and is located on site or within the same subwatershed with the Town of New Paltz, provided that adequate and sufficient wetland/watercourse hydrology can be verified, under the terms of an approved conservation plan, as defined herein.

**INTERMITTENT WATERCOURSE** — A regulated area that comprises a stream, creek, or brook, through which surface water travels in a well-defined channel on a seasonal basis, but not continuously throughout the year, as well as the associated bank, as defined herein. For the purposes of this chapter, intermittent watercourses are those where water stands or flows for at least three consecutive months in a twelve-month period, except that waterways specifically designed and constructed to serve a stormwater conveyance or treatment function, such as grassy swales, drainage ditches, and other structures engineered to concentrate and convey stormwater from development and only retain water for a short duration after a rainstorm or spring snow-melt, are not considered intermittent watercourses.

**LAND STEWARDSHIP PLAN** — A written description of land management and stewardship practices, as defined more fully in § 140-117.3 of Chapter 140, Zoning, of the Town of New Paltz Code.

**LOGGING** — The commercial harvesting of live timber.

**MATERIAL** — Liquid, solid, or gaseous substances, including but not limited to soil, silt, gravel, rock, clay, peat, mud, debris, or refuse; any organic or inorganic compound, chemical agent or matter, sewage sludge or effluent, or industrial or municipal solid waste.

**MEAN HIGH-WATER LINE** — As defined in Section 608.1(r) of 6 NYCRR Part 608, Use and Protection of Waters.

**MINIMIZATION** — The removal or reduction, to the maximum extent feasible, of substantial adverse effects of a regulated activity on a regulated area.

**MITIGATION PLAN** — A strategy to redress unavoidable substantial adverse effects of a regulated activity on a regulated area.

**MUNSELL SOIL COLOR CHARTS** — A soils color designation system based on a collection of color-reproduced chips that visually



demonstrate the relative degree of the three fundamental variables of color: hue, value, and chroma, as produced by the Kollmorgen Corporation, 1975, or as amended or updated from time to time. Each color chart shows the range and variation in value and chroma for a specific hue.

1987 FEDERAL WETLANDS DELINEATION MANUAL/U.S. ARMY CORPS OF ENGINEERS WETLANDS DELINEATION MANUAL, JANUARY 1987 FINAL REPORT — Wetlands Research Program's Technical Report Y-87-1, on file in the office of the Town Clerk, used for the delineation of federally regulated wetland areas.

NOTICE OF DETERMINATION — A written notification from the Wetlands Inspector to an applicant issued in response to a short-form application to conduct a regulated activity.

NOTICE OF REVIEW — A formal written request to the Planning Board to review a decision or order of the Wetlands Inspector or any officer of the Building Department made pursuant to or within the scope of this chapter, which shall specify the grounds for seeking review.

NYCRR — The New York Codes, Rules and Regulations.

NYSDEC — The New York State Department of Environmental Conservation.

PERENNIAL WATERCOURSE — A regulated area that comprises a river, stream, creek, or brook, through which surface water travels on a continual basis, as well as the associated bank as defined herein.

PERMIT — That form of written approval required by this chapter for the conduct of a regulated activity within a regulated area.

PERSON — Any individual, firm, partnership, association, trust, corporation, company, organization, or legal entity of any kind, including municipal corporations, governmental agencies, or subdivisions thereof.

PLANNING BOARD — The Planning Board of the Town of New Paltz, New York; the municipal board empowered to approve, approve with conditions, or deny permits pursuant to this chapter.

POLLUTION — The contamination or the departure from the range of normal variation in physical or chemical factors of any wetland or watercourse, by reason of erosion or by any waste or other materials discharged or deposited therein.

PROJECT — Any proposed or ongoing action that may result in a direct or indirect physical or chemical impact on a regulated area, including but not limited to any regulated activity as defined by this chapter.

QUALITY VERNAL POOL —

- (1) A regulated area that comprises a seasonally flooded, isolated pool of standing water that is devoid of naturally occurring fish and that persists, in a year of average precipitation, for at least two months.

(Annual precipitation in Ulster County normally ranges from 40 inches to 48 inches).

- (2) Quality vernal pools are those that provide essential breeding habitat for pool-breeding amphibians, including, but not limited to, the following species:
  - (a) Spotted salamander;
  - (b) Marbled salamander;
  - (c) Jefferson salamander;
  - (d) Blue-spotted salamander; and
  - (e) Wood frog.
- (3) Quality vernal pools must have an area greater than 100 square feet to be regulated areas under this chapter.
- (4) Quality vernal pools must satisfy any of the following criteria set forth below:
  - (a) There is evidence of a naturally occurring confined basin depression, with no permanently flowing outlet, and evidence of nonincidental breeding by one or more species of obligate vernal pool species (wood frog, spotted salamander, Jefferson salamander, marbled salamander, fairy shrimp, clam shrimp, fingernail clams). Acceptable evidence of nonincidental breeding includes:
    - [1] Frog breeding choruses and/or mated pairs;
    - [2] Salamander mating and/or spermatophores;
    - [3] Egg masses;
    - [4] Larvae (tadpole or salamander larvae);
    - [5] Transforming juveniles:
      - [a] Frogs: tail remnants evident;
      - [b] Salamanders: gill remnants evident;
    - [6] Young of the year (metamorphs);
    - [7] The presence of fairy shrimp, clam shrimp or their eggs;
    - [8] Fingernail clams; or
  - (b) There is evidence of:
    - [1] A naturally-occurring confined basin depression with no permanently flowing outlet; and

- [2] Standing water that dries up during the year or which, for other reasons, does not contain reproducing fish; and
  - [3] Nonincidental presence of two or more species of facultative vernal pool species (blue-spotted salamander, spring peeper, gray tree frog, Fowler's toad, pickerel frog, leopard frog, four-toed salamander, red-spotted newt, spotted turtle, wood turtle, painted turtle, snapping turtle); or
- (c) There is evidence of a naturally-occurring confined basin depression with no permanently flowing outlet and evidence of standing water that dries up during the year or which, for other reasons, does not contain reproducing fish, for which:
- [1] Sufficient accessible critical terrestrial habitat exists to support vernal pool-breeding amphibians; and
  - [2] The conditions of either Subsection (4)(a) or (b) of this definition is likely to be satisfied.

REGRADING — See "grading."

REGULATED ACTIVITY — Any activity, as enumerated in § 139-8 of this chapter, that may potentially have a substantial adverse effect, as defined herein, on a regulated area.

REGULATED AREAS — Those areas enumerated in § 139-5, pursuant to the purpose and intent of this chapter.

REIMBURSABLE COSTS — Those costs incurred by the Planning Board or other Town agency for professional consultation fees (including services by the Wetlands Inspector, as defined herein) to provide technical, biological, and engineering services, legal fees, or other expenses in connection with the review of a proposed permit application and/or conservation plan that are charged to the applicant. Separate and apart from application fees, reimbursable costs will be no higher for an applicant than they are for the Town, subject to audit and open to inspection by the applicant. Such sums must be paid in full prior to the issuance of a permit.

REMOVE — To dig, dredge, suck, bulldoze, dragline, blast, or otherwise excavate or grade, or the act thereof.

ROUTINE MAINTENANCE AND LANDSCAPING — The mowing, weeding, cultivating, planting, and trimming of vegetation or the removal of dead or diseased trees in natural or improved landscaped areas.

SUBSTANTIAL ADVERSE EFFECT — An activity that will substantially alter or impair the natural functions or benefits of a regulated area.

STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) — Article 8 of the Environmental Conservation Law, providing for environmental

quality review of actions that may have a significant effect on the environment, and regulations established pursuant thereto.

**STEEP LAND** — Any associated buffer area having a topographical gradient (ratio of vertical distance to horizontal distance) of 15% or greater, with a minimum horizontal dimension of 10 feet.

**STRUCTURE** — Anything constructed or erected, the use of which requires location on or in the ground or attachment to something having location on the ground, including but not limited to buildings, septic systems, water wells, recreation courts, sheds, storage bins, reviewing and display stands, platforms, towers, walls, fences, swimming pools, gasoline pumps, billboards, satellite dishes, signs and mobile dwellings, bridges, roads, impervious surfaces and paved parking areas.

**SUBWATERSHED AREAS** — Areas located within the Town of New Paltz that are tributary drainages to the Wallkill River as identified on a Town topographic map.

**USACE** — The United States Army Corps of Engineers.

**USDA** — The United States Department of Agriculture.

**UTILITY SERVICE** — Electric, telephone or other utility service from an existing utility distribution facility, except for activities regulated by Article VII or VIII of the Public Service Law.

**VERNAL POOL** — See "quality vernal pool."

**WATERBODY** — A regulated area that comprises any natural or artificial pond, lake, or other area that usually or intermittently contains water and that has a discernible shoreline. Regulated waterbodies do not include detention and retention, infiltration and detention basins. For the purposes of this chapter, the associated buffer shall be designated as if it were a wetland based on acreage, with boundary determination of the waterbody based on the location of its banks. A waterbody must have an area greater than 1/10 acre to be a regulated area under this chapter.

**WATERCOURSE** — A regulated area that comprises any natural, permanent, seasonal, or intermittent channel or water segment, rivers, streams, brooks, naturally occurring impoundments within such channels or other waterways that are contained within, flow through, or border on the Town of New Paltz. A watercourse contains a discernible channel, bed, banks and/or berm and usually flows in a particular direction. Artificial water segments, such as swales and ditching, shall not be considered a regulated area.

**WATER TABLE** — The zone of saturation closest to the soil surface during the wettest season.

**WETLAND DELINEATOR** — A person having detailed scientific knowledge about the biogeophysical structure, function, or interrelationships of terrestrial and aquatic/semiaquatic plant and

animal communities. This person must demonstrate training and experience in the identification of regulated areas and the use of the 1987 Federal Wetlands Delineation Manual and the New York State Freshwater Delineation Manual (DEC 1995), including preparation of state and federal data forms and wetland delineation reports. A qualified wetland delineator must have a degree from an accredited university in a related field and a minimum of two years of continuous delineation experience as set forth herein.

**WETLAND or FRESHWATER WETLAND** — A regulated area that comprises hydric soils and/or is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, vernal pools, wet meadows, fens and similar areas. For the purposes of this regulation, wetlands are defined in accordance with the methodology set forth in NYCRR Part 664 and in the 1987 Federal Wetlands Delineation Manual. Regulated wetlands do not include detention, infiltration and retention basins. A wetland must have an area greater than 1/10 acre to be a regulated area under this chapter.

**WETLAND HYDROLOGY** — The sum total of wetness characteristics in areas that are inundated or have saturated soils to within 18 inches of the surface for a sufficient duration to support hydrophytic vegetation.

**WETLANDS INSPECTOR** — The agent appointed by the Town Board, upon recommendation by a committee consisting of one member of the Town Board, two members of the Planning Board, and two members of the New Paltz Environmental Conservation Board, to fulfill the designated enforcement and permit processing responsibilities set forth in this chapter. A qualified wetlands inspector shall have a degree in a related field from an accredited college or university, a minimum of two years of delineation experience, and scientific knowledge about the biogeophysical structure, function, or interrelationships of terrestrial and aquatic/semiaquatic plant and animal communities. The expenses associated with professional services provided by the Wetlands Inspector (see "reimbursable costs," as defined in § 139-4 of this chapter) and any inspection of a parcel and mapping by the Wetlands Inspector (as provided at the sole cost of the municipality) shall be incurred by the Town's "b" fund (Town-outside-village), which is funded by fees and other revenue streams that do not rely on local property taxes.

**WIDENING** — The process of increasing the width of a watercourse beyond the natural width found up- and downstream.

**ZONING BOARD OF APPEALS (ZBA)** — The Zoning Board of Appeals of the Town of New Paltz, New York.

**§ 139-5. Regulated areas.**

Regulated areas protected under this chapter include the following:

- A. Associated buffer area, as defined in § 139-4 of this chapter and specified herein.
- B. Intermittent watercourse, as defined in § 139-4 of this chapter, with an associated buffer area to include all adjacent land extending 50 feet as measured horizontally from the bank of the watercourse.
- C. Perennial watercourse, as defined in § 139-4 of this chapter, with an associated buffer area of 100 feet as measured horizontally from the bank of the watercourse as defined in § 139-4 of this chapter, except that for the Wallkill River such associated buffer shall extend for 200 feet as measured horizontally from the top of the river bank.
- D. Quality vernal pools, as defined in § 139-4 of this chapter, greater than 100 square feet in area, with an associated buffer area of 100 feet measured horizontally from the edge of such quality vernal pool. When requested by an applicant, the presence of pool-breeding amphibian habitat may be confirmed in the spring.
- E. Waterbody, as defined in § 139-4 of this chapter, with an associated buffer area designated as if the waterbody were a wetland based on its acreage. Waterbodies of less than or equal to 1/10 acre shall not be considered a regulated area.
- F. Wetlands (freshwater wetlands) and waterbodies, as defined in § 139-4 of this chapter, greater than 1/10 acre but smaller than one acre, with an associated buffer area of 50 feet measured horizontally from the edge of such wetlands and waterbodies.
- G. Wetlands (freshwater wetlands) and waterbodies, as defined in § 139-4 of this chapter, equal to or greater than one acre, with an associated buffer area of 100 feet measured horizontally from the edge of such wetlands and waterbodies.

**§ 139-6. Notice of regulations; mapping; map updates; inspections.**

- A. No person shall conduct a regulated activity within regulated areas without compliance with the provisions of this chapter as of the effective date of this chapter. To secure compliance with this chapter, the Town of New Paltz shall provide written notice to all owners of real property, as identified on the current tax assessment rolls, within 45 days of the enactment of this chapter and shall post a notice on the Town's website. Such notice shall, at a minimum, contain the following information:
  - (1) Notice of the effective date of this chapter;
  - (2) A summary of the intent and purpose of this chapter;

- (3) Regulated areas as described in § 139-5 of this chapter;
- (4) Regulated activities as described in § 139-8 of this chapter;
- (5) Exempt activities and activities allowed without a permit as described herein.

B. Mapping.

- (1) This written notice shall identify available mapping and other resources to assist in the identification of regulated areas. It shall also inform recipients of the notice that, after generally mapping regulated areas throughout the municipality, the Town has adopted the official Town of New Paltz Wetlands and Watercourse Map and that such official map is available to the public in the Town Hall and on the Town's website as a reference for the Town and property owners. This notice should indicate that the Town Wetlands and Watercourse Map is an accurate representation of the approximate boundary of these regulated resources, but that, due to the scale of the map, the exact location of the boundary of these resources and their buffer areas can only be determined (or verified) in the field by the Town Wetlands Inspector or other trained individual acting for the Town.
- (2) This notice shall request from the recipients additional information that may assist the Town in identifying regulated areas and in developing municipal maps.
- (3) The sources for the evolving municipal maps include, but are not limited to, the following:
  - (a) NYSDEC Freshwater Wetlands Maps;
  - (b) United States Fish and Wildlife Service National Wetlands Inventory Maps;
  - (c) USDA Soil Conservation Service Revised Soil Survey for Ulster County;
  - (d) Aerial photographs, which may be obtained from the USDA Soil Conservation Service Revised Soil Survey for Ulster County;
  - (e) Flood Insurance Rate Maps, drainage reports, and flood insurance studies produced by the Federal Emergency Management Agency;
  - (f) Town of New Paltz GIS Open Space Inventory Maps;
  - (g) A survey map provided by an applicant, illustrating a regulated area delineated in accordance with the methodology set forth in § 139-13, Boundary delineation methodology;

- (h) Any additional information used by the Wetlands Inspector to investigate a regulated area, issue a notice of determination or make a recommendation on an application, including but not limited to a tax map, survey map, site plan, aerial photograph, site inspection and any future mapping created during the administration of this chapter.

C. Map updates.

- (1) The Wetlands Inspector shall compile and keep a file of such information on regulated areas gained from site inspections and other sources in the course of administration of this chapter and shall recommend such information, as applicable, to the map at least once per year.
- (2) The Town Board shall adopt by resolution any revisions to the Official Map.
- (3) The Town shall provide notice by mail, within 45 days of the update, to any property owners affected by such updated information. The update notice shall summarize:
  - (a) The regulated areas that were added or deleted from the Official Map;
  - (b) The mapped wetlands that had their boundaries expanded or reduced; and
  - (c) The basis for each of those actions.
- (4) For any such update, a detailed map update report of any map changes shall be prepared by the Wetlands Inspector and should be available to the public in the Town Hall and on the Town's website.

D. Inspections.

- (1) Owners of real property who are unsure of the existence of a regulated area on their land may request an inspection of the subject parcel by the Wetlands Inspector, at the sole cost of the municipality, by completion of a short-form application, as provided in § 139-12, Permit applications; review; notice of determination; public hearing; extensions. This is limited to one inspection per lot and is unavailable on lots that have already been provided such an inspection under this section.
- (2) The Wetlands Inspector shall reply to any such inquiry with a written determination of the existence of regulated areas on such property within 60 days. If weather or ground conditions do not allow for a reliable determination of regulated areas on their property, the Wetlands Inspector shall so inform such owners, in writing, within such sixty-day period and shall further indicate a time as early as practicable when such determination may take place.



- (3) Any reply or determination by the Wetlands Inspector regarding the presence of a regulated area shall be available for public inspection in the office of the Town Clerk and may be subject to administrative review under the provisions of § 139-20, Administrative review.

**§ 139-7. Action required for regulatory activities and uses; preapplication conferences.**

- A. Activities and uses in regulated areas, as defined in § 139-5 of this chapter, that shall be regulated under this chapter are those that have the potential to cause a substantial adverse effect, as defined in § 139-4 of this chapter, and those that are not specifically exempted in § 139-9, Exemptions for preexisting lawful actions, and § 139-10, Activities allowed without permits.
- B. It shall be unlawful for any person to engage in a regulated activity, as described in § 139-8 herein, without first having obtained:
  - (1) A notice of determination, as defined in § 139-12, Permit applications; review; notice of determination; public hearing; extensions; or
  - (2) A permit for such an activity; or
  - (3) If applicable, a permit associated with an approved conservation plan and/or the payment of a conservation fee, issued pursuant to the provisions of § 139-16, conservation plan in lieu of permit denial.
- C. If a person wishing to conduct an activity is in doubt about whether the activity is exempt or about which procedural requirements may apply, or if he or she wishes to discuss with the Wetlands Inspector any phase of the proposed project as it relates to the activity or to the permit, that person may contact the Inspector to schedule a preapplication conference at a reimbursable cost (fee) as defined in § 139-4 of this chapter and as shall be established, when appropriate, by action of the Town Board.

**§ 139-8. Regulated activities.**

Activities, other than those specifically exempted in §§ 139-9 and § 139-10 of this chapter, that have the potential to cause substantial adverse effect in regulated areas, as described in § 139-5 of this chapter, include those prescribed in 6 NYCRR 663.2, as well as, but not limited to, the following:

- A. Any form of mining, dredging or excavation and any grading or removal of soil, mud, sand, gravel, peat, silt or any other earth material from any regulated area, either directly or indirectly;

- B. Any form of dumping, filling or depositing of any soil, stones, sand, gravel, mud, rubbish or fill of any kind in any regulated area, either directly or indirectly;
- C. Erecting or constructing any structure, as defined in § 139-4 of this chapter, including those for which a building permit is typically issued (Refer to § 140-51.1 of Chapter 140, Zoning, of the Code of the Town of New Paltz.);
- D. Placing any other obstructions within any regulated area, channelization or berming, as defined in § 139-4 of this chapter, whether or not the same affect the ebb and flow of water;
- E. The introduction or storage of any substance, sewage effluent, the runoff of pesticides, or the disposal of toxic material, including chemicals, dyes, fertilizers or other organic materials, fuels, herbicides; pesticides, de-icing materials, or similar materials in any regulated area, if such materials are likely to cause the pollution of waters, except as provided in § 139-10K and where necessary for the public health, safety, and well-being of persons and property therein;
- F. Draining or ditching within any regulated area;
- G. Introducing any influents of high thermal content, such that the same are capable of causing deleterious ecological effects on any regulated area;
- H. Installing septic disposal systems or swimming pool drainage systems or installing any pipe or other conduit for the same;
- I. Withdrawing, diverting, detaining or retaining groundwater or surface water in excess of 2,500 gallons per day for more than seven days in the course of one year, which may cause an increase or decrease in the flow, velocity or volume of water (excluding the natural seasonal fluctuations of the subject watercourse or waterbody);
- J. Clearing, as defined in § 139-4 of this chapter, within any regulated area, except routine maintenance or landscaping, as defined in § 139-4 of this chapter. Any activity regulated pursuant to Chapter 130, Tree Conservation, of the Code of the Town of New Paltz shall be regulated under this chapter as well if such activity occurs in a regulated area;
- K. Except as lawfully permitted pursuant to ECL § 11-0505, displacement or destruction of that proportion of beaver lodges and beaver dams that would result in deleterious changes to the hydrology of wetlands, watercourses and beaver impoundments and/or negative impacts to wetland vegetation, flora and fauna, except in cases in which beaver impoundments are impacting or threatening to impact existing structures, roads, and driveways. Nonlethal approaches to beavers should be encouraged as the preferred solution, but this chapter shall not supersede NYSDEC jurisdiction over beaver trapping permits;

- L. Any other activity that is determined by the Wetlands Inspector, with concurrence by the Planning Board, to have the potential for substantial adverse effects on the regulated areas.

**§ 139-9. Exemptions for lawful preexisting actions and uses.**

- A. The provisions of this chapter shall not apply to the following preexisting actions, including uses and structures lawfully approved, or lawfully approved and constructed prior to the effective date of this chapter, provided that those actions that occurred in regulated areas subject to NYSDEC jurisdiction under ECL Article 24, the Freshwater Wetlands Act, were established in compliance with 6 NYCRR Parts 663 through 664.
  - (1) Activities pursuant to a preliminary subdivision plat, or site plan, special exception permit or clearing and grading permit that has been duly approved following an environmental review, as provided under SEQRA, by the Planning Board, which permit or approval remains valid on the date of the action or construction of the structure;
  - (2) Activities pursuant to a valid building permit and/or certificate of occupancy that has been lawfully issued by the Building Department;
  - (3) Activities pursuant to a use variance, area variance or special exception permit following an environmental review, as provided under SEQRA, that has been duly issued by the Zoning Board of Appeals (ZBA) and which permit or approval remains valid on the effective date of this chapter.
- B. The activities enumerated above shall not be expanded, changed, enlarged or altered, except in accordance with the provisions of this chapter. Should preexisting activities or uses be discontinued, said activities shall no longer be permitted as a preexisting lawful action under this section and shall be subject to the requirements of this chapter.
- C. The construction of a septic system specified in a preliminary subdivision plat, described in Subsection A(1) of this section, shall be permitted without any further review by the Wetlands Inspector or Planning Board if said septic system has received approval from the Ulster County Health Department, pursuant to § 17-1505 of the Environmental Conservation Law. The construction of all other septic systems specified in preexisting permits and approvals described in Subsections A through C of this section shall be subject to review by the Wetlands Inspector as provided in § 139-12A(5)(a)[5][h] of this chapter.
- D. Actions, activities or uses in regulated areas as depicted on a valid site plan or a subdivision plan granted preliminary approval by the Planning Board on or before the effective date of this chapter must be completed

within three years from the date of approval, provided that the action, activity or use conforms to such valid site plan or subdivision plan, including any conditions or restrictions thereon, any representations relating to the proposed activity submitted by the applicant pursuant to SEQRA, including but not limited to the environmental assessment form and draft and final environmental impact statements, and any finding, determination, requirement or condition made under SEQRA by the lead agency at the time of approval.

- E. Actions, activities or uses in a regulated area for which a valid building permit or special exception permit has been issued on or before the effective date of this chapter shall expire if the work to be performed on the project is not begun within 12 months of the date of approval. Such approval may be extended by the Planning Board or, if applicable, the ZBA upon Planning Board referral before such approval expires, for an extension of not more than six months for good cause shown. The construction activities must be completed within 24 months.

#### **§ 139-10. Activities allowed without permits.**

The following activities are exempt from the permitting requirements for regulated areas as set forth herein:

- A. The deposition or removal of natural products of wetlands and watercourses for the purpose of recreational or commercial fishing, shell fishing, hunting, or trapping where lawfully permitted.
- B. The ordinary maintenance and repair of existing functional structures, facilities, or improved areas, including but not limited to septic systems, water wells, bridges, highways and paved streets, driveways, walkways, walls, fences, railroad beds, bulkheads, docks, piers, or pilings, which maintenance and repair does not involve the expansion of such structures, facilities, or improved areas. For the purposes of this subsection, paving an existing driveway shall constitute ordinary maintenance and repair, so long as such paving does not raise the surface of such driveway by more than six inches or expand its horizontal boundaries.
- C. The normal grounds maintenance of existing natural or improved landscaped areas, including gardening, mowing and trimming of vegetation, the removal of nonnative vegetation or the removal of dead or diseased trees.
- D. The reasonable application of de-icing compounds on roads, driveways and sidewalks for pedestrian and vehicular safety.
- E. The operation, maintenance and replacement, but not the expansion or enlargement, of dams, retaining walls, terraces, sluices, culverts, or other water-control structures or devices, involving the adjustment of water elevations of no greater than two inches from existing levels.

- F. Agriculture, as defined in § 139-4 of this chapter, on lands located within an established agricultural district, as certified by the New York State Commissioner of Agriculture pursuant to Article 25-AA of the AML.
- G. The activities of landowners, other than those engaged in agriculture and farm operations as identified above, in grazing and watering livestock and domestic animals, making reasonable use of water resources.
- H. Establishing scenic, historic, wildlife and scientific preserves where no substantial adverse effect is involved.
- I. Boating, hiking, swimming, camping, picnicking, and other similar outdoor activities, including the establishment of walking trails and individual recreational moorings, where no substantial adverse effect is involved, except for the intensive, organized and repetitive use of all-terrain vehicles, air- and motorboats and snowmobiles.
- J. Conducting educational and scientific research activities where no substantial adverse effect is involved.
- K. Emergency activities for the protection of public health and safety, including the following:
  - (1) Activities and uses essential to ensure adequate police, fire, and rescue functions undertaken either by the Town of New Paltz or by a nonprofit organization authorized by contract with the Town to provide these public services;
  - (2) Essential activities to promote public health, safety, and the well-being of persons and property and to implement orders and regulations of the Ulster County Department of Health and/or the New York State Department of Health, with notification to the Town Board and Planning Board;
  - (3) Any actual and ongoing emergency activity that directly addresses an imminent threat to public health or safety, property or structures, established roads or driveways, or natural resources. Such emergency activities may include, but are not limited to:
    - (a) Search-and-rescue operations;
    - (b) Preventative or remedial activities related to the mitigation, cleanup, or control of contamination of groundwater and surface water;
    - (c) Preparation for or response to floods, hurricanes, and other storms that follows established emergency response plans for a watercourse or that secures access reasonably necessary to public health and safety;
    - (d) Firefighting and other public health concerns.

- L. Activities pursuant to an approved land stewardship plan, as defined in § 139-4 of this chapter and in compliance with 6 NYCRR Parts 663 through 664.

**§ 139-11. Exemption for Highway Department; memorandum of understanding.**

- A. The Town of New Paltz Highway Department shall be exempt from the procedural requirements of this chapter upon filing a memorandum of understanding (MOU), along with the annual 284 Agreement, pursuant to the provisions of § 284 of the New York State Highway Law, with the Town Board.
- B. Such MOU shall be as protective as the provisions of this chapter and shall be subject to annual review, requiring practices in keeping with the substantive purpose, intent and spirit of this chapter. Such MOU shall, at a minimum, contain the following provisions:
  - (1) The Highway Department shall select and apply practices that reduce the amount of total runoff and associated pollution, including sediment and gravel. Such practices shall include the avoidance of curbing to the maximum extent consistent with public health and safety.
  - (2) The Highway Department shall adopt the following practices to reduce potential pollution from roadside ditches:
    - (a) When possible, discontinue the practice of scraping to remove excess vegetation;
    - (b) Utilize mowing to manage vegetation;
    - (c) If scraping is necessary, utilize hydroseed immediately after scraping to reestablish vegetative cover;
    - (d) Divert ditch outflows to infiltration basins, constructed wetlands or similar structures to limit direct discharges to streams, and regularly maintain such devices.
- C. The Town Board shall refer said MOU to the Planning Board and the Wetlands Inspector for review and comment.

**§ 139-12. Permit applications; review; notice of determination; public hearing; extensions.**

- A. Short-form applications.
  - (1) A short-form application shall be made to the Building Department for all regulated activities that are listed in § 139-8, Regulated activities, and are not specifically exempted in § 139-9 or 139-10 of this chapter. For regulated activities where the applicant has submitted or will submit an application to the Planning Board for an approval or permit authorized by provisions of the Town Code

other than this chapter, the short-form application shall be submitted to the Planning Board. The short-form application shall be submitted on forms provided by the Building Department and shall include the following:

- (a) The name, address and telephone number of the applicant and, if the applicant is not the owner, the written consent of the owner.
  - (b) The street address and Tax Map designation of the property involved.
  - (c) A description of the proposed work and the purpose thereof, and an explanation why the proposed activity cannot be located outside of regulated areas.
- (2) The application shall include any pertinent documentation deemed appropriate by the applicant and a fee, as shall be established from time to time by action of the Town Board.
  - (3) The short-form application shall be referred to the Wetlands Inspector. The Wetlands Inspector shall determine, within 14 business days of the receipt of such a referral, whether any additional documentation or information is necessary.
  - (4) The Wetlands Inspector shall be authorized to conduct a site visit whenever deemed necessary for the purpose of evaluating the short-form application.
  - (5) Upon review of the application, if the proposed activity is determined to be within a regulated area, as described in § 139-5, Regulated areas, the Wetlands Inspector shall make either of the following two determinations:
    - (a) The proposed activity does not have the potential to cause substantial adverse effects on a regulated area, or would otherwise be authorized to proceed as enumerated below by a notice of determination, as defined herein, without a permit.
      - [1] Said determination shall include the date of the review of the referral, any site inspection, finding and conditions deemed necessary by the Wetlands Inspector to ensure compliance with the purpose and intent of this chapter, and the supporting reasons for the determination. No further review or action is required.
      - [2] The notice of determination shall indicate that the applicant must be in strict conformance with the submitted plans and project description, as they may be adapted by the Wetlands Inspector, and any conditions specified by the Wetlands Inspector, including, without

limitation, the establishment and maintenance of silt fencing.

- [3] The notice of determination may also require a limits-of-construction line to be located on the ground before any construction activities begin.
- [4] The notice of determination and findings shall be filed with the offices of the Building Inspector and the Town Clerk, and a copy shall be sent to the applicant. The notice of determination and findings shall also be filed with the Planning Board if there is a pending application before the Planning Board relating to the proposed activity.
- [5] Notices of determination are authorized for, but not limited to, the following activities:
  - [a] The new construction of structures or facilities or the expansion of any preexisting lawfully permitted functional structures or facilities located within an associated buffer area, as defined in § 139-4 of this chapter, provided that it shall result in an as-built footprint of less than 600 square feet of ground surface.
    - [i] Such activity may not create any new noncompliance or increase the degree of existing noncompliance with the provisions of this chapter and may not be associated with any application for subdivision or site plan approval before the Planning Board.
    - [ii] Such activity shall disturb the minimum area reasonably necessary for its completion, and the Wetlands Inspector shall have the authority to require remediation of any area disturbed during construction, including best management practices, necessary to accomplish the purposes of this chapter.
    - [iii] No notice of determination shall be issued under this Subsection A(5)(a)[5][a] for activities in areas regulated by the NYSDEC under Article 15 or 24 of the State Environmental Conservation Law. No notice of determination shall be issued under this Subsection A(5)(a)[5][a] for any exceedance of 600 square feet of cumulative as-built footprint in regulated areas on any individual lot by all regulated activities subsequent to the effective date hereof. No notice of determination shall be issued under this Subsection A(5)(a)[5][a] for any



regulated activity in a watercourse or waterbody, including any bank associated therewith.

- [b] The restoration, reconstruction or modification of any preexisting lawfully permitted functional structure or facilities located within an associated buffer area, as defined in § 139-4 of this chapter.
  - [i] Such activity shall disturb the minimum area reasonably necessary for its completion, and the Wetlands Inspector shall have the authority to require remediation of any area disturbed during construction, including best management practices, necessary to accomplish the purposes of this chapter.
  - [ii] Such activity may not create any new noncompliance or increase the degree of existing noncompliance with the provisions of this chapter.
  - [iii] No notice of determination shall be issued under this Subsection A(5)(a)[5][b] for activities in areas regulated by the NYSDEC under Article 15 or 24 of the State Environmental Conservation Law or any regulated activity in the bank of a watercourse or waterbody, as defined in § 139-4 of this chapter.
- [c] Drilling a well for potable water to serve a preexisting individual residence on land located within an associated buffer area, pursuant to a permit issued by the Ulster County Department of Health.
- [d] The installation of utility service, as defined in § 139-4 of this chapter, within an associated buffer to serve a preexisting structure.
- [e] Cutting vegetation, other than trees, in the associated buffer area.
- [f] Cutting no more than two trees in an associated buffer area in any one calendar year, such that the functions and benefits of the regulated areas are not adversely affected or environmentally impacted, except where such activities are regulated pursuant to Chapter 130, Tree Conservation, of the Code of the Town of New Paltz or are allowed under § 139-10C of this chapter.
- [g] The application of a pesticide to the ground within an associated buffer area within 50 feet of a private residence when such use is by the owner or his/her agent.

- [h] The construction of a septic system specified in an approval or permit that predates the effective date of this chapter, or the reconstruction or repair of an existing septic system. The Wetlands Inspector shall issue a notice of determination pursuant to this Subsection A(5)(a)[5][h] upon a showing that such septic system and associated leachfield will not have any impact on regulated areas or will avoid impact on regulated areas to the maximum extent practicable.
- [6] Any activity authorized by a notice of determination under this Subsection A(5)(a) shall disturb the minimum area reasonably necessary for its completion, and the Wetlands Inspector shall have the authority to require remediation.
- (b) The proposed activity is a regulated activity, as enumerated in § 139-8, that has the potential to cause substantial adverse effects on regulated areas and requires a long-form permit application prepared by the applicant. Said determination shall include the date of the review of the application, any site inspection, and the supporting reasons for the determination. This determination shall identify the potential substantial adverse effects on the regulated areas and shall consider the biological quality, values, functions and benefits of the regulated area, the potential impact on the regulated area, and the availability of a reasonable alternative. This finding shall be filed with the offices of the Planning Board and the Building Inspector, and a copy shall be sent to the applicant.

B. Long-form applications.

- (1) An application for a long-form wetland permit shall be filed with the Planning Board on forms furnished by the Secretary of the Planning Board and accompanied by a fee, as shall be established from time to time by action of the Town Board.
- (2) The application shall be accompanied by a number of copies thereof as shall be established from time to time by action of the Planning Board. These copies and a copy of the application in a digital format authorized by the Planning Board shall be filed with the offices of the Planning Board, Building Inspector, and the EnCB, in accordance with the standards and procedures set forth herein, and shall include a copy of the short-form and the following information:
  - (a) A completed environmental assessment form (EAF) as required by SEQRA, with particular specificity regarding the potential substantial adverse environmental impacts on the function of regulated areas. The Wetlands Inspector or the Planning Board may, at their option, require submittal of a full (long-form) EAF,

as specified in 6 NYCRR 617.20, Appendix A, to accompany the application.

- (b) A project location map that indicates the approximate boundaries of the property in relation to surrounding land and roadways on a United States Geological Survey or New York State Department of Transportation topographic map having a scale of no less than one inch equals 2,000 feet.
  - (c) A detailed survey map, at a scale no greater than one inch equals 100 feet, which shall be certified by an engineer, architect, land surveyor, or landscape architect licensed in the State of New York, to include:
    - [1] All existing structures and improvements, natural features such as woodlands, and stone walls, drainage structures, wells and septic systems located on the property within 250 feet of proposed regulated activities;
    - [2] Contour lines at two-foot intervals in the regulated area to be disturbed, depicting existing and proposed topographic conditions;
    - [3] The boundaries of any one-hundred-year floodplain; and
    - [4] All proposed site improvements, including structures and roads, grading, drainage, and excavation plans.
  - (d) A regulated area delineation report and map in accordance with the standards set forth in § 139-13, Boundary delineation methodology, of this chapter, prepared by USACE, by NYSDEC or by a wetland delineator, as defined in § 139-4 of this chapter.
  - (e) Copies of all applicable local, county, state, and federal permits or other permit applications required for proposed activities.
- C. Based on the scope of the project and comments from the Wetlands Inspector, Town Engineer or other professional consultant, the Planning Board may require, as is necessary for the proper review of the application, the following additional information:
- (1) The boundaries of all regulated areas, as identified and delineated in accordance with standards set forth in § 139-13 of this chapter no more than 18 months prior to the date of filing of the application, on a topographic survey of the property, containing notation documenting the field delineation.
  - (2) The description of the vegetative cover of the regulated area shall include the dominant species, as defined in § 139-4 of this chapter, and their wetland classified status.

- (3) Groundwater table elevations indicating depth to groundwater, direction of groundwater flow and hydrologic connections with surface water features.
- (4) The location of the construction area and area proposed to be disturbed, and its relation to property lines, roads, buildings, and regulated areas within 250 feet.
- (5) The locations and specifications for any proposal to drain, fill, grade and dredge, and to clear vegetation, including areas and quantities proposed for deposition or removal, the procedures to be used and dominant species of vegetation to be removed.
- (6) The locations and details of any existing and proposed stormwater drainage facilities, including any point discharges, artificial inlets, or other conveyances that would discharge into regulated areas, and measures proposed to control erosion or other potential adverse effects on the regulated areas both during and after the proposed work, including a schedule for installation and maintenance for such measures.
- (7) Where the creation of a lake, pond, detention or other water impoundment is proposed, details of the construction of any dam, berm, embankment, spillway, outlet or other water-control device.
- (8) An analysis of hydrologic systems located within and connected to the regulated areas and a narrative to explain how the regulated areas will be affected by the proposed action, including water retention capacity, water flow and other drainage characteristics. Applications for projects affecting the water retention capacity, water flow, or other drainage characteristics of any pond, lake, reservoir, natural drainage system or wetland shall include a statement and numerical calculations of the impact of the project on upstream and downstream areas, giving appropriate consideration to other than normal levels of watercourses and amounts of rainfall, specifically the one-hundred-year-storm event.
- (9) A habitat assessment done in accordance with the Habitat Assessment Guidelines of the Town of New Paltz (April 2006), including critical terrestrial habitat, as defined in § 139-4 of this chapter, and a narrative to explain how on-site habitats will be affected by the proposed action, with particular emphasis on federal and New York State endangered, threatened, or special-concern species and regionally declining and ecologically sensitive species, as identified in Hudsonia's Biodiversity Assessment Manual for the Hudson River Estuary Corridor. This assessment can be based on existing information available from the Natural Heritage Program at the NYSDEC in Albany or from other sources. In cases where no site-specific information is available, an original assessment may be required. For quality vernal pools, the following sources will be considered guidance for the determination of

critical terrestrial habitat: from the Metropolitan Conservation Alliance, Best Development Practices: Conserving Pool-Breeding Amphibians in Residential and Commercial Developments in the Northeastern United States (Calhoun & Klemens 2002), and from Hudsonia, Biodiversity Assessment Manual for the Hudson River Estuary Corridor (Kiviat & Stevens 2001). Copies of all guidance cited in this Subsection C(9) shall be available for reference in the office of the Town Clerk.

- D. The Planning Board may waive any application information requirements as set forth herein, provided that the decision and reasons for any such waiver shall be clearly set forth in the official record and shall be no less protective of regulated areas.
- E. Within 32 days of the receipt of an application for a wetland permit, the Planning Board shall determine whether such application is complete or if additional information is required. The Planning Board shall refer a complete application to the EnCB and the Wetlands Inspector for review and comment. The EnCB and the Wetlands Inspector shall submit comments to the Planning Board within 62 days of the date of referral.
- F. Upon a determination by the Planning Board that an application is complete, a public hearing shall be scheduled as follows:
  - (1) The public hearing shall commence no later than 32 days after the determination by the Planning Board that an application for a wetland permit is complete. Any public hearing on the application may be held concurrently and coordinated with any other required public hearing held pursuant to any other law, including SEQRA.
  - (2) All application documents, including maps and findings relating to the proposed regulated activity, shall be open for public inspection in the office of the Planning Board at least 10 days prior to the public hearing.
  - (3) Notice of the public hearing shall be advertised at least once in the official newspaper of general circulation in the Town at least five days before such hearing. A copy of said notice shall also be mailed by the Secretary of the Planning Board, at the expense of the applicant, to all owners of property contiguous to the parcel containing the proposed regulated activity and to all owners of property within a distance of 500 feet up-gradient and down-gradient from the subject regulated area within the same subwatershed area, as defined in § 139-4 of this chapter, regardless of municipal boundaries, at least 10 days before the opening of such hearing. A list of such property owners shall be obtained by the applicant from the current tax rolls and supplied to the Secretary of the Planning Board, along with addressed, stamped, business-sized envelopes, for this purpose. The Planning Board may, at its discretion, require that the list of property owners also

include those properties within or contiguous to the subject regulated area for a distance of 1,000 feet up-gradient and/or down-gradient within the same subwatershed area, as defined in § 139-4 of this chapter, where the regulated activity clearly has the potential to significantly impact such properties.

- G. The Planning Board may waive public hearing requirements as set forth herein, provided that the decision and reasons for any such waiver pursuant to this Subsection shall be clearly set forth in the official record and shall be no less protective of regulated areas.
- H. Notwithstanding any other provision of this section, whenever the Planning Board is reviewing an application for an approval or permit authorized by provisions of the Town Code other than this chapter, for any activity for which an application has also been filed under this chapter, the Planning Board shall combine and integrate all permitting procedures to the maximum extent practicable, including but not limited to the public hearing and public notice procedures under this section and SEQRA procedures.
- I. The applicant and Planning Board may, by mutual consent, extend the time for any determination or decision on the application. Any such extension must be in writing and must be recorded in the minutes of a noticed meeting of the Planning Board.

#### **§ 139-13. Boundary delineation methodology.**

- A. If a long-form permit application is required by the Wetlands Inspector pursuant to § 139-12, Permit applications; review; notice of determination; public hearing; extensions, the applicant shall identify the boundaries of regulated areas according to the methodology set forth below. Such boundaries will be permanently marked when appropriate in a manner to be defined in consultation with the Planning Board.

- (1) Wetland boundaries.

- (a) Wetland boundaries for those wetlands regulated under this chapter which are also mapped and regulated by the NYSDEC under ECL Article 24, known as the State Freshwater Wetlands Act, shall be delineated by methodology at least as protective as that specified in such Act and in the New York State Freshwater Delineation Manual (DEC 1995).
  - (b) Wetland boundaries for all other wetlands regulated under this chapter shall be delineated by methodology at least as protective as that set forth in the 1987 Federal Wetlands Delineation Manual or any future approved wetlands delineation manual adopted by action of the Town Board.
  - (c) The methodology for the delineation of NYSDEC-regulated wetlands shall conform with the hydrophytic vegetation

specified in Subdivision 1(a) and (b) of § 24-0107 of the Freshwater Wetlands Act of the ECL and of the lands and waters specified in Subdivision 1(c) and (d) of § 24-0107 of the Act.

- (d) The methodology for the delineation of all other wetlands regulated under this chapter shall employ positive wetland indicators of all three parameters that are normally present in wetlands: hydrophytic vegetation; hydric soils; and wetland hydrology, as more particularly described hereafter:

[1] Hydrophytic vegetation: the frequency of vegetation occurrence in wetlands, as referred to in the New York State Freshwater Delineation Manual (DEC 1995) and ECL § 24-0107, Subdivision 1, for NYSDEC-regulated wetlands. For the delineation of federally regulated wetland areas, refer to the vegetation criteria of the federal 1987 Federal Wetlands Delineation Manual.

[2] Hydric soils: soils that are saturated, flooded or ponded long enough in the growing season to develop anaerobic conditions that support the growth of hydrophytic vegetation. Hydric soils are soil types that are poorly drained, very poorly drained, alluvial or floodplains soils, as documented in Lawrence A. Tornes' Soil Survey of Ulster County, New York, United States Department of Agriculture Soil Conservation Service and Cornell University Agricultural Experiment Station, June 1979, on file in the office of the Town Clerk.

[3] Wetland hydrology: all hydrologic characteristics of areas that are periodically inundated or have soil saturated to the surface during the growing season, as more particularly specified in the 1987 Federal Wetlands Delineation Manual. Indicators of wetland hydrology may be used to confirm that a site without apparent hydrophytic vegetation and hydric soils still exhibits hydrologic conditions typically associated with such vegetation and soils. Such indicators include, but are not limited to the following:

[a] Recorded data, such as stream gauges, flood predictions, aerial photographs or other historical data;

[b] Visual observation of inundation;

[c] Visual observation of soil saturation within the upper 12 inches of soil;

[d] Sediment deposits as a result of flooding;

- [e] Drift lines as a result of flooding;
  - [f] Surface scouring as a result of flooding; and
  - [g] Meandering drainage patterns.
- (e) Wetland boundaries shall be identified by field investigation and flagging by a qualified wetland delineator, as defined in § 139-4 of this chapter, in accordance with the methodology above, as follows:
- [1] The boundaries of a wetland that is subject to the jurisdiction of the USACE or NYSDEC may be established by an existing jurisdictional and/or boundary determination issued by the USACE or NYSDEC at any time prior to 90 days of the effective date of this chapter. Such delineation shall be valid for a period not to exceed five years from the date the delineation.
  - [2] The boundaries of a wetland that is subject to the jurisdiction of the USACE or NYSDEC may also be established by a jurisdictional and/or boundary determination issued by the USACE or NYSDEC after 90 days of the effective date of this chapter following field investigation, provided that the Wetlands Inspector is notified, in writing, of a boundary inspection by the applicant at least five business days prior to the inspection and had an opportunity to participate in the field investigation by USACE or NYSDEC staff. Such delineation shall be valid for a period not to exceed five years from the date of the delineation.
  - [3] All wetlands without a USACE jurisdictional determination or NYSDEC boundary determination shall be delineated by field investigation and flagging by a qualified wetland delineator. Such delineation shall be based upon standards and criteria at least as protective as that established in Subsection A(1)(e)[1] of this section, and shall be in accordance with the standards set forth above, and shall be shown on a survey or site plan of the property prepared by a licensed land surveyor, landscape architect or professional engineer at any time prior to 90 days of the effective date of this chapter, or after 90 days of the effective date of this chapter following field investigation, provided that the Wetlands Inspector is notified, in writing, of a boundary inspection by the applicant at least five business days prior to the inspection and had an opportunity to participate in the field investigation. Such delineation shall be valid for a period not to exceed five years from the date of delineation.



- (2) A watercourse boundary shall be delineated by field investigation and flagging by a qualified wetland delineator, through locating the banks of the watercourse in the manner described in 6 NYCRR Part 608, Use and Protection of Waters, and with reference to average annual rainfall conditions.
  - (3) A quality vernal pool boundary shall be identified by a qualified wetland delineator through field investigation and aerial photo interpretation, where available, as well as through any information available from the New York Natural Heritage Program.
- B. All boundary determinations, whether by the USACE or NYSDEC or by a qualified wetland delineator, shall be subject to review by the Wetlands Inspector, who may consult with biologists, hydrologists, soil scientists, ecologists, botanists or such other experts as are necessary to confirm that the boundary determination complies with the requirements of this chapter and the intent and purpose of this chapter. The reasonable and necessary costs of such consultations, including the preparation of an additional survey, shall be the responsibility of the applicant for the permit.

**§ 139-14. Review of applications; permit decisions.**

If a public hearing held by the Planning Board is scheduled in conjunction with a public hearing required for any other permit, SEQRA action, or approval, the Planning Board shall take action on the permit application for regulated areas within the time frame provided for other such permit or approval. Otherwise, within 62 days following the close of a public hearing or decision to waive a public hearing pursuant to this chapter, the Planning Board shall approve/approve with conditions, approve with modification of associated buffer areas, issue a notice of intent to deny (See § 139-16, conservation plan in lieu of permit denial), or deny the application, as provided below.

- A. No permit approval shall be considered for the proposed regulated activity by the Planning Board unless and until the applicant has demonstrated by clear and convincing data and analysis:
- (1) That there is no reasonable alternative to the proposed regulated activity, including a reduction in the density, intensity of use, or scope of the proposed use, or alternative site plan, which would avoid substantial adverse effects on the regulated areas; and
  - (2) That the substantial adverse effect of the proposed regulated activity on the function served by the regulated areas, or the benefits derived therefrom, has been minimized to the maximum extent feasible.
- B. To determine if the applicant has complied with criteria above, the Planning Board, in consultation with the Wetlands Inspector and the Town Engineer, shall evaluate the adverse effect of the proposed

regulated activities upon regulated area functions and land uses within the same subwatershed, as enumerated below:

- (1) Depositing fill in a regulated area, or other modification of topographic contours;
- (2) The disturbance or destruction of flora and fauna, endangered and threatened species, ecologically sensitive species, and significant habitats in a regulated area;
- (3) The influx of sediments or other materials causing increasing water turbidity and/or substrate aggradations in a regulated area;
- (4) The removal or disturbance of regulated area soils;
- (5) The destabilization of a regulated area channel or bank;
- (6) The reductions and/or increases in regulated area water supply;
- (7) The reductions and/or increases in an associated buffer area;
- (8) Interference with the circulation of water within or through a regulated area;
- (9) Damaging thermal changes and/or nutrient levels in the water supply within or through a regulated area;
- (10) Alterations to flood flows, flood storage, stormwater, upstream and downstream channel and bank stability, storm barriers, and water quality of regulated areas;
- (11) The impacts of flooding, erosion, hurricane winds, soil limitations, and other hazards, such as fire or landslides, on regulated areas;
- (12) The impacts on the water supply and waste disposal of regulated areas;
- (13) The cumulative adverse effect of any proposed or reasonably anticipated future activities on regulated areas subject to the application;
- (14) Consistency with public health and safety, as well as with any existing federal, state, county, and local comprehensive land use plans and regulations;
- (15) Consideration of the biological quality, values, functions and benefits of the regulated areas and any other considerations that the Planning Board deems pertinent to the function of regulated areas and land uses in the same subwatershed area.

C. Decision alternatives.

- (1) Approval of the permit/approval with conditions.

- (a) Following an evaluation as set forth above, and after finding that the application will eliminate any substantial adverse effects on the regulated areas, the Planning Board may approve a permit application or approve with such conditions as may be deemed necessary to assure compliance with the purposes and intent of this chapter.
  - (b) Prior to any site disturbance, clearing or grading or other work on the property, when appropriate, a maintenance bond or letter of credit, as provided in § 139-15M, is required, which bond or letter of credit shall remain in effect until the Wetlands Inspector has certified that the regulated activity has been completed in accordance with permit approval.
  - (c) The Planning Board shall incorporate the necessary conditions within its written findings with respect to the proposed regulated activity and shall repeat those conditions on the face of the permit itself.
- (2) Approval with modification of associated buffer areas.
- (a) The Planning Board, in consultation with the Wetlands Inspector, Town Engineer, and EnCB, may decrease the width of the associated buffer area (i.e., the distance from the protected wetland, watercourse, or waterbody to the edge of the regulated area) if, after such reduction, there is no substantial adverse effect on the function of such buffer, and, where appropriate, may increase the size of the associated buffer area to compensate for any potential loss in such function, in due consideration of the features of the buffer, as follows:
    - [1] Slope. The greater the slope of the buffer zone area, the larger the area must be to adequately slow runoff velocities into the wetland.
    - [2] Depth to bedrock. Steep land, as defined in § 139-4 of this chapter, with shallow soil type of less than three feet requires a larger buffer zone area to address rapid storm flow.
    - [3] Ground cover. The less vegetative cover and associated organic debris a buffer zone has, the more area is needed to successfully dissipate the energy of rainfall and runoff.
    - [4] Soil erodability. If the soil of the area adjacent to a wetland bears high erosion potential, a larger buffer zone is needed to separate the disturbed area from the wetland.
    - [5] Wetland value or sensitivity. The higher the quality of the wetland, in terms of habitat and species present, and the more sensitive it is to potential impacts, the greater the

need for a buffer area large enough to assure its viability and to provide adequate protection for a wetland species and its critical terrestrial upland habitat.

- (b) Approval with modification of associated buffer areas under this Subsection C(2) shall not apply to wetlands or associated buffer areas subject to NYSDEC jurisdiction under ECL Article 24, the Freshwater Wetlands Act, or to regulated activities in a waterbody, watercourse or bank associated therewith, as defined in § 139-4 of this chapter.
- (3) Notice of intent to deny a permit.
  - (a) The Planning Board shall issue a written notice of intent to deny a permit if it finds that the proposed regulated activity will have a substantial adverse effect on the function of regulated areas, despite the applicant's due diligence to comply with the standards and criteria above, and it shall invite the applicant to devise a conservation plan in compliance with § 139-16, conservation plan in lieu of permit denial, within 60 days.
  - (b) The basis for the Planning Board's issuance of a notice of intent to deny shall be included within the written findings with respect to the regulated activity and on the face of the notice of intent itself.
- (4) Denial of the permit.
  - (a) Should the applicant fail to exercise due diligence to comply with the standards and criteria above, the Planning Board shall deny the permit application to avoid substantial adverse effects on the regulated areas by the proposed regulated activity.
  - (b) The basis for the Planning Board's decision to deny the permit, as enumerated above, shall be included within the written findings with respect to the regulated activity and on the face of the permit denial itself.

#### **§ 139-15. Standards for issuance of notices of determination and permits.**

General standards applicable to the issuance of notices of determination and permits are as follows:

- A. Site access. The Wetlands Inspector and Planning Board and its agents or employees may enter upon any lands or waters for good cause shown so as to undertake investigations, examinations, surveys, or other activity, including the review of applications and determinations of compliance, all for the purpose of administering and enforcing this chapter. For any parcel that is not the subject of an application under

this chapter, no entry onto any such parcel under this subsection shall occur, absent the agreement of the landowner.

- B. File documents. All information relating to a permit application, including but not limited to the application itself, additional required materials or information, notices, record of hearings, written comments, and findings, shall be maintained on file in the office of the Planning Board.
- C. Protection of waters jurisdiction. No notice of determination or permit shall be required under this chapter for any regulated activity for which a permit is required under Article 15, Title 5, of the Environmental Conservation Law; provided, however, that to the extent that such regulated activity is conducted in a regulated area for which no permit is required under Article 15, Title 5, of the Environmental Conservation Law, a notice of determination or permit shall be required hereunder.
- D. Sound management and practices. The Wetlands Inspector and Planning Board shall provide information to assist applicants and shall issue guidelines and opinions on sound management practices and permissible activities in regulated areas. Updated compilations of such guidelines and opinions will be periodically printed and made available to the public.
- E. Construction fencing and erosion control. For all projects that receive a notice of determination or permit, the limits of disturbance to any regulated areas will be identified by construction fencing prior to the issuance of a building permit, and erosion control measures as are appropriate to protect regulated areas shall be installed, and such protection shall remain in place and in good condition until all construction activities are completed and a certificate of occupancy is issued.
- F. Written issuance, inspection, expiration and posting. All notices of determination by the Wetlands Inspector and permits approved by the Building Inspector following compliance with the sections of this chapter shall be issued in written form in accordance with the following:
  - (1) Work conducted under a notice of determination or permit shall be open to inspection at any time by the Wetlands Inspector, Building Inspector, and Planning Board and its agents or employees.
  - (2) The notice of determination or permit expiration date shall be clearly noted and shall be pursuant to the time periods specified by this chapter.
  - (3) The notice of determination or permit shall be prominently displayed at the project site during the undertaking of the authorized activities.

- G. Other laws and regulations. No notice of determination or permit granted pursuant to this chapter shall remove an applicant's obligation to comply in all respects with the applicable provisions of any other federal, state, or local law or regulation, including but not limited to the acquisition of any other required permit or approval.
- H. Payment of fees and reimbursable costs. Application fees and other reimbursable costs, as defined in § 139-4 of this chapter, and any conservation fee required pursuant to § 139-14, shall be charged to the applicant. In no event shall a notice of determination or permit be issued until all such sums have been paid in full.
- I. Inactive applications or renewals. Applications must be diligently pursued by the applicant. Should any application before the Planning Board remain inactive for one year pending the submission of required information, the application shall be considered withdrawn. Withdrawn applications may be resubmitted as renewal applications within one year from the date of withdrawal, subject to a permit renewal fee, determined by resolution of the Town Board, and the applicable review requirements of this chapter, provided that the applicant demonstrates that such renewal is warranted by good cause. Inactive applications do not include those where the applicant is actively preparing a report at the request of the Planning Board or Wetlands Inspector.
- J. Expiration and extensions. Notices of determination and permits shall remain in effect until the termination of the activities specified and, unless otherwise indicated, shall be valid to commence the permitted activities for a period of one year from the date of issue. Upon written request of the applicant prior to the expiration date of a notice of determination or permit, the Planning Board may extend the commencement of the permitted activity for a time not to exceed two additional periods of 90 days each, provided that the applicant demonstrates that such extension is warranted by good cause.
- K. Documents filed by the Planning Board. A wetlands permit approval, approval with conditions, approval with modification of associated buffer areas, notice of intent to deny, or permit denial shall be filed by the Secretary of the Planning Board in the offices of the Wetlands Inspector, Building Inspector, EnCB and Town Clerk. A notice of intent to deny a permit, absent the applicant's compliance with § 139-16, conservation plan or fee in lieu of permit denial, will be filed by the Secretary of the Planning Board in the offices of the Wetlands Inspector and Building Inspector.
- L. Certificate of compliance. A certificate of compliance, as defined in § 139-4 of this chapter, shall be issued by the Wetlands Inspector to certify that the regulated activity has been satisfactorily completed in accordance with permit approval. Failure to comply with the conditions specified in a notice of determination or permit shall result in a revocation.

- M. Maintenance bond or letter of credit required. A maintenance bond or irrevocable letter of credit shall be in the amount of the cost of the work to be performed pursuant to the permit approval to ensure performance of any work that is not complete or satisfactory to the Wetlands Inspector. If a sufficient bond or letter of credit has already been filed for site improvements associated with the project, the Planning Board has the discretion not to require a separate maintenance bond or letter of credit. A bond or letter of credit shall remain in effect until the issuance and filing of a certificate of compliance, or shall continue, when appropriate, until a certificate of occupancy is issued by the Building Department. If a bond has been filed to allow the issuance of a temporary certificate of occupancy, it shall be a condition of such certificate that the work be completed within two years.
- N. Certificates of occupancy. A certificate of occupancy may be issued after the Wetlands Inspector has issued a certificate of compliance, as provided above.

**§ 139-16. Conservation plan or fee in lieu of permit denial.**

A. Planning Board findings.

- (1) In the event that the Planning Board issues a notice of intent to deny a permit for a regulated activity pursuant to § 139-14, an applicant may submit to the Planning Board a conservation plan after the Planning Board finds, by clear and convincing data and analysis, that all reasonable efforts were undertaken to comply with the criteria set forth in § 139-14 A(1) and (2) and that:
  - (a) The proposed project satisfies a compelling need of the community related to the health, safety and well-being of persons and property therein and clearly and substantially outweighs the loss or detriment to the function served by the regulated area and the benefits derived therefrom; or
  - (b) A court of competent jurisdiction may reasonably find that a denial of the permit would preclude substantially all uses for which a property is zoned and suitable, so as to deny the owner all economically beneficial or productive use of his or her property, or that the economic effect of the regulation is so substantial as to work a regulatory taking of property.
- (2) Failure to comply with at least one of these conditions shall result in a permit denial that shall be filed in accordance with § 139-15, Standards for issuance of notices of determination and permits. For the purposes of this subsection, connecting roads other than principal roads or thoroughfares with each other, so as to permit travel between neighborhoods without utilizing such principal roads and thoroughfares, shall constitute a compelling need of the community.

- (3) The applicant may request such findings from the Planning Board at any time during the Planning Board's consideration of the application, up to six months after the Planning Board issues a notice of intent to deny a permit.
- (4) The Planning Board shall issue a written determination of its findings and shall include such findings in its notice of intent to deny if it makes such findings prior to issuing such notice of intent to deny or shall separately issue such findings and provide a copy to the applicant if said findings are subsequent to such notice of intent to deny.
- (5) Should the Planning Board's findings authorize the applicant to submit a conservation plan under Subsection A(1)(a) of this section, the applicant shall submit such conservation plan within six months of its receipt of such findings.

B. Conservation plan.

- (1) A conservation plan, as defined in § 139-4 of this chapter, is a narrative that shall explain the nature of the substantial adverse effects on the regulated area and associated natural resources by the proposed regulated activity and shall propose a strategy to mitigate the impacts. The narrative shall address any impacts on up-gradient and down-gradient property in the same subwatershed and shall explain the degree to which the proposed mitigation will attempt to redress the adverse environmental impacts on the regulated area. The plan must include a schedule for implementing the proposed work.
- (2) The conservation plan may include, but is not limited to, the following mitigation activities, individually or in combination, to redress adverse effects by the regulated activity:
  - (a) The establishment of a conservation restriction, as defined in § 139-4 of this chapter, to permanently protect the natural condition and functions of the remaining regulated areas of the subject parcel up-gradient or down-gradient in the same subwatershed as the area subject to the regulated activities that do not comply with the permit approval standards established in § 139-14 C(1) and (2) by precluding any future regulated activities within those areas pursuant to this section.
  - (b) The restoration or enhancement of native vegetation (for example, improving the density and diversity of native woody plant species) in adjacent associated buffer areas to offset the impacts on the affected regulated area.
  - (c) The repair or restoration of degraded or disturbed regulated areas, similar to those that have been or are proposed to be filled, drained, or damaged, or the construction of new regulated areas by in-kind replacement, as defined in § 139-4



of this chapter, of at least twice the area as the replaced wetland, watercourse or waterbody.

- (d) The construction of infiltration basins and the utilization of bioretention and detention techniques to maximize stormwater infiltration on-site, or the retrofitting of existing stormwater infrastructure to the extent not otherwise required by applicable law.
  - (e) The increase of the width of other associated buffer areas to offset the adverse impacts that will have resulted from a regulated activity, in accordance with the criteria set forth in § 139-14C(2).
- C. The Planning Board will conduct a preliminary review within 32 days of receipt of the draft conservation plan to determine whether the plan is sufficiently complete, will set a date for a public hearing on the same in accordance with § 139-12F, and will forward a copy of the application, draft plan and notice of hearing to the Wetlands Inspector, the EnCB, and the Town Board.
- D. The Wetlands Inspector and EnCB shall, within 62 days of referral of a proposed conservation plan, report to the Planning Board the extent to which the draft conservation plan mitigates substantial adverse effects on the regulated areas. The reasonable costs of review, as defined in § 139-4 of this chapter, incurred by the Wetlands Inspector, the EnCB and the Planning Board for private consultation fees shall be reimbursed by the applicant.
- E. After the lapse of the sixty-two-day referral period, the Planning Board shall determine whether the applicant has satisfactorily complied with this section and shall make one of the following decisions, which shall be issued and filed in accordance with § 139-15, Standards for issuance of notices of determination and permits:
  - (1) Approve the conservation plan/approve the plan with modifications. The Planning Board may approve or approve with such modifications or conditions as the Planning Board determines are necessary to mitigate the substantial adverse effects on the function of the regulated areas by the proposed regulated activity. Upon approval of a conservation plan, a permit shall be issued. The applicant may be required to issue a maintenance bond or letter of credit as provided herein, prior to any site disturbance, clearing, grading or other work on the property that may adversely affect regulated areas.
  - (2) Disapprove the conservation plan. The Planning Board may disapprove the conservation plan when the applicant has failed to mitigate the adverse effects of the proposed regulated activity despite available opportunities and strategies to mitigate the impacts. Disapproval of a plan shall result in a permit denial.

- (3) Notice of intent to deny the conservation plan. When a plan is not feasible, despite the applicant's due diligence to comply with the standards and criteria above, the Planning Board may invite the applicant to pay a conservation fee, as defined in § 139-4 of this chapter, in lieu of plan denial.
- F. Documents filed by the applicant. Should an approved conservation plan include a conservation restriction, as defined in § 139-4 of this chapter, the applicant shall file the restriction in accordance with § 139-15K and in the offices of the County Clerk and Town Assessor.
- G. Conservation fee.
- (1) To avoid disapproval of the conservation plan and permit denial when the Planning Board determines that there are no feasible mitigation strategies available to the applicant, despite the applicant's due diligence, or that available mitigation measures are inadequate alone, the applicant may, in its sole discretion, propose the payment of a conservation fee.
  - (2) Upon such application, the Planning Board shall establish the conservation fee in an amount necessary to mitigate the substantial adverse effects or to replace the resources lost as a result of the proposed regulated activity. In determining the conservation fee, the Planning Board shall duly consider the costs of land, construction, maintenance, monitoring and program administration.
  - (3) Upon the applicant's agreement to pay the conservation fee established by the Planning Board pursuant to the applicant's proposal hereunder, and upon the applicant's payment of the conservation fee, the Planning Board shall issue a permit with such conditions as it finds necessary to effect the purposes of this chapter.
- H. Maintenance bond or letter of credit required.
- (1) Prior to any site disturbance, clearing or grading or other work on the property, the applicant shall file a maintenance bond or letter of credit in the amount of the cost of the work to be performed pursuant to the conservation plan to ensure performance of any work that is not complete or satisfactory to the Wetlands Inspector.
  - (2) If a sufficient bond or letter of credit has already been filed for site improvements associated with the project, the Planning Board has the discretion not to require a separate maintenance bond or letter of credit.
  - (3) A bond or letter of credit shall remain in effect until the issuance and filing of a conservation certificate or shall continue, where appropriate, until a certificate of occupancy can be issued by the Building Department.

- (4) If a bond has been filed to allow the issuance of a temporary certificate of occupancy, it shall be a condition of such certificate that the work be completed within two years.
- I. Conservation certificate. Upon satisfactory completion of a project authorized under the terms of a conservation plan and/or upon payment of a conservation fee, a conservation certificate, as defined in § 139-4 of this chapter, shall be issued by the Wetlands Inspector. The Wetlands Inspector shall issue a conservation certificate stating that the work of the authorized conservation plan has been completed in a satisfactory manner.
- J. Certificates of occupancy. A certificate of occupancy may be issued after the Wetlands Inspector has issued a conservation certificate as provided above.

**§ 139-17. Referral of zoning variance applications to wetlands inspector.**

To ensure administrative efficiency with the Town's separate land use development regulatory processes, applications for zoning variance made to the Zoning Board of Appeals (ZBA) affecting a regulated area and concerning a regulated activity shall be referred to the Wetlands Inspector for application, review, comment and administration under the provisions of this chapter.

**§ 139-18. Penalties for offenses.**

A. Administrative sanctions.

- (1) Any person who undertakes any regulated activity without a required permit or notice of determination issued under this chapter, or who violates, disobeys, or disregards any provision of this chapter, including any provision of any permit issued, any condition set or fee required by the Planning Board or Town pursuant to this chapter, shall be liable to the Town of New Paltz for a civil penalty of not more than \$5,000 for every such violation. Each consecutive day of the violation will be considered a separate offense. Such civil penalty may be recovered in an action brought by the Town at the request and in the name of the Planning Board in any court of competent jurisdiction. Such civil penalty may be released or compromised by action of the Town Board, and any action commenced to recover the same may be settled and discontinued by the Town Board.
- (2) The Town Board shall have the power, following a hearing, to direct the violator to restore the regulated area to its condition prior to the violation, insofar as that is possible, within a reasonable time and under the supervision of the Planning Board or its designee. Any such order of the Town Board shall be enforceable in an action brought in any court of competent jurisdiction. Any civil penalty or

order issued by the Town Board pursuant to the criteria set forth herein shall be reviewable in a proceeding pursuant to Article 78 of the State Civil Practice Law and Rules.

B. Criminal sanctions.

- (1) Any person who undertakes any regulated activity without a notice of determination or required permit issued under this chapter, or who violates, disobeys, or disregards any provision of this chapter, including any provision of any permit issued, any condition set or fee required by the Planning Board or Town pursuant to this chapter, shall, in addition, for the first offense, be guilty of a violation punishable by a fine of not less than \$500 and not more than \$1,000. For a second and each subsequent offense, he/she shall be guilty of a misdemeanor, punishable by a fine of not less than \$1,000 nor more than \$2,000, or by a term of imprisonment of not less than 15 days nor more than six months, or both. Each violation shall be deemed a separate and distinct offense, and in the case of continuing violation, each day in continuance thereof shall be deemed a separate and distinct offense.
- (2) In addition to these punishments, any offender may be ordered by the court to restore the affected wetland, watercourse, or buffer area to its condition prior to the offense, insofar as that is possible. The court shall specify a reasonable time for the completion of such restoration, which shall be effected under the supervision of the Planning Board or its designee.

**§ 139-19. Enforcement.**

- A. The Building Inspector and CEO, as defined in § 139-4 of this chapter, shall have the authority and responsibility to enforce the requirements of this chapter. The Wetlands Inspector shall inform the Building Inspector or CEO of any potential violations of this chapter that he or she is aware of:
- B. Whenever the Building Inspector or CEO becomes aware of any potential violation of this chapter, either of them may, in addition to any other action authorized under any other state or local law, undertake further investigation, or request the Wetlands Inspector to undertake further investigation, of such potential violation.
- C. Stop-work and compliance orders.
  - (1) Whenever the Building Inspector or CEO has reasonable grounds to believe that any person has violated any provision of this chapter, has failed to undertake a project in the manner set forth in a permit or notice of determination issued pursuant to this chapter, or has violated any condition or exceeded the authority granted in any such permit or notice of determination, he/she may, in addition to any other action authorized under any other state or local law:

- (a) Issue and serve one or more stop-work orders to abate such violations and/or to halt any work that is contrary to any applicable provision of this chapter or any requirement, limitation or condition in such permit or notice of determination; and/or
    - (b) Issue a compliance order, requiring the remedying of any such violation and/or the restoration of the physical condition of the site of any such violation. The compliance order shall:
      - [1] Be in writing;
      - [2] Be dated and signed by the CEO;
      - [3] Specify the condition or activity that violates this chapter;
      - [4] Specify the provision or provisions of this chapter or any such permit or notice of determination that are violated by the specified condition or activity;
      - [5] Specify the period of time that the Building Inspector or CEO deems to be reasonably necessary for achieving compliance;
      - [6] Direct that compliance be achieved within the specified period of time; and
      - [7] 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 CEO shall cause the stop-work or compliance order, as the case may be, or a copy thereof, to be served on the owner of the affected property personally or by certified mail, return receipt requested, and by regular first-class mail. The CEO is authorized, but not required, to cause a copy of the stop-work or compliance order 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 mail, and is further authorized, but not required, to post such stop-work or compliance order on the site of the violation; provided, however, that the failure to serve any person mentioned in this sentence or to post such stop-work or compliance order shall not affect the effectiveness or the enforceability of such order. The stop-work or compliance order may state the conditions under which work may resume, if any.
- D. The Building Inspector and CEO are hereby authorized to issue appearance tickets before the Town Justice and to enforce the provisions of this chapter, including the conditions of the permit approval, conservation plan or conservation fee approved by the

Planning Board. A copy of the appearance ticket shall be filed with the Planning Board.

- E. The Town of New Paltz is specifically empowered to seek injunctive relief restraining any violation or threatened violation of any provisions of this chapter and/or to compel the restoration of the affected regulated area to its condition prior to the violation of the provisions of this chapter.
- F. Whenever a violation of this chapter is alleged, any person may file a complaint in regard thereto. The CEO shall record such complaints and shall promptly investigate and take enforcement action against such violation under this section if appropriate and/or shall report thereon to the Town Board for appropriate action.

#### **§ 139-20. Administrative review.**

Any decision or order of the Wetlands Inspector or any officer of the Building Department made pursuant to or within the scope of this chapter (other than to issue an appearance ticket), including the identification or mapping of a regulated area, as provided in § 139-6, notice of regulations; mapping; map updates; inspections, a notice of determination for any activity, as provided under § 139-12, Permit applications; review; notice of determination; public hearing; extensions, may be reviewed by the Planning Board at the request of any person affected thereby, including but not limited to the owner of the affected regulated area; any resident or owner of property contiguous to the subject parcel; any resident or owner of property within or contiguous to the subject regulated area for a distance of 1,000 feet up-gradient and down-gradient, regardless of municipal boundaries; or any person who uses or is directly affected by the regulated area, provided that such review is commenced upon filing with the Town Clerk or filing in the office of the Planning Board a notice of review within 30 days after filing of such with the Town Clerk. Such notice shall specify the grounds for seeking review and shall include a description of any new proof, if applicable. A review decision by the Planning Board shall be filed in accordance with § 139-15, Standards for issuance of notices of determination and permits.

#### **§ 139-21. Relief from Planning Board decisions.**

Persons who may be individually, jointly or severally aggrieved by any permit approval, permit denial, conservation plan, or conservation fee may apply to the Supreme Court of the State of New York for review of such decision under Article 78 of the Civil Practice Law and Rules of the State of New York.

#### **§ 139-22. Annual review.**

The Planning Board shall submit an annual report to the Town Board not later than the 10th day of December of each year concerning the administration, efficacy and enforcement of this chapter. The EnCB and the

Wetlands Inspector shall provide to the Planning Board such information as the Planning Board may request to assist it in compiling the annual report required under this section. Such reports and recommendations shall assist the Town Board in monitoring and evaluating the extent to which the intent and purpose of this chapter have been served.

**§ 139-23. Amendments.**

This chapter or any part thereof may, from time to time, be amended, in accordance with the procedures and requirements of the laws of the State of New York and the Code of the Town of New Paltz and as new information concerning soils, hydrology, flooding, stream channel geometry, or animal or botanic species peculiar to regulated areas becomes available. Every such proposed amendment shall be referred to the Planning Board and the EnCB for written reports before any public hearing, which may be held by the Town Board pursuant to the Municipal Home Rule Law. The Town Board shall not take action on any such amendment without such reports from the Planning Board and New Paltz Environmental Conservation Board unless 90 days have passed from the date of referral by the Town Board.

**§ 139-24. Compliance with State Environmental Quality Review Act.**

Prior to any decision under § 139-14, Review of applications; permit decisions or § 139-20, Administrative Review, of this chapter, the Planning Board shall first comply with the provisions of the State Environmental Quality Review Act (SEQRA) under Article 8 of the Environmental Conservation Law and its implementing regulations.

**§ 139-25. Conflict with other regulations.**

Where the standards and management requirements of this chapter are in conflict with other land use development regulations and policies regarding streams, steep slopes, clearing and grading, erodible soils, wetlands, floodplains, timber harvesting, land disturbance activities, or other environmental protective measures, the more restrictive shall apply.

**§ 139-26. Filing of referenced regulations, maps and documents; availability; applicability of amendments.**

All laws, regulations, maps and documents referenced in this chapter shall be filed with the Town Clerk and shall be available to the public for review upon request. Subsequent amendments to those laws and regulations and subsequent editions of those documents shall only apply to this chapter upon their adoption by the Town Board.

## **Chapter 140**

### **ZONING**

#### **GENERAL REFERENCES**

**Planning Board — See Ch. 31.**

**Housing standards — See Ch. 93.**

**Unsafe buildings — See Ch. 56.**

**Sewers — See Ch. 113.**

**Dumps and dumping — See Ch. 66.**

**Streets and sidewalks — See Ch. 118.**

**Fire prevention and building construction — See Ch. 78.**

**Subdivision of land — See Ch. 121.**

**Water — See Ch. 137.**

**Flood damage prevention — See Ch. 82.**



ARTICLE I  
**General Provisions**

**§ 140-1. Scope.**

This chapter regulates and restricts the location, construction, alteration, occupancy and use of buildings and structures and the use of land in the Town of New Paltz and, for said purposes, divides the Town into zoning districts.

**§ 140-2. Title.**

This chapter shall be known and may be cited as the "Zoning Law of the Town of New Paltz, New York."

**§ 140-3. Purpose.**

This chapter is enacted pursuant to the Municipal Home Rule Law of the State of New York to protect and promote public health, safety, morals, comfort, convenience, economy, Town aesthetics and the general welfare and for the following additional purposes:

- A. To promote and effectuate the orderly physical development of the Town of New Paltz in accordance with the Comprehensive Master Plan.
- B. To encourage the most appropriate use of land in the community in order to conserve and enhance the value of property.
- C. To eliminate the spread of strip business development and provide for more adequate and suitably located commercial facilities.
- D. To create a suitable system of open spaces and recreation areas and to protect and enhance existing wooded areas, scenic areas and waterways.
- E. To regulate building densities in order to assure access of light and circulation of air, in order to facilitate the prevention and fighting of fires, in order to prevent undue concentration of population, in order to lessen congestion on streets and highways and in order to provide efficient municipal utility services.
- F. To improve transportation facilities and traffic circulation and to provide adequate off-street parking and loading facilities.
- G. To realize a development plan properly designed to conserve the use of land and the cost of municipal services.
- H. To assure privacy for residences and freedom from nuisances and things harmful to the senses.
- I. To protect the community against unsightly, obtrusive and noisome land uses and operations.

- J. To enhance the aesthetic aspects throughout the entire community and maintain its present character and natural beauty.
- K. To provide a variety of housing styles and environments in order to afford the maximum opportunity for people to find a housing and living style suitable to their needs and desires.

#### **§ 140-4. Word usage and definitions.**

- A. For the purposes of these regulations, certain words used herein are defined as follows. If a term is not listed below, but is defined in Article 16 of New York State Town Law or Chapter 140 of the Town Code, then for the purpose of these regulations the meaning of that term shall be as defined therein. Otherwise, words not specifically listed in this section assume the definition employed in common usage. Words used in the present tense shall include the future. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.  
**[Amended 12-19-2002 by L.L. No. 8-2002]**
- B. The word "shall" is always mandatory. The word "may" is permissive. "Building" or "structure" includes any part thereof. The word "lot" includes the word "plot" or "parcel." The word "person" includes an individual person, a firm, a corporation, a copartnership and any other agency of voluntary action. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
- C. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY BUILDING — A building detached from and subordinate to a main building on the same lot and used for purposes customarily incidental to those of the main building.

ACCESSORY USE — A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

ADAPTIVE REUSE — The conversion of a building or structure within a Residential-Variable (R-V) Zoning District, which building or structure was lawfully constructed for nonresidential purposes on or before the date of adoption of the 1969 Zoning Law of the Town of New Paltz, to a residential use otherwise allowed by the zoning regulations of the R-V District and complying with the Uniform Fire and Building Code of New York State.**[Added 9-10-2003 by L.L. No. 6-2003]**

ALTERATION — Any change, except routine maintenance and repair, made to land or to a building, structure or other improvement on or in the land or to a natural feature on or in the land, including waterbodies and watercourses, which alters any aspect of the appearance, use or functionality of the land, building, structure, improvements or natural feature that is regulated by the Zoning Law of the Town of New Paltz

or by other provisions of the Town Code of the Town of New Paltz.**[Amended 12-19-2002 by L.L. No. 8-2002]**

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 terraces and uncovered steps.

ATTIC — That space of building which is immediately below and wholly or partly within the roof framing. An attic with a finished floor shall be counted as 1/2 story in determining the permissible number of stories.

BASEMENT — A story partly below finished grade but having at least 1/2 of its height, measured from floor to ceiling, but not less than four feet above average finished grade. A basement shall be counted as one story in determining the height of a building in stories. <sup>60</sup>

BED-AND-BREAKFAST ESTABLISHMENT — An owner-occupied dwelling affording overnight accommodations for paying, transient guests that provides limited food services and is limited to five guest bedrooms.**[Added 12-19-2002 by L.L. No. 8-2002]**

BOARDINGHOUSE — A building, other than a hotel, containing a general kitchen and a general dining room, in which at least three but not more than six sleeping rooms are offered for rent, with or without meals. A lodging house, tourist house or rooming house shall be deemed a boardinghouse.

BUFFER STRIP — An area of land intended to protect uses on an adjoining lot from the impacts of uses on the lot containing the buffer strip. Such strip shall include natural or planted vegetation or fencing, or both, sufficient to provide a visual and noise buffer as required by this chapter and shall not be paved nor used for buildings, accessory buildings, parking, storage or sewage disposal areas.**[Added 12-19-2002 by L.L. No. 8-2002]**

BUILDING — Any structure having a roof supported by columns or walls used for, or intended to be used for, the shelter or enclosure of persons, animals or property.**[Amended 12-19-2002 by L.L. No. 8-2002]**

BUILDING, ACCESSORY — See "accessory building."

BUILDING, DETACHED — A building surrounded by open space on the same lot. <sup>61</sup>

BUILDING GROUP — A group of two or more principal buildings, and any buildings accessory thereto, occupying a lot in one ownership and having any yard in common.

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60. Editor's Note: The definition of "billboard," which immediately followed this definition, was repealed 12-20-2001 by L.L. No. 6-2001. For current provisions, see Art. XIII, Signs.

61. Editor's Note: The definition of "building, main," which immediately followed this definition, was deleted 12-30-1987 by L.L. No. 9-1987.

**BUILDING LINE** — The line, established by statute, local law or ordinance, beyond which a building shall not extend, as specifically provided by law.

**BUILDING, PRINCIPAL** — A building in which is conducted the main or principal use of the lot on which said building is situated.

**BUILDING, SEMIDETACHED** — A building attached by a party wall to another building normally of the same type on another lot, but having one side yard.

**BULK** — A term used to describe the size, volume, area and shape of buildings and structures and the physical relationship of their exterior walls of their location to lot lines, other buildings and structures or other walls of the same building; and all open spaces required in connection with a building, other structure or tract of land.

**CAMP** — Any parcel of land on which is located two or more cabins, tents, shelters or other accommodations of a design or character suitable for seasonal, short-term recreational use and/or nonpermanent structures or other more-or-less temporary living purposes, including a summer colony, resort and day camp, but not including a trailer park, boardinghouse, hotel or motel. **[Amended 12-30-1987 by L.L. No. 9-1987]**

**CELLAR** — Any space in a building, the structural ceiling level of which is less than four feet above average finished grade where such grade meets the exterior walls of the building. A cellar shall not be counted in determining the permissible number of stories.

**CHARGING** — When an electric vehicle is connected to electric vehicle supply equipment (or standard outlet) for the purpose of recharging batteries on board the electric vehicle. **[Added 2-27-2014 by L.L. No. 1-2014]**

**CHARGING LEVEL** — The standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged. **[Added 2-27-2014 by L.L. No. 1-2014]**

- (1) Level 1 is considered "slow" charging level, typically requiring an amp breaker of 15 to 20 amps on an AC circuit of 120 volts and standard outlet.
- (2) Level 2 is considered "medium" charging level, typically requiring an amp breaker of 40 to 100 amps on an AC circuit of 240 volts.
- (3) DC Fast Charge is considered "rapid" charging level, typically requiring a dedicated breaker of 60 amps or higher on a three-phase circuit of 480 volts or higher with special grounding equipment. DC Fast Charging uses an off-board charger to provide the AC to DC conversion, delivering AC directly to the car battery.

**CLUB, MEMBERSHIP** — An organization catering exclusively to members and their guests, or premises and buildings for recreational or athletic purposes, which are not conducted primarily for gain, provided

that there are not conducted any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club.

**COMMERCIAL INDOOR RECREATION** — A recreation facility, operated entirely within an approved structure or structures, operated for compensation and available for use by the general public, including instruction and competition in the respective activity. Commercial indoor recreation shall also include the incidental sale of associated athletic or other equipment and the incidental sale of food and/or beverages to persons using the facility. Commercial indoor recreation shall include such uses as indoor tennis, indoor swimming, indoor racket ball, etc., but shall not include the use of any motorized vehicle, as for instance go-carts and minibikes and/or similar motorized apparatus.**[Added 2-25-1999 by L.L. No. 3-1999]**

**COMMERCIAL VEHICLE** — A vehicle of more than one-ton capacity used for the transportation of persons or goods primarily for gain or a vehicle of any capacity carrying a permanently affixed sign exceeding one square foot in area or lettering of a commercial nature.

**COMMON DRIVEWAY** — A driveway shared by not more than two lots.**[Added 12-19-2002 by L.L. No. 8-2002]**

**COMMUNITY AREAS** — Those areas intended for use or enjoyment by all residents of a development, including roads, driveways, parking areas, walkways, landscaped areas and open space and recreation areas.

**COMMUNITY POLE** — A sign owned and maintained by the Town Board or by a group of businessmen as approved by the Town Board and which sign contains several directional signs for the purpose of directing persons to business and community establishments within the community.

**CONTRACTOR'S YARD** — Any space, whether inside or outside a building, used for the storage or keeping of construction equipment, machinery or vehicles, or parts thereof, which are in active use by a construction contractor.

**COTTAGE OR CABIN DEVELOPMENT** — Any parcel of land on which is located two or more cottages, cabins or other accommodations of a design or character suitable for seasonal, long-term recreational use with permanent structures or other temporary living purposes, including a summer colony or resort, but not including a trailer park, boardinghouse, hotel or motel.**[Amended 12-30-1987 by L.L. No. 9-1987]**

**COVERAGE** — That lot area or percentage of lot area covered by buildings or structures, including accessory buildings and structures.

**DEVELOPMENT** — The utilization of a lot or tract of land for two or more principal uses.**[Amended 12-30-1987 by L.L. No. 9-1987]**

DISTRICT, MORE RESTRICTED OR LESS RESTRICTED — In the following list, each district shall be deemed to be more restricted than the districts which precede it: I-1, A, R-1, R-V, B-2, MSMU, GB and GH, F. The restrictiveness of districts not included in this definition will be decided on a case-by-case basis by the Building Inspector.**[Amended 12-30-1987 by L.L. No. 9-1987; 10-3-2019 by L.L. No. 7-2019]**

DRIVE-IN MOVIE — An open lot or part thereof, with appurtenant facilities, devoted primarily to the showing of moving pictures, on a paid admission basis, to patrons seated in automobiles or on outdoor seats.

DRIVEWAY — An accessway which provides direct access between a dwelling, building, or other structure or use on a lot and a lawfully existing private road, a highway shown on an approved subdivision plat, a Town road, or a county or state highway, and which does not provide access through a lot to another lot.**[Amended 12-19-2002 by L.L. No. 8-2002]**

DUMP — A lot or land used primarily for the disposal, by abandonment, burial, burning or any other means, and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

DWELLING — A building designed or used principally as the living quarters for one or more families. The term "dwelling," "one-family dwelling," "two-family dwelling," "multifamily dwelling," "multiple dwelling" or "dwelling group" shall not be deemed to include a motel, hotel, rooming house or other accommodations used for more-or-less transient occupancy. (See "residence.")

DWELLING GROUP — A group of three or more but not more than nine attached single- or two-family dwellings with party walls between.

DWELLING, MIXED-USE — A dwelling unit on the upper floor of a mixed-use building with a minimum area of 750 square feet. More than three such dwellings shall not be considered a multifamily dwelling in the MSMU, GB and GH Districts; however, such units shall comply with the requirements of an ENERGY STAR® qualified home and § 78-21 of the Town Code.**[Added 10-3-2019 by L.L. No. 7-2019]**

DWELLING, MULTIFAMILY — A dwelling containing three or more dwelling units and occupied or designed for occupancy by three or more families living independently of each other.

DWELLING, ONE-FAMILY — A building containing one dwelling unit only.

DWELLING, TWO-FAMILY — A building containing two dwelling units.

DWELLING UNIT — A building or portion thereof providing complete housekeeping facilities for one family.

ELECTRIC VEHICLE — Any motor vehicle that is registered with the New York State Department of Motor Vehicles and authorized to

operate on public and private highways, roads, and streets, and uses electrical energy stored on board for motive purpose. "Electric vehicle" includes battery electric vehicles and plug-in hybrid electric vehicles.**[Added 2-27-2014 by L.L. No. 1-2014]**

**ELECTRIC VEHICLE CHARGING STATION** — A public or private parking space that is served by electric vehicle supply equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery in an electric vehicle.**[Added 2-27-2014 by L.L. No. 1-2014]**

**ELECTRIC VEHICLE CHARGING STATION - PUBLIC USE** — An electric vehicle charging station that is publicly owned and publicly available (e.g., parking spaces on a public street or municipal parking lot) or privately owned and publicly available (e.g., shopping center parking, nonreserved parking in multifamily parking lots).**[Added 2-27-2014 by L.L. No. 1-2014]**

**ELECTRIC VEHICLE CHARGING STATION - RESTRICTED USE** — An electric vehicle charging station that is privately owned and restricted access (e.g., single-family home, designated employee parking) or publicly owned and restricted (e.g., fleet parking with no access to the general public).**[Added 2-27-2014 by L.L. No. 1-2014]**

**ELECTRIC VEHICLE INFRASTRUCTURE** — The structures, machinery, and equipment necessary and integral to support an electric vehicle, including the electrical conduit and premises wiring requirements for the installation of electric vehicle supply equipment, as well as battery exchange stations.**[Added 2-27-2014 by L.L. No. 1-2014]**

**ELECTRIC VEHICLE SUPPLY EQUIPMENT (EVSE)** — The conductors, including the ungrounded, grounded, and equipment grounding conductors and the electric vehicle conductors, attachment plugs, and all other fittings, devices, power outlets, or apparatus installed specifically for purposes of delivering energy from the premises wiring to the electric vehicle, complying and conforming with National Electric Code Article 625 and Society of Automotive Engineers J1772 Standard.**[Added 2-27-2014 by L.L. No. 1-2014]**

**ESSENTIAL SERVICES** — The erection, construction, alteration or maintenance, by municipal or other governmental agencies or nonprofit corporations, of firehouses, ambulance and emergency services stations, and accessory uses thereto, for the purpose of providing fire protection, ambulance or similar emergency services, whether such services are provided by a governmental agency or a nonprofit corporation, but excluding wireless communications facilities as defined in Article X of this chapter.**[Added 11-19-2009 by L.L. No. 6-2009]**

**FAMILY** — One person or two or more persons related by blood, marriage or adoption or not more than five persons not necessarily related by blood, who live together in a single dwelling unit and maintain a common household.

FARM — Any parcel of land containing at least 10 acres which is used for gain in raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It excludes the raising of fur-bearing animals, riding academies, livery or boarding stables and dog kennels.

FINISHED GRADE — The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not reasonably horizontal, the finished grade, in computing height of buildings and other structures or for other purposes, shall be the average elevation of all finished grade elevations around the periphery of the building, except that this average shall not exceed 1/2 of the floor-to-ceiling height.

FLOOR AREA — The aggregate sum of the gross horizontal areas of the several floors of the building or buildings, measured from the exterior walls or from the center lines of walls separating two buildings.

- (1) In particular, the floor area of a building or buildings shall include:
- (2) Basement space.
- (3) Elevator shafts and stairwells at each floor.
- (4) Floor space for mechanical equipment, with structural headroom of seven feet six inches or more.
- (5) Penthouses.
- (6) Attic space, whether or not a floor has actually been laid, providing structural headroom of seven feet six inches or more.
- (7) Interior balconies and mezzanines.
- (8) Enclosed porches.
- (9) Accessory uses, not including space for accessory off-street parking.
- (10) However, the floor area of a building shall not include:
- (11) Cellar space, except that cellar space used for retailing shall be included for the purposes of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.
- (12) Elevator and stair bulkheads, accessory water tanks and cooling towers.
- (13) Floor space used for mechanical equipment, with structural headroom of less than seven feet six inches.
- (14) Attic space, whether or not a floor has actually been laid, providing structural headroom of less than seven feet six inches.



- (15) Uncovered steps; exterior fire escapes.
- (16) Terraces, breezeways, open porches and outside balconies and open spaces.
- (17) Accessory off-street parking spaces.
- (18) Accessory off-street loading berths.

GARDEN APARTMENT — A multifamily dwelling for three or more families no greater than 2 1/2 stories in height.

GASOLINE FILLING STATION — An area of land, including structures thereon, or any building or part thereof, that is used primarily for the sale and direct delivery to the motor vehicle of gasoline or any other motor vehicle fuel or oil and other lubricating substances, including any sale of motor vehicle accessories, and which may or may not include facilities for lubricating, washing (which does not require mechanical equipment) or otherwise servicing motor vehicles, but not including auto body work, welding or painting.

HEIGHT — The vertical distance from the average elevation of the proposed finished grade along the wall or walls of the building or structure, measured every 10 feet, to: one) to the highest point of the roof of a flat roof; or 2) the average height between eaves and ridge of gable, hip, gambrel and other sloped roofs. Utilities located on a roof shall be included in the calculation of a structure's height. **[Amended 10-3-2019 by L.L. No. 7-2019]**

HOME OCCUPATION — A use conducted within a one-family or two-family dwelling, clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not change the residential character or appearance of the premises, and is carried on by the permanent residents of the dwelling unit and no more than one other employee. A home occupation use does not include uses such as medical or veterinary clinics, medical testing or other laboratories, barbershops or beauty parlors, restaurants, kennels and similar uses which have water, septic, traffic and other land use concerns not characteristic of typical home occupations. **[Added 12-19-2002 by L.L. No. 8-2002]**

HOMEOWNERS' ASSOCIATION — An organization of homeowners residing within a particular development whose major purpose is to preserve, maintain and provide community areas, facilities and services for the common enjoyment of the residents.

HOSPITAL — A building containing beds for four or more patients and used for the diagnosis, treatment or other care of ailments and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

HOTEL — A building or any part thereof which contains living and sleeping accommodations for transient occupancy, has a common

exterior entrance or entrances and which may contain one or more dining rooms.

**IMPERVIOUS COVERAGE** — The area of a lot covered by impervious surfaces. To calculate a lot's impervious surface ratio, divide the area of impervious surfaces by the lot's gross area.**[Added 10-3-2019 by L.L. No. 7-2019]**

**IMPERVIOUS SURFACE** — A hard surface area that prevents or substantially impedes the natural infiltration of water into the underlying soil, resulting in an increased volume and velocity of surface water runoff. Impervious surfaces include, but are not limited to, buildings, patios, decks, sidewalks, driveways, compacted gravel, pavement, asphalt, concrete, roadways, parking areas and hard-surfaced recreational areas.**[Added 10-3-2019 by L.L. No. 7-2019]**

**JUNKYARD** — Any plot, piece or parcel of land, with or without buildings, used for or occupied by the storage, keeping or abandonment of junk, including but not limited to scrap materials, used or salvaged building materials and/or dismantled, demolished or abandoned motor vehicles, trucks, trailers, machinery or parts thereof. The deposit on any plot, piece or parcel of land for a period exceeding 30 days of two or more unregistered or wrecked or dismantled or demolished motor vehicles, trucks, trailers or machinery, whether in whole or in part and whether the same are held for the purpose of resale, in whole or in part, or for the purpose of reclaiming for use some or all of the material therein, whether metal, glass, fabric or otherwise, or for the purpose of disposing of the same or for any other purpose shall be deemed to make such plot, piece or parcel of land a junkyard within this definition.**[Amended 12-28-1989 by L.L. No. 4-1989]**

**KENNEL** — Any place at which there are kept four or more dogs more than four months of age or any number of dogs that are kept for the primary purpose of sale or for the boarding, care or breeding of which a fee is charged or paid.

**LOT** — A parcel or tract of land, which may or may not be coincident with a lot or lots shown on a map of record that has been filed in the office of the County Clerk, which is not divided by a public street or highway shown on a plan approved by the Town of New Paltz Planning Board, and which is, or is to be, occupied by buildings or structures or otherwise devoted to one or more uses regulated by this chapter, together with such open spaces, yards or other areas as may be required by the provisions of this Code or the New York State Uniform Fire Prevention and Building Code.<sup>62</sup> A lot shall have frontage on a public street or highway sufficient to meet the requirements of this Code and all statutory or regulatory requirements applicable to the proposed use of the lot.**[Amended 8-16-2001 by L.L. No. 4-2001]**

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62.Editor's Note: See Ch. 78, Building Construction and Fire Prevention.

LOT, CORNER — A lot situated at the junction of and adjacent to two or more intersecting streets when the interior angle of intersection does not exceed 135°.

LOT COVERAGE — See "coverage."

LOT, DEPTH OF — The mean distance from the front street line of a lot to its rear line.

LOT FRONTAGE — That lot line coincident with, and measured along, the right-of-way of any dedicated Town, county or New York State highway, or along a line 24.75 feet from the center line of any highway that has been lawfully established by use. A corner lot shall be considered to have two such frontages.**[Amended 8-16-2001 by L.L. No. 4-2001]**

LOT LINES — The lines bounding a lot, as defined herein.

LOT, THROUGH — A lot which faces on two streets at opposite ends of the lot and which is not a corner lot.

LOT WIDTH — The minimum horizontal distance between the side lot lines, measured at the line established by the front yard setback applicable to such lot, which shall in turn be measured from the lot line established by the required lot frontage. At all points between the frontage of the lot and the greater of the line established by the minimum front yard setback or the closest point of any actual or proposed principal building on the lot, the width of the lot, measured from side lot line to side lot line, shall not be less than the required frontage.**[Amended 8-16-2001 by L.L. No. 4-2001]**

MOBILE HOME — A vehicle which is used or designed to be used for living or sleeping purposes and which is customarily standing on wheels or rigid supports.**[Amended 12-30-1987 by L.L. No. 9-1987]**

MOTEL — A building or group of buildings containing individual living and sleeping accommodations for hire, each of which is provided with a separate exterior entrance and a parking space and is offered for rental and use principally by motor vehicle travelers. The term "motel" includes but is not limited to every type of similar establishment known variously as an "auto court," "motor hotel," "motor court," "motor inn," "motor lodge," "tourist court," "tourist cabin" or "roadside hotel."

NATURAL GAS AND OIL EXPLORATION — The use of land for geological or geophysical activities related to the search for natural gas, oil or other subsurface hydrocarbons, including prospecting, geophysical and geological seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation in the search and evaluation of natural gas, oil or other subsurface hydrocarbon deposits.**[Added 11-15-2012 by L.L. No. 2-2012]**

NATURAL GAS AND OIL EXTRACTION — The use of land for the purpose of extracting, developing and producing natural gas, oil or other subsurface hydrocarbons from subsurface deposits. Natural gas

and oil extraction includes storage or construction staging yards associated with an oil or gas extraction operation, and gas pipelines, water lines and other gathering systems and components, including but not limited to drip stations, vent stations, injection stations and valve boxes associated with a natural gas or oil extraction operation.**[Added 11-15-2012 by L.L. No. 2-2012]**

**NATURAL GAS AND OIL PRODUCTION BY-PRODUCTS** — Any refuse, sludge or other waste materials, whether or not recycled or reused or intended to be recycled or reused, including solid, liquid, semisolid, or contained gaseous material that results from, is associated with or is produced as a by-product of natural gas and oil exploration or extraction, including, without limitation, production brine, produced waters, flowback, flowback fluids and hydraulic fracturing fluids.**[Added 11-15-2012 by L.L. No. 2-2012]**

**NATURAL GAS AND OIL SUPPORT ACTIVITIES** — The construction, use or maintenance of a storage or staging yard, a water or fluid injection station, a water or fluid gathering station, a natural gas or oil storage facility, or a natural gas or oil gathering line, venting station, or compressor associated with the exploration or extraction of natural gas or oil.**[Added 11-15-2012 by L.L. No. 2-2012]**

**NONCONFORMING BUILDING** — A structure lawfully existing at the effective date of this chapter, or at the time of any amendment thereto affecting such structure, which does not thereafter conform to one or more of the applicable "bulk" regulations established by this chapter for the district in which such building is situated, irrespective of the use to which such structure is put.**[Added 1-16-2003 by L.L. No. 1-2003<sup>63</sup>]**

**NONCONFORMING LOT** — A lot, the area or dimension of which was lawful at the effective date of this chapter, or at the time of any amendment thereto affecting such lot, which does not thereafter conform to one or more of the applicable bulk regulations established by this chapter for the district in which such lot is situated by reason of such adoption, revision or amendment.**[Added 1-16-2003 by L.L. No. 1-2003]**

**NONCONFORMING USE** — Any use of a building, other structure, lot or land, or part thereof, lawfully existing at the effective date of this chapter, or at the time of any amendments thereto affecting such use, which does not thereafter conform to the use regulations of this chapter for the district in which such use is located.**[Amended 1-16-2003 by L.L. No. 1-2003]**

**NURSERY SCHOOL** — Any place, however designated, operated for the purpose of providing daytime care or instruction for two or more children from two to five years of age, inclusive, and operated on a regular basis, including kindergartens, day nurseries and day-care centers.

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**63. Editor's Note: This local law also repealed the former definition of "nonconforming bulk," which immediately preceded this definition.**

NURSING OR CONVALESCENT HOME — A building with less than 15 sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

OPEN SPACE — Land that is left in its natural state for conservation purposes, including wildlife habitat and wildlife corridors; landscaped for aesthetic or scenic purposes; devoted to active or passive recreation; used for stormwater management facilities; or used for the preservation of distinctive architectural, historic, geologic and botanic sites, but not impervious surfaces such as driveways, parking areas or paved areas not used for recreation.**[Amended 12-19-2002 by L.L. No. 8-2002]**

PLANNED RESORT — A development of a site located within the Planned Resort Overlay District in compliance with the standards applicable to the Planned Resort use. Nothing in this definition, or the Planned Resort Overlay District regulations or supplemental use regulations applies to a "vacation resort," as that term is elsewhere used in the Zoning Law.**[Added 10-3-2019 by L.L. No. 7-2019]**

PLUG-IN HYBRID ELECTRIC VEHICLE (PHEV) — An electric vehicle that contains an internal combustion engine and also allows power to be delivered to drive wheels by an electric motor; charges its battery primarily by connecting to the grid or other off-board electrical source; may additionally be able to sustain battery charge using an on-board internal-combustion-driven generator; and has the ability to travel powered by electricity.**[Added 2-27-2014 by L.L. No. 1-2014]**

PREMISES — A lot, together with all the buildings and uses thereon.

RECREATIONAL SPORT VEHICLES — Snowmobiles, all-terrain vehicles, personal water vehicles and other motorized vehicles intended primarily for recreational off road use, operated by an individual and seating one to four riders, and required to be registered and/or titled by the Vehicle and Traffic Law of the State of New York if operated within the state. Recreational sport vehicles do not include vehicles intended to provide overnight residential accommodations, farm and construction equipment or other vehicles not designed and intended primarily for recreational use.**[Added 6-16-2005 by L.L. No. 3-2005]**

RESIDENCE or RESIDENTIAL — A building or any part of a building which contains living and sleeping accommodations for permanent occupancy. Residences, therefore, include all one-family, multifamily, boarding-, fraternity and sorority houses. However, residences shall not include the following:

- (1) Transient accommodations, such as hotels, motels and hospitals; or
- (2) That part of a building containing both residences and other uses which is used for nonresidential uses, except accessory uses for residences.

RIDING ACADEMY — Any establishment where horses are kept for riding, driving or stabling for compensation.

RIGHT-OF-WAY — The full width of a street or easement established by deed or use for vehicular or pedestrian passage of the general public.**[Amended 12-19-2002 by L.L. No. 8-2002]**

ROAD STAND — A light structure with a roof, either attached to the ground or movable, intended for the sale of local produce to the general public.

SALE AND DISPLAY OF RECREATIONAL SPORT VEHICLES AS ANCILLARY USE TO AUTOMOBILE STORAGE AND REPAIR — Sales and display of recreational sport vehicles that are ancillary to a principal permitted use of automobile repair in the LI District, subject to site plan and special permit use by the Planning Board in compliance with § 140-41.**[Added 6-16-2005 by L.L. No. 3-2005]**

SETBACK — The distance in feet from the street line to the principal building on a lot.

SHOPPING CENTER I — A group of contiguous or adjacent stores, shops and similar commercial retail establishments consisting of more than 35,000 square feet of floor area, planned, constructed and managed as a total entity with customer and employee parking provided on site, provisions for goods delivery separated from customer access, aesthetic considerations and protection from the elements. For purposes of this chapter, shopping center I shall include a freestanding store, shop or similar commercial retail establishment consisting of more than 35,000 square feet of floor area.**[Added 3-18-1999 by L.L. No. 4-1999]**

SHOPPING CENTER II — A group of contiguous or adjacent stores, shops and similar commercial retail establishments having 35,000 square feet of floor area or less, planned, constructed and managed as a total entity with customer and employee parking provided on site, provisions for goods delivery separated from customer access, aesthetic considerations and protection from the elements. For purposes of this chapter, shopping center II shall include a freestanding store, shop or similar commercial retail establishment having a floor area of 35,000 square feet or less.<sup>64</sup>**[Added 3-18-1999 by L.L. No. 4-1999]**

SINGLE OWNERSHIP — Possession of land under single or unified control, whether by sole, joint, common or other ownership, or by a lease having a term of not less than 30 years, regardless of any division of such land into parcels for the purpose of financing.

SOIL MINING — The use of land for the purpose of extracting and selling stone, sand, gravel or other minerals and not including natural gas or oil exploration and extraction.**[Added 11-15-2012 by L.L. No. 2-2012]**

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64. Editor's Note: The definitions of "sign," "sign, advertising," "sign area," "sign, business," "sign, directly illuminated," "sign, flashing," "sign, illuminated," "sign, indirectly illuminated" and "sign, representational," which immediately followed this definition, were repealed 12-20-2001 by L.L. No. 6-2001. For current provisions, see Art. XIII, Signs.

STORY — That part of a building comprised between a floor and the floor or roof next above it. (See "attic," "basement" and "cellar.")

STORY, HALF — That portion of a building situated above a full story and having at least two opposite exterior walls meeting a sloping roof at a level not higher above the floor than a distance equal to 1/2 of the floor-to-ceiling height of the story below.

STREET — An existing public way which affords principal means of access to abutting properties and is suitably improved or a proposed way shown on a plat approved by all appropriate official agencies.

STREET WIDTH — The width of the right-of-way or the distance between property lines on opposite sides of a street.

STRUCTURE — A static construction of building materials, including buildings, stadiums, platforms, towers, sheds, display stands, storage bins, signs, reviewing stands, gasoline pumps, mobile dwellings (whether mobile or stationary at the time) and the like.

TOWNHOUSE or ROW HOUSE — One of a group of two or more attached dwelling units divided from each other by party walls and each having separate entrances from the outside.<sup>65</sup>

TRAILER CAMP or TRAILER PARK — A tract of land which is used or intended to be used for the parking of two or more mobile homes.**[Amended 12-30-1987 by L.L. No. 9-1987]**

USE — This term is employed in referring to:

- (1) The purpose for which any buildings, other structures or land may be arranged, designed, intended, maintained or occupied.
- (2) Any occupation, business activity or operation conducted or intended to be conducted in a building or other structure or on land.

VACATION RESORT — Any area of land on which is located two or more cabins, cottages or a hotel or group of buildings, containing living and sleeping accommodations hired out for compensation, which has a public lobby serving the guests and may contain one or more dining rooms and recreation facilities of a design and character suitable for seasonal or more-or-less temporary living purposes, regardless of whether such structures or other accommodations actually are occupied seasonally or otherwise.

VARIABLE-DENSITY RESIDENTIAL DEVELOPMENT — A development consisting of garden apartments, townhouses, single-family homes or a combination thereof and providing for the dedication of relatively large amounts of land to open space, conservation, recreation and landscaping.

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65. Editor's Note: The definition of "trailer, house," which immediately followed this definition, was repealed 12-30-1987 by L.L. No. 9-1987.

WAY — A thoroughfare, however designated, permanently established for passage of persons or vehicles.

YARD, FRONT — The space within and extending the full width of a lot from the front lot line to the part of the principal structure which is nearest to such front lot line.**[Amended 10-3-2019 by L.L. No. 7-2019]**

YARD, REAR — The space within and extending the full width of a lot from the rear lot line to the part of the principal structure which is nearest to such rear lot line.**[Amended 10-3-2019 by L.L. No. 7-2019]**

YARD, REQUIRED — That portion of the open area of a lot extending open and unobstructed from the ground upward, along a lot line for a depth or width as specified by the bulk regulations of the district in which the lot is located. No part of such yard shall be included as part of a yard or other open space similarly required for buildings on another lot.

YARD, SIDE — The space within a lot extending the full distance from the front yard to the rear yard and from the side lot line to the part of the structure which is nearest to such side lot line.**[Amended 10-3-2019 by L.L. No. 7-2019]**

**§ 140-5. Enumeration of districts. [Amended 1-14-1981 by L.L. No. 1-1981; 12-30-1987 by L.L. No. 9-1987; 6-18-1998 by L.L. No. 2-1998; 8-19-2010 by L.L. No. 7-2010; 10-3-2019 by L.L. No. 7-2019]**

In order to fulfill the purpose of this chapter, the Town of New Paltz establishes and is hereby divided into the following eight zoning districts:

A-1.5	Agriculture 1.5
A-3	Agriculture 3
R-1	Residence
R-V	Variable-Density Residence
B-2	Highway Business
I-1	Light Industrial
MHN	Mobile Home Neighborhood
WCF	Wireless Communications Facilities Overlay
FW	Floodway
FF	Flood Fringe
GF	General Floodplain
MSMU	Main Street Mixed Use
GB	Gateway Business
GH	Gateway Hamlet



**§ 140-6. Zoning Map. [Amended 4-20-2006 by L.L. No. 3-2006; 10-3-2019 by L.L. No. 7-2019]**

The location and boundaries of said zoning districts are shown on the map designated "Official Zoning Map of the Town of New Paltz" which is declared to be an appurtenant part of this chapter and is on file with the Town Clerk.<sup>66</sup>

**§ 140-7. Interpretation of district boundaries.**

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply.

- A. Where district boundaries are indicated as approximately following the center lines or right-of-way lines of streets, highways, public utility easements or watercourses, said boundaries shall be construed to be coincident with such lines. Such boundaries shall be deemed to be automatically moved if a center line or right-of-way line of such street, highway, public utility or watercourse is moved a maximum of 100 feet.
- B. Where district boundaries are indicated as approximately following the Town boundary line, property lines, lot lines or projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.
- C. Where district boundaries are so indicated that they are approximately parallel to the Town boundary line, property lines, lot lines, right-of-way lines or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the Zoning Map or as shall be determined by the use of the scale shown on the Zoning Map.<sup>67</sup>
- D. Where a district boundary line divides a lot in single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot shall extend not more than 30 feet into the more restricted portion.
- E. In all other cases, where not dimensioned, the location of boundaries shown on the map shall be determined by the use of the scale appearing thereon.

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66.Editor's Note: The Zoning Map is included in a pocket at the end of this volume.

67.Editor's Note: The Zoning Map is included in a pocket at the end of this volume.



ARTICLE II  
**Use Regulations**

**§ 140-8. Permitted uses.**

A. In the following schedule:

- (1) "P" designates a use permitted by right.
- (2) "O" designates a use permitted subject to additional standards pursuant to § 140-52 of this chapter by the Planning Board.
- (3) <sup>68</sup>"S" designates a special permit use contingent on securing special permit approval in each case from the Planning Board pursuant to the procedural requirements set forth in § 140-55E and Article X. **[Added 6-18-1998 by L.L. No. 2-1998]**

B. No building or premises shall be erected, altered or used except for one or more of the uses designated for any district<sup>69</sup> as follows: **[Amended 12-30-1987 by L.L. No. 9-1987; 4-26-1990 by L.L. No. 6-1990; 6-18-1998 by L.L. No. 2-1998; 2-25-1999 by L.L. No. 3-1999; 2-25-1999 by L.L. No. 4-1999; 4-13-2000 by L.L. No. 1-2000; 9-28-2000 by L.L. No. 6-2000; 6-16-2005 by L.L. No. 3-2005; 12-27-2007 by L.L. No. 6-2007; 11-19-2009 by L.L. No. 6-2009; 8-19-2010 by L.L. No. 7-2010; 2-27-2014 by L.L. No. 1-2014; 10-3-2019 by L.L. No. 7-2019]**

Use	Districts												
	A-1.5	A-3	R-1	R-V	B-2	I-1	WCF	FW	FF	GF	MSMU	GB	GH
Residential Uses													
Detached one-family dwelling	P	P	P	P			O		O	O			P
Fraternity and sorority house													
Mobile home (§ 140-38)	O	O											
Multifamily dwelling				P	O							O	O

**68. Editor's Note: Former Subsection A(3), regarding "X" as a designation in the schedule found in Subsection B, was repealed 10-3-2019 by L.L. No. 7-2019. This local law also redesignated former Subsection A(4) as Subsection A(3).**

**69. Editor's Note: For provisions regarding the MHN District, see § 140-21 of this chapter.**

Use	Districts												
	A-1.5	A-3	R-1	R-V	B-2	I-1	WCF	FW	FF	GF	MSMU	GB	GH
Semidetached one-family dwelling			P										
Dwelling, mixed use											O	O	P
General Uses													
Agriculture, including the keeping of fowl or farm animals	P	P						O	O	O			
Agriculture, not including the keeping of fowl or farm animals	P	P	P	P		P		P	P	P			
Cemetery, in compliance with § 140-39	O	O	O										
Church or other place of worship	O	O	O	O	O	O					O	O	O
Crematory, in compliance with § 140-39	O	O				O							
Cultural facilities (library, art gallery, museum, etc.)	O	O	O	O	O						O	O	O
Day nursery	O	O	O	O	O						O	O	O

Use	Districts												
	A-1.5	A-3	R-1	R-V	B-2	I-1	WCF	FW	FF	GF	MSMU	GB	GH
Electrical vehicle charging stations equipped with DC Fast Charge EVSE, as defined in § 140-4C					O							O	
Essential services	O	O	O	O		O							
Golf course or country club	O	O	O	O				O	O	O			
Hospital	O	O	O	O									
Institutional or philanthropic use	O	O	O	O	O						O	O	O
Nonprofit club or recreation use	O	O	O	O	O	O		O	O	O	O	O	O
Nursing or convalescent home or sanatorium	O	O	O	O									
Private, academic or parochial school	O	O	O	O	O						O	O	O
Public utility or transportation use	O	O	O	O	O	O						O	

Use	Districts												
	A-1.5	A-3	R-1	R-V	B-2	I-1	WCF	FW	FF	GF	MSMU	GB	GH
Retail sale of agricultural produce grown on the same lot from a road stand	O	O	O	O	P	O		O	O	O	P	P	P
Vacation resort, camp, cottage or cabin development	S	S							S	S			
Accessory Uses													
Accessory use customarily incidental to any of the uses mentioned herein and not on the same lot	S	S	S	S	S	S		S	S	S	S	S	S
Accessory use customarily incidental to any of the uses mentioned herein and on the same lot	P	P	P	P	P	P		O	O	O	P	P	P
Electrical vehicle charging stations equipped with DC Fast Charge EVSE, as defined in § 140-4C					P	P					P	P	P

Use	Districts												
	A-1.5	A-3	R-1	R-V	B-2	I-1	WCF	FW	FF	GF	MSMU	GB	GH
Electrical vehicle charging stations equipped with EVSE capable of charging an electric vehicles at Level 1 or Level 2, as defined in § 140-4C	P	P	P	P	P	P	P	P	P	P	P	P	P
Home occupation, in compliance with § 140-26	P	P	P	P	P	P		P	P	P	P	P	P
Stables for horses for noncommercial purposes	O	O	O						O	O			
Business Uses													
Adult uses						S							
Airport	S	S											
Automobile storage or repair					O	O						O	O
Bar or nightclub	S	S			O						O	O	O
Bowling alley					O						O	O	O
Car-washing station					O	O						O	
Commercial indoor recreation					O	O					O	O	O

Use	Districts												
	A-1.5	A-3	R-1	R-V	B-2	I-1	WCF	FW	FF	GF	MSMU	GB	GH
Commercial parking lot in compliance with § 140-33	S	S			O	O						O	O
Dance hall or skating rink	S	S			O						O	O	O
Drive-in movie					S							S	
Equipment rental or sales yard	S	S			O	O						O	
Funeral home					O	O					O	O	O
Gasoline filling station in compliance with § 140-35					O						O	O	O
General and professional office					O	O					O	O	O
Hotel	S	S			O	O					O	O	O
Laundry or dry-cleaning plant					O	O						O	
Major wireless communications facilities							S						
Minor wireless communications facilities	O	O	O	O	O	O	O		O	O	O	O	O
Mobile home (§ 140-38)	O	O											



Use	Districts												
	A-1.5	A-3	R-1	R-V	B-2	I-1	WCF	FW	FF	GF	MSMU	GB	GH
Motel					O						O	O	
Newspaper offices and printing shops					O	O					O	O	O
Repair of recreational sports vehicles as ancillary use to automobile storage and repair						S							
Restaurant	S	S			O						O	O	O
Retail business or service not otherwise specifically mentioned herein					O						O	O	O
Riding academy	O	O							O	O			
School conducted for profit					O						O	O	O
Self-service laundry					O						O	O	O
Shopping Center I (pursuant to § 140-26.1)					O <sup>a</sup>						— <sup>b</sup>	— <sup>b</sup>	— <sup>b</sup>
Shopping Center II (pursuant to § 140-26.1)					O <sup>a</sup>						— <sup>b</sup>	— <sup>b</sup>	— <sup>b</sup>
Theater or concert hall					O	O					O	O	O

Use	Districts												
	A-1.5	A-3	R-1	R-V	B-2	I-1	WCF	FW	FF	GF	MSMU	GB	GH
Veterinarian's office, animal hospital or kennel	S	S			S	S					S	S	S
Wholesale business or service not otherwise specifically mentioned herein					O	O					O	O	O
Light Industrial Uses													
Extractive operations and soil mining in compliance with § 140-37	S	S				S			S	S			
Manufacture, fabrication, extraction, assembly, warehousing and other handling of material in compliance with §§ 140-18 and 140-28 and excluding the prohibited uses listed below						O							
Research laboratory						O							

Note: Uses for the RD District are set forth in § 140-22.55 of the Zoning Law.

<sup>a</sup> Shopping centers approved prior to March 18, 1999, are permitted in accordance with § 140-26.1

<sup>b</sup> Shopping centers are permitted only in accordance with District regulations.

**§ 140-9. Prohibited industrial uses. [Amended 11-15-2012 by L.L. No. 2-2012]**

In any district where manufacturing or light industry is permitted, no manufacturing use nor any trade, industry, use or purpose that is noxious or offensive by reason of the emission of odor, dust, smoke, toxic or noisome fumes, radiation, gas, noise, vibration or excessive light, or any combination of the above, which is dangerous and prejudicial to the public health, safety and general welfare shall be permitted, and this includes more specifically but is not limited to the following such uses:

Acetylene gas manufacture for commercial purposes

Ammonia, chlorine or bleaching powder manufacture

Arsenal

Asphalt manufacture or refining

Blast furnace, not including cupola or converter furnaces used in foundries and in which no wood is used as fuel

Boiler shops, structural-steel fabricating shops or metalworking shops which operate reciprocating hammers or chisels or other noise-producing electric or pneumatic tools within 100 feet of any boundary line of the premises and outside of any masonry buildings

Brewing or distilling of liquors

Bronze and aluminum powder manufacture

Carbon, lampblack, shoe blacking, graphite or stove polish manufacture

Celluloid and other cellulose products manufacture

Cement manufacture

Coal tar products manufacture

Creosote treatment or manufacture

Disinfectant and insecticide manufacture

Distillation of coal, wood or bones

Dump, unless operated or controlled by the municipality

Excelsior and fiber manufacture

Explosives, fireworks or match manufacture, assembling or storage in bulk, except the manufacture, assembling and storage in bulk of safety matches in book form

Fat rendering

Fertilizer manufacture or potash refining

Fish smoking or curing

Glue, size or gelatin manufacture or processing involving recovery from fish or animal offal

Incinerator, unless operated by the municipality

Junkyard

Lime, gypsum, cement, plaster or plaster of paris manufacture, except the mixing of plaster

Linoleum or oilcloth manufacture

Natural gas and oil exploration

Natural gas and oil extraction

Natural gas and oil support activities

Ore reduction or the smelting of iron, copper, tin, zinc or lead

Paint, oil, varnish, turpentine, shellac or enamel manufacture, except the mixing of wet paints

Perfume and extract manufacture

Petroleum refining

Poison manufacture: fumigants, carbon disulfide, hydrocyanic acid, ethyl, stomach poisons, arsenate of lead, arsenate of calcium, hellebore and paris green, contact insecticides, lime, sulfur, nicotine or kerosene emulsions

Printing ink manufacture

Radium extraction

Rubber caoutchouc or gutta-percha manufacture from crude or scrap material, except in connection with a rubber products manufacture plant

Salt works

Sandpaper and emery cloth manufacture

Slaughtering of animals, except for immediate consumption on premises or immediate retail sale

Soap, soda ash or washing compound manufacture, except products not containing caustic soda

Starch, glucose or dextrine manufacture

Stockyards

Storage, coloring, curing, dressing or tanning of raw or green salted hides or skins

Storage or disposal of natural gas and oil production by-products

Sulfurous, sulfuric, nitric, picric or hydrochloric acid or other corrosive or offensive acid manufacture or its use or storage, except on a limited scale as accessory to a permitted industry

Tallow, grease, lard or candle manufacture or refining

Tar distillation or the manufacture of aniline dyes

Tar roofing or waterproofing manufacture, except where the tar or asphalt is treated at a temperature under 100° F.

Tobacco processing, exclusive of cigar or cigarette manufacture

Vinegar, pickle or sauerkraut manufacture in bulk

Wool pulling or scouring, except in connection with a woolen mill

Yeast manufacture



ARTICLE III  
**Area and Bulk Regulations**

**§ 140-10. Purpose.**

In order to provide adequate open spaces for access of light and circulation of air, to facilitate the prevention and fighting of fires, to prevent undue concentration of population and to lessen congestion on streets, no building or premises shall be erected, altered or used except in accordance with the standards set forth in this article.

**§ 140-11. Density Control Schedule.**

The attached schedule of density control regulations is hereby adopted and declared to be a part of this chapter and is hereinafter referred to as the "Density Control Schedule."<sup>70</sup>

**§ 140-12. Modification of yard requirements.**

- A. Wherever a side or rear yard is adjacent to a street, the standards for front yards shall apply.
- B. The following projections into required yards may be permitted:
  - (1) Open fire escapes: four feet into side or rear yards.
  - (2) Awnings or movable canopies: six feet into any yard.
  - (3) Cornices, eaves and other similar architectural features: three feet into any yard.
- C. Any open or enclosed porch or carport shall be considered a part of the building in the determination of the size of the required yard or lot coverage.
- D. Accessory uses not enclosed in a building may be located in a rear yard in accordance with § 140-30.

**§ 140-13. Exceptions to height requirements.**

District building height regulations shall not apply to flagpoles, radio or television antennas, transmission towers or cables, spires or cupolas, chimneys, elevator or stair bulkheads, penthouses, parapets or railings, water tanks or cooling towers or any similar structures, provided that such structures, in their aggregate coverage, occupy no more than 10% of the roof area of the building.

**§ 140-14. Residential density requirements.**

- A. In all districts where residences are permitted, a lot held in single ownership may be improved for residential use according to the

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**70. Editor's Note: The Density Control Schedule is included at the end of this chapter.**

minimum lot size per family and bulk regulations for each district as set forth in the Density Control Schedule,<sup>71</sup> provided that there shall be no more than one principal building and use on each lot.

- B. A residential lot of required or larger than required size, as set forth in this chapter, shall not be reduced in size for transfer of ownership if such lot so subdivided will form two or more lots which shall not be in compliance with the requirements for the residential density for the district in which such lot or lots are situated, except as provided in § 140-41.

**§ 140-15. Side yards for certain dwellings.**

Side yards for semidetached or townhouses shall be required at the ends of the total structure only.

**§ 140-16. Distance between principal buildings.**

No detached principal building shall be closer to any other principal building on the same lot than the average heights of said buildings.

**§ 140-17. Accessory apartments. [Amended 8-14-1986 by L.L. No. 3-1986; 8-14-1986 by L.L. No. 4-1986; 12-19-2013 by L.L. No. 3-2013]**

- A. Accessory apartments within existing residential structures.
- (1) In any zoning district of the Town of New Paltz that allows single-family residential uses as a permitted use, including those subdistricts of the Floodplain District where single-family residences are allowed with site plan approval, a special use permit may be granted by the Town Planning Board for the creation of an accessory apartment within an owner-occupied residential structure that was lawfully constructed and used as a single-family residence for at least seven years prior to the date that an application is made for the creation of an accessory apartment. Evidence of such use shall include the date of a duly issued certificate of occupancy for single-family residential use, designation of single-family use on the tax roll or other records of the Town, or other evidence of use that the Planning Board finds adequate to establish that the single-family residential use has been lawfully established and maintained for at least seven years.
  - (2) For purposes of this Subsection A, an "accessory apartment" shall be defined as a self-contained dwelling unit within a principal owner-occupied single-family residential structure, which accessory apartment shall be used as a dwelling unit for one or more individuals living together as a family having its own exterior

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71. Editor's Note: The Density Control Schedule is included as an attachment to this chapter.



entrance, but which dwelling unit will be and remain subordinate to the principal use of the single-family residence on the same lot.

- (3) In addition to any applicable provision of the Zoning Law of the Town for the effective administration of its general and/or specific purposes, the following requirements shall be met before the issuance of a special use permit for an accessory apartment pursuant to this subsection:
- (a) The principal residential structure wherein the accessory apartment is to be located must be occupied, at the time of application and at all times thereafter while the accessory apartment is established and maintained, as the principal domicile of the record owner of title. Evidence of ownership shall be evidenced by the last deed recorded in the office of the Clerk of the County of Ulster. Evidence that the residential structure is occupied as the principal domicile of the record owner may be established by an affidavit of the record owner, supported by voting records or such competent evidence as would be sufficient to establish domicile for purposes of voting. It shall be a condition of every certificate of occupancy issued for an accessory apartment that occupancy of such dwelling unit is only valid if the unit is located in an owner-occupied single-family residence, and the certificate of occupancy shall prominently display in bold print a statement that occupancy of such accessory apartment is not lawful and valid unless the single-family residence is owner-occupied. In the event a certificate of occupancy is issued without such statement, it shall not prevent enforcement of the condition.
  - (b) The accessory apartment shall be self-contained, with separate cooking, sleeping and sanitary facilities for use of its occupants.
  - (c) No exterior changes may be made to the principal residential structure which would alter its existing foundation or the existing roofline.
  - (d) The principal residential structure shall have only one exterior front entrance. All others shall be located at the side or at the rear of the structure.
  - (e) An accessory apartment shall be subordinate to the principal residential structure and shall contain not greater than 35% of the total habitable space of the existing structure. (For purposes of this article, "habitable space" shall have the meaning given in Chapter 2 of the Property Maintenance Code of New York State.) Any increase in the size of the total habitable space of the principal residential structure completed within seven years of the date of the application for

such accessory apartment shall not be considered part of the total habitable space for purposes of this subsection.

- (f) The conversion of any existing residence to accommodate an accessory apartment as defined herein shall be limited to one accessory apartment per principal residence.
- (g) Parking for an accessory apartment pursuant to this subsection shall be on site, shall consist of at least 1 1/2 spaces per dwelling unit and shall be designed and located as to be convenient without encroaching on any required yard area.
- (h) Each principal residence and accessory apartment shall, at the time of the conversion, be within a structure on a single lot and shall conform in all respects to the provisions of this article, including yard setbacks and other bulk restrictions, unless a variance has been issued or the lot has been duly approved pursuant to a filed subdivision plan allowing a clustered plan of subdivision; provided, however, that, due to site conditions (soil, topography, etc.) affecting sanitary septic disposal, additional lot area may be required by the Ulster County Health Department in order to expand the existing on-site sanitary septic system or provide a sufficient reserve area. In such case, no special permit may be issued unless the minimum lot area provided conforms to the requirements of the Ulster County Health Department.
- (i) No special permit may be granted by the Town Planning Board until the on-site sanitary septic system has been approved by the Ulster County Health Department as adequate to provide sanitary septic disposal for the proposed accessory apartment, except that the Planning Board may grant conditional approval of a special permit where it finds, on report and recommendation of the Town Engineer, that the size and arrangement of the lot is such that such approval is reasonably likely to be issued. In such event, the Board shall include a condition that no building permit may be validly issued until the Health Department issues written approval of the on-site sanitary septic system.

B. Accessory apartments within existing detached accessory structures.

- (1) In any zoning district of the Town that allows single-family residential uses as a permitted use, including those subdistricts of the Floodplain District where single-family residences are allowed with site plan approval, a special use permit may be granted by the Town Planning Board for the creation of an accessory apartment within a detached accessory structure that has existed on a lot containing a principal owner-occupied residential structure that was lawfully constructed and used as a single-family residence for at least seven years prior to the date that an application is made for

the creation of an accessory apartment. Evidence of such use shall include the date of a duly issued certificate of occupancy for single-family residential use, designation of single-family use on the tax roll or other records of the Town, or other evidence of use that the Planning Board finds adequate to establish that the principal residential use has been established and maintained for at least seven years and that the accessory structure was lawfully constructed and maintained as an accessory structure for such time.

- (2) For purposes of this Subsection B, an "accessory apartment" shall be defined as a self-contained dwelling unit within an existing accessory structure located on the same zoning lot as a principal single-family residential structure, which accessory dwelling unit will be used as a dwelling unit for one or more individuals living together as a family and sharing the use of at least one of the following: water supply, sanitary septic field, or shared access drive to the street or highway serving the lot. It shall be a condition of any certificate of occupancy issued for a detached accessory apartment that occupancy of such dwelling unit is only valid if the unit is located on the same lot as an owner-occupied single-family residence and is subordinate to the principal single-family residence, and the certificate of occupancy shall prominently display in bold print a statement that occupancy of such accessory apartment is not lawful and valid unless the principal single-family residence is owner-occupied. In the event a certificate of occupancy is issued without such statement, it shall not prevent enforcement of the condition.
- (3) In addition to any provision of the Town Zoning Law for the effective administration of its general and/or specific purposes, the following requirements shall be met before the issuance of a special use permit for an accessory apartment pursuant to this subsection:
  - (a) The principal residential structure wherein the accessory apartment is to be located must be occupied, at the time of application and at all times thereafter while the accessory apartment is established and maintained, as the principal domicile of the record owner of title. Evidence of ownership shall be evidenced by the last deed recorded in the office of the Clerk of the County of Ulster. Evidence that the principal residential structure is occupied as the principal domicile of the record owner may be established by an affidavit of the owner, supported by voting records or such competent evidence as would be sufficient to establish domicile for purposes of voting.
  - (b) The accessory apartment shall be self-contained, with separate cooking, sleeping and sanitary facilities for use of its occupants, except that the accessory apartment may share a

water supply or sanitary septic field with the principal residential use.

- (c) The construction of an accessory apartment within an existing detached accessory structure shall be subordinate to the principal residence and shall contain not greater than 35% of the total habitable space of the principal existing residential structure, as the structure existed seven years prior to date of the application for a special use permit to construct the accessory apartment. (For purposes of this article, "habitable space" shall have the meaning given in Chapter 2 of the Property Maintenance Code of New York State.) No exterior changes may be made to the accessory structure which would alter its existing foundation or the existing roofline.
- (d) No more than one accessory structure on a lot occupied by a principal residential structure may be converted to accommodate an accessory apartment as defined herein. In the event a lot containing an accessory apartment in a detached accessory structure is further subdivided, the lot containing the accessory structure shall contain sufficient lot area to meet the minimum lot area requirement of the zoning district in which the lot is located.
- (e) Lot requirements.
  - [1] The existing detached accessory structure wherein the accessory apartment is to be located shall conform to the same setback requirements of this article as those required for the principal residence; in addition, each principal residence and accessory apartment shall, at the time of the application, be on a single lot with an area no less than the minimum specified in Table A set forth in this subsection.

**Table A**

**Minimum Lot Area**

<b>Zoning District</b>	<b>(acres)</b>
R-1	1.75
A-1.5	2.62
A-3	5.25
Other	Minimum lot area, plus 0.75 MLA

- [2] The lot area requirements in Table A are minimums only. Due to site conditions (soil, topography, etc.) affecting sanitary septic disposal, additional lot area may be required by the Ulster County Health Department in order to expand the existing on-site sanitary septic system or provide a sufficient reserve area. In such case, no special

permit may be issued unless the minimum lot area provided conforms to the requirements of the Ulster County Health Department.

- (f) Parking for an accessory apartment pursuant to this subsection shall be on site, shall consist of at least 1 1/2 spaces per dwelling unit and shall be designed and located as to be convenient without encroaching on any required yard area.
- (g) No special permit may be granted by the Town Planning Board until the on-site sanitary septic system has been approved by the Ulster County Health Department as adequate to provide sanitary septic disposal for the proposed accessory apartment, except that the Planning Board may grant conditional approval of a special permit where it finds, on report and recommendation of the Town Engineer, that the size and arrangement of the lot is such that such approval is reasonably likely to be issued. In such event, the Board shall include a condition that no building permit may be validly issued until the Health Department issues written approval of the on-site sanitary septic system.

C. General conditions of permits; hearings; revocation of permits.

(1) Conditions of approval.

- (a) Applications for approval of an accessory apartment pursuant to this section shall be in accordance with § 140-55E, entitled "Special use permits," of the Town Code and shall be filed with the Planning Board. In addition to a determination that the application complies with all of the provisions of this chapter, the Planning Board shall grant such application and issue the required special use permit only after determining that the issuance of such special use permit will not adversely affect adjoining properties and the general surrounding neighborhood where the accessory apartment is proposed to be located. In the event that the Planning Board determines a proposed accessory apartment may adversely affect adjoining properties or the surrounding neighborhood, it may, as a condition of approving a permit, require that the applicant establish and maintain landscaping or fencing where necessary to avoid such adverse effects.
- (b) It shall be a condition of any such special permit, whether or not specifically incorporated therein, that:
  - [1] The owner shall maintain the accessory apartment use in conformance with the requirements of this section and all applicable provisions of the Uniform Fire Prevention and Building Code, including, but not limited to, the Property Maintenance Code of New York State; and

- [2] The special use permit shall be valid for a period of one year from the date that a certificate of occupancy is issued for the accessory apartment, and that it shall be automatically renewed upon:
    - [a] A verified application by the record owner to the Building Inspector for renewal, attesting that the principal residence is maintained as the owner's domicile; and
    - [b] Payment of a renewal fee, in such amount as established by resolution of the Town Board, provided the Building Inspector determines such use has been maintained in accordance with all requirements of § 140-17 and any applicable conditions of approval.
- (2) If the Building Inspector determines at any time prior to renewal that the use has not been maintained in accordance with § 140-17 or any applicable conditions of approval, the Building Inspector shall give notice of such determination to the record owner and the Planning Board. The Planning Board shall consider that determination in considering whether to renew the special use permit; and if it determines that it intends to deny such renewal or to impose additional conditions on such renewal, the Planning Board shall give written notice of its intention to the record owner at the most-recent address shown on the tax roll of the Town, and provide an opportunity for the record owner to be heard on the matter, and shall consider any evidence submitted by the record owner in support of the renewal of the special use permit. The Planning Board shall thereafter approve, approve with conditions or deny the special use permit, stating the reasons for its decision.
- (3) Transfer of title. Within 60 days after the record owner transfers title to premises for which a special permit has been granted for an accessory apartment, the new record owner shall provide such evidence to the Building Inspector as may be necessary to demonstrate that the principal residential structure is occupied by the new record owner in accordance with Subsection A(3)(a) of this section. In the event that the new record owner fails to do so, the Building Inspector shall serve a written notice upon the owner or occupant to do so by a date certain. In the event that the record owner fails to do so, the Building Inspector shall give notice of such noncompliance to the record owner and the Planning Board, and the Planning Board shall consider the determination in considering whether to renew the special use permit; and if it determines that it intends to deny such renewal or to impose additional conditions on such renewal, the Planning Board shall give written notice of its intention to the record owner at the most-recent address shown on the tax roll of the Town, and provide an opportunity for the record owner to be heard on the matter, and shall consider any evidence submitted by the record owner in support of the renewal of the

special use permit. The failure of the Planning Board to take any action required by this section shall not constitute a waiver of such requirement. The Planning Board shall thereafter approve, approve with conditions or deny the special use permit, stating the reasons for its decision.

- (4) Effect of denial of renewal. The Planning Board shall direct that the accessory apartment created pursuant to this section be vacated, its use as an accessory apartment created pursuant to this section be discontinued, and that all improvements installed to allow its use as an accessory apartment be removed.
- D. Inspections permitted. The Building Inspector, or a duly authorized designee of the Building Inspector, may perform a fire, safety and property maintenance inspection of the accessory apartment upon the request of the owner of the property to be inspected or an authorized agent of such owner or the occupant. In the event that the Building Inspector has a reasonable basis to believe that the accessory apartment or principal structure does not comply with applicable provisions of the special use permit, Chapter 140 or the Uniform Fire Prevention and Building Code, and the owner or an authorized agent or occupant does not consent to such inspection, the Building Inspector may apply for a warrant to permit such inspection. Nothing in this subsection shall permit such inspection in such circumstances unless such warrant has been obtained.





ARTICLE IV  
**District Regulations**

**§ 140-18. Light Industrial District.**

The Town Board may, after Planning Board review, public notice and hearing, approve the development of a parcel of land for light industrial use and establish a special Light Industrial District for such development to be imposed on any A, R-1 and B-2 District, subject to the following conditions:

- A. Location and minimum required acreage of site:
  - (1) A Districts: 12 acres.
  - (2) R-1 Districts: eight acres.
  - (3) B-2 Districts: two acres.
- B. Application of regulations. Individual uses and structures in a Light Industrial District need not comply with the specific building location, height, lot size and open space requirements of the underlying basic district. The overlay superimposes the regulations for the Light Industrial District upon the underlying district.
- C. Use regulations.
  - (1) Permitted uses. Uses permitted in the I-1 District shall be as determined in accordance with § 140-8B of this chapter and any regulations supplementary thereto. **[Amended 12-30-1987 by L.L. No. 9-1987]**
  - (2) Prohibited uses shall be as follows:
    - (a) Residential uses, except that dwellings of caretakers and any and all residential uses made and permitted prior to the establishment of such I-1 District in accordance with this section shall be allowed to continue as so permitted heretobefore.
    - (b) All prohibited industrial uses as so listed in § 140-9 of this chapter.
    - (c) Any use, although expressly allowed as a permitted use, if the particular application or adaptation of such use is or shall become or cause a nuisance.
- D. Performance standards.
  - (1) General standards. The following general standards are hereby adopted for the control of uses in any Light Industrial District, and no use shall be permitted, established, maintained or conducted therein which shall cause or be likely to cause:

- (a) Excessive smoke, fumes, gas, dust, odor or any other atmospheric pollutant beyond the boundaries of the lot whereon such use is located. What smoke is excessive shall be determined according to Ringelmann's Scale for Grading the Density of Smoke, published by the United States Bureau of Mines, when the shade or appearance of such smoke is darker than No. 2 on said Ringelmann Smoke Chart.
  - (b) Noise perceptible beyond the boundaries of the lot occupied by such use causing the same.
  - (c) Any pollution by discharge of any waste material whatsoever into any watercourse, open ditch or land surface.
  - (d) Discharge of any waste material whatsoever into any sanitary disposal system or sewerage system, except only in accordance with the rules of and under the control of public health authorities or the public body controlling such sewerage system. Any chemical or industrial waste which places undue loads, as determined by the Town Engineer, shall not be discharged into any municipal system and must be treated by the industrial use.
  - (e) Storage or stocking of any waste materials whatsoever.
  - (f) Glare or vibration perceptible beyond the lot lines whereon such use is conducted.
  - (g) Hazard to person or property by reason of fire, explosion, radiation or other cause.
  - (h) Any other nuisance harmful to persons or property.
- (2) Specific standards. The following specific standards are hereby adopted and must be complied with for any by any use in any Light Industrial District and before the same is permitted, established, maintained or conducted:
- (a) Storage facilities. Materials, supplies or semifinished products shall be stored on the rear 1/2 of the property and shall be screened from any existing or proposed street.
  - (b) Loading docks. No loading docks shall be on any street frontage. Provisions for handling of all freight shall be on those sides of any building which do not face on any street or proposed streets.
  - (c) Landscaping. It is hereby declared that all areas of the plot not occupied by buildings, parking, driveways or walkways or storage shall be landscaped attractively with lawn, trees, shrubs or other plant material. Such landscaping shall take into consideration the natural growth presently on the premises and the nature and condition of the terrain as well as

the situation of the lands and premises themselves and with regard to adjoining lands and premises.

- (d) Fences and walls. Property that is adjacent to a residential or business district shall be provided along such property lines with a wall, fence, compact evergreen hedge or a landscaped strip of trees and shrubs so designed as to form a visual screen not less than six feet high at the time of planting. Except for landscaped areas and parking areas, a use which is not conducted within a completely enclosed building shall be screened by a six-foot solid masonry wall, chain-link fence covered with an evergreen vine or compact evergreen hedge. Where a front yard adjoins a street, the wall, fence or hedge shall be located no closer to the street than the depth of the required yard.
  - (e) Off-street parking and loading: Refer to § 140-34.
  - (f) Signs: Refer to Article XIII. **[Amended 12-20-2001 by L.L. No. 6-2001]**
  - (g) Buffer strip. In addition to the fences and walls, the entire district must be separated along its outside boundary from any adjoining residential zones by a buffer strip, suitably landscaped, at least 100 feet wide.
  - (h) Minimum(s). No industrial building structure or use (including any required parking space) shall be located nearer than 100 feet to the nearest portion of any residence. **[Added 2-25-1999 by L.L. No. 1-1999]**
- (3) Proper and adequate water supply, sewerage and waste disposal, other utility services and accessibility to and from public streets must be provided.
  - (4) Special consideration must be given to the traffic generated by each proposed use in a Light Industrial District, and no undue traffic volumes shall be permitted on residential streets. Such data is to be submitted with each petition for amendment. No access drive for any I-1 District shall be within 300 feet of and on the same side of the street as a school, public library, theater, church or other public gathering place, park, playground or fire station unless a street 50 feet or more wide lies between such access drive and such building or use.
- E. Area and bulk regulations. Area and bulk requirements shall be in compliance with those for I-1 Districts as set forth in the Density Control Schedule of this chapter.<sup>72</sup>

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72. Editor's Note: The Density Control Schedule is included at the end of this chapter.

- F. The Planning Board, upon review of the proposed development, may prescribe such additional conditions as are, in its opinion, necessary to secure the objectives of this chapter.
- G. Procedure.
- (1) Application for rezoning classification of a site shall be filed by the owner or several owners jointly, or the holder of a written option of purchase of the site, with the Secretary to the Town Board, in writing and in a form required by the Town Board, and shall be accompanied by a certified check in the amount set forth from time to time by resolution of the Town Board to help defray the cost of advertising the hearing on said petition and incidental disbursements. The applicant shall also submit the following: **[Amended 12-30-1987 by L.L. No. 9-1987]**
    - (a) A plan of the site and surrounding areas drawn to scale and accurately dimensioned, showing the location of existing and proposed land use areas, lots, buildings, structures, parking and loading areas and access roads and streets, community facilities and topography.
    - (b) The use and height of each proposed building or structure, yard lines, lot coverage and the number of parking spaces in each proposed parking area and the expected flow of traffic in and out of the area.
    - (c) Any additional data as may be requested by the Planning Board in order to determine the suitability of the tract for the proposed development.
  - (2) Each application shall be referred to the Planning Board. The Planning Board shall report its recommendations thereon to the Town Board, accompanied by a full statement of the reasons for such recommendations, prior to the public hearing. If the Planning Board fails to report within a period of 45 days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Town Board, the Town Board may act without such report.
  - (3) The Town Board, by a resolution, shall fix the time and place of the public hearing and cause notice to be given as follows:
    - (a) A public hearing on such application shall be noticed in accordance with Article XVI, Public Hearings, of Chapter 140, Zoning, of the Code of the Town of New Paltz. **[Amended 5-24-2007 by L.L. No. 2-2007]**
    - (b) By giving notice of hearing to any required municipal, county, state or federal agency in the manner prescribed by law. Upon approval of the proposed development, the new district established shall be excepted from the provisions and controls

of this chapter only to the extent specified in the approval, and such new district shall become a part of the regulations established herein, shall be enforced in the same manner and be similarly subject to amendment, except that, if construction of the proposed development is not commenced within one year after approval of the Town Board, such approval shall be revoked, and such area shall be subject to the requirements of the prior district regulations.

**§ 140-19. Floodplain District. [Amended 2-23-1983 by L.L. No. 1-1983; 12-30-1987 by L.L. No. 9-1987; 5-20-2010 by L.L. No. 3-2010<sup>73</sup>]**

A. Legislative intent.

- (1) Development of land within the special flood hazard areas in the Town of New Paltz could result in the potential loss of life and property, create health and safety hazards, and lead to extraordinary public expenditures for flood protection and relief. Since the development of these areas is not essential to the orderly growth of the community, and since these lands are suitable for open space uses that do not require structures, fill, obstructions, or any other form of development, the Town of New Paltz finds that it is in the best interests of the Town residents to establish standards, regulations and restrictions for development within a Floodplain District.
- (2) The Floodplain District shall include all lands located within areas of special flood hazard [which are hereinafter described as Floodway (FW), Flood Fringe (FF) and General Floodplain (GF)], which have been identified by the Federal Emergency Management Agency (FEMA) in a scientific and engineering report ("report") entitled the "Flood Insurance Study - Ulster County, New York," (FIS No. 36111CV001A) with accompanying Floodway Hazard Boundary Maps (FHBM), the Flood Boundary - Floodway Maps (FBFM) and the Flood Insurance Rate Map (FIRM), as such report may be updated and revised from time to time. The current report is filed in the office of the Town Clerk.
- (3) The construction of residential and nonresidential structures therein shall be subject to, and regulated by, the New York State Uniform Fire Prevention and Building Code<sup>74</sup> and by all federal, state and/or local governmental and/or agency statutes, ordinances, laws, rules and regulations made and provided for the prevention of flood damage in the Town of New Paltz and as further

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73. Editor's Note: Section 3 of this local law provided that it was the legislative intent of this local law to supersede Article 16 of the Town Law, §§ 261 through 285, inclusive, and any other provision of law that the Town may supersede pursuant to the Municipal Home Rule Law and the Constitution of the State of New York.

74. Editor's Note: See Ch. 78, Building Construction and Fire Prevention.

set forth in Chapter 82, Flood Damage Prevention, of the Code of the Town of New Paltz, and additionally shall be subject to and regulated by the standards and the requirements of the National Flood Insurance Program (NFIP).

B. Purpose. The Floodplain District is established to permit only that development within the special flood hazard areas which is appropriate in light of the probability of flood damage and the need to reduce flood losses, and allow for acceptable social and economic use of the land in relation to the hazards involved. Additionally, regulation of development within the Floodplain District is required:

- (1) To promote the careful consideration of long-term economic consequences of floodplain development, to prevent environmentally incompatible floodplain use, and to guide less intensive use and development of floodplains;
- (2) To minimize the adverse effects of floodplain development on existing development;
- (3) To preserve natural areas and foster habitat protection to enable the naturally beneficial functions of floodplains and watersheds to be better realized by reserving hazardous areas for agricultural use, parks, greenways, hiking trails, golf courses, wildlife refuges, natural areas or similar open space compatible uses;
- (4) To promote a balance of public and private concerns and to ensure that one person's activities do not adversely affect others or the general public; and
- (5) To further provide for the safety of Town residents and the safety of emergency response personnel during periods of flooding by requiring readily available and useable access to areas of new development located in or adjacent to flood-prone areas.

C. Definitions. As used in this section, the following terms shall have the meanings indicated:

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a one-percent-or-greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, or AO. It is also commonly referred to as the base floodplain or one-hundred-year floodplain. For purposes of this section, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

BASE FLOOD ELEVATION — The computed water surface elevation at a given location resulting from a flood having a one-percent chance of being equaled or exceeded in any given year (i.e., an average frequency and magnitude of a one-hundred-year recurrence interval).<sup>75</sup>

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75. Editor's Note: The former definition of "cumulative substantial improvement," which immediately followed this definition, was repealed 12-8-2015 by L.L. No. 3-2015.

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.<sup>76</sup>**[Amended 12-8-2015 by L.L. No. 3-2015]**

- D. Establishment of floodplain zoning subdistricts. The Floodplain District, as depicted on the Town of New Paltz Zoning Map,<sup>77</sup> shall consist of three separate subdistricts, that includes land with distinct flood-prone characteristics and development restrictions, as regulated in the National Flood Insurance Program (NFIP) and as described hereafter:
- (1) Floodway (FW). The Floodway Subdistrict shall include those areas designated as floodway on the most recent Flood Insurance Rate Map on file with the Town of New Paltz, as determined by the Federal Emergency Management Agency and a Flood Insurance Study or by other agencies, and can generally be described as lands located within 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 and obstruct flood flows. No encroachment by new construction of buildings, structures, fill or substantial improvements is allowed, but development of stormwater management, parkland, greenways, forest lands, farms and community gardens is encouraged.
  - (2) Flood Fringe (FF). The Flood Fringe Subdistrict shall include those areas designated as that portion of the floodplain outside of the floodway and land areas designated as Zone X lying within the Floodplain District and mapped to be above the base flood elevation (BFE), as determined by the Federal Emergency Management Agency and the Flood Insurance Study or by other agencies, and includes those areas shown on the Flood Insurance Rate Map as being within Zones AE, AH or AO. The following specific development criteria apply to lands located in the Flood Fringe Subdistrict:
    - (a) All building sites are required to be improved in such a manner that a building with habitable space's floor elevation is constructed to be a minimum of two feet above the base flood elevation (BFE).

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76. Editor's Note: The former definition of "substantial improvement," which immediately followed this definition, was repealed 12-8-2015 by L.L. No. 3-2015.

77. Editor's Note: The Zoning Map is included in a pocket at the end of this volume.

- (b) Proposed principal buildings shall not be sited on land with an existing ground surface elevation more than one foot below the base flood elevation (BFE), said minimum principal building site's existing ground surface elevation being approximately equal and to the maximum floodwater elevation of the fifty-year frequency flood (i.e., two-percent annual chance of flooding).
  - (c) The cumulative effect of proposed development cannot result in an increase in flood height in areas of the floodplain with no floodway designated. When it appears that the cumulative effect of proposed development in such an area may increase the flood height, the Town Building Inspector or other duly authorized representative of the Town shall require the submission of a detailed hydrologic and hydraulic engineering study evaluating such effects, and review the conclusions of that study in consultation with the Town Engineer in determining whether the applicant for a permit has demonstrated compliance with the requirements of this section.
- (3) General Floodplain (GF). The General Floodplain Subdistrict shall include those areas as determined by the Federal Emergency Management Agency and Flood Insurance Study or by other agencies, and include those areas designated as Zone A as shown on the Flood Insurance Rate Map (FIRM). The following specific development criteria apply to lands located in the General Floodplain Subdistrict:
  - (a) All building sites are required to be improved in such a manner that a structure's floor elevation is constructed a minimum of two feet above the base flood elevation (BFE) as determined by historical flood height information, or as determined by a detailed hydrologic and hydraulic engineering study as specified in § 82-12F of the Code of the Town of New Paltz, if required.
  - (b) When no floodway or base flood elevation (BFE) is available or specifically required in accordance with the conditions specified in § 82-12G of the Code of the Town of New Paltz, or when no historical flood height information is available, and when submission of site elevation survey data to demonstrate the likelihood the site is within or outside of the floodplain is not deemed necessary by the Building Inspector, the lowest floor (including basement) of a dwelling shall be elevated at least three feet above the highest adjacent grade.
- E. Permitted uses: All uses so designated for the Floodplain District as shown on the Schedule of Permitted Uses of § 140-8B of Article II of Chapter 140 of the Code of the Town of New Paltz, subject to the following prohibitions and restrictions:



- (1) Any use of lands is permitted which does not involve a structure, a fence, an addition to the outside dimensions of an existing structure (including a fence) or an obstruction to flood flows such as fill, excavation or fixed storage of materials or equipment.
- (2) Any use of land involving the construction of new structures, a fence, the placement or replacement of manufactured homes, the addition to the outside dimensions of an existing structure (including a fence) or obstructions such as fill or fixed storage of materials or equipment, provided these activities are located on land within the Flood Fringe (FF) or areas of the General Floodplain (GF) portion of the floodplain, in compliance with the location and elevation restrictions as specified herein. These uses shall be subject to the development standards and criteria of Chapter 82, Flood Damage Prevention, of the Code of the Town of New Paltz and Subsection G of these Floodplain District regulations.

F. Prohibited uses.

- (1) In all subdistricts, the following critical facilities shall be strictly prohibited:
  - (a) Structures or facilities that produce, use or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.
  - (b) Solid waste landfills and solid waste transfer station facilities.
  - (c) Hospitals, nursing homes, and types of assisted living housing similar to group homes and age-restricted housing which may have occupants who may not be sufficiently mobile to avoid injury or death during a flood.
  - (d) Police stations, fire stations, vehicle and equipment storage facilities, and emergency operation centers that are needed for flood response activities before, during and after a flood.
  - (e) Public and private utility facilities such as electrical power generating facilities and substations, telephone equipment buildings and the like that are vital to maintaining or restoring normal services to flooded areas before, during and after a flood. This prohibition is not intended to apply to stormwater management facilities, fuel storage tanks, water supplies and wastewater treatment and disposal systems that specifically comply with the NFIP, the New York State Uniform Fire Prevention and Building Code<sup>78</sup> and all federal, state and/or local governmental and/or agency statutes, ordinances, laws and rules provided for the prevention of flood damage and flood hazards.

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**78.Editor's Note: See Ch. 78, Building Construction and Fire Prevention.**

- (2) No use shall be permitted which will adversely affect the capacity of the channels or floodways of any tributary to the main stream, or of any drainage ditch, or of any other drainage facility or drainage system.
- (3) No use shall be permitted which will alter the flow pattern of a watercourse area, result in the deterioration of water quality or impairment of best usage of waters, or reduce the flood-carrying capacities of watercourses.
- (4) No use shall be permitted that would decrease stormwater retention capabilities, increase the rate of discharge of surface water runoff, or result in an increase in siltation of surface water bodies and adjacent areas.

G. Standards and requirements. **[Amended 12-8-2015 by L.L. No. 3-2015]**

- (1) All new residential buildings located within the Flood Fringe (FF) Subdistrict shall meet the standards and criteria of Chapter 82, Flood Damage Prevention, of the Code of the Town of New Paltz.
- (2) All new nonresidential commercial or light industrial buildings located within the Flood Fringe (FF) Subdistrict shall meet the standards and criteria of Chapter 82, Flood Damage Prevention, of the Code of the Town of New Paltz. An architect's or engineer's certification that the nonresidential building or structure has been designed and constructed in compliance with FEMA and the New York State Uniform Fire Prevention and Building Code<sup>79</sup> standards and requirements must be provided, as applicable. No storage of materials shall be allowed below the base flood elevation.
- (3) Compensatory storage. Whenever any portion of a floodplain is authorized for development, the volume of space occupied by any authorized fill or structure that will be located below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation at or adjacent to the development site. All such excavation shall be constructed to drain freely to the watercourse. No area below the water line of a pond or other body of water or below the normal elevation at which groundwater is found can be credited as compensating excavation.
- (4) Incidental fill placement. The volume of fill materials to be placed in the floodplain shall be minimized to the extent practicable. With the exception of the fill placed above the existing natural ground elevation that is required to construct the immediate building site for the principal structure, wastewater treatment system and the required access to the residence, and excepting fill materials used for operations and activities of agriculture as defined in § 44-3 of

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79. Editor's Note: See Ch. 78, Building Construction and Fire Prevention.

the Code of the Town of New Paltz, additional fill materials placed above the existing natural ground elevation in the floodplain shall not exceed 40 cubic yards per building site, unless otherwise specifically allowed by the Town Building Inspector.

- (5) Individual well water supplies shall be designed and constructed to prevent any contamination from inundation by floodwaters and a licensed engineer shall certify that the system was constructed in accordance with a design approved by the Health Department, or if such approval is not required, acceptable to the Town Engineer.
- (6) New or replacement on-site subsurface wastewater disposal systems should be located outside floodplain areas whenever possible, and those systems that must be located within floodplain areas shall be elevated such that the minimum ground surface elevation of the on-site subsurface wastewater disposal system shall be a minimum of three feet above the base flood elevation (BFE) and a licensed engineer shall certify that the system was constructed in accordance with a design approved by the Health Department, or if such approval is not required, acceptable to the Town Engineer.
- (7) Subsurface wastewater disposal systems shall not be located closer than 100 feet to the natural bank of a perennial or intermittent stream.
- (8) Residential buildings placed on fill within Zones AE and AH of the floodplain shall be provided with well-compacted fill materials necessary to establish a minimum ground elevation at the building's foundation that is a minimum of 1.0 foot above the base flood elevation (BFE), and that a minimum slope of 1.5% shall be required for drainage away from the building foundation for a minimum distance of 25 feet. Minimum requirements for soil fill compaction shall be 90% maximum dry density as determined by the Standard Proctor (ASTM D 698) test method. Laboratory soil density compaction test results shall be submitted to and accepted by the Building Inspector to demonstrate the required compliance for fill materials placement.
- (9) Residential buildings placed on fill within Zone A of the floodplain shall be provided with well-compacted fill materials necessary to establish a minimum ground elevation at the building's foundation that is 1.0 foot below the building's floor elevation, said building floor elevation being established at the height specified in the standards and criteria of Chapter 82, Flood Damage Prevention, §§ 82-16 and 82-19 of the Code of the Town of New Paltz. A slope of 1.5% shall be required for drainage away from the building foundation for a minimum distance of 25 feet.
- (10) For the construction of new buildings and/or a substantial improvement to structures on fill within the floodplain, the volume

of fill materials shall be minimized to the extent practicable, well compacted, and stabilized in an acceptable manner that will resist wave action.

- (11) The lowest floor of building extensions and additions outside the footprint of the original building shall be required to be elevated above the base flood elevation (BFE), as specified herein, or alternatively floodproofed in the case of nonresidential building extensions and/or additions.
- (12) Electrical services, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (13) Stormwater management facilities shall be required to ensure that the rate of runoff discharge from the site does not increase above predevelopment conditions.
- (14) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to the applicable state or local anchoring requirements for resisting wind forces.

#### H. Nonconforming uses and structures.

- (1) Except as provided hereinafter with respect to certain uses, any lawful use of a building, structure, lot or lands located within the Floodplain District which existed on the effective date of this section, or which existed at the time of any subsequent amendment thereto which applied to such use, may be continued indefinitely, regardless of the change of title, possession or occupancy or right thereof, notwithstanding that such use of the building, structure, lot or lands does not thereafter conform to the provisions of this section.<sup>80</sup>
- (2) Lawfully existing parcels of land located within the Floodplain District which are unimproved and which existed on the effective date of this section that are subsequently subdivided for the purpose of creating additional lots must comply with the standards and criteria of this section, Chapter 121 and Chapter 82 of the

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**80. Editor's Note: Former Subsection H(2), concerning development of any unimproved lawfully existing parcel of land in the Floodplain District which immediately followed this subsection, was repealed 12-8-2015 by L.L. No. 3-2015, which local law also redesignated former Subsection H(3) through (7) as Subsection H(2) through (6), respectively.**

Code of the Town of New Paltz.<sup>81</sup> **[Amended 12-8-2015 by L.L. No. 3-2015]**

- (3) If any existing use or existing structure located within the Floodplain District is substantially damaged, as defined in Subsection C of this section, it shall not be reconstructed except in conformity with the provisions of this section.
- (4) No existing nonconforming dwelling which is located within the Floodplain District shall be enlarged such that the living area of such dwelling, excluding basement, shall be increased unless the enlarged facilities are constructed in compliance with the provisions of this section, with Chapter 82 of the Code of the Town of New Paltz and with the provisions of the New York State Uniform Fire Prevention and Building Code. **[Amended 12-8-2015 by L.L. No. 3-2015]**
- (5) All structural alterations and/or additions to existing dwellings and/or accessory structures located within the Floodplain District shall be designed in all respects in compliance with the FEMA National Flood Insurance Program for new construction and the New York State Uniform Fire Prevention and Building Code<sup>82</sup> standards and requirements at the time of issuance of a building permit.

#### **§ 140-20. R-V Variable-Density Residence District.**

- A. The Town Board may, after Planning Board review, public notice and hearing, approve, establish, describe and designate an R-V Variable-Density Residence District on the Official Zoning Map of the Town of New Paltz<sup>83</sup> pursuant to sections of the Town Law and amendments thereto. The public hearing upon such application shall be noticed in accordance with Article XVI, Public Hearings, of Chapter 140, Zoning, of the Code of the Town of New Paltz. **[Amended 5-24-2007 by L.L. No. 2-2007]**
- B. The Planning Board may approve the site plan and development of a parcel of land for permitted uses in the R-V Variable-Density Residence District, subject to appropriate conditions and regulations for such development and the following terms and conditions:
  - (1) Location and minimum required acreage of site: 10 acres, except five acres if adaptive reuse of existing building or structure is proposed. **[Amended 9-10-2003 by L.L. No. 6-2003]**

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**81.Editor's Note: Former Subsection H(4), concerning substantial improvement, which immediately followed this subsection, was repealed 12-8-2015 by L.L. No. 3-2015, which local law also redesignated former Subsection H(4) through (6) as Subsection H(3) through (5).**

**82.Editor's Note: See Ch. 78, Building Construction and Fire Prevention.**

**83.Editor's Note: The Zoning Map is included in a pocket at the end of this volume.**

- (2) Application of regulations. Individual uses and structures in the R-V District need not comply with specific building locations, height, lot size or open space requirements of the underlying basic district. The overlay superimposes the regulations for the R-V Variable-Density Residence District upon the underlying district.
- (3) Use regulations. Permitted principal uses in R-V Districts shall be as set forth in § 140-8A. **[Amended 12-30-1987 by L.L. No. 9-1987]**
- (4) Schedule of standards for R-V Districts. Each development shall meet the following minimum requirements and shall be limited to the following standards for garden apartment or townhouse structures: **[Amended 9-10-2003 by L.L. No. 6-2003]**

<b>Element</b>	<b>Initial Development</b>	<b>Per Dwelling Unit</b>
Minimum lot area	10 acres*	2,500 square feet for 0 bedrooms 3,000 square feet for 1 bedroom 4,000 square feet for 2 bedrooms 5,000 square feet for 3 bedrooms 6,000 square feet for 4 bedrooms
Lot width	300 feet	
Lot depth	500 feet	
Frontage on arterial or collector road	200 feet	
Front setback (all buildings)	75 feet**	
Setback from side and/or rear lot lines (all buildings)	75 feet, except 100 feet when adjoining a single-family residence district***	
Minimum distance between buildings	Twice the average height of the 2 buildings measured from finished grade at their closest points	
Maximum height of principal buildings	35 feet (2 1/2 stories)	

<b>Element</b>	<b>Initial Development</b>	<b>Per Dwelling Unit</b>
Maximum height of accessory buildings	15 feet	
Maximum building coverage	15%	
Required off-street parking		1 1/4 spaces, plus 1/4 space per bedroom, of which at least 1 space shall be open-air parking
Minimum right-of-way of principal internal streets	60 feet	
Minimum paved width of principal internal streets	24 feet	
Minimum area devoted to active recreation and playground purposes		500 square feet per bedroom or studio apartment
Street trees in parking areas	1 tree per 10 parking spaces	
Street trees in roadways	1 tree on each side of road every 50 feet	
Open space, (including recreation, playground and conservation area)	45% of site	

## NOTES:

\*May be reduced by the Planning Board for an adaptive reuse pursuant to § 140-20B(5)(d) as necessary, but at least five acres shall be provided

\*\*May be reduced by the Planning Board for an adaptive reuse pursuant to § 140-20B(5)(d) as necessary, but at least five feet shall be provided

\*\*\*May be reduced by the Planning Board for an adaptive reuse pursuant to § 140-20B(5)(d) as necessary, but at least five feet shall be provided, except that 25 feet shall be provided along any boundary adjoining an existing single-family residence or residential district

## (5) Performance standards.

- (a) General standards. The following general standards are hereby adopted for a control of uses in any R-V Variable-Density Residence District, and no use shall be permitted, established or maintained or conducted therein which shall cause or be likely to cause:

- [1] Any pollution by discharge of any waste material whatsoever or any water pollution.
- [2] Excessive smoking, fumes, gas, dust, odor or any other atmospheric pollution beyond the boundaries of the lot wherein such uses are located. What smoke is excessive will be determined according to Ringelmann's Scale for Grading the Density of Smoke, published by the United States Bureau of Mines, when the shade or appearance of such smoke is darker than No. 2 on said Ringelmann Smoke Chart.
- [3] Discharge of any waste material whatsoever into any sanitary disposal system or sewage system, except only in accordance with the rules of and under the control of public health authorities or the the public body controlling such sewage system.
- [4] Any other nuisance harmful to persons or property.

- (b) Specific standards. The following specific standards are hereby adopted and must be complied with for and by any use in any R-V Variable-Density Residence District and before the same is permitted, established, maintained or conducted:

- [1] Landscaping. It is hereby declared that all areas of the plot not occupied by buildings, parking, driveways or walkways or storage shall be landscaped attractively with lawn, trees, shrubs or other plant material. Such landscaping shall take into consideration the natural growth presently on the premises and the nature and condition of the terrain as well as the situation of the lands and premises themselves and with regard to adjoining lands and premises.
- [2] Fences and walls. Property that is adjacent to a residential or business district shall be provided along said property line with a wall, fence, compact evergreen hedge or landscaped strip of trees and shrubs so designed as to form a visual screen not less than six feet high at time of planting. Except for landscaped areas and parking areas, a use which is not conducted within a completely enclosed building shall be screened by a six-foot solid masonry wall, chain link fence covered with evergreen vine or compact



evergreen hedge. Where a front yard adjoins a street, the wall, fence or hedge shall be located no closer to the street than the depth of the required yard.

- [3] Signs: Refer to Article XIII. **[Amended 12-20-2001 by L.L. No. 6-2001]**
  - [4] Buffer strip. In addition to the fences and walls, the entire district must be separated along its outside boundary from any adjoining residential zones by a buffer strip, suitably landscaped, at least 100 feet wide, except that when an adaptive reuse is proposed, the Planning Board may, in appropriate circumstances, reduce the buffer area required along any boundary of the site plan that adjoins an existing residence where suitable landscaping and/or fencing is provided to buffer the existing residential use and the owner(s) of the property containing the residence(s) give written consent to the reduction of the buffer area otherwise required, in which case a minimum of five feet of buffer so improved shall be provided. **[Amended 9-10-2003 by L.L. No. 6-2003]**
  - [5] Streets and/or roads. All streets in the Variable-Density Residential Development shall meet the standards set forth for Town roads in the Road and Drainage Specifications and Standards for the Town of New Paltz and shall be suitable for dedication to the public. The Planning Board shall designate the major circulation system and shall differentiate it from parking areas and driveways by requiring that the system be indicated as streets and/or roads.
  - [6] Placement of utilities. Utilities shall be placed underground and shall be situated, to the extent possible, between the paved roadway and designated street line or in community areas to simplify location and repair of the lines. Wherever possible, utilities should be routed around structures, paved areas and private areas.
  - [7] Other utilities and facilities. All utilities, facilities and amenities as normally required under site plan review, to include but not to be limited to sidewalks, storm drainage facilities, curbs, gutters, solid waste disposal facilities, lighting, signs, recreation facilities, parking, trees and landscaping, shall be reviewed and approved by the Planning Board after recommendations of its consultants.
- (c) Water supply and sewerage. Each dwelling unit shall be served by municipal water supply facilities and wastewater treatment facilities as approved by the appropriate state and municipal agencies and the County Health Department.

- (d) Adaptive reuse of buildings or structures located within a Residential Variable (R-V) District shall be permitted following review and approval of a site plan for such use by the Planning Board. Upon finding that the particular circumstances of a proposed use are such that the adaptive reuse of an existing building for a proposed use will adequately be buffered from adjoining lands and uses by topography, existing or proposed buffer areas or other circumstances, that the existing building or structure is so situated with respect to existing or proposed lot lines and adjoining properties that it requires reduction of lot area and other dimensional requirements of this chapter and that the objectives of this chapter will be met by doing so, the Planning Board may, in its discretion, reduce the lot area, required yards and setbacks otherwise required in the R-V District as follows, provided that such reduction shall be the minimum reduction required by the circumstances of the proposed use and not less than the minimum requirement for an adaptive reuse: **[Added 9-10-2003 by L.L. No. 6-2003]**

<b>Dimension</b>	<b>Adaptive Reuse Requirement</b>
Minimum lot area	5 acres
Front yard setback	75 feet*
Setback from side and/or rear lot lines (all buildings)	75 feet**

Notes:

\*May be reduced by the Planning Board as necessary, but at least five feet shall be provided

\*\*May be reduced by the Planning Board as necessary, but at least five feet shall be provided, except that 25 feet shall be provided along any boundary adjoining an existing single-family residence or residential district.

- (6) Area and bulk regulations. Area and bulk requirements shall be in compliance with those for R-V Variable-Density Residence Districts as set forth in Subsection B(4) of this section.
- (7) The Planning Board, upon review of the proposed development, may prescribe such additional conditions as are, in its opinion, necessary to secure the objectives of this chapter.
- C. Procedure. The same procedure as per § 140-18G shall be followed in the application for and approval of R-V Variable-Density Residence Districts.
- D. Security for landscaping, drainage and excavation work. In addition to such security as may otherwise be required by provisions of the Town Code to secure performance of the developer's obligations, security, in

the form of an irrevocable letter of credit or other surety specified in § 277(9)(c) of the Town Law, acceptable to the Town Board and the Attorney for the Town as to form, sufficiency and manner of execution, and a written security agreement, shall be required for landscaping and drainage of community areas and shall be sufficient in amount, as determined by the Town Planning Board, to return this land to its natural form should the developer default in the excavation or landscaping stages of the development. The security shall be posted with the Town official prior to the issuance of any building permit for buildings or structures on that land. Twenty percent of the amount secured may be retained for one year after the date of issuance of a certificate of occupancy for the building(s) or structure(s) as a maintenance bond for those improvements and shall be returned to the developer if the improvements have been maintained in satisfactory condition during that period. **[Amended 9-10-2003 by L.L. No. 6-2003]**

- E. Maintenance of community areas. The applicant shall submit a written program for the maintenance of any community areas such as open space, landscaping, recreation areas, lawns, walkways, driveways, parking areas and all utilities and facilities. This program shall indicate on whom the responsibility falls for the maintenance program and demonstrate how the responsibility will be legally bound upon that party. Community areas may be dedicated to the Town by the applicant at the discretion and upon approval of owners and approval and acceptance by the Town Board.

**§ 140-21. MHN Mobile Home Neighborhood District. [Amended 4-26-1978 by L.L. No. 5-1978; 7-11-1979 by L.L. No. 1-1979; 4-25-1984 by L.L. No. 3-1984]**

A. Intent and purpose.

- (1) It is the purpose of the Mobile Home Neighborhood District to provide for planned mobile home residential developments, including related recreational and related service facilities. It is further the purpose to establish sites at appropriate locations within the Town of New Paltz in relation to existing and potential development areas and in relation to other uses and community facilities.
- (2) It is the intent of the Mobile Home Neighborhood District to offer the maximum amount of freedom possible in the design of mobile home neighborhoods, to encourage the development of comprehensive bicycle and pedestrian circulation networks, to provide the amenities normally associated with planned residential areas and to promote the health, safety and general welfare of the present and future inhabitants of the Town of New Paltz.
- (3) The fact that an application complies with all specific requirements and purposes set forth herein shall not be deemed to create a

presumption that the application is, in fact, compatible with surrounding land uses and in itself shall not be sufficient to require the granting of any application.

- B. Definitions. As used in this section, the following terms shall have the meanings indicated:

COLLECTOR STREET — A street which collects traffic from local streets and connects with the New York State or Ulster County highway upon which the Mobile Home Neighborhood District has frontage.**[Added 5-23-1991 by L.L. No. 3-1991]**

DOUBLE-WIDE MOBILE HOME — A mobile home constructed on two separate chassis and designed to be joined together to form a single dwelling.**[Amended 5-23-1991 by L.L. No. 3-1991]**

LICENSEE — Any person, firm, trust, partnership, association or corporation licensed to operate and maintain a mobile home neighborhood under the provisions of this section.

LOCAL STREET — A street designed to provide access to abutting property within the Mobile Home Neighborhood District and to discourage through traffic.**[Added 5-23-1991 by L.L. No. 3-1991]**

MOBILE HOME **[Amended 5-23-1991 by L.L. No. 3-1991]** — A structure, transportable in one or more sections, which is more than eight body feet in width, is more than 36 body feet in length in the traveling mode or contains 600 or more square feet in interior space when erected on site, and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. Such "mobile home" shall also meet the following:

- (1) Construction standards. Mobile homes shall be constructed in accordance with regulations set forth in the Code of Federal Regulations (CFR), Title 24, Housing and Urban Development, Chapter 20, Office of Assistant Secretary of Housing and Urban Development and Part 3280, Mobile Home Construction and Safety Standards.
- (2) Data plate. Every mobile home shall bear a data plate affixed in the manufacturing facility bearing not less than the following information:
- (3) The following statement: "This mobile home is designed to comply with the federal mobile home construction and safety standards in force at the time of manufacture"; provided, however, that for the purposes of this chapter and notwithstanding that such data plate so affixed bears such information or statement, every mobile home must be constructed in accordance with the regulations set forth in the foregoing Subsection B(1) of this definition.

- (4) Reference to the structural zone and wind zone for which the home is designed.

MOBILE HOME LOT — An area of land within a mobile home neighborhood designed and designated for the siting of one mobile home.

MOBILE HOME NEIGHBORHOOD — A residential development intended to accommodate mobile homes as defined herein and including various facilities for the service of the residents.

MOBILE HOME STAND — A durable surface located on a mobile home lot which is to be used for the placement of and is capable of supporting a mobile home.

SINGLE-WIDE MOBILE HOME — A mobile home constructed on a single chassis to form a single dwelling. **[Added 5-23-1991 by L.L. No. 3-1991]**

C. Mobile home neighborhood locational requirements.

- (1) Establishment of a Mobile Home Neighborhood District. The Town Board may, after Planning Board review, public notice and hearing, approve, establish, describe and designate a Mobile Home Neighborhood District on the Official Zoning Map of the Town of New Paltz<sup>84</sup> pursuant to sections of the Town Zoning Law and amendments thereto. The same rezoning procedure as per § 140-18G of this chapter shall be followed in the application for an approval of a Mobile Home Neighborhood District. The public hearing upon such application shall be noticed in accordance with Article XVI, Public Hearings, of Chapter 140, Zoning, of the Code of the Town of New Paltz. **[Amended 5-24-2007 by L.L. No. 2-2007]**

(2) Locational requirements.

- (a) Zoning districts. The location of a Mobile Home Neighborhood District shall be limited to the Agriculture 1.5 (A-1.5), Agriculture 3 (A-3) and the Residence (R-1) Districts of the Town of New Paltz.
- (b) Community facilities. Essential community facilities and services for the mobile home neighborhood, such as employment, shopping, schools, recreation areas and police and fire protection, shall be reasonably accessible.
- (c) Impact to surrounding properties. The uses will not be detrimental to present and potential surrounding uses but will have a beneficial effect which could be achieved under any other district.

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**84. Editor's Note: The Zoning Map is included in a pocket at the end of the volume.**

- (d) Streets. Existing and proposed streets are suitable and adequate to carry anticipated traffic within the proposed development and in the vicinity of the proposed district.
- (e) Utilities. Existing and proposed utility services are adequate for the proposed development, and such utility services shall be placed underground.
- (f) Development phasing. Each phase of the proposed development, as it is proposed to be completed, shall contain the required parking, landscape plantings, recreational areas and utility services necessary for creating and sustaining a desirable and stable environment.
- (g) Nonresidential development. Any nonresidential use of the property shall be subordinate to the residential use of and character of the property.
- (h) Highway frontage. A mobile home neighborhood shall have frontage on and direct access to a New York State highway or Ulster County highway.

D. Required license for a mobile home neighborhood.

- (1) Annual license requirement. It shall be unlawful within the Town of New Paltz for any person or persons to construct or operate a mobile home neighborhood without first securing a license annually from the Town Board and complying with the regulations of this section.
- (2) License fees. The application for annual license or the renewal thereof shall be filed with the Town Clerk and shall be accompanied by a nonrefundable fee as set forth from time to time by resolution of the Town Board. The fee for an annual license shall be the same as that for an initial application. Thereafter, each mobile home shall be assessed on the tax rolls of the Town of New Paltz against the owner(s) of the mobile home neighborhood development. In addition, an inspection fee as set forth from time to time by resolution of the Town Board will be charged, for the purpose of compliance with this section or any other applicable local law or ordinance, prior to the issuance of a certificate of occupancy. Such fee shall apply to the initial installation of units or the replacement of such units as determined by the Building Inspector. **[Amended 12-30-1987 by L.L. No. 9-1987]**
- (3) Application requirements. The application for a license or renewal thereof shall be made on forms prescribed by the Town Board and shall include the name and address of the fee owner of the property. In the event that the fee is vested in some person other than the applicant, the application shall be submitted together with a duly verified statement by the owner in fee that the applicant is authorized by him/her to construct and maintain the mobile home

neighborhood. Each license or renewal thereof shall expire on the 31st day of December following the issuance thereof.<sup>85</sup>

E. Application procedure for a license.

- (1) Application preparation/content. Application for a mobile home neighborhood license shall be accompanied by three sets of plans prepared by a licensed landscape architect, architect, engineer or land surveyor, shall be filed with the Town Clerk and shall include the following:
  - (a) The name and address of the applicant.
  - (b) The location and legal description of the proposed mobile home neighborhood site.
  - (c) A complete plan of the Mobile Home Neighborhood in conformity with the requirements of this section, including but not limited to the square footage for each lot shown and the maximum unit size which each lot is designed to accommodate, together with all required setbacks as required for each lot pursuant to the provisions of this section. **[Amended 5-23-1991 by L.L. No. 3-1991]**
  - (d) Plans and specifications of all improvements and facilities constructed or to be constructed within the mobile home neighborhood.
  - (e) Such further information as may be requested by the Town Board to enable a proper determination if the proposed mobile home neighborhood will comply with all legal requirements.
- (2) Application filing. The application and all accompanying plans and specifications shall be filed in triplicate. The Town Clerk shall deliver two copies to the Town Planning Board, which said Board shall review the application. If the proposed mobile home neighborhood will, when constructed in accordance with such plans and specifications, be in accordance with all provisions of this section and all other applicable local laws, ordinances or statutes, also including state, federal and county laws, the Planning Board shall approve the application and deliver the same to the Town Board for review and approval. Upon the completion of the mobile home neighborhood in accordance with the plans and specifications, the Town Clerk shall issue a license upon order of the Town Board.
- (3) Application for license renewal. Upon application, in writing, to the Town Clerk by a licensee for renewal of a license and upon payment of the annual license fee, the Town Board shall order an inspection

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**85. Editor's Note: Former Subsection D(4), Nonconforming mobile homes, which immediately followed this subsection, was repealed 5-23-1991 by L.L. No. 3-1991.**

of the mobile home neighborhood by the Building Inspector, and if it is still in compliance with the applicable local laws and ordinances, a report shall be made to the Town Board. By order of the Town Board, the Town Clerk shall issue a certificate renewing such license for another year.

F. Mobile home neighborhood design standards.

(1) Site development.

- (a) Minimum site size. Mobile home neighborhoods shall be located on well-drained sites comprising a minimum of 10 acres.
- (b) Grading. The site shall be properly graded to ensure rapid drainage so that no portion of the site is subject to predictable sudden flooding or erosion.
- (c) Minimum frontage. Where no secondary access is provided, the site shall have a minimum of 300 feet of frontage on the highway providing primary access to the site.
- (d) Minimum setbacks. Subject to the additional requirements of this section, no mobile home, mobile home accessory building, mobile home neighborhood office or service building shall be located within: **[Amended 5-23-1991 by L.L. No. 3-1991]**
  - [1] One hundred feet measured at right angles to the center line of any highway serving as the primary access to the mobile home neighborhood, as the term "primary access" is defined pursuant to the provisions contained at Subsection F(3)(e) of this section.
  - [2] Seventy-five feet of any adjoining property line boundary of any lot, parcel or plot of land upon which there is erected, in whole or in part, any building or structure used or intended to be used primarily as a residence as of the date upon which an application is filed as provided for pursuant to the provisions of this section for the granting of a mobile home neighborhood license.
  - [3] Seventy-five feet of any adjoining property line boundary of any lot, parcel or plot of land shown upon any subdivision plat lawfully approved and filed in the office of the Clerk of the County of Ulster as of the date upon which an application is filed as provided for pursuant to the provisions of this section for the granting of a mobile home neighborhood license.
  - [4] Fifty feet of any adjoining property line boundary of any lot, parcel or plot of land not otherwise described in Subsection F(1)(d)[2] and/or [3] above.



## (e) Rent/ownership.

- [1] The lands lying wholly within the perimeter boundaries of any proposed or established Mobile Home Neighborhood District:
  - [a] Shall be held in single ownership and shall consist of separately dimensioned, individual lots, collectively held in single ownership and used entirely for rental purposes only; or
  - [b] If designed for the purpose, whether immediate or future, of transfer of ownership, shall consist of separately dimensioned, individual lots subdivided in accordance with the Town of New Paltz Land Subdivision Regulations, as adopted.<sup>86</sup>
- [2] In no event shall both of the foregoing types of use be permitted simultaneously within the geographical boundaries of any one proposed or established Mobile Home Neighborhood District.
- [3] The transfer of title of all or any portion of such lands by the owner(s) thereof not in accordance with the provisions of this subsection shall constitute a violation of this section.

## (2) Density/lot standards.

- (a) Lot density/lot setbacks. Each mobile home neighborhood shall be designed to accommodate separately identified mobile home lots as follows:
  - [1] The minimum lot area for each unit to be placed shall be calculated pursuant to the provisions of this subsection. In determining compliance with the following square footage requirements for each lot within the mobile home neighborhood, the area shall be the square footage lying within the perimeter of the lot lines for each separate lot, and, for purposes of this section, lot lines shall run to and shall be coincident with the edge of pavement of the street or streets upon which each abuts. **[Amended 5-23-1991 by L.L. No. 3-1991]**
    - [a] The minimum lot area for each unit to be placed shall be 7,800 square feet.
  - [2] Maximum number of units per gross acre: 4.5.
  - [3] Minimum front yard setback requirements. No mobile home nor any portion thereof shall be erected nearer than

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86. Editor's Note: See Ch. 121, Subdivision of Land.

55 feet measured at right angles to the center line of any collector street access to all or any portion of the Mobile Home Neighborhood District or to the lot upon which such mobile home is or shall be erected. **[Amended 5-23-1991 by L.L. No. 3-1991]**

- [4] In any case where the front portion of any mobile home is to be erected at an angle less than 30° measured at right angles to the center line of any roadway, no such mobile home nor any portion thereof shall be erected nearer than 15 feet to any side lot line of the lot whereon such mobile home shall be erected. **[Amended 5-23-1991 by L.L. No. 3-1991]**
- [5] In any case where the front portion of any mobile home is to be erected at any angle more than 30° measured at right angles to the center line of any roadway, no such mobile home nor any portion thereof shall be erected nearer than 50 feet to any side lot line of the lot whereon such mobile home is or shall be erected. **[Amended 5-23-1991 by L.L. No. 3-1991]**
- [6] No mobile home nor any portion thereof shall be erected nearer than 50 feet measured at right angles to the rear lot line of the lot whereon such mobile home is or shall be erected; provided, however, that the area covered by any porch, deck, ramp or similar attached contrivance or device, including any attached storage area, shall be exempt for the purpose of calculating the distance to the rear lot line provided for by the provisions of this subsection. **[Amended 5-23-1991 by L.L. No. 3-1991]**
- [7] No detached utility building, storage shed or similar accessory structure, including but not limited to those accessory structures commonly referred to as "barbecue pits," "plat sets," "swing sets" or the like, shall be erected or installed nearer than 10 feet measured at right angles to the rear lot line or to any side lot line, and in no event shall any utility building, storage shed or accessory structure, contrivance or device as set forth above be installed or erected within any area comprising all or any portion of the front yard. **[Added 5-23-1991 by L.L. No. 3-1991]**
- [8] No mobile home nor any portion thereof shall be erected nearer than 47 feet measured at right angles to the center line of any local street providing access to all or any portion of the mobile home neighborhood or to the lot upon which such mobile home is or shall be erected. **[Added 5-23-1991 by L.L. No. 3-1991]**

- (b) Mobile homes installed within a Mobile Home Neighborhood District shall be installed in compliance with the applicable provisions of Title 9, Article 3, of the Uniform Fire Prevention and Building Code of the State of New York. **[Amended 5-23-1991 by L.L. No. 3-1991]**
- (c) Each mobile home lot shall be improved to provide an adequate stand for the placement and tie-down of the mobile home, thereby securing the structure against uplift, sliding, rotation and overturning.
- (d) There shall be a longitudinal gradient of 0% to a maximum of 5% and an adequate crown or cross-gradient for surface drainage.
- (e) Each mobile home stand shall consist of a foundation designed for support of a mobile home so as to prevent heaving, shifting and uneven settling in the form of either: **[Amended 5-23-1991 by L.L. No. 3-1991]**
  - [1] A full concrete pad, including concrete piers or equivalent, extending a minimum of 42 inches below ground level at a minimum of every eight feet for the entire length of the mobile home;
  - [2] Perimeter foundation walks having a minimum of eight inches in width and 42 inches in depth; or
  - [3] Lateral runners of a minimum of 16 inches by 36 inches spaced every eight feet for the entire length of the mobile home.
- (f) The structural frame of each mobile home shall be attached to the foundation in not less than six places, located in accordance with good engineering practice. Each attaching device shall be capable of withstanding a tension force of at least 2,800 pounds and shall be designed so as to secure the mobile home against uplift, sliding, rotation and overturning.
- (g) Each mobile home foundation shall be enclosed by a skirt securely fastened and extending from the outside wall of the mobile home to ground level around the entire perimeter of the mobile home. The skirt shall be constructed of sturdy wood, plastic, masonry or metal material, rigid, solid and nontransparent: a consistent material in color harmony with each unit and capable of withstanding extreme weather conditions over extended periods of time. No skirt shall be required where a perimeter foundation fully encloses the area between the unit and the ground level. Such skirt shall be installed within 10 days after placement of the mobile home on the foundation.

- (h) Mobile home lot access. All designated lots within a mobile home neighborhood shall have direct access to streets designed to Town of New Paltz specifications and to be approved by the Town Superintendent of Highways.
- (i) Refuse receptacles. Adequate refuse receptacles with tight-fitting covers shall be provided for each mobile home unit. These receptacles shall be kept in sanitary condition and emptied weekly by the licensee or his/her agent.
- (j) Required parking. Two off-street parking spaces shall be provided for each mobile home, with one additional space for each four mobile homes. Every parking space shall be at least 10 feet in width and 20 feet in length and shall have adequate provision for maneuvering and for passage to and from streets.
- (k) Mobile home neighborhood caretaker. Each mobile home neighborhood licensee shall provide on-site at all times a duly authorized attendant or caretaker who shall be in charge at all times in keeping the mobile home neighborhood and its facilities and equipment in a clean, orderly and sanitary condition. The attendant or caretaker shall be answerable, with the licensee, for the violation of any provision of this section to which the licensee is subject.
- (l) Mobile home unit expansion. Any mobile home unit, whether it is a single-wide or partial double-wide unit, may be expanded to a maximum size of twice the original single-wide unit; however:
  - [1] The increase must be of a standard mobile home unit expansion type.
  - [2] Any expansion must conform to the minimum unit separation.
  - [3] Any expansion must receive site plan approval from the Town of New Paltz prior to the issuance of a building permit for such mobile home unit expansion.
  - [4] Any single-wide unit proposed for expansion shall have a minimum lot area equal to that of a double-wide unit as specified herein.
- (m) Open space/landscape plantings. All areas of the site not occupied by buildings, units, parking areas, driveways or walkways shall be maintained as lawn area with landscape plantings of trees and shrubs or as natural areas as follows:
  - [1] All margins along the front, side and rear property lines of the mobile home neighborhood site shall be planted with evergreen or deciduous trees in a mass planting or

hedgerow for the purpose of visual screening and noise abatement. Such plantings shall be provided to the extent needed in order to provide for the screening of objectionable views, adequate shade and suitable settings for the mobile home and other facilities as approved by the Town of New Paltz.

- [2] The design of individual sites shall take into consideration the natural growth presently on the site and the nature and condition of the terrain as well as the relationship of the site itself with respect to adjoining lands. Screening and/or landscape plantings for such individual sites shall be provided as deemed necessary by the Town of New Paltz.
- (n) Utilities. Each individual mobile home unit shall be served by municipal or private central water supply facilities and wastewater treatment facilities as approved by the appropriate state and municipal agencies and the Ulster County Health Department.
  - [1] An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all mobile home lots and buildings within the neighborhood to meet the requirements of the neighborhood.
  - [2] Each mobile home lot shall be provided with a sewer which shall be connected to the mobile home situated on the lot to receive the waste from the shower, tub, flush toilets, lavatory and kitchen sink in such home. The sewer shall be connected to a public or private sewer system so as not to present a health hazard. Sewer connections in unoccupied lots shall be so sealed as to prevent the emission of any odors and the creation of breeding places for insects.
  - [3] Plumbing connections to each mobile home shall comply with all regulations of the New York State Plumbing Code.
  - [4] Weatherproof electrical service connections and outlets shall be of a type approved by the New York State Board of Fire Underwriters.
  - [5] At least one public telephone or access to office phone shall be required.
- (o) Required storage space. Storage space within a building shall be provided in an amount equal to at least 80 cubic feet for each mobile home lot in the mobile home neighborhood.
- (p) Required recreation area. A recreation area shall be incorporated into the design of the mobile home neighborhood to be of a minimum of 1,000 square feet per mobile home unit

with appropriate facilities to satisfy the needs of the neighborhood residents.

- [1] Such recreation area shall have at least one common area of a minimum of 5,000 square feet, and the Town of New Paltz may establish such conditions on the ownership, use and maintenance of this area as it deems necessary to assure the preservation of the recreation area for its intended purpose.
  - [2] The Town of New Paltz shall also have the authority to require the location within any proposed Mobile Home Neighborhood District of a community recreation and service building and, consistent with such authority, may require that such building contain certain designated facilities, including among them but not being limited to laundry facilities, public telephone, recreational facilities, meeting room and rest rooms.
  - [3] If the Planning Board and/or the Town Board finds that, due to size, topography or location of the Mobile Home Neighborhood District, land for parks, open spaces, playground or other recreational purposes cannot be properly located therein or that same are not desirable, the appropriate Board shall require, prior to approval and filing of the proposed plan, that a payment to the Town of New Paltz recreation trust fund be made in an amount equal to \$100 per mobile home lot within the Mobile Home Neighborhood District being considered for approval. Such amount shall be paid to the Town of New Paltz at the time that final approval of the plan is made, and no such plan shall be finally approved nor filed until such payment has been made.
- (q) Pedestrian. Pedestrianways shall form a logical, safe and convenient system of pedestrian access to all project facilities.
  - (r) Snow removal. The licensee shall be responsible for snow removal from the mobile home neighborhood site to the public highway.
  - (s) Site lighting. Streetlighting shall be provided at all entrances and exits to the mobile home neighborhood and on all internal streets, intersections, walkways and common areas. Such lighting shall provide an illumination of 0.6 footcandle to those areas.
  - (t) Fire protection.
    - [1] A mobile home neighborhood shall be provided with suitable and operable fire extinguishers and other fire alarm and protection devices as may be prescribed by the

fire district wherein said mobile home neighborhood is located. There shall be clear numbering of mobile homes within the mobile home neighborhood, with a layout map provided to the fire and disaster coordinator and to ambulance and police agencies. Water supplies should be adequate as determined by the County Fire Coordinator to permit the effective operation of at least two one-and-one-half-inch hose streams on any fire in a mobile home neighborhood, whether the supply is derived from hydrants connected to an underground water supply system or reservoir or a water supply source of not less than 6,000 gallons suitably accessible for Fire Department drafting operations.

[2] Smoke detectors shall be installed and operable in all mobile homes not so equipped prior to occupancy of such mobile home.

(3) Circulation/access.

(a) Primary access. Each mobile home neighborhood shall be accessible from an existing state or county highway.

(b) Where a mobile home neighborhood has more than 24 mobile home units, two points of entry and exit shall be provided, shall be separated by a minimum of 200 feet and shall be designed as follows:

[1] Such entrances and exits shall be designed and strategically located for the safe and convenient movement into and out of the neighborhood and to minimize friction with the free movement of traffic on a public highway.

[2] All entrances and exits shall be at right angles to the existing public highway.

[3] All entrances and exits shall be free of any material which would impede the visibility of the driver on a public highway.

[4] All entrances and exits shall be of sufficient width to facilitate the turning movements of vehicles with mobile homes attached.

(c) Street standards. Each neighborhood shall have a street or streets provided with a smooth, hard and dust-free surface which shall be durable and well-drained under normal use and weather conditions to provide for the convenient accessibility to all mobile home lots and other important facilities within the neighborhood.

- [1] The street system shall be designed to permit the safe and convenient vehicular circulation within the park.
  - [2] Streets shall be adapted to the topography and shall have suitable alignment and gradient for traffic safety.
  - [3] Such streets shall be designed and constructed in accordance with § 121-21 of Chapter 121, Subdivision of Land.
- (d) Sidewalks. Mobile home neighborhoods shall provide sidewalks for both collector and minor streets in accordance with § 121-22 of Chapter 121, Subdivision of Land.
- (e) Primary access. Primary access of the entire mobile home neighborhood shall be provided by the one or two points of entry and exit directly to the New York State or Ulster County highway upon which the mobile home neighborhood has frontage.
- [1] Such access shall be so designed as to not direct mobile home neighborhood traffic to use abutting Town highways, unless otherwise approved by the Town of New Paltz.
  - [2] Access to such abutting Town highways may be permitted for the primary purpose of providing emergency vehicle access, unless otherwise approved by the Town of New Paltz.
- (f) Secondary access. Access connections to improved Town highways abutting the mobile home neighborhood site are not permitted to be made to Town highways which were constructed as a result of subdivision approval by the Town of New Paltz Planning Board since the adoption of Land Subdivision Regulations by the Town of New Paltz in 1965.<sup>87</sup> The location and design regarding access to any other Town highway shall be determined as a result of the Town's site plan review and approval procedure and shall be subject to such review and approval by the Planning Board and Town Board of the Town of New Paltz.

G. Performance bonds; maintenance.

- (1) Performance bonds. Prior to the issuance of a license or renewal thereof for the operation of a mobile home neighborhood, a certificate by the Town Clerk shall be submitted certifying that the applicant has complied with one of the following;
  - (a) That all public improvements have been installed to the satisfaction of the Town Engineer or any other official or body

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**87.Editor's Note: See now Ch. 121, Subdivision of Land.**



authorized by law to act in accordance with the requirements as specified herein; or

- (b) That a performance bond or certified check has been posted in a sufficient amount to assure such completion of all required improvements and is available to the Town of New Paltz.
  - (2) Maintenance. It shall be the responsibility of the licensee, through the on-site caretaker or attendant, to adequately maintain the mobile home neighborhood at all times. If, however, in an emergency situation, it is necessary for the Town of New Paltz to perform such maintenance, it shall be performed as authorized by the Town Board, and all costs incurred in the performance of such maintenance shall be reimbursed to the Town of New Paltz by the licensee.
- H. Mobile home neighborhood inspection. Before any neighborhood commences operation, the Building Inspector shall make an inspection of the premises to determine that all requirements of this section have been met and issue a certificate of occupancy. No uses shall be permitted until such a certificate has been issued.
- I. Revocation of license.
- (1) Inspection authorization. The Town Board shall have the authority to enter and inspect, for health, sanitary and other provisions of this section, any facility licensed hereunder at any reasonable time.
  - (2) Violations. If, upon inspection, it is found that the licensee has violated any provision of this section, the Town Board shall have the authority to suspend such license and order the mobile home neighborhood closed after notice and an opportunity to be heard. The licensee shall be notified by the Town Board of the nature of the violation, and the Town Board shall set the time by which the violation shall be remedied and the action(s) to be taken if the violation is not corrected.

**§ 140-22. Planned Commercial Park District. [Amended 4-26-1978 by L.L. No. 4-1978]**

- A. It is the purpose of the Planned Commercial Park District (PCP) to provide locations for moderate-intensity office/commercial buildings in areas outside of the central business corridor. It is intended that moderate-intensity office/commercial buildings may be permitted as an alternative use in those areas designated as I-1 Light Industry on the Town of New Paltz Zoning Map<sup>88</sup> which will not have an adverse impact on the adjoining neighborhood.
- B. The fact that an application complies with all specific requirements and purposes set forth herein shall not be deemed to create a presumption

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**88. Editor's Note: The Zoning Map is included in a pocket at the end of this volume.**

that the application is, in fact, compatible with surrounding land uses and in itself shall not be sufficient to require the granting of any application.

- C. The Town Board may, after Planning Board review, public notice and hearing, approve, establish, describe and designate a Planned Commercial Park District on the Official Zoning Map of the Town of New Paltz<sup>89</sup> pursuant to the Town Law and amendments thereto. The public hearing upon such application shall be noticed in accordance with Article XVI, Public Hearings, of Chapter 140, Zoning, of the Code of the Town of New Paltz. **[Amended 5-24-2007 by L.L. No. 2-2007]**
- D. The Planned Commercial Park District shall be applicable to designated I-1 Light Industry Districts where the applicant can demonstrate that the characteristics of the lands in question will meet the intent of this section.<sup>90</sup>
- E. Permitted uses shall be as follows:
  - (1) Office buildings and use of structures for general office purposes. "General office purposes" shall include offices of professional persons, such as doctors, lawyers and landscape architects; general business offices, such as the offices of insurance companies, trade associations, manufacturing companies, investment concerns, banks and trust companies, real estate companies, etc. However, "general office purposes" shall not include any kind of retail or wholesale store or warehouse except as otherwise provided herein.
  - (2) Hotels or motels.
  - (3) Hospitals or convalescent homes.
  - (4) Medical and dental centers or clinics and professional pharmacies or laboratories located therein, provided that such pharmacy or laboratory shall be subject to the conditions imposed by Subsection I of this section.
  - (5) Publicly owned and operated buildings and uses, including community buildings for meetings, conventions, exhibitions, public parks, playgrounds and recreational areas.
  - (6) Government buildings or governmental uses.
  - (7) Indoor recreational facilities.
- F. Accessory uses shall be as follows:
  - (1) Training centers and schools, including child daycare facilities.

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**89.Editor's Note: The Zoning Map is included in a pocket at the end of this volume.**

**90.Editor's Note: Former Section VO2, Minimum site size, which immediately followed this subsection, was deleted 12-30-1987 by L.L. No. 9-1987.**

- (2) Theaters.
- (3) Personal service shops.
- (4) Parking structures.

G. Design elements shall be as follows:

- (1) Minimum site area: 10 acres.
- (2) Minimum lot width: 500 feet.
- (3) Front setback for all buildings: 75 feet.
- (4) Setback from side and/or rear lot lines: 50 feet.
- (5) Maximum lot coverage, building or structural: 30%.
- (6) Maximum building height: three stories or 40 feet, whichever is greater.
- (7) Sewer and water: No land shall be classified in the Planned Commercial Park District unless it is proposed for sanitary sewage and water service, per all requirements of the Health Department and any other applicable agency. In addition, if and when a Town sewer district or a Town water district is formed or expanded, the Planned Commercial Park will become part of said district without cost to the Town of New Paltz and at the sole cost and expense of the developer.
- (8) Vehicular access shall be allowed at a maximum of two locations along the frontage of the parcel, except in the case of an exceptionally large holding wherein the traffic circulation will be improved and safety maintained if additional access is provided.
- (9) Pedestrian areas and access: In an effort to humanize and encourage pedestrian use of the outdoor spaces of the Planned Commercial Development, provisions for such design elements shall be required. The location, design and type of such elements shall be in relation to the design of buildings and site layout in general and shall include pedestrian sitting areas with benches and landscape plantings and accessways from parking areas allowing ease and safety of pedestrian circulation throughout the site.
- (10) Landscape buffer: A minimum of 25 feet of buffer zone shall be provided along any property line which abuts a residential district. In addition, the side yard shall be increased to 100 feet if the building abuts a residential district. The landscape planting in the buffer strip shall be used as an effective screening device.
- (11) Signs. In addition to any sign or signs approved pursuant to the provisions of Article XIII, there shall be allowed not more than one freestanding sign for the complex, the size of which shall not exceed 45 square feet in area, provided that said sign is located no

closer than 10 feet to any property line and shall not rise more than six feet above ground level. **[Amended 12-20-2001 by L.L. No. 6-2001]**

- (12) Off-street parking: Within the total area required (as per § 140-34), a minimum of 10% of that area shall be landscaped with plantings of trees, shrubs and grass, along with other materials per a schedule to be submitted with the site plan. This landscaped area shall afford an opportunity to maintain the aesthetics of the Town and act as guides for the circulation and parking of vehicles and movement of pedestrians throughout the site.
- (13) Outdoor storage or displays shall not be permitted except by the issuance of a special permit for an activity that is being promoted by the entire complex.
- H. Expansion of planned commercial park development. It is the intent of the Planned Commercial Park District to provide the maximum amount of freedom possible for future expansion. Such expansion may be permitted, provided that the proposed addition is compatible with the initial development and the incorporation of additional land area is so planned and designed as to directly relate to and function with such initial development. All supplementary regulations and procedures herein defined shall be applicable. **[Amended 12-30-1987 by L.L. No. 9-1987]**
- I. Medical/dental clinics. Accessory services related to medical/dental clinics, including pharmacies and laboratories for the use of patients visiting the medical practitioners in the clinic, may be permitted as part of the clinic facility, subject to the following specific conditions:
  - (1) All entrances to parts of the building in which these services are provided shall be from within the building.
  - (2) The hours during which these services are provided shall be limited to those during which medical practitioners are receiving patients.
  - (3) Signs and other advertising indicating the availability of these services shall be located within the building.
- J. Procedure. The same procedure as per § 140-18G shall be followed in the application for an approval of a Planned Commercial Park District.

**§ 140-22.1. Gateway Districts. [Added 10-3-2019 by L.L. No. 7-2019]**

- A. The Gateway Zoning Districts are comprised of land formerly in the B-2 Zoning District located in the Main Street (Route 299) corridor, east of the Village of New Paltz. The three Gateway Districts are set forth on the Town Zoning Map. They are:
  - MSMU — Main Street Mixed Use
  - GB — Gateway Business

## GH — Gateway Hamlet

- B. The pictures and diagrams included in the Route 299 Gateway Districts Zoning Illustrations ("Illustrations") provide examples of the application and interpretation of the zoning law.<sup>91</sup>
- C. In the event of any conflict between the standards for the Gateway Districts and other requirements in the Zoning Law, the standards in the Gateway District shall prevail. Development of lands located with the GH District and also within the PRO District will be governed by the provisions of § 140-162B.
- D. Notwithstanding § 140-12A of the Zoning Law, corner lots in the Gateway Districts shall not be considered to have two front yards and shall designate a frontage as a front yard and the other as a side yard.
- E. Distance between principal buildings. In the Gateway Districts, the minimum distance between principal buildings is zero feet.
- F. Sidewalks. The development or redevelopment of any lot in the Gateway Districts shall provide a sidewalk along the full street frontage of said lot to connect adjacent lots and to enhance and provide definition to the street providing frontage for the lot.
  - (1) All sidewalks shall be constructed of concrete or other material acceptable to the Planning Board which have a general tendency not to become slippery when wet.
  - (2) All sidewalks shall be a minimum of five feet wide and shall be designed to be consistent with the Americans with Disability Act Accessibility Guidelines, as well as standards of the applicable highway agency if sidewalks are proposed within the right of way.
- G. Standards for redevelopment.
  - (1) For new development and for projects involving alterations to an existing building that involve an area equal to or greater than 75% of a building's floor area or 75% of the exterior improved area of a lot, full compliance with the design standards for the applicable district is required.
  - (2) For projects involving alterations to an existing building that involve an area equal to or greater than 50% of a building's floor area or 50% of the exterior improved area of a lot, the development shall bring the property into full compliance with the sign standards, lighting standards and landscaping standards for the applicable district and achieve compliance with the other design standards to the extent practicable.

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**91. Editor's Note: Said illustrations are included as an attachment to this chapter.**

- (3) In the case of minor alterations to an existing developed building, structure or lot, any alterations should bring the site into greater conformance with the applicable design standards and the appropriate district purposes in either § 140-22.2A for MSMU, § 140-22.3A for GB, or § 140-22.4A for GH.
- (4) Waiver of standards. In all cases where full compliance with the requirements of Subsections F or G(1) and (2) above cannot be met, an applicant may request a waiver from the Planning Board. The request for a waiver shall include a written explanation of the difficulties in meeting the particular design standard(s) and a description of how the applicant proposes to satisfy the purposes of the appropriate district (see § 140-22.2A for MSMU, § 140-22.3A for GB, or § 140-22.4A for GH) despite lack of compliance with the design standard(s).
  - (a) The Planning Board may grant a waiver of individual requirements of the design standard(s) by unanimous vote of the full Planning Board after consideration of: 1) the practical difficulties of applying the standard to the particular project; 2) the potential adverse impact on surrounding properties and the neighborhood of applying or not applying the standard to the proposed project; 3) the feasibility of alternate means or measures to attain the same goal as the standard. Such decision and findings shall be set forth in writing.
  - (b) If a majority of the full Planning Board recommends approval of a waiver, an applicant may apply to the Town Board for the waiver, which may be granted at a regularly scheduled meeting of the Town Board by an affirmative vote of a majority of the full Town Board.
- H. As part of its site plan and environmental review of projects proposing mixed-use dwellings within 65 feet of the Thruway, the Planning Board shall, where appropriate, consider techniques to mitigate potential impacts of air pollution on the residential dwelling units, such as building orientation, air filtration systems and an increased vegetative buffer.

**§ 140-22.2. Main Street Mixed Use District. [Added 10-3-2019 by L.L. No. 7-2019]**

- A. Purpose: The objective of Main Street Mixed Use District is to ease the transition from the Village to the Town, and transition away from auto-oriented strip commercial development and extend the Village's walkable, mixed-use, "Main Street" character into the Town as properties are improved and redeveloped over time. With the changing commercial real estate landscape, mixed-use development will provide more development options including opportunities for upper-floor residential units that could offer the community much needed housing diversity and affordability. Physical, environmental, and economic

constraints on the expansion of roadway infrastructure require that mobility options such as walking, bicycling, and public transportation be provided in the MSMU. The Empire State Trail traverses this District, with pedestrians guided to Main Street and bicyclists directed up North Putt Corners Road to Henry W. Dubois Drive. Development in the MSMU should be organized and designed to support a multi-modal transportation system.

- B. Permitted uses are set forth in § 140-8B. Parking is permitted as an accessory use with site plan approval. Any parking structure shall be designed to be hidden from view from the street.
- C. Area and bulk regulations. The area and bulk regulations for MSMU are set forth below:
  - (1) Minimum lot area: 7,500 square feet.
  - (2) Lot width: 75 feet.
  - (3) Required lot frontage: 75 feet.
  - (4) Required yards:
    - (a) Front: On state roads, a minimum 25 feet plus one additional foot for every foot of building height over 25 feet to a maximum setback of 40 feet. On local and county roads, a minimum zero to 10 feet to a maximum setback of 20 feet.
    - (b) Side: Minimum 10 feet, except along the NYS Thruway right-of-way wherein the minimum setback is 50 feet.
    - (c) Rear: Minimum 25 feet, except along the NYS Thruway right-of-way wherein the minimum setback is 50 feet.
  - (5) Maximum impervious coverage: 85% for redevelopment of developed sites and 65% for development of undeveloped sites.
  - (6) Maximum building footprint: 7,500 square feet per building. More than one building is allowed per lot provided other dimensional requirements are met.
  - (7) Building height.
    - (a) Stories: A minimum of two occupiable stories are required for principal buildings. A maximum of three stories, not to exceed 35 feet, is permitted for principal buildings. Accessory structures may be up to two stories and are not to exceed 25 feet.
- D. Design standards. The Planning Board shall consider the following design standards and the standards for redevelopment found in § 140-22.1G and ensure that prior to approving projects in the MSMU, the intent of the design standards has been achieved by the applicant to the fullest extent practicable.

- (1) Site organization. Drawings and photos that illustrate required and desirable elements of site organization, site design, and architecture can be found in the Illustrations.<sup>92</sup>

(a) New buildings:

- [1] Buildings should be located adjacent to the street with prominent pedestrian connections to the sidewalk.
- [2] Off-street parking in the rear of buildings is preferred. Parking at the side of buildings, behind the front building line, shall only be permitted if there is insufficient space in the rear. Off-street parking in front of buildings is prohibited (see Illustrations, Picture 1).
- [3] If parking is located at the side of a building, a landscaped buffer of up to 15 feet in width, but in no case less than five feet, of a density to disrupt visibility, shall be required by the Planning Board between the parking area and the back edge of the sidewalk. The landscape shall include a mixture of trees, hedges or shrubs, with optional hardscape of low walls or fences made of brick, stone, wrought iron, or an acceptable substitute (see Illustrations, Pictures 2 and 3).

(b) Redevelopment of existing sites:

- [1] Alteration of an existing developed lot shall bring the site into greater conformance with the standards of the MSMU District in accordance with § 140-22.1G. For example, if an existing commercial site with parking in front (see Illustrations, Picture 4, Panel 1) is proposed to be redeveloped, improvements should be provided up to the edge of pavement of the road fronting the lot. If the proposed alterations to an existing building or structure involve an area less than 50% of a building's or structure's floor area or 50% of the exterior improved area of the lot, bringing the facade closer to the sidewalk, or improvements such as a low wall or decorative fence with plantings at the sidewalk edge, should be provided (see Illustrations - Picture 4, Panel 2).
- [2] Any new buildings shall be located closer to the street (see yard requirements) with prominent pedestrian connections to the sidewalk (see Illustrations, Picture 4, Panel 3) and sidewalks provided where needed.

- (c) Mixed-use buildings of two to three stories, with active uses (such as retail, restaurant, personal service) on the ground

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**92.Editor's Note: Said illustrations are included as an attachment to this chapter.**



floor and residential or office uses on the upper levels, are preferred (see Illustrations, Picture 5).

- (d) The site organization standards above are intended to provide some design flexibility. For example, Pictures 6, 7, and 8 in Illustrations provide three different design concepts for the same site that would all conform to the new design standards.

(2) Site design.

- (a) Landscape buffer. A minimum landscape buffer of 15 feet consisting of native plantings that provide year-round screening is required along property boundaries adjoining a property within a residential zoning district.
- (b) A minimum of 10% of the parking lot shall be comprised of landscaping. A landscaped island equal to one parking space for every 10 spaces is required to break up continuous areas of pavement within a parking lot. A minimum of one shade tree, at least three inches DBH at planting, is required to be planted in a landscaped island for every 15 parking spaces proposed. A well-designed lot is shown in Illustrations, Picture 9.
- (c) Curb cuts shall be consolidated where feasible. Cross-easements to provide shared access through side and rear parking areas of adjoining sites shall be required by the Planning Board.
- (d) Pedestrian and bicycle connections through parking areas shall be provided. Examples are provided in Illustrations, Pictures 10 and 11.
- (e) Use of green infrastructure and low-impact development techniques for stormwater management in parking areas is required to the extent practicable. Examples of green infrastructure are shown in Illustrations, Pictures 11 and 12.
- (f) Properties adjoining the NYS Thruway (I-87) must maintain, establish, or enhance, as needed, a substantial vegetated natural buffer, which may be supplemented with evergreens. The landscape buffer must have a minimum depth of 30 feet from any property line along the Thruway.
- (g) All trees seven inches DBH or greater must be inventoried, and the design of the site shall consider opportunities to leave these trees undisturbed. The Planning Board may request alternative site layouts that protect significant trees.
- (h) Existing grades shall be preserved to the extent practicable to reduce necessary cut and fill and to retain existing vegetation and topography.

- (i) Signs. Signs should be scaled and oriented to the pedestrian environment. For example, wall signs should be located in a sign band on the facade, a horizontal section that divides the storefront windows from the upper facade (see Illustrations, Pictures 13 through 16). They should be located so as to avoid obscuring or covering facade features, including windows, doors, storefronts, building entrances, cornices, and columns. Upper-floor signage is not permitted for ground-floor uses. Well-designed projecting signs and window signs are also appropriate (see Illustrations, Picture 17). Monument signs, as defined in § 140-98, are preferred to other types of freestanding signs (see Illustrations, Pictures 18 and 19). Pole signs as defined in § 140-98 are prohibited.
- (j) Lighting.
  - [1] External sign illumination, designed to limit light spill, is preferred to internal sign illumination.
  - [2] Lighting in parking lots shall use a pedestrian-scale light fixture, no more than 20 feet in height, with an even, overlapping lighting arrangement.
  - [3] Lighting shall be glare-free and shielded from the sky, and adjacent properties using cut-off technology that controls light spread. (see Illustrations, Pictures 20 and 21). Lighting levels at the property lines shall not exceed 0.1 footcandle.
- (k) Site furnishings. Bicycle parking, benches, trash receptacles, and other appropriate site amenities shall be incorporated into the site design. (see Illustrations, Pictures 22 and 23)
- (l) Parking requirements. The required off-street automobile parking spaces listed in § 140-34 shall be the maximum allowable in the MSMU District. To ensure the overall efficiency of parking development in the MSMU District, applicants proposing more than 10 spaces shall include with their applications an analysis of the opportunities to reduce parking requirements further by using the applicable reduction strategies below. The Planning Board shall require the maximum reduction available under Subsection D(2)(l)[1] and [2] below unless it determines that: (i) A surplus of spaces on a particular site will benefit the MSMU District as a whole by providing off-site sharing opportunities for other sites in the MSMU District; or (ii) The techniques for reduction of the number of off-street or on-site parking spaces available to the applicant are infeasible or would impose an undue hardship on the applicant.
  - [1] Shared on-site parking. To implement shared on-site parking, the applicant shall provide an analysis as part of

site plan review to demonstrate that proposed uses are either competing or noncompeting.

- [a] Noncompeting uses. In mixed-use developments, applicants may propose a reduction in parking requirements based on an analysis of peak demands for noncompeting uses. Up to 75% of the requirements for the predominant use may be waived by the Planning Board if the applicant can demonstrate that the peak demands for two uses do not overlap. An applicant may use the latest peak demand analyses published by the Institute of Traffic Engineers (ITE) or other source acceptable to the Planning Board.
  - [b] Competing uses. In mixed-use developments, applicants may propose a reduction in parking requirements where peak demands do overlap to some extent. In these cases, the Planning Board may reduce the parking requirements of the predominant use by up to 30%.
- [2] Off-site parking. Separate from, or in conjunction with shared parking provisions, an applicant may use off-site parking to satisfy parking requirements. As part of site plan review, the applicant shall provide the necessary information to comply with the following standards:
- [a] Off-site parking shall be located within 500 feet of the subject property.
  - [b] Off-site parking may only be provided if the off-site parking lot has an excess number of spaces or if the applicant can demonstrate that the on-site and off-site uses which use the parking lot have noncompeting peak demands.
  - [c] The amount of required parking spaces being reduced on-site shall be equal to the amount being provided off-site and can account for up to 100% of the required on-site parking.
  - [d] Off-site parking spaces provided by a separate private property owner shall be subject to a legally binding agreement that will be presented to and approved by the Planning Board during the site plan review process or as a condition of approval. If the conditions for shared parking become null and void and the shared parking arrangement is discontinued, it will constitute a violation of the site plan for any use approved expressly with shared parking. If shared parking is discontinued, the applicant or property

owner shall provide written notification of the discontinuance to the Building Inspector and, within 60 days of that notice, provide a remedy satisfactory to the Planning Board to provide adequate parking or discontinue the use.

- [e] Uses sharing a parking facility shall provide for safe, convenient pedestrian connections between uses and parking, including well-marked pedestrian crossings, signage, and pedestrian-scale lighting.

(3) Architecture.

- (a) Buildings shall have at least two occupiable stories.
- (b) The main building facade and main entrance shall face the public street. On a corner lot, main facades shall be designed to face both streets irrespective of the property line's designation as a front or side yard. A secondary building entrance facing a rear parking lot is strongly encouraged.
- (c) A drive-through window for retail and service uses is permissible if: 1) it is located behind the building; 2) it is integrated architecturally into the building; and 3) it does not require additional curb cuts and/or a separate curb cut for ingress and egress to the street. Drive-through windows for food and beverage service uses are prohibited.
- (d) Building transparency is important at the street level; consequently, the ground level of buildings shall have a minimum 50% glass surface that is oriented vertically (see Illustrations, Pictures 24 and 25).
- (e) Floor-to-ceiling windows are prohibited.
- (f) First story height shall be a minimum of 12 feet measured floor to floor.
- (g) Upper-floor windows shall relate to the first-floor windows in shape, form, and pattern.
- (h) Upper-floor windows shall make up at least 30% of the facade on each floor.
- (i) Building styles and materials traditionally found in New Paltz are required (see Illustrations, Pictures 24 through 27).
  - [1] Wood siding and/or earth-based materials such as brick, stone, bluestone, cement reinforced clapboard siding and/or stucco are acceptable materials. Fiber-cement siding is an acceptable material for new construction when it holds a similar texture, reveal, and appearance to wood siding.

Vinyl, plastic and metal siding are prohibited except for detached one-family dwellings.

- [2] Building styles, textures and materials should be based on those common to local vernacular (late 1800's styles such as Mohonk Mountain House, Historic Huguenot Street, Arts & Crafts style, and rural farm/barn vernacular forms). Unique designs and aesthetic connectivity among structures are encouraged. Cookie-cutter and franchise architecture are prohibited.

- [a] Facades shall utilize earth tones or natural colors using real design elements, such as cedar shake, barn wood, shale, quartz, and river rock. Modern interpretations of vernacular styles may be considered, provided that textures and materials are real design elements, as noted above, rather than imitations.

- [b] Building shape and massing. New buildings should replicate the massing of structures within the Village of New Paltz. Mass is the overall bulk of a building and can be varied by changes in setback, shapes (flat to circular), color, facade details (cornices), and roofline (parapet addition on right side of building).

- [c] Using compatible roof forms and shapes is another way to incorporate features from buildings within the Village of New Paltz.

**§ 140-22.3. Gateway Business District. [Added 10-3-2019 by L.L. No. 7-2019]**

**A. Purpose.**

- (1) As the primary entranceway to New Paltz and a gateway to the Shawangunk Mountains from the NYS Thruway and points east, this portion of the Route 299 corridor is home to a small number of small-scale commercial establishments. Much of the area is vacant and constrained to development due to an abundance of wetlands and limited infrastructure. The importance of NYS Route 299 as a regional east-west highway and the intersection of Route 299 with Exit 18 of the NYS Thruway require that vehicular access to Route 299 be carefully managed. With the development of New York State's Empire Trail, the Hudson Valley Rail Trail and the Wallkill Valley Rail Trail are connected. The Empire State Trail is a tremendous recreational asset for residents and visitors and a catalyst for economic growth in New Paltz.
- (2) The objective of the GB District is to improve the aesthetic quality of development in the corridor, ensure that environmental

resources are protected, and manage access to NYS Route 299 for the safety of drivers, bicyclists, and pedestrians who utilize this corridor. The GB District encourages a variety of uses. Development should be focused on welcoming visitors to New Paltz.

- B. Permitted uses are set forth in § 140-8B.
- C. Area and bulk regulations. The area and bulk regulations for the GB District are set forth below:
  - (1) Minimum lot area: 7,500 square feet.
  - (2) Lot width: 75 feet.
  - (3) Required lot frontage: 75 feet.
  - (4) Required yards.
    - (a) Front: Minimum 35 feet.
    - (b) Side: Minimum 20 feet, except along the NYS Thruway right-of-way wherein a minimum of 50 feet is required.
    - (c) Rear: Minimum 25 feet, except along the NYS Thruway right-of-way wherein a minimum of 50 feet is required.
  - (5) Maximum impervious coverage: 65%.
  - (6) Maximum building footprint: 10,000 square feet.
  - (7) Building height: A minimum of two occupiable stories not to exceed 30 feet is required. A third story, with building height not to exceed 35 feet, is permitted if the building is designed and built to meet United States Green Building Council's LEED requirements at the level "silver" or higher.
- D. Design standards. The Planning Board shall consider the following design standards and standards for redevelopment found in § 140-22.1G and shall ensure that prior to approving projects in the GB District, the intent of these design standards has been achieved by the applicant to the fullest extent practicable.
  - (1) Site organization and site design. Drawings and photos that illustrate required and desirable elements of site organization, site design, and architecture can be found in the Illustrations.<sup>93</sup>
    - (a) Off-street parking shall be provided on the side or in the rear of buildings (see Illustrations, Pictures 1 through 3).

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**93.Editor's Note: Said illustrations are included as an attachment to this chapter.**

- (b) Screening with native vegetation shall be provided along the roadway to reduce the visual impact of parking and storage areas.
- (c) Landscape buffer. A minimum landscape buffer of 15 feet consisting of native plantings that provide year-round screening is required along property boundaries adjoining a residential zoning district.
- (d) Properties adjoining the NYS Thruway (I-87) must maintain, establish, or enhance as needed a substantial natural vegetated buffer, supplemented with evergreens. The landscape buffer must have a minimum depth of 30 feet from any property line along the Thruway.
- (e) All trees seven inches DBH or greater must be inventoried, and the design of the site shall consider opportunities to leave these trees undisturbed. The Planning Board may request alternate site layouts that protect significant trees.
- (f) Existing grades should be preserved to the extent practicable to reduce necessary cut and fill and to retain existing vegetation and topography.
- (g) Curb cuts shall be consolidated where feasible. Cross-easements to provide shared access through side and rear parking areas of adjoining sites shall be required by the Planning Board.
- (h) A minimum of 10% of the parking lot shall be comprised of landscaping. A landscaped island equal to one parking space for every 10 spaces is required to break up continuous areas of pavement within a parking lot. A minimum of one shade tree, at least three inches DBH at planting, is required to be planted in a landscaped island for every 15 parking spaces proposed. A well-designed lot is shown in Illustrations, Picture 9.
- (i) Bicycle and pedestrian connections from the Empire State Trail to building entrances shall be provided where possible. Pedestrian connections shall be delineated and defined in parking areas. Examples are provided in Illustrations, Pictures 10 and 11.
- (j) Use of green infrastructure and low-impact development techniques for stormwater management in parking areas is required to the extent practicable. Examples of green infrastructure are shown in Illustrations, Pictures 11 and 12.
- (k) Signs. Signs should be scaled and oriented to the pedestrian environment. For example, wall signs should be located in a sign band on the facade, a horizontal section that divides the storefront windows from the upper facade (see Illustrations,

Pictures 13 through 16). They should be located so as to avoid obscuring or covering facade features, including windows, doors, storefronts, building entrances, cornices, and columns. Upper-floor signage is not permitted for ground-floor uses. Well-designed projecting signs and window signs are also appropriate (see Illustrations, Picture 17). Monument signs, as defined in § 140-98 are preferred to other types of freestanding signs (see Illustrations, Pictures 18 and 19). Pole signs as defined in § 140-98 are prohibited.

(l) Lighting.

- [1] External sign illumination, designed to limit light spill, is preferred to internal sign illumination.
- [2] Lighting in parking lots shall use a pedestrian scale light fixture, no more than 20 feet in height, with an even, overlapping lighting arrangement.
- [3] Lighting shall be glare free and shielded from the sky, and adjacent properties using cut-off technology that controls light spread. (see Illustrations, Pictures 20 and 21) Lighting levels at the property lines shall not exceed 0.1 footcandle.

(m) Site furnishings: Bicycle parking, benches, trash receptacles, and other appropriate site amenities shall be incorporated into the site design (see Illustrations, Pictures 22 and 23).

(2) Architecture.

(a) Building styles and materials traditionally found in New Paltz are required (see Illustrations, Pictures 24 through 27).

- [1] Wood siding and/or earth-based materials such as brick, stone, bluestone, cement reinforced clapboard siding and/or stucco are acceptable materials. Fiber-cement siding is an acceptable material for new construction when it holds a similar texture, reveal, and appearance to wood siding. Vinyl, plastic and metal siding are prohibited except for detached one-family dwellings.
- [2] Building shape and massing. New buildings should replicate the massing of structures within the Village of New Paltz. Mass is the overall bulk of a building and can be varied by changes in setback, shapes (flat to circular), color, facade details (cornices), and roofline (parapet addition on right side of building).
- [3] Using compatible roof forms and shapes is another way to incorporate features from buildings within the Village of New Paltz.



- (b) The front building facade and main entrance shall face the public street. A secondary building entrance facing a rear or side parking lot is strongly encouraged.
- (c) A drive through window is permitted if: 1) it is located at the rear of the building; 2) it is integrated architecturally into the building; and 3) it requires no separate access to a public street or additional curb cuts.

**§ 140-22.4. Gateway Hamlet District. [Added 10-3-2019 by L.L. No. 7-2019]**

A. Purpose.

- (1) The Hamlet of Ohioville is a traditional crossroads settlement that was established years ago at the intersection of Ohioville Road and Old Route 299 (New Paltz Road). Construction of Exit 18 of the NYS Thruway and the reconstruction of NYS Route 299 changed its context but characteristics of the old mixed-use hamlet remain and are worthy of preservation. In other words, Ohioville is different than other parts of the Gateway corridor.
- (2) The objective of the Gateway Hamlet District is to provide land use regulations and design standards that ensure that the unique characteristics of the Ohioville Hamlet are preserved and enhanced. The traditional hamlet settlement pattern found in Ohioville is characterized by smaller lots and mixed uses in a compact, walkable layout. Maintaining and extending this form to the south side of NYS Route 299 and reconnecting to Paradies Lane will establish Ohioville as a unique place on the road to New Paltz. The Empire State Trail brings pedestrians and bicyclists into the hamlet, further encouraging development of a compact, safe, and walkable layout.

B. Permitted uses are set forth in § 140-8B.

C. Area and bulk regulations. The area and bulk regulations GH District are set forth below:

- (1) Minimum lot area: 5,000 square feet.
- (2) Lot width: 50 feet.
- (3) Required lot frontage: 50 feet.
- (4) Required yards:
  - (a) Front: Minimum is 15 feet; maximum is 35 feet.
  - (b) Side: Minimum is 10 feet.
  - (c) Rear: Minimum is 25 feet.
- (5) Maximum impervious coverage: 70%.

- (6) Maximum building footprint: 5,000 square feet.
- (7) Maximum building height: three occupiable stories, not to exceed 35 feet.
- D. Design standards. The Planning Board shall consider the following design standards and standards for redevelopment found in § 140-22.1G and ensure that prior to approving projects in the GH District, the intent of these design standards has been achieved by the applicant to the fullest extent practicable.
  - (1) Site organization. Drawings and photos that illustrate required and desirable elements of site organization, site design, and architecture can be found in the Illustrations.<sup>94</sup>
    - (a) New buildings:
      - [1] Buildings shall be set back from the sidewalk no more than 10 feet.
      - [2] Off-street parking shall be provided on the side or in the rear of buildings (see Illustrations, Picture 1).
      - [3] If parking is at the side of a building, a minimum landscaped buffer of up to 15 feet in width, but in no case less than five feet, of a density to block visibility, shall be required by the Planning Board between the parking area and the back edge of sidewalk. The landscape shall include a mixture of trees, hedges or shrubs, with optional hardscape. Acceptable landscape materials include: trees, hedges, shrubs, or low walls of brick, stone, wrought iron, or an acceptable substitute (see Illustrations, Pictures 2 and 3).
    - (b) Redevelopment of existing sites: Alteration of an existing developed lot shall bring the site into greater conformance with the standards of the GH District in accordance with § 140-22.1G(1). If the proposed alterations to an existing building or structure involve an area less than 50% of a building's or structure's floor area or 50% of the exterior improved area of the lot, the alterations shall bring the site into greater conformance with the standards of the GH District. For example, if an existing commercial site with parking in front (see Illustrations, Picture 4, Panel 1) is proposed to be redeveloped, improvements should be provided up to the edge of pavement of the road fronting the lot. Any new buildings shall be located closer to the street (see yard requirements) with prominent pedestrian connections to the sidewalk and sidewalks provided where needed (see Illustrations, Picture 4, Panel 3). Also see Illustrations, Pictures 6, 7, and 8, which

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**94.Editor's Note: Said illustrations are included as an attachment to this chapter.**

illustrate three different design concepts for the same site that would all conform to the new design standards.

- (c) Mixed-use buildings of two to three stories, with retail uses on the ground floor and residential or office uses on the upper levels, are encouraged in the commercial portions of the hamlet (see Illustrations, Picture 5). Small-lot single-family homes should continue to be the predominant building type in the neighborhood areas of the hamlet.
- (2) Site design.
- (a) A minimum landscape buffer of 15 feet consisting of native plantings that provide year-round screening is required along property boundaries adjoining a residential use.
  - (b) A minimum of 10% of the parking lot shall be comprised of landscaping. A landscaped island equal to one parking space for every 10 spaces is required to break up continuous areas of pavement within a parking lot. A minimum of one shade tree, at least three inches DBH at planting, is required to be planted in a landscaped island for every 15 parking spaces proposed. A well-designed lot is shown in Illustrations, Picture 9.
  - (c) Use of green infrastructure and low-impact development techniques for stormwater management in parking areas are strongly encouraged. Examples of green infrastructure are shown in Illustrations, Pictures 11 and 12.
  - (d) Curb cuts shall be consolidated where feasible. Cross-easements to provide shared access through side and rear parking areas of adjoining sites shall be required by the Planning Board.
  - (e) Pedestrian and bicycle connections through parking areas shall be provided. Examples are provided in Illustrations, Pictures 10 and 11.
  - (f) All trees seven inches DBH or greater must be inventoried, and the design of the site shall consider opportunities to leave these trees undisturbed. The Planning Board may require alternate site layouts that preserve significant trees.
  - (g) Existing grades shall be preserved to the extent practicable to reduce necessary cut and fill and to retain existing vegetation and topography.
  - (h) Signs. Signs should be scaled and oriented to the pedestrian environment. For example, wall signs should be located in a sign band on the facade, a horizontal section that divides the storefront windows from the upper facade (see Illustrations, Pictures 13 through 16). They should be located so as to avoid

obscuring or covering facade features, including windows, doors, storefronts, building entrances, cornices, and columns. Upper-floor signage is not permitted for ground-floor uses. Well-designed projecting signs and window signs are also appropriate (see Illustrations, Picture 17). Monument signs, as defined in § 140-98, are preferred to other types of freestanding signs (see Illustrations, Pictures 18 and 19). Pole signs as defined in § 140-98 are prohibited.

(i) Lighting.

- [1] External sign illumination, designed to limit light spill, is preferred to internal sign illumination.
- [2] Lighting in parking lots shall use a pedestrian scale light fixture, no more than 20 feet in height, with an even, overlapping lighting arrangement.
- [3] Lighting shall be glare-free and shielded from the sky, and adjacent properties using cut-off technology that controls light spread. (see Illustrations, Pictures 20 and 21) Lighting levels at the property lines shall not exceed 0.1 footcandle.

(j) Site furnishings. Bicycle parking, benches, trash receptacles, and other appropriate site amenities shall be incorporated into the site design. (see Illustrations, Pictures 22 and 23)

(3) Architecture.

- (a) Building styles and materials traditionally found in the Ohioville Hamlet or from other areas of New Paltz are required (see Illustrations, Pictures 24 through 27 for images from downtown in the Village of New Paltz).
- (b) Wood siding and/or earth-based materials such as brick, stone, bluestone, cement reinforced clapboard siding and/or stucco are acceptable materials. Fiber-cement siding is an acceptable material for new construction when it holds a similar texture, appearance and reveal dimension to wood siding. Vinyl, plastic and metal siding are prohibited except for detached one-family dwellings.
- (c) The main building facade and main entrance shall face the public street. A secondary building entrance facing a rear or side parking lot is strongly encouraged.
- (d) A drive-through window is prohibited.

ARTICLE V  
**Planned Unit Development (PUD)**

**§ 140-23. Intent. [Amended 1-17-2008 by L.L. No. 1-2008]**

It is the intent of PUD to provide flexible land use and design regulations through the use of performance criteria so that small- to large-scale neighborhoods, or portions thereof, may be developed within the Town that incorporate a variety and appropriate balance of residential types and nonresidential uses and contain both individual building sites and common property which are planned and developed as a unit. Such a planned unit is to be designed and organized so as to be capable of satisfactory use and operation as a separate entity without necessarily needing the participation of other building sites or common property in order to function as a neighborhood. PUD specifically encourages innovations in residential development so that the growing demands for housing at all economic levels may be met by greater variety in type, design and siting of dwellings and by the conservation and more efficient use of land in such developments.

**§ 140-24. Objectives.**

In order to carry out the intent of this article, a PUD shall achieve the following objectives:

- A. A maximum choice in the types of environment, occupancy tenure, types of housing, lot sizes and community facilities available to existing and potential Town residents at all economic levels.
- B. More usable open space and recreation areas.
- C. More convenience in location of accessory commercial and service areas.
- D. The conservation and preservation of trees and groves of trees, outstanding natural topography, geologic features, biodiversity, water resources and prevention of soil erosion. **[Amended 1-17-2008 by L.L. No. 1-2008]**
- E. An efficient use of land resulting in smaller networks of utilities and streets and thereby lower housing costs.
- F. To provide additional public benefits, as needed and as determined by the Town Board. **[Added 1-17-2008 by L.L. No. 1-2008]**

**§ 140-25. General requirements.**

- A. Minimum area. The minimum area requirements to qualify for a PUD shall be 50 contiguous acres of land. **[Amended 1-17-2008 by L.L. No. 1-2008]**
- B. Ownership. The tract of land for a project may be owned, leased or controlled either by a single person or corporation or by a group of

individuals or corporations. An application must be filed by the owner or jointly by owners and/or lessors of all property included in a project. In the case of multiple ownership, the approved plan shall be binding on all owners.

- C. Location of PUD. The PUD shall be applicable to any district of the Town where the applicant can demonstrate that the characteristics of his holdings will meet the objectives of this article and that the proposed PUD will have frontage on and direct access to a county or state highway. **[Amended 1-17-2008 by L.L. No. 1-2008]**
- D. Permitted uses. All uses within an area designated as a PUD are determined by the provisions of this article and the approved plan of the project concerned.
  - (1) Residential uses. Residences may be of any variety of types. In developing a balanced community, the use of a variety of housing types and densities shall be deemed most in keeping with this article. The types allowed shall be any of the following: rental apartments, fee simple townhouses, and detached and semidetached single-family dwellings. The total number of dwelling units within the PUD shall not exceed 5.5 times the number of developable acres in the project. **[Amended 1-17-2008 by L.L. No. 1-2008]**
  - (2) Commercial uses. Commercial uses in each PUD are intended to serve as integrated retail and service centers with complementary office and community facilities. **[Amended 1-17-2008 by L.L. No. 1-2008]**
  - (3) Accessory uses. Private garages, storage spaces, recreational and community facilities, churches and schools shall also be permitted.
  - (4) Dwelling units above retail/office space shall be encouraged. **[Added 1-17-2008 by L.L. No. 1-2008]**
- E. Common property in the planned unit development (PUD). Common property in a PUD is a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which is shared by the owners and occupants of the individual building sites. When common property exists, the ownership of such common property may be either public or private. When common property exists in private ownership, satisfactory arrangements must be made for the improvement, operation and maintenance of such common property and facilities, including private streets, drives, service and parking areas and recreational and open space areas.
- F. Design criteria.
  - (1) Provision of community sewer and water service shall be required, with the method and type of facilities to be formulated at time of submittal of any site plan.

- (2) Adequate but not excessive entry points to the site from major through roads shall be planned and provided. The street system within the parcel shall be organized in a logical structure, with collector and local streets, and forming a unified neighborhood. Pedestrian paths, especially to shopping, school and recreation areas, shall be designed and incorporated in the overall plan. Where appropriate, local streets within the PUD shall be designed to interconnect with the local streets of adjacent neighborhoods. Where the PUD borders undeveloped land that is in an area where similar development is desired, rights-of-way for future connecting roads shall be located where they are likely to be needed in the future. **[Amended 1-17-2008 by L.L. No. 1-2008]**
- (3) Sufficient park and recreational area shall be provided as required by this chapter and other Town laws and ordinances. The developer shall have the responsibility to prove to the satisfaction of the Planning Board that the existing or planned community and educational facilities are adequate for the needs of the future residents. To the extent practicable, park and recreational facilities shall be located on the site. Section 121-20 of Chapter 121 of this Code, regarding parks, playgrounds and open spaces and payment of recreation fees, shall apply to all PUDs, regardless of whether the PUD involves a subdivision. **[Amended 1-17-2008 by L.L. No. 1-2008]**
- (4) Proper and adequate water supply, sewerage and waste disposal and other utility services shall be provided. **[Amended 1-17-2008 by L.L. No. 1-2008]**
- (5) Off-street parking and loading and sign regulations. All the supplementary regulations of § 140-34 and Article XIII shall apply, provided that the Planning Board may, in its discretion, modify the off-street parking and loading regulations to effectuate the purposes of the PUD. **[Amended 1-17-2008 by L.L. No. 1-2008]**
- (6) The applicable provisions of residential cluster developments, § 121-25 of Chapter 21 of this Code, shall be incorporated in the design. **[Amended 1-17-2008 by L.L. No. 1-2008]**
- (7) Building height shall not exceed five stories. Buildings greater than three stories require visual impact analysis to ensure protection of scenic resources. The view shed from the ridge shall be assessed and protected. The Planning Board shall require a viewshed analysis from specific points on the ridgeline for any buildings above 40 feet. Additionally, the view from the ridge shall be assessed and protected. **[Added 1-17-2008 by L.L. No. 1-2008]**
- (8) Prior to any rezoning for PUD, the Town Board must determine that the proposed PUD includes a community benefit commensurate in scope and quality to the proposed uses and density of the project. Community benefits may include any, or a combination, of the

following: affordable housing, public sewer, public water, public recreational land and/or facilities or such other benefit as may be from time to time identified by the Town Board. Affordable housing shall be a component of community benefit unless waived by a vote of majority plus one of the Town Board. **[Added 1-17-2008 by L.L. No. 1-2008]**

- G. Procedure. The same procedure as for the approval of Light Industrial Districts, § 140-18G, shall be followed in the application for an approval of the PUD, provided that for a proposed PUD, development must be commenced within one year of receiving all final unconditional approvals of the Town Board and Planning Board, subject to two six-month extensions by the Planning Board for good cause shown. Following Town Board approval of the PUD concept plan, the Planning Board shall conduct site plan review of the proposed PUD pursuant to § 140-52 of this Chapter. **[Amended 1-17-2008 by L.L. No. 1-2008]**
- H. At no point in the development of a PUD shall the dwelling unit ratios among the several different types and the ratio of residential to nonresidential uses for that stage of the PUD differ from that as set forth in the approved PUD concept plan and final site plan by more than 20%. **[Amended 1-17-2008 by L.L. No. 1-2008]**



ARTICLE VI  
**Supplemental Regulations**

**§ 140-26. Home occupations. [Amended 12-20-2001 by L.L. No. 6-2001; 12-19-2002 by L.L. No. 8-2002]**

In any zoning district, home occupations, as defined in this chapter, are allowed to be conducted subject to the additional provisions that no person shall be permitted to share, let or sublet space for any business, trade or profession; that there shall be no external evidence of such use; and that there shall not be any exterior storage of materials or equipment.

**§ 140-26.1. Shopping centers. [Added 3-18-1999 by L.L. No. 4-1999; amended 3-25-2004 by L.L. No. 2-2004]**

- A. Within that portion of the B-2 Zoning District lying generally on the northerly side and on the southerly side of New York State Route 299, extending from the easterly boundary of the incorporated Village of New Paltz Ulster County, New York, shopping centers shown on site plans for which final approval has been granted prior to March 18, 1999, shall be deemed a use permitted in the B-2 Zoning District and may be developed or expanded, subject to the requirements of § 140-52 of this chapter, and any applicable provisions of the Town Code in effect at the time of any application for approval of a site plan; provided, however, that no single store in such shopping center shall be permitted to expand beyond 50% of its approved floor area or beyond 65,000 square feet of floor area, whichever is less. **[Amended 10-3-2019 by L.L. No. 7-2019<sup>95</sup>]**

- B. For purposes of this section, the following words and terms are defined as follows:

FLOOR AREA — The same meaning as defined in § 140-4 of the Code of the Town of New Paltz and shall additionally include cellar space providing structural headroom of seven feet six inches or more.

DEVELOPED — Constructed, demolished (in whole or in part) and reconstructed, modified, rehabilitated, or refurbished.

EXPANDED — An increase in the net floor area of a building shown on a site plan for a shopping center use approved prior to March 18, 1999. "Expansion" of a building or use shall not include any development or reconstruction of a building or use otherwise permitted by this section that reduces the net floor area shown on such site plan.

**§ 140-27. Excavations.**

- A. Any proposed excavation adversely affecting natural drainage or structural safety of adjoining buildings or lands shall be prohibited.

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**95. Editor's Note: This local law also repealed former Subsection B, containing approval for additional shopping center areas, and redesignated former Subsection C as Subsection B.**

Excavations shall not create any noxious or injurious substance or condition or cause public hazard.

- B. In any district, excavation relating to the construction, on the same lot, of a building or structure for which a building permit has been issued shall be permitted. In the event that construction of a building or structure is stopped prior to completion and the building permit is allowed to expire, the premises shall immediately be cleared of any rubbish or building materials, and any excavation with a depth greater than two feet below existing grade shall immediately be filled in and the topsoil replaced, or all such excavations shall be entirely surrounded by a substantial fence at least six feet high that will effectively block access to the area in which the excavation is located.
- C. For excavations for soil mining, see § 140-37.

#### **§ 140-28. Activity standards.**

In any district, the following standards for activities shall apply:

- A. The distribution of manure, fertilizer, spray or dust for agricultural purposes is permitted; provided, however, that no storage of manure, odor- or dust-producing substance or use shall be permitted within 200 feet of any property line, except on farms, where customary agricultural operations shall be permitted.
- B. No offensive or objectionable vibration, odor or glare shall be noticeable at or beyond the property line.
- C. No activity shall create a physical hazard, by reason of fire, explosion, radiation or other such cause, to persons or property in the same or adjacent district.
- D. There shall be no discharge of any liquid or solid waste into any stream or body of water or any public or private disposal system or into the ground of any materials of a nature that may contaminate any water supply, including groundwater supply.
- E. There shall be no storage of any material, either indoors or outdoors, in such a manner that it facilitates the breeding of vermin or endangers health in any way.
- F. The emission of smoke, fly ash or dust which can cause damage to the health of persons, animals or plant life or to other forms of property shall be prohibited.

#### **§ 140-29. Planned new streets.**

After the planned right-of-way line for future streets, for future extensions of existing streets or for future street widening is established on the Official Map, if any, buildings and structures shall be set back from such line as though it were a street line.

**§ 140-30. Accessory buildings and uses.**

- A. Accessory buildings not attached to principal buildings shall be located not closer to the principal building than 12 feet or a distance equal to the height of each accessory building, whichever is greater.
- B. In a residential district, accessory uses not enclosed in a building, including swimming pools and tennis courts, shall be erected only on the same lot as the principal structure, may not be constructed in the side or front yards of such lot and shall be distant not less than 20 feet from any lot line nor less than 10 feet from the principal structure and shall not adversely affect the character of any residential neighborhood by reason of noise or glare or safety.
- C. No person shall construct or install a swimming pool in the Town without having first obtained a permit therefor, issued by the Building Inspector. An application for such a permit, accompanied by two sets of plans and specifications of such proposed swimming pool, shall be filed with the Building Inspector. There shall be stated in such application the premises and the exact location thereon where said swimming pool is proposed to be constructed or installed. A fee as set forth from time to time by resolution of the Town Board shall be charged for such permit and shall accompany the application. In those cases where the approval of the Ulster County Board of Health is required, pursuant to its rules, regulations or procedures governing specific types and locations of pools, the Building Inspector shall issue a building permit only after the receipt of any approval required by the Ulster County Board of Health. **[Added 2-22-2001 by L.L. No. 1-2001]**
- D. Notwithstanding the provisions of any state or local law, rule, order or regulation which shall apply, the perimeter of the pool, unless specifically exempted below, shall be enclosed with a permanent fence, which shall be a minimum of 48 inches in height and which shall be installed and thereafter maintained so as to be structurally sound and durable. **[Added 2-22-2001 by L.L. No. 1-2001]**
- E. The following shall be exempt from the requirements of Subsection D, above: **[Added 2-22-2001 by L.L. No. 1-2001]**
  - (1) Aboveground pools with at least 46 inches between the pool decking or pool top and adjoining grade for a distance of at least five feet measured horizontally from the pool deck or pool top, provided that their access ladder or steps can be blocked in an approved manner when not intended for use; and
  - (2) A pool less than 24 inches deep.

**§ 140-31. Visibility at intersections.**

For the purpose of minimizing traffic hazards at street intersections, on any corner lot, no obstructions higher than 2 1/2 feet above the adjacent top-of-curb elevation shall be permitted to be planted, placed, erected or

maintained within the triangular area formed by the intersecting pavement lines or their projections, where corners are rounded, and a straight line joining the pavement lines at points 50 feet distant from their point of intersection.

**§ 140-32. Fences and walls. [Amended 5-24-1990 by L.L No. 12-1990]**

- A. Word usage and definitions. As used in this section, the following terms shall have the meanings as indicated:

BUILDING INSPECTOR — The Building Inspector of the Town of New Paltz.

FENCE — Any structure, regardless of composition, except living fences, that is erected or maintained for the purpose of enclosing in full or in part any open space, lot or yard or dividing the same into distinct portions.

HEIGHT — The vertical distance from the ground to the top of a fence which shall be measured from the average finished grade of the land upon which the same is erected.

LIVING FENCE — Any fence or hedge composed of live materials.

LOT, CORNER — A lot situated at the junction of and adjacent to two or more intersecting streets when the interior angle of intersection does not exceed 135°.

PERSON — Any individual, firm, partnership, association, corporation, company or organization who or which resides in or was or which is engaged in the performance of any business, venture, accommodation or activity within the Town of New Paltz and shall include any individual, firm, partnership, association, corporation, company or organization that has a lease, oral or in writing, either as landlord or tenant, for any premises within the Town of New Paltz.

TENNIS COURT — Any area on the ground upon which a game using a net between opposing players, a ball and racquets is played, and includes any adjacent fencing, walls, screening or other material which may limit the movement of or confine the ball or serve to conceal the court.

TOWN BOARD — The Town Board of the Town of New Paltz.

TOWN CLERK — The Town Clerk of the Town of New Paltz.

YARD, FRONT — A yard extending along the full length of the front lot line between the side lot lines.

YARD, FRONT, REAR LINE — The horizontal distance between the side lot lines measured along the rear line of any front yard setback required pursuant to the Density Control Schedule of the Town of New Paltz Zoning Law<sup>96</sup> or the horizontal distance between the side lot lines

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96. Editor's Note: The Density Control Schedule is included at the end of this chapter.

measured along a line coincident with the front facing portion of the principal building or structure located upon the lot, whichever of the foregoing lines shall be nearer to the rear lot line.

YARD, REAR — A yard extending along the full length of the rear lot line, between the side lot lines.

YARD, SIDE — A yard situated between the building and the side line of a lot and extending from the front yard rear line or from the front lot line if there is no required front yard to the rear yard front line or to the rear lot line if there is no required rear yard.

ZONING BOARD OF APPEALS — The Zoning Board of Appeals of the Town of New Paltz.

ZONING ENFORCEMENT OFFICER — The Zoning Enforcement Officer of the Town of New Paltz.

- B. Applicability. In any district wherein residences are permitted, it shall be unlawful for any person to construct or to commence construction of a wall or fence without first making application to and obtaining a permit from the Building Inspector of the Town of New Paltz.
- C. Business and industrial properties. In any business district or industrial district there shall be no restrictions on fences or walls except on a residence district boundary line, where such fences or walls shall be limited to eight feet in height and except where corner clearances are required.
- D. Building permit required.
  - (1) Any person or persons, corporation, firm or association intending to erect a fence shall, before any work is commenced, make application to the Building Inspector on a form provided by the Building Inspector. Said application shall be accompanied by a plan or sketch, accurately drawn and dimensioned to scale, showing the proposed location of any fence or wall and the materials proposed to be used therein, which must be in accordance with this chapter and which must be in accordance with any other pertinent local law regulating construction within the Town of New Paltz and shall be accompanied by an appropriate fee. Upon approval by the Building Inspector, a permit shall be issued which will be in effect for a period of one year from the date such permit is issued. Said permit shall be conspicuously posted on the job during the progress of the work so that the same may be inspected by any appropriate Town official. In the event that any approved fence construction is not completed within said one-year period, a new application and permit will be required.
  - (2) Application fees and permit fees shall be established, from time to time, by resolution adopted by the Town Board.

- E. Living fences. Living fences shall be excepted from the provisions of this chapter; provided, however, that no living fence shall be placed nearer than two feet to any existing sidewalk nor to any adjoining property line. Living fences shall be maintained in a neatly trimmed condition and shall not interfere with the visibility of pedestrian or vehicular traffic.
- F. Height limitations. Except as otherwise provided in this chapter, heights shall be limited as follows:
- (1) Rear yards: No fence or wall nor any portion thereof located in any rear yard nor along all or any portion of any rear lot line shall be more than six feet in height.
  - (2) Side yards: No fence or wall nor any portion thereof located in any side yard nor along all or any portion of any side lot line shall be more than six feet in height nor shall any wall or fence nor any portion thereof located in any side yard nor along all or any portion of any side lot line extend forward of the front yard rear line.
  - (3) Front yard rear line: No fence or wall nor any portion thereof located along all or any portion of any front yard rear line shall be more than six feet in height.
  - (4) Front yard side lot line: No wall or fence nor all or any portion thereof located along all or any portion of any side yard extending from the front yard rear line to the front lot line shall be greater than four feet in height.
  - (5) Front yard: No wall or fence nor all or any portion thereof shall be located in any front yard except as follows:
    - (a) A fence not exceeding four feet in height and intended for decorative purposes may be erected as part of a landscape plan in a front yard along, adjacent to or in connection with a driveway or corner of a front yard; provided, however, that for the purpose of minimizing traffic hazards at street intersections, no wall or fence nor all or any portion thereof located on any corner lot and higher than 2 1/2 feet above the adjacent elevation shall be permitted to be planted, placed, erected or maintained within the triangular area formed by the intersecting pavement lines or their projections where corners are rounded and a straight line joining the pavement lines at points 50 feet distant from their point of intersection; and
    - (b) Such wall or fence shall be erected wholly within the lot lines of the property.
- G. Materials and composition.

- (1) Any fence or wall, including any living fence, which unduly cuts off light or air or which may cause a nuisance, a fire hazard or a dangerous condition is hereby expressly prohibited.
- (2) The following fences and fencing material are specifically prohibited:
  - (a) Canvas fences.
  - (b) Cloth fences.
  - (c) Barbed wire, electrically charged fences, poultry or chicken wire fences except as may be required to contain livestock and farm animals upon any lands of 10 acres or more and used primarily or exclusively as a farm.
  - (d) Temporary fences, including but not limited to snow fences, expandable fences, collapsible fences, etc., unless on construction sites pursuant to a valid permit issued by the Building Inspector.
- (3) All chain link fences erected shall be erected with the closed loop at the top of the fence.
- (4) No fence shall be multicolored.
- (5) All entrances or gates shall open onto the property.
- (6) Any wood, stockade, chain link or other type of fence shall have the smooth or finished side facing the outside of the property of the owner installing the fence. Fence posts shall be placed on the inside of the fence.
- (7) All fences or walls must be erected within the property line, and none shall be erected so as to encroach upon a public right-of-way or interfere with vehicular or pedestrian traffic.

H. Tennis and other courts.

- (1) Compliance with provisions. No tennis court or elevated court shall be built or maintained on any plot or parcel of land in any residential district in the Town of New Paltz, as may be shown on the Zoning Map of the Town of New Paltz,<sup>97</sup> except in compliance with the provisions of this chapter.
- (2) Construction as accessory use. No tennis court or elevated court may be constructed or maintained except as an accessory use incidental to and subordinate to the principal use of the property.
- (3) Location on lot No tennis court or elevated court shall be constructed in a front yard or side yard nor shall the same be constructed within 20 feet of any side lot line.

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**97.Editor's Note: The Zoning Map is included in a pocket at the end of this volume.**

## (4) Fencing.

- (a) Where such tennis court is to be surrounded by a fence, the same shall be constructed and maintained in accordance with the following specifications so long as the tennis court remains in existence:

- [1] Height: The height shall be not less than 10 feet nor more than 12 feet above the playing surface.

- (b) All elevated courts shall be completely enclosed with fences of sufficient height and density to keep the ball within the confines of the court itself and shall be built of materials of adequate strength to form a permanent, safe and steady structure sufficiently secure to assure that the game and the players will be confined within the court area.

- I. Visibility at intersections; violations. The Building Inspector shall have the authority to direct, in writing, the removal, trimming or modification of any shrubs, bushes, plants, trees or flowers or other vegetation, fence, wall or other structure on private or public property wherever the same shall interfere with adequate visibility of operators of motor vehicles at street intersections, driveways or curbs. Any person who shall refuse or neglect to comply within 15 days with the written direction of the Building Inspector shall be guilty of a violation of this section and shall be subject to its penalties.
- J. Nonconforming structures. The lawful use of any fence or wall existing at the time of the enactment of this chapter may be continued although such use does not conform to the provisions of this chapter. If any such fence is hereafter removed or destroyed, the same shall not be rebuilt except in compliance with the terms and provisions of this section.
- K. Appeals. The Zoning Board of Appeals is hereby empowered to review and decide appeals from any order, requirements, decisions, determination or opinion made by the Building Inspector or any other administrative official charged with the enforcement of the provisions of this section. Such appeal shall be taken within 30 days of the decision or action complained of. The Zoning Board of Appeals shall have the power, in passing on appeals to it, to vary or modify the provisions of this chapter relating to the construction, placement or height of fences, such that the spirit of this chapter shall be observed, that public safety and welfare shall be secured and that substantial justice shall be done by granting a variance upon a showing of practical difficulty or unnecessary hardship. In granting such a variance, the Board may attach conditions to the variance as, in its judgment, it deems appropriate.
- L. Inspections and enforcement.
  - (1) The Building Inspector is hereby authorized and directed to make inspections to determine compliance with this section. Whenever



the Building Inspector determines that there is a violation of the provisions of this section, such Building Inspector shall cause a written notice to be served upon the person alleged to be in violation of any of the provisions of this section, which shall include:

- (a) An enumeration of conditions which violate the provisions of this section;
  - (b) An enumeration of the remedial action required to meet the standards of this section;
  - (c) A statement of a definite number of days from the date of the notice in which the person to whom such notice is directed must commence and complete such remedial action; and
  - (d) A statement of penalties for noncompliance, as set forth herein.
- (2) A copy of such notice shall be filed in the office of the Town Clerk of the Town of New Paltz, and service of such notice shall be deemed sufficient if served upon the person alleged to be in violation of any of the provisions of this section in the manner prescribed in supreme court practice; provided, however, that the filing of proofs of service shall not be required.

M. Penalties for offenses.

- (1) Each and every violation of this section shall constitute and shall be a violation as defined in Article 10, § 10.00, Subdivision 3, of the Penal Law and shall be punishable by a fine not to exceed \$250 or by imprisonment for a term not to exceed 15 days, or by both.
- (2) Any person violating this section shall be subject to a civil penalty enforceable and collectible by the Town. Such penalty shall be collectible by and in the name of the Town for each week that such violation shall continue.
- (3) 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 any violation of this section.

**§ 140-33. Commercial parking lots.**

Commercial parking lots shall comply with the provisions of § 140-34D, H and I of this article.

**§ 140-34. Off-street parking and loading.**

In all districts, off-street automobile parking spaces and truck loading areas for the various permitted uses shall be required at the time any of the main buildings or structures of such uses are constructed or altered, as follows:

A. Required off-street automobile parking spaces. The minimum cumulative number of spaces shall be determined by the amount of dwelling units, bedrooms, floor area, members, equipment, employees and/or seats contained in such new buildings or structures or added by alteration of buildings or structures, and such minimum number of spaces shall be maintained by the owners of such buildings or structures as follows:

(1) Office, business and commercial uses:

(a) Required spaces:

- [1] For a retail business or service, bank or post office, one space for each 200 square feet of customer floor area.
- [2] For an office, including professional, personal service, public utility or public, one space for each 300 square feet of gross office floor area.
- [3] For a restaurant, bar or nightclub, one space for each 50 square feet of customer floor area.
- [4] For a funeral home, one space for each five seats of auditorium capacity.
- [5] For any commercial use, one space for each company vehicle.
- [6] For a hotel, motel or vacation resort, 1.1 spaces for each bedroom. **[Amended 6-18-2009 by L.L. No. 3-2009<sup>98</sup>]**

(b) Spaces in municipal parking lots, where provided, may be credited toward the parking requirements for these nonresidential uses, provided that:

- [1] These spaces are within 400 feet of the uses to be served.
- [2] The parking needs of existing facilities, within 400 feet and computed on the same basis as for new facilities, are satisfied first, and only excess capacity is used for this purpose.
- [3] A special permit for such use is obtained from the Zoning Board of Appeals.

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**98. Editor's Note: This local law also repealed former Subsection A(1)(a)[7], regarding required parking for motels and vacation resorts, which immediately followed.**

## (2) Light industrial uses:

- (a) One space for each 400 square feet of floor area devoted to manufacture, including printing, publishing and laundry or dry-cleaning plants.
- (b) One space for each 2,000 square feet of floor area devoted to storage or stationary operating equipment.
- (c) One space for each 3,000 square feet of area devoted to outside storage, including used car lots and equipment rental or sales yards.
- (d) For any industrial use, one space for each company vehicle.

## (3) Public and semipublic uses:

- (a) For places of public assembly, including churches, one space for each six seats of auditorium or stadium capacity.
- (b) For an elementary school or day nursery, two spaces for each classroom.
- (c) For a high school or college, five spaces for each classroom.
- (d) For a museum, art gallery, institution or philanthropic use, one space for each 800 square feet of gross floor area.
- (e) For a hospital, sanatorium or nursing or convalescent home, one space for each two beds.
- (f) For a club, one space for each 200 square feet of gross floor area.

## (4) Recreational uses:

- (a) For a dance hall, one space for each 50 square feet of dance floor area.
- (b) For a golf course, bowling alley or billiard hall, four spaces for each tee, alley or table.
- (c) For a skating rink, one parking space for each 250 square feet of area available for skating.

## (5) Residential uses:

- (a) For dwellings, 1 1/2 spaces for each dwelling unit, to be provided on a buildable portion of the lot.
- (b) For a boardinghouse, one space for each bedroom.

## (6) For uses not listed herein, as established by the Zoning Board of Appeals.

- B. Calculation of required spaces. In the case of a combination of uses, the total requirements for off-street automobile parking spaces shall be the sum of the requirements for the various uses, unless it can be proven that staggered hours of use would permit modification. Whenever a major fraction of a space is required, a full space shall be provided.
- C. Dimensions for off-street automobile parking spaces. Every such space provided shall be at least nine feet wide and 18 feet long, unless the Planning Board determines that the nature of the use requires that the parking spaces be increased in size, and shall have direct and usable driveway access to a street with minimum maneuver area between spaces as follows: **[Amended 12-19-2002 by L.L. No. 8-2002]**
- (1) Parallel curb parking: 20 feet end-to-end with a twelve-foot aisle width for one-directional flow and a twenty-two-foot aisle width for two-directional flow.
  - (2) Thirty-degree parking: a twelve-foot aisle width for one-directional flow and a twenty-four foot aisle width for two-directional flow.
  - (3) Forty-five-degree parking: a sixteen-foot aisle width for one-directional flow and a twenty-four-foot aisle width for two-directional flow.
  - (4) Sixty-degree parking: a twenty-foot aisle width for one-directional flow and a twenty-four-foot aisle width for two-directional flow.
  - (5) Perpendicular parking: a twenty-four-foot aisle width for one-directional and two-directional flow.
- D. Location of required spaces.
- (1) In any residential district, required automobile parking spaces shall be provided on a buildable portion of the same lot and shall not encroach on any required yards or required open area.
  - (2) In business districts or industrial districts, such spaces shall be provided on the same lot or not more than 400 feet therefrom.
  - (3) No open or enclosed parking area shall encroach on any required front yard or required open areas. Open parking areas may encroach on a required side or rear yard to within three feet of a property line.
  - (4) No entrance and exit drives connecting the parking area and the street shall be permitted within 30 feet of the intersection of two public rights-of-way.
- E. Required off-street truck loading areas shall be as follows:
- (1) For permitted general uses, one berth for 10,000 square feet to 25,000 square feet of floor area, and one additional berth for each

additional 25,000 square feet of floor area, unless it can be proven that truck deliveries shall not exceed one vehicle per day.

- (2) For funeral homes, one berth for each chapel.
  - (3) For hotels, motels and vacation resorts, one berth for floor area in excess of 10,000 square feet.
  - (4) For office, business and commercial uses, one berth for 10,000 square feet to 25,000 square feet of floor area, and one additional berth for each additional 25,000 square feet of floor area.
  - (5) For manufacturing and permitted industrial uses, one berth for the first 10,000 square feet of floor area, and one additional berth for each additional 40,000 square feet of floor area.
- F. Dimensions for off-street loading berths. Each required loading berth, open or enclosed, shall have the following minimum dimensions: 35 feet long, 12 feet wide and 14 feet high, except that berths for funeral homes may be 20 feet long, 10 feet wide and eight feet high.
- G. Location of required berths.
- (1) All off-street loading areas shall be located on the same lot as the use for which they are permitted or required. Open off-street loading areas shall not encroach on any required front or side yard, accessway or off-street parking area, except that, in business districts, off-street parking areas, where they exist, may be used for loading or unloading, provided that such spaces shall not be so used for more than three hours during the daily period that the establishment is open for business.
  - (2) The location, number, size and design of loading and unloading areas for nonresidential uses and the accessways thereto shall require the approval of the Planning Board prior to the issuance of a building permit or certificate of occupancy by the Building Inspector.
- H. Construction of parking areas. **[Amended 12-14-2006 by L.L. No. 6-2006]**
- (1) All parking areas shall be paved with an all-weather surface of asphalt or concrete, unless the Planning Board determines in the course of its review of a subdivision, site plan or special permit application that the nature and character of the use are such that a suitable pervious or semi-pervious parking surface will provide safe and suitable parking areas, and specifically waives the requirement for an asphalt or concrete surface in approving such application.
  - (2) Notwithstanding such waiver, construction of a parking area may not be approved by the Building Department unless the applicant and property owner file a written agreement, duly acknowledged in the same manner as a deed or other document of record, stating

that they agree and consent to pave the parking area surfaces within 120 days of receiving written notice from the Building Department that a paved surface is required to provide safe and suitable access.

- (3) When a parking area is paved, the individual spaces, travel and fire lanes and traffic control points shall be visibly marked with paint or other durable material in conformity with standard traffic marking procedures, and such markings shall be maintained in good condition at all times. When a parking area is not required to be paved, the Planning Board shall provide for suitable means of designating parking spaces, lanes and ingress and egress to the site. All parking areas shall be constantly maintained so as to prevent potholes or other disruptions to the flow of traffic entering or within the parking area.
  - (4) Each individual parking space shall be delineated on the surface of the parking area by "doublestriping" the space: two lines shall be painted parallel to the longest dimension of the space, each four inches in width and beginning eight inches on either side of the center line of the boundaries of the space.
  - (5) All required parking spaces shall be available for the use to which they are related and shall not be used for parking unrelated to the duly approved use of the lot nor for any form of temporary or permanent storage (including snow storage areas) or outdoor displays, except as may be authorized by a duly approved site plan.
  - (6) Where parking areas are proposed for single-family dwellings, the requirement for all-weather paving or pavement markings for individual spaces will be at the option of the applicant or owner.
- I. Landscaping. At least 10% of the total area within any off-street parking area, including driveways and other paved areas, shall be landscaped. The landscaping shall be shown on a landscaping plan approved by the Planning Board and may consist of lawn, trees, shrubs, naturalized plantings or other plants designed, arranged and maintained in accordance with a maintenance schedule set forth in the landscaping plan. In appropriate cases, the Planning Board may require the installation of irrigation systems and the designation of snow disposal areas, located so as to avoid damaging landscaped areas. **[Amended 12-19-2002 by L.L. No. 8-2002; 10-3-2019 by L.L. No. 7-2019]**
- (1) All loading berths and parking areas of three or more spaces that abut a residential lot line and any parking lot for more than 20 cars shall be screened by a compact evergreen hedge or a landscaped strip of trees and shrubs effectively designed and regularly maintained so as to adequately screen adjoining property from the noise and visual impact of such parking area.

- (2) All parking areas, landscaping and screening shall be properly maintained thereafter in a sightly and well-kept condition.

**§ 140-35. Gasoline filling stations.**

In any district where permitted, a gasoline filling station shall be subject to the following regulations:

- A. No gasoline filling station shall be located within 2,000 feet of any other public garage or gasoline filling station.
- B. Filling stations shall be permitted only on lots of 10,000 square feet or more, with 100 feet of minimum frontage.
- C. The area for use by motor vehicles, except access drives thereto, as well as any structures, shall not encroach on any required yard area.
- D. No fuel pump shall be located closer than 20 feet to any side lot line nor closer than 35 feet to any street line, measured from the outside edge of the fuel island.
- E. No access drive shall be within 200 feet of and on the same side of the street as a school, public library, theater, church or other public gathering place, park, playground or fire station unless a street 50 feet or more wide lies between such service station and such building or use.
- F. All repair work and storage shall be within a completely enclosed building which has a maximum height of 15 feet. Such repair work shall not include any body repair work or spray painting or car washing which requires mechanical equipment.
- G. No display or storage of items for sale or lease shall be kept outside of the building.

**§ 140-36. Essential services.<sup>99</sup> [Added 11-19-2009 by L.L. No. 6-2009]**

- A. Such uses shall be located on land owned by, or leased to, a municipal corporation, the county, state or federal government, or a nonprofit corporation duly established and authorized by law to provide firehouses, ambulance and emergency services stations. An essential service use may include accessory communications equipment related to essential services but shall exclude a utility company and public utility company as those terms are used in Article 1, § 2, of the Public Service Law of the State of New York and all wireless communications facilities as defined in Article X of this chapter.

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**99. Editor's Note: Former § 140-36, Signs, as amended 12-30-1987 by L.L. No. 9-1987, was repealed 12-20-2001 by L.L. No. 6-2001. For current provisions, see Art. XIII, Signs.**

- B. The proposed use shall be subject to site plan review by the Planning Board held following public hearing and notice as provided for in § 140-150 of this chapter.
- (1) In making its site plan determination, the Planning Board shall have the authority to modify the dimensional or physical requirements of the applicable zoning regulations for the district in which the property is located by reducing the lot area, lot width, lot frontage, lot coverage, setback requirements, maximum building height and open space requirements set forth in the Density Control Schedule of the Zoning Law<sup>100</sup> to the extent required to accommodate the proposed use, including any proposed accessory uses, on the property.
  - (2) In making any determination to reduce any Density Control Schedule<sup>101</sup> requirement, the Planning Board shall take into consideration the benefit to the applicant if the modification is allowed, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such modification. In making such determination the Board shall also consider:
    - (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by modifying the otherwise applicable dimensional requirements; and
    - (b) Whether the modification will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
  - (3) In making its decision to modify the area or dimensional requirements applicable to the site plan as authorized above, the Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the Zoning Law, and shall be imposed for the purpose of minimizing any adverse impact such modification may have on the neighborhood or community.
  - (4) Any modification of the Density Control Schedule<sup>102</sup> requirements shall apply to the proposed use shown on the site plan. In the event that a future change in the use of the property would add additional uses, require the construction of new site plan improvements, expand the use to additional portions of the site or otherwise increase the intensity of the use, such change in use will require a written determination by the Planning Board that its determination remains applicable to the proposed change in use.

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**100**Editor's Note: The Density Control Schedule is included at the end of this chapter.

**101**Editor's Note: The Density Control Schedule is included at the end of this chapter.

**102**Editor's Note: The Density Control Schedule is included at the end of this chapter..



- C. The decision to modify any applicable requirement shall be made by written resolution fully setting forth the basis for the Planning Board's determination, duly adopted by a majority of the Planning Board, and shall be filed in the office of the Town Clerk in the manner required by § 274-a of the Town Law. The approved site plan shall include a note stating the nature and extent of any modified requirement(s) and the date of the Planning Board determination allowing such modification.
- D. In reviewing site plans for proposed essential services, the Planning Board shall consider the following principles:
  - (1) To the extent possible, entrances and exits to facilities for such uses shall be so located as to avoid directing vehicular traffic to and through adjacent minor residential streets.
  - (2) If located in or abutting a residential district of the Town, the location, design and operation of such uses shall avoid, to the extent practicable, adverse effects on the character of the surrounding residential area. If the nature of the proposed use is such that such effects cannot be entirely avoided, the Planning Board shall require reasonable measures that minimize or mitigate such effects, to the extent practicable and consistent with the proposed use.
  - (3) In the event that a reduction in parking spaces is proposed, the Planning Board shall authorize such reduction only after determining that a reserve parking area sufficient to accommodate the applicable parking requirements is available on the site, that sufficient parking is available in the vicinity of the site to accommodate unanticipated parking demand and that satisfactory arrangements have been made to allow the use of such parking areas by the applicant, or that the applicant has demonstrated by suitable evidence that such parking will not be required by the proposed use.
  - (4) The site of any such use shall be arranged to provide any necessary fences, bathers and other safety devices and shall be landscaped in a manner consistent with surrounding uses.

**§ 140-37. Excavations for soil mining. [Amended 12-30-1987 by L.L. No. 9-1987]**

Excavation for the purpose of soil mining, such as gravel pits, quarrying or any subsoil removal, shall be allowed only by special permit in A, I-1 and F Districts, subject to § 140-27 and the following provisions:

- A. Before a special permit is issued, the applicant shall submit to the Planning Board and the Board of Appeals two copies of a map, at a scale of one inch equals no more than 100 feet, showing all land within 200 feet thereof, with exact locations of all buildings, streets, utilities, drainage or other easements, watercourses, lot lines, block and lot

numbers and names of the landowners. Such map shall also show the present topography at two-foot contour intervals. The map shall be signed by a licensed engineer or land surveyor for certification of its accuracy.

- B. The applicant shall also submit to the Planning Board and the Zoning Board of Appeals two copies of the proposed plan of excavation at the same scale as above showing the proposed finished elevations at one-foot contour intervals and the proposed drainage plan.
- C. During excavation or quarry operations, open pits and quarry walls shall be entirely surrounded by a substantial fence at least six feet high that will effectively block access to the area, with suitable gates provided with locks. The top and/or toe of slope shall be not closer than 40 feet to a property line.
- D. No rock crusher, cement plant or other crushing, grinding, polishing or cutting machinery or other physical or chemical process for treating the product of such excavation shall be permitted.
- E. The proposed finished grading plan shall show the land to be smooth-graded and topsoil respread to a minimum depth of four inches. Slopes shall not exceed the normal angle of repose of the material removed.
- F. The applicant shall be required to furnish a performance bond in an amount determined by the Building Inspector to be sufficient to guarantee completion of the finished grading and drainage plan. Such bond shall be released only upon certification by the Building Inspector that all requirements, including the finished grading and drainage, have been complied with.
- G. No special permit for excavation operations or soil mining shall be granted for a period of more than three years, but such permit may be extended for an additional two years upon approval of the Board of Appeals.
- H. Upon approval, one copy of the approved excavation plan shall be returned to the applicant by the Town Clerk, together with the special permit, upon the payment of a fee as set forth from time to time by resolution of the Town Board to cover all engineering and other costs directly attributable to the approval and office and field checking of the proposed soil mining operations.
- I. The Board of Appeals may waive any one or all of the above requirements, provided that such waivers do not create a hazardous or dangerous condition.

**§ 140-38. Mobile homes. [Amended 12-30-1987 by L.L. No. 9-1987]**

Single mobile homes are specifically prohibited in all zoning districts, except as permitted by the Planning Board for agricultural laborers as part of a working farm.

**§ 140-39. Cemeteries or crematories.**

No burial or memorial plats or buildings shall be located closer than 50 feet to any residential lot line, except that when a dense evergreen hedge or a wall or landscaped strip at least six feet in height providing complete visual screening from all adjacent residential property is provided, burial or memorial plats of less than six feet in height may be located no closer than 20 feet to any residential lot line. Crematories shall be located only in cemeteries.

**§ 140-40. Sanitary facilities.**

No person shall undertake to construct any new building or structure in the Town of New Paltz without first meeting the requirements for a system or facilities for the separate disposal of waterborne sewage, domestic or trade wastes in accordance with applicable regulations of the Town, the Ulster County Department of Health and other governmental authorities.

**§ 140-41. Sales and display of recreational sports vehicles as ancillary use to automobile repair use.<sup>103</sup>**

In any district where permitted, the sale and display of recreational sports vehicles shall be allowed as an ancillary use to a permitted automobile repair use, subject to the following conditions:

- A. The principal automobile repair use must be duly licensed by the NYS Department of Motor Vehicles;
- B. Sales and displays shall be limited to new "recreational sport vehicles" ("RSVs"), as that term is defined herein, except that incidental sales of merchandise related to recreational sport vehicles offered for sale and used recreational sport vehicles resulting from those repair activities may be allowed by special permit;
- C. Sales and display of recreational sport vehicles shall be restricted to an indoor area, not exceeding the lesser of 1,500 square feet or 25% of the floor area devoted to repair of vehicles;
- D. All inventory of recreational sport vehicles, other than those displayed for sale in the designated indoor area, shall be stored in a secure area that is not accessible to the public;
- E. As a condition of the special permit, the Planning Board shall require visual and noise screening of any proposed outside inventory storage areas, provision of adequate parking and loading areas for the sales and display area, review of any proposed outdoor testing, riding or operation area, and may require that the applicant return for review of its continuing compliance with the conditions of approval; and

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**103Editor's Note: Former § 140-41, Residential cluster developments, was repealed 9-10-2003 by L.L. No. 5-2003. See now Ch. 121, Subdivision of Land, Art. VA, Cluster Development.**

- F. Outdoor sales or displays of recreational sport vehicles or other vehicles are strictly prohibited.

## ARTICLE VII

**Nonconforming Buildings, Uses and Lots**  
**[Amended 12-30-1987 by L.L. No. 9-1987; 1-16-2003 by L.L. No. 1-2003]**

**§ 140-42. Purpose.**

- A. It is the purpose and intent of this article to reduce or minimize impacts of uses and buildings which do not conform to the use or bulk requirements set forth in this chapter, and of all uses and buildings that become nonconforming by reason of any subsequent amendment to this chapter and of all buildings containing nonconforming uses so as to promote the harmonious and compatible use of land and property within the Town of New Paltz.
- B. Accordingly, it is the general policy of the Town of New Paltz that the nonconforming use of lands or buildings are not to be expanded, enlarged, relocated, changed or rebuilt, except in accordance with the standards set forth in this article. Further, the existence of any nonconformity shall not of itself be considered grounds for the approval of a variance for the property on which such nonconformity is located or for any other property.

**§ 140-43. Nonconforming uses.**

Except as provided hereinafter with respect to certain uses, any lawful use of a building, structure, lot or lands which existed on the effective date of this chapter, or which existed at the time of any subsequent amendment thereto which applied to such use, may be continued indefinitely, regardless of change of title, possession or occupancy or right thereof, notwithstanding that such use of a building, structure, lot or lands does not thereafter conform to the provisions of this chapter, except that such use:

- A. Enlargement. Shall not be enlarged, altered, extended, reconstructed or restored or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this chapter, nor shall any external evidence of such use be increased by any means whatsoever, except as provided in § 140-43, Subsection F hereof.
- B. Relocation. Shall not be moved to another location where such use would be nonconforming.
- C. Change to nonconforming use. Shall not be changed to another nonconforming use without approval by the Zoning Board of Appeals and then only to a use which is a more restrictive nonconforming use or to a use which is more nearly conforming to the requirements of the district in which it is located. Such change of use shall require, if applicable, site plan approval by the Planning Board.

- (1) If changed to a more restricted nonconforming use, such building, structure, lot or lands shall not be changed back to a less conforming use.
- D. Change to conforming use. If changed to a conforming use, such building, structure, lot or lands shall not thereafter be used for the same or any other nonconforming use.
- E. Repair or reconstruction of a damaged building containing a nonconforming use.
  - (1) A building containing a nonconforming use which has been damaged by fire or other causes to the extent of more than 50% of its fair market value shall not be repaired or rebuilt unless such building is used for a conforming use.
  - (2) The burden of demonstrating entitlement to a building permit to rebuild or to restore the damaged portion of any building containing a nonconforming use that will be continued shall be on the applicant for such permit. Such permit application shall be filed within six months of the day of such damage and shall be accompanied by plans for reconstruction which demonstrate compliance with the requirements of this section. If such permit is issued, it shall expire six months after the date on which the permit is issued, unless reconstruction in accordance with the approved plans has been completed. The time to file a building permit application, and the expiration of such permit, may each be extended once by the Building Inspector, on good cause shown, for an additional period that does not exceed three months.
  - (3) A lawfully existing nonconforming use of a damaged building or structure maybe continued, but not enlarged or extended, if the nonconforming use is reestablished within one year of such damage. If the restoration of such building is not completed within such time, the nonconforming use of such building shall be deemed to have been discontinued, unless such nonconforming use is carried on without interruption in the undamaged portion of such building.
- F. Expansion or enlargement of structures used for nonconforming uses. Notwithstanding any other provision of this chapter, a special exception permit may be issued by the Planning Board to allow the expansion of a structure which is devoted to a nonconforming use to an extent not exceeding, in the aggregate, the lesser of 10% of the floor area of the principal structure which lawfully existed on the effective date of the provision(s) of this chapter which first made such use nonconforming or 1,200 square feet of floor area and which otherwise complies with all applicable use requirements of this chapter, upon finding that:
  - (1) Practical difficulties prevail in operating the premises or structures in the presently existing nonconforming manner and that the proposed expansion or enlargement would constitute reasonable

adjustment of the existing nonconforming use or reduce the degree of the nonconforming use; and

- (2) The proposed expansion or enlargement will not have a deleterious effect on the neighborhood of the existing nonconforming use. In determining deleterious effect, the Board shall take into consideration, among other things, traffic safety, nuisance characteristics, manner of operation, total ground area covered by the structure and the appearance and condition of the premises; and
- (3) The proposed expansion or enlargement will not be more incompatible with or adversely affect the nature and character of the neighborhood and neighborhood structures, nor have any significant adverse affect on the value of adjoining properties; and
- (4) Adequate on-site parking and loading space will be provided for all potential users; and
- (5) The proposed expansion will not unduly restrict fire and police protection of the premises and of surrounding properties.

**§ 140-44. Nonconforming buildings. [Amended 10-3-2019 by L.L. No. 7-2019]**

- A. A nonconforming building not located in the Gateway Districts may be repaired, enlarged, altered, extended, reconstructed, restored or relocated, provided that such action does not create any new noncompliance or increase the degree of noncompliance with regard to the regulations pertaining to such building.
- B. In the event a nonconforming building not located in the Gateway Districts has been damaged by fire or other causes to the extent of more than 50% of its fair market value, it shall not be repaired or rebuilt unless the nonconforming aspects of any portion of such building being reconstructed, restored or rebuilt are reduced to the maximum extent practicable.
- C. A nonconforming building located within the Gateway Districts may be altered, extended, reconstructed, restored or relocated only in accordance with the standards of the applicable Gateway District.

**§ 140-45. Repairs and maintenance.**

Nothing in this article shall be deemed to prevent normal repair and maintenance of any building nor, upon the issuance of a building permit and any other required approvals, major structural alterations or demolitions necessary in the interest of public safety. In granting such a permit, the Building Inspector shall state the precise reason why such alterations or demolitions were deemed necessary.

**§ 140-46. Termination.**

- A. The nonconforming use of a building or structure shall be deemed abandoned by operation of law, and the reinstitution or revival of such use shall not be permitted, when such nonconforming use of buildings or other structures has been discontinued for any reason, whether through vacancy or cessation of use, for a continuous period of one year or has been changed to or replaced by a conforming use. The intent to resume a nonconforming use shall not confer the right to do so.
- B. The nonconforming use of land or premises shall be deemed abandoned by operation of law, and the reinstitution or revival of such use shall not be permitted, when such nonconforming use of land or premises has been discontinued for any reason, whether through vacancy or cessation of use, for a continuous period of six months or has been changed to or replaced by a conforming use. The intent to resume a nonconforming use shall not confer the right to do so.

**§ 140-47. Nonconforming lots of record.**

- A. A residential lot lawfully existing prior to August 23, 2001, which was otherwise conforming as to the area regulations of the district in which it is located and which was made nonconforming as to lot frontage by reason of the adoption of Local Law No. 4 of the year 2001 (effective August 23, 2001, whether or not such lot was within, and part of, a subdivision duly approved by the Planning Board of the Town of New Paltz and duly filed in the office of the Ulster County Clerk, in that such lot does not have the minimum lot frontage on a public highway and does not abut land in the same ownership having such frontage may be used for a single-family dwelling, without the necessity of obtaining a variance, provided that the lot otherwise complies in all respects with the area requirements of the district in which it is located and the Planning Board finds that the proposed means of access to such dwelling is safe and convenient.
- B. Any lot held in single and separate ownership prior to the adoption of this chapter and whose area and/or lot width and/or lot depth are less than the respective minimum lot requirements specified for the district in which such lot is located may be considered as complying with such minimum lot requirements, and no variance shall be required, provided that:
  - (1) Prior to August 23, 2001, and all times thereafter, such lot did not adjoin any other lot or property held by the same owner such that the aggregate area of such lots or property would equal or exceed the minimum lot area required for the district in which the lot is located; and
  - (2) Such lot has an area of at least 5,000 square feet.
  - (3) If it is to be used for residential purposes, such lot shall have sufficient area and dimensions to accommodate a single-family dwelling and adequate septic facilities, if no public sewer is



available, including a minimum lot width of at least 50 feet at the required setback line, and the following minimum yard dimensions:

- (a) Side yards: eight feet.
- (b) Front and rear yards: 25 feet.
- (4) In any district where residences are permitted, such nonconforming lots may be used for not more than one single-family dwelling.

**§ 140-48. Lot area reduction.**

- A. No lot shall be reduced in area so that it is nonconforming as to lot area or any other area requirements of this chapter.
- B. A lot of nonconforming size may be divided for the sole purpose of allowing each and every subdivision of such lot to be conveyed to the owners of contiguous property and merged into the adjoining properties. In such case, the Planning Board shall review and approve such conveyance by a plan showing adjustment of the lot lines of the affected properties.

**§ 140-49. Exemptions.**

Any lot proposed for residential use in a subdivision duly approved by the Planning Board after the effective date of this chapter which conforms to the applicable lot area, lot width or bulk requirements of this chapter at the time of approval but which is made nonconforming as to area, width or bulk requirements by any future amendment of this chapter shall be considered as complying with such requirements for three years after the date of the filing of such subdivision plat in the office of the Ulster County Clerk.



ARTICLE VIII  
**Administration and Enforcement**

**§ 140-50. Enforcement; compliance required.**

- A. This chapter shall be enforced by the Building Inspector, who shall be appointed by the Town Board, in the same manner and with the same powers as now or hereafter practiced or provided under the Building Code.<sup>104</sup>
- B. No building permit or certificate of occupancy shall be issued by the Building Inspector and no permit or license for any purpose shall be issued by any official of the Town if the same would be in conflict with the provisions of this chapter.
- C. The Building Inspector or any Code Enforcement Officer shall have the power to order, in writing, the remedying of any condition found to exist in, on or about any building in violation of the Zoning Code of the Town of New Paltz or in violation of the New York State Uniform Fire Prevention and Building Code, and to issue appearance tickets for violations of the Town of New Paltz Zoning Code and the New York State Uniform Fire Prevention and Building Code. **[Added 5-24-1990 by L.L. No. 11-1990]**

**§ 140-51. (Reserved)**<sup>105</sup>

**§ 140-51.1. Building permits. [Added 7-26-2007 by L.L. No. 3-2007]**

No person shall commence the erection, extension, structural change, construction, relocation, enlargement, reduction, alteration, removal, improvement (including plumbing and heating), addition to, demolition, conversion or change in the nature of the occupancy of any building or structure or cause the same to be done without first obtaining a separate building permit from the Building Inspector for each such building or structure, except that no permit shall be required for the performance of ordinary repairs which are not structural in nature.

**§ 140-51.2. Building permit applications. [Added 7-26-2007 by L.L. No. 3-2007]**

All applications for building permits shall be accompanied by two copies of a plot plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot and such other information as may be required by the Building Inspector to determine compliance with this chapter. One copy of such plans, when approved by the Building Inspector, shall be returned to the owner upon

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**104**Editor's Note: See Ch. 78, Fire Prevention and Building Construction.

**105**Editor's Note: Former § 140-51, Building permits, as amended, was repealed 7-26-2007 by L.L. No. 3-2007. See now §§ 140-51.1 through 140-51.4.

payment of the appropriate fee, as established from time to time by resolution of the Town Board.

**§ 140-51.3. Planning Board review. [Added 7-26-2007 by L.L. No. 3-2007; amended 2-27-2014 by L.L. No. 1-2014]**

Notwithstanding the provisions contained in § 140-52 of this chapter regarding site plan review and approval, the Planning Board, upon recommendation of the Building Inspector and after consultation with the Town Engineer, is authorized to waive site plan approval and the Building Inspector is authorized to issue any building or other required permit for the alteration, modification, improvement, conversion or change in the nature of the occupancy of the building, structure or permitted use for which the application is being made, provided that:

A. The applicant has demonstrated that:

- (1) The proposed activity for which the application is being made will not require any enlargement, extension, relocation, removal or reduction of any existing buildings, structures, parking areas, exterior lighting or other improvement shown on any site plan approved by the Planning Board prior to the date of the application;
- (2) The applicant is the owner or operator of a lawfully established wireless communications facility, and the proposed action is to co-locate, remove, or replace transmission equipment on an existing wireless tower, provided the proposed action does not substantially change the physical dimensions of the tower or existing base equipment;
- (3) The applicant proposes to install a Type I or Type II electric vehicle charging station (EVCS), and installation of the EVCS is not part of an action that otherwise requires site plan approval;
- (4) The applicant proposes to install a photovoltaic or solar hot water system on an existing building or structure, or within the bounds of a parking area or other area constructed with a paved impervious surface, so as to not increase the amount of impervious surface on the site.
- (5) The applicant proposes to conduct farm operations, as defined in Section 301 of the New York State Agriculture and Markets Law, on land that: (a) is located in a zoning district that allows agricultural uses; (b) has as a principal use a "farm" as defined in § 140-8 of this chapter to which the proposed farm operations are accessory; (c) is used in agricultural production, as defined in Section 301 of the New York State Agriculture and Markets Law; (d) and the land is either currently enrolled in an Ulster County agricultural district or is qualified under Ulster County and New York State law for an agricultural exemption by the Assessor of the Town of New Paltz; and the applicant has demonstrated to the Building Inspector that

the proposed farm operations will be conducted in a manner consistent with any guidelines of the Department of Agriculture and Markets applicable to the proposed use, and that any necessary access, parking, water and sanitary facilities required for the proposed use will be provided. **[Added 2-15-2018 by L.L. No. 1-2018]**

- B. The applicant has demonstrated that the proposed activity for which the application is being made will not significantly increase the anticipated vehicle trips generated by the site, the anticipated parking requirements or traffic circulation on the site, the volume or quality of stormwater discharges from the site, or the use of water and septic/sewer facilities;
- C. The applicant has demonstrated that the proposed activity for which the application is being made is a Type II action pursuant to the provisions of 6 NYCRR Part 617 for purposes of SEQRA. For purposes of this subsection, co-location, removal or replacement of antennas on an existing minor wireless communications facility consistent with Subsection A(2) and § 140-77 shall be deemed a Type II action; and
- D. The applicant has demonstrated that the proposed activity for which the application is being made will not have an adverse effect or impact upon the physical or environmental conditions of properties in the immediate vicinity nor upon the existing use or uses of such properties.

**§ 140-51.4. Waiver of site plan review.**

- A. As part of any referral to the Planning Board of an application for site plan review and approval required under this chapter, the Building Inspector, after consultation with the Town Engineer, may include as part of such referral a recommendation to the Planning Board, upon forms prepared by the Building Inspector for such purpose, that site plan review and approval should be waived, setting forth reasons in support of such recommendation.
- B. Following receipt by the Planning Board of the submission of any application made to it by the Building Inspector, the Planning Board shall find and determine that site plan review and approval is required pursuant to the provisions of this chapter or, in the alternative, may find and determine that the provisions of § 140-51.3 have been met and that further review by the Planning Board is not required.
- C. Under circumstances where the Building Inspector has delivered to the Planning Board a recommendation that site plan review and approval should be waived and such recommendation has been received by the Planning Board at least three days prior to the conduct of its next regularly scheduled meeting (exclusive of the date of delivery), the Planning Board shall make its findings and determination at such regularly scheduled meeting and shall cause written notice of such determination, signed by the Chairperson or authorized representative

of such Board, to be delivered to the Building Inspector within the three days next following the date upon which such determination is made.

- D. In the event that the Planning Board, under circumstances where there has been delivered to it a recommendation by the Building Inspector to waive review and approval of the application submitted within the time periods set forth above, fails to determine whether or not further review by the Planning Board is required or, having made a determination, fails to provide to the Building Inspector timely notice of such determination, the Planning Board shall be deemed to have waived site plan review and approval as authorized pursuant to § 140-5.3 of this chapter, and the Building Inspector shall be entitled to take and to complete such procedures as are required for the proper disposition of the application.
- E. In the event that the Planning Board, notwithstanding that there has been delivered to it a recommendation by the Building Inspector to waive review and approval of the application submitted, determines that site plan review is required pursuant to the provisions of this chapter, the Building Inspector shall not issue any required building or other permit until such time as the Planning Board shall have approved the site plan in accordance with the provisions of this chapter.

**§ 140-52. Site plan review. [Amended 4-26-1978 by L.L. 3-1978; 12-30-1987 by L.L. No. 9-1987; 1-25-1990 by L.L. No. 1-1990; 9-18-1997 by L.L. No. 3-1997; 2-25-1999 by L.L. No. 2-1999]**

The following provisions shall govern site plan procedures where the submission and approval of a site plan are required by the provisions of this chapter:

- A. Approval required. No building permit shall be issued and no structure or use shall be established, other than a one-family dwelling, or such other cases designated as requiring additional standards pursuant to § 140-8A, and no building permit or subsequent certificate of occupancy for such structure or use shall be issued until requirements for such approval and any conditions attached thereto have been met and there shall be no physical alteration related to the development application (excepting such actions associated with engineering studies, surveys, subsurface investigations, removal of wastes, compliance with regulatory requirements, etc.). The continued validity of any certificate of occupancy shall be subject to the continued conformance with such approved plan and conditions. Revisions of such plans shall be subject to the same approval procedure.
- B. Application for site development plan approval. Any application for site development plan approval shall be made in writing at least three weeks in advance of a regularly schedule Planning Board meeting. It shall be submitted to the Building Inspector, or, if not the Building Inspector, then such other duly authorized person or persons as designated by the Town Board, and shall be accompanied by a detailed

development plan prepared by a legally qualified individual or firm, such as a professional engineer, registered architect or landscape architect, and shall provide the following information:

- (1) Twelve copies of an area map, at a scale convenient for Planning Board use, showing the applicant's entire property as well as all adjacent properties; existing and proposed roads, railroads, streams, rights-of-way and easements in all directions from the subject parcel; all community facilities and utility trunk lines in the neighboring area; and all existing school, zoning and special district boundaries within 500 feet of the applicant's property.
- (2) Twelve copies of the applicant's proposed site development plan, drawn at as large a scale as is convenient, practical and reasonably possible, showing the following items of information:
  - (a) The name and address of the owner of record of the property and the name, address and professional seal of the individual preparing the site plan.
  - (b) The names of all owners of record of adjacent properties.
  - (c) The accurate location of the boundaries of the applicant's property and any existing lot lines, streets, easements or other reservations located within it.
  - (d) The location of all buildings, structures and other man-made features of the site, as well as those on adjacent properties within 100 feet of the property boundary, including existing utility lines.
  - (e) The proposed location, use and design of all buildings and structures.
  - (f) A tabular analysis of the proposed use of all floor space, clearly indicating the proposed type of use by floor level and the proposed division of buildings into units of separate occupancy.
  - (g) The location and design of all driveways and parking and loading areas, including improvements to adjoining streets designed to facilitate the safe and convenient flow of traffic to and from the site.
  - (h) The location and design of the proposed water supply and sewage disposal and stormwater drainage systems, including their relationship of these to related off-site facilities, services and systems, along with an analysis of the impact of the proposed site development upon them.
  - (i) The location and design of all other proposed improvements, including signs, exterior lighting, recreational facilities, fences, walls, refuse enclosure, buffer screening and landscaping.

- (j) The proposed nature and location of any uses which will not be located within a building or structure included storage and display areas, if any.
- (k) Existing and proposed contours, with vertical intervals of not more than two feet, unless waived by the Planning Board, extending at least 50 feet beyond the site boundaries, and reference to the United States Geological Survey datum or other approved benchmark.
- (l) The nature and location of all other existing site features including water bodies, watercourses, wetlands, wooded areas, rock outcrops and single trees with a diameter at breast height (dbh) of 12 or more inches. The plan shall clearly indicate which site features are to be retained and which will be removed or altered.
- (m) Appropriate plans for the protection of the site's environment during the course of construction, including soil erosion and sedimentation control, protection of existing vegetation, noise control, limits on hours of operation, access routes for construction vehicles and other similar measures as may be appropriate in each individual case.
- (n) Any site plan for a residential use that proposes more than three dwelling units or a nonresidential use that proposes more than 20 parking spaces shall make provision for the installation and use of one or more electric vehicle charging stations (EVCS) in accordance with the following: **[Added 2-27-2014 by L.L. No. 1-2014<sup>106</sup>]**
  - [1] Residential structures shall include at least one internal or external parking space with a Type I or Type 2 EVCS per dwelling unit;
  - [2] Office, business, commercial, recreational and other nonresidential uses, including civic, cultural and not-for-profit uses (for instance, libraries, day-care centers, schools, churches, etc.) shall provide at least one parking space with convenient and suitable access to an EVCS for every 20 automobile parking spaces;
  - [3] Parking spaces for nonresidential uses shall be designed and arranged so that electric vehicle parking spaces are generally available for the parking of an electric vehicle. Parking spaces designated on an approved site plan for a public EVCS shall be used exclusively for the parking of a vehicle that is connected to the EVCS for charging.

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**106**Editor's Note: This local law also provided for the redesignation of former Subsection B(2)(n) and (o) as Subsection B(2)(o) and (p), respectively.



- [4] All installed EVSC parking facilities shall be maintained in good operating order at all times during the duration of the proposed use.
  - [5] In the event that the Planning Board determines that the applicant has demonstrated good cause to waive the installation of EVCS facilities otherwise required by this section, it shall require that a sufficient number of spaces be provided with conduit and such other equipment as may be necessary to enable EVSE to be installed in the future with minimal inconvenience or disturbance of parking areas.
  - [6] A parking space available for use by an electric vehicle shall continue to be deemed a parking space for purposes for calculating the number of parking spaces required by § 140-34A.
- (o) An appropriate plan for bicycle parking facilities in accordance with the following: **[Added 6-16-2011 by L.L. No. 2-2011<sup>107</sup>]**
- [1] Residences with three or more families: Bicycle racks or lockers for at least one bicycle per dwelling unit.
  - [2] Fraternity/sorority houses and other group residences: Bicycle racks or lockers accommodating one bicycle per bedroom.
  - [3] Office, business, commercial, recreational and other nonresidential uses, including civic, cultural and not-for-profit uses (for instance, libraries, daycare centers, schools, churches, etc.): Bicycle racks or lockers for at least one bicycle for every 10 automobile parking spaces.
  - [4] Bicycle parking shall be located in high-visibility areas to promote awareness of availability, in areas of pedestrian activity to promote security, and clustered within 50 feet of the building's entrance. Where bicycle parking facilities cannot be located within 50 feet of the building's entrance, appropriate signs indicating the location of bicycle parking shall be required.
  - [5] Bicycle parking facilities shall not impede pedestrian or vehicular traffic or circulation;
  - [6] Bicycle parking facilities shall be maintained in good order, free of broken elements, cleared of litter and debris and secured to the ground.

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**107**Editor's Note: This local law also provided for the redesignation of former Subsection B(2)(n) as Subsection B(2)(o).

- [7] For uniformity, the plan for the construction and installation of bicycle parking facilities shall comply with the Bicycle Parking Guidelines of the Association of Pedestrian and Bicycle Professionals (APBP), as amended from time to time.
- (p) Any other pertinent information as may be determined necessary or appropriate by the Planning Board, Town Engineer or the Building Inspector to provide for the proper enforcement of this chapter.
- (3) The applicant may submit a written request to the Planning Board for waiver of any of the above listed site development plan requirements. This waiver request must specifically state the reason or reasons why the particular site development plan requirement is not applicable to the particular development plan application. The Planning Board may consider the submitted site development plan requirement(s) waiver request(s) and waive a requirement, or requirements, for a site plan if such requirement, or requirements, are found not to be requisite in the interests of the public health, safety or general welfare, or if found inappropriate for a particular site plan. If a waiver to the site development plan requirements is granted, the Planning Board may impose appropriate conditions on such waiver.
- (4) A stormwater pollution prevention plan (SWPPP) consistent with the requirements of the Chapter 116, Stormwater Management and Erosion and Sediment Control, of the Town of New Paltz Code shall be required for final site plan approval. Whether a stormwater pollution prevention plan is required or not, the site plan will include GPS (Global Positioning System) reference data in a form suitable to the Stormwater Management Officer for stormwater outfalls and permanent structures built in accordance with the New York State Stormwater Management Design Manual. **[Added 12-22-2016 by L.L. No. 3-2017<sup>108</sup>]**
- (5) In addition to the following items of information shall also accompany any site development plan application:
- (a) The proposed wording of any covenants, deed restrictions or association agreements which are intended to apply to all or any part of the subject property.
  - (b) Plans and elevations of all proposed buildings, structures and accessory structures, including proposed signs.
  - (c) Where the applicant proposes to develop the project in phases, a phasing plan shall be submitted for approval along with an ultimate development plan for the entire parcel.

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**108**Editor's Note: This local law also redesignated former Subsection B(4) as Subsection B(5).

C. Referral of application to the Planning Board.

- (1) Upon receipt of a properly completed application as described in Subsection B above, the Building Inspector shall determine whether or not it conforms to the basic requirements of this section. If such conformance is determined, the Building Inspector, or, if not the Building Inspector, then such other duly authorized person or persons as designated by the Town Board, shall expeditiously refer copies of the application to the appropriate Town, county and state officials, departments and agencies for their review and comment and shall allow a fifteen-day period for the receipt of their recommendations. At the expiration of a period of 20 days following the date on which the applications conformance is determined and the subsequent referrals are made, as set forth above, the Building Inspector, or, if not the Building Inspector, then such other duly authorized person or persons as designated by the Town Board, shall submit a report containing these recommendations to the Planning Board together with the subject application. The applicant shall be provided with a copy of the report and recommendations in advance of the Planning Board meeting at which time it will be considered.
- (2) Within 62 days of the date of receipt of a properly completed application, the Planning Board shall act to approve, disapproves or approve with modifications the proposed site plan. This period may be extended by mutual consent of the applicant and the Planning Board. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall forward a copy to the applicant, the Building Inspector, or, if not the Building Inspector, then such other duly authorized person or persons as designated by the Town Board, and file same with the Town Clerk. In the event of disapproval, the Planning Board shall state its reasons therefore in writing in its records and shall send a written notice of its decision to the Building Inspector, or, if not the Building Inspector, then such other duly authorized person or persons as designated by the Town Board, who shall then act accordingly, either issuing a building permit, postponing the issuance of such permit pending compliance with the decision of the Planning Board or denying such permit. The Planning Board shall also notify the applicant in writing of its decisions and its reasons for disapproval. Such disapproval shall be filed with the Town Clerk. The site plan application fee shall be in addition to the regular fee for issuance of the building permit.

D. Standards for site development plan approval. **[Amended 2-27-2014 by L.L. No. 1-2014; 8-28-2014 by L.L. No. 3-2014]**

- (1) In acting on any site development plan application, the Planning Board shall take into consideration: **[Amended 12-22-2016 by L.L. No. 3-2017]**

- (a) The public health, safety and general welfare;
- (b) The comfort and convenience of the general public;
- (c) The recommendations of the Town Master Plan and the Official Map;
- (d) The proposed height, bulk, location, materials and architectural features of main and accessory buildings and their appropriateness and relationship to the site and to one another, and opportunities to incorporate the use of energy conservation techniques and technologies into the design and operation of the proposed use, including the utilization of solar, wind, biomass or alternative energy systems where practicable and feasible;
- (e) Screening of paved and surfaced outdoor areas and areas devoted to outdoor storage from abutting residence districts and from abutting streets;
- (f) Traffic circulation within and without the site, and conformance of the proposed plan of development with access management guidelines adopted by the Planning Board, including the design and location of access to the site to provide safe and adequate access and maintain the safe and efficient flow of traffic on the road network serving the site, maintaining appropriate spacing between driveways on adjacent properties and intersections or traffic signals on the highway providing proposed access to the site, and opportunities to provide for the safe and efficient access and flow of vehicular traffic between the site and adjacent parcel;
- (g) The location of existing and proposed pedestrian and bicycle public accessways and their existing/proposed width on and within 200 feet of the site boundaries, including clear demarcation of striping and signage designed to maintain separation of passenger and commercial vehicles, pedestrians and bicycle circulation;
- (h) Provision of off-street parking and loading spaces, including the provision of sufficient electric vehicle charging stations and related infrastructure to meet the reasonably anticipated needs of the proposed use;
- (i) The nature and design of exterior lighting, signs, landscaping, benches, buffer areas and other open spaces;
- (j) The availability of supporting services and facilities, so that any development on the site will satisfactorily and harmoniously relate to the existing or permitted development of neighboring land and buildings;

- (k) The adequacy and arrangement of pedestrian and bicycle access, bicycle parking, sidewalk widths, and circulation, including separation of pedestrians with a buffer where possible from vehicular traffic, will be handled safely both within the site and in relation to adjacent parcels and the adjoining street system; and
  - (l) Compliance with the requirements of Chapter 116, Stormwater Management and Erosion and Sediment Control, of the Town of New Paltz Code, including minimizing potential drainage-related impacts on adjacent properties.
- (2) In considering any proposed site development plan, the Planning Board may, in accordance with Chapter 31, adopt guidelines for site plan review setting forth best practices and procedures for implementing site plan review. In considering any proposed site development plan, the Planning Board may require review by appropriate professionals of the Planning Board's choosing.
  - (3) To assure that the access management standards above are met when the Planning Board finds that the project may generate more than 100 trips during the peak hour on the surrounding state, county and Town highways, the project sponsor shall submit:
    - (a) The above-cited data, including projection of the number and distribution by vehicle type (i.e., automobiles and light trucks, buses, heavy/commercial trucks, including tractor-trailers) of consumers using intended facilities.
    - (b) Appropriate engineering studies or other documentation to analyze infrastructure requirements and related impacts of the proposed project, including traffic, access and parking (vehicular and bicycle) factors and related documentation as to the adequacy of intended on-site or off-site improvements.
  - (4) In appropriate circumstances, the applicant may propose zoning incentives to the Town Board, demonstrating that such incentives are necessary to enable the applicant or property owner to provide internal road systems, shared driveways, cross-access driveways, access and public roads, internal circulation systems, interconnected parking, or off-site traffic improvements that will maintain or improve the safe and efficient movement of traffic along state and county roads, and within a proposed development site or proposed subdivision abutting these roads.
  - (5) The Town Board shall refer such request, with such supporting documentation as may be required to evaluate the desirability of such improvements, to the Town Planning Board, which shall review the consistency of the proposed improvements and the proposed incentives with the Comprehensive Plans of the Town, any plans or studies of the agencies having jurisdiction over the roads and highways that would be affected by such improvements

and incentives, and recommend such adjustments to the permissible density, area, height, or open space as may be warranted by the circumstances of the proposal, together with the proposed improvements that warrant such incentives.

- (6) Upon consideration of the proposal, consultation with any agency having jurisdiction of roads or highways that would be affected by the proposal, and the report and recommendations of the Planning Board, the Town Board determine, in its sole discretion, the adequacy of the access management amenities to be accepted and the particular bonus or incentive to be provided to an applicant or lot owner, if any.
  - (7) The proposed site plan shall be reviewed by a qualified traffic safety engineer at the expense of the project sponsor, who shall review and report to the Planning Board with respect to the safe and efficient movement of traffic on site, the safe and efficient access to and from the site to and from the surrounding road network, compliance with required traffic regulatory and warning sign location and type, the appropriateness of any proposed traffic signals or off-site mitigation measures, and opportunities to provide for safe and efficient traffic flow and access between the site and adjacent parcels.
  - (8) All proposed signage shall be shown on the site plan, including sufficient detail to establish that it conforms with the New York State Department of Transportation Manual of Uniform Traffic Control Devices. All signage shown on the site plan shall be furnished and installed by the project sponsor with prior approval of the agency with jurisdiction over the roadway and the Town Highway Superintendent, and maintained in good condition for the duration of the use and/or ownership by the project sponsor, if on private land, or by the agency with jurisdiction over the highway, if located within a public right-of-way, unless the agency and the sponsor enter into a written agreement for the project sponsor to maintain the signage and other improvements.
- E. Reimbursable costs. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant, as determined by the Planning Board in its sole discretion.
- F. Performance guarantee and inspection of improvements. No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guarantee has been posted for improvements not yet completed. The sufficiency of such performance guarantee shall be determined by the Town Board after consultations with the Planning Board, the Building Inspector, the Town Engineer, the Town Attorney and other appropriate parties. The Building Inspector, or, if not the Building Inspector, then such other duly authorized person or persons as designated by the Town Board,

shall be responsible for the overall inspection of site improvements, including coordination with the Planning Board and other officials and agencies, as appropriate.

- G. Integration of procedures. Whenever the particular circumstances of proposed development require compliance with either the special use procedure in this zoning chapter or other requirements of the Town, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this section with the procedural and submission requirements for such other compliance.
- H. The applicant may make written application to the Planning Board, before such approval expires, for an initial extension of such approval for an initial period of 180 days and, thereafter, for additional extensions of not more than 90 days each, which extensions may, for good cause shown, be granted or denied by the Planning Board.  
**[Amended 12-15-2011 by L.L. No. 6-2011]**

**§ 140-53. Certificates of occupancy. [Amended 10-29-1986 by L.L. No. 7-1986]**

- A. No land shall be used or occupied and no building or structure erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the Building Inspector in accordance with the provisions of the Building Code.<sup>109</sup>
- B. All certificates of occupancy for new or altered buildings or structures shall be applied for coincident with the application for a building permit therefor. Such certificate of occupancy shall be issued within 10 days after the erection or alteration shall have been approved as being in compliance with all applicable federal, state and/or local laws, rules and ordinances.
- C. Every building permit shall expire if the work authorized has not commenced within six months after the date of issuance or if the work authorized has not been completed within 18 months from such date. Provided that no federal, state and/or local law, rule, regulation or ordinance has been enacted in the interim to the contrary, the Building Inspector is authorized to grant, in writing, a single extension of either of the above periods for a period not to exceed six months, at the expiration of which no further work is to be undertaken without issuance of a new building permit. Building permits in force and effect at the effective date of this chapter shall be deemed extended for a period of 18 months next following the effective date of this chapter.
- D. An original certificate of occupancy shall be provided free of charge in conjunction with a building permit. Any request for a duplicate certificate of occupancy shall be made to the office of the Building Inspector of the Town of New Paltz in writing and shall be accompanied

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**109**Editor's Note: See Ch. 78, Fire Prevention and Building Construction.

by a fee as set forth from time to time by resolution of the Town Board for each duplicate certificate of occupancy requested. **[Amended 12-30-1987 by L.L. No. 9-1987]**

- E. The Building Inspector of the Town of New Paltz shall not issue a certificate of occupancy where the actual cost of construction exceeds the amount set forth in the application for the building permit, nor shall the Building Inspector of the Town of New Paltz issue a certificate of occupancy where the actual cost of construction is not reflected in the affidavit of final cost, which said affidavit shall be part of the requirements for the issuance of a certificate of occupancy.

**§ 140-54. Costs of construction. [Added 10-29-1986 by L.L. No. 7-1986; amended 3-17-1988 by L.L. No. 1-1988]**

For the purpose of this article, the cost of construction upon which the fees for building permits shall be computed and the costs of construction for purposes of the application for the building permit and/or for the affidavit of final costs shall be the actual cost of construction incurred by the applicant or, in the absence of the actual cost of construction, the cost estimates set forth in the replacement cost provisions of the New York State Local Assessors Handbook and/or of Beockh Building Valuation Manual shall control.

**§ 140-55. Zoning Board of Appeals.**

- A. Establishment and duties. Pursuant to the Town Law, the Town Board shall appoint a Zoning Board of Appeals consisting of five members, shall designate its Chairman and shall also provide for compensation to be paid to said members and provide for such other expenses as may be necessary and proper. A member of the Board of Appeals shall not at the same time be a member of the Town Board. The Town Board shall have the power to remove any member of the Board of Appeals for cause and after public hearing.
- (1) Term of appointment. Of the members of the Board of Appeals first appointed, one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years and one for the term of five years from and after his appointment. Their successors shall be appointed for terms of five years from and after the expiration of the terms of their predecessors in office. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Town Board by appointment for the unexpired term.
  - (2) Staff. The Board of Appeals may employ such clerical or other staff assistance as may be necessary and prescribe their duties, provided that it shall not at any time incur expenses beyond the amount of the appropriations made by the Town Board and then available for that purpose.



- (3) Rules of procedure, bylaws, forms. The Board of Appeals shall have the power to make, adopt and promulgate such written rules of procedure, bylaws and forms as it may deem necessary for the proper execution of its duties and to secure the intent of this chapter. Such rules, bylaws and forms shall not be in conflict with nor have the effect of waiving any provisions of this chapter or any other ordinances or local laws of the Town of New Paltz. Such rules, bylaws and forms and any subsequent amendments or supplements thereto shall be submitted to the Town Board by the Board of Appeals for approval and filing for public view. The Town Board shall move to approve, reject or modify such rules, bylaws and forms within 30 days after submission. Failure of the Town Board to so move shall be construed to constitute approval thereof.
  - (4) All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. The Chairman or, in his absence, the Acting Chairman may administer oaths and compel the attendance of witnesses. All meetings of such Board shall be open to the public. The concurring vote of a majority of all members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector or to decide in favor of an applicant in any matter upon which it is required to pass under any ordinance or local law to effect any variation in the Zoning Local Law.
  - (5) The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member on every question. If a member is absent or fails to vote, the minutes shall indicate such fact. Every rule, regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Board of Appeals shall immediately be filed in the office of the Town Clerk and shall be a public record.
  - (6) Referrals to the Planning Board. At least 20 days before the date of hearing held in connection with any appeal or application submitted to the Board of Appeals, said Board shall transmit to the Planning Board a copy of said appeal or application and shall request that the Planning Board submit to the Board of Appeals its advisory opinion on said appeal or application. The Planning Board shall submit a report of such advisory opinion prior to the date of said public hearing. The failure of the Planning Board to submit such report shall be interpreted as a favorable opinion for the appeal or application.
- B. Public notice and hearing. Public notice of any required hearing by the Board of Appeals shall be given in accordance with the Town Law as follows:
- (1) Any public hearing required pursuant to the provisions of this section upon any appeal or application shall be noticed in

accordance with Article XVI, Public Hearings, of Chapter 140, Zoning, of the Code of the Town of New Paltz. **[Amended 12-30-1987 by L.L. No. 9-1987; 5-24-2007 by L.L. No. 2-2007]**

- (2) By giving written notice of hearing to any appellant or applicant and to the Planning Board not less than five days prior to such hearing.
  - (3) By giving written notice of hearing to any required municipal, county, metropolitan, regional, state or federal agency in the manner prescribed by law.
- C. Appeals. The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by the Building Inspector under this chapter in accordance with the procedure set forth herewith:
- (1) Notice of appeal shall be filed with the Building Inspector and the Secretary to the Board of Appeals in writing, in a form required by such Board, within 30 days of the date of the action appealed from, specifying the grounds thereof.
  - (2) Upon filing of a notice of appeal and payment of a filing fee, as set forth from time to time by resolution of the Town Board, by the appellant or applicant, the Building Inspector shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. **[Amended 12-30-1987 by L.L. No. 9-1987]**
  - (3) The Board of Appeals shall set a reasonable date for the hearing of each appeal, of which hearing date the appellant shall be given notice and at which hearing he shall appear in person or by agent or by attorney.
  - (4) An appeal stays all proceedings in furtherance of the action appealed from, unless the Building Inspector certifies to the Board of Appeals, after notice of appeal shall have been filed with him, that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Appeals or by a court of record on application, on notice to the Building Inspector and on due cause shown.
  - (5) Following public notice and hearing, the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises and, to that end, shall have all the power of the Building Inspector. If the action by the Board of Appeals is to reverse the action of the Building Inspector in whole, the filing fee shall be refunded to the appellant

## D. Variances.

- (1) Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this chapter, the Board of Appeals shall have the power, after public notice and hearing, to vary or modify the application of any of the regulations or provisions of this chapter relating to the use, construction or alteration of buildings or structures or the use of land so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.
- (2) All applications for variances shall be filed with the Secretary to the Board of Appeals in writing, shall be made in a form required by the Board of Appeals and shall include a plot plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot.
- (3) Any variance which is not exercised within one year from the date of issuance is hereby declared to be revoked without further hearing by the Board of Appeals.
- (4) Criteria for granting variances.
  - (a) A variance to the provisions of this chapter shall be granted by the Board of Appeals in order to vary or adapt the strict application of any of the requirements of this chapter in the case of exceptionally irregular, narrow, shallow or steep lots or other exceptional physical conditions whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved, but in no other case. No variance in the strict application of any provision of this chapter shall be granted by the Board of Appeals except by the adoption of a resolution fully setting forth the reasons for the following findings:
    - [1] That there are special circumstances or conditions applying to such land or buildings and not applying generally to land or buildings in the vicinity and under identical district classification and that said circumstances or conditions are such that strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or buildings or of privileges enjoyed by other properties in the vicinity and under identical district classification.
    - [2] That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board of Appeals is the minimum variance that will accomplish this purpose.

[3] That the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the vicinity or otherwise detrimental to the public welfare.

[4] That any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which subject property is situated.

(b) In no case shall a variance be granted solely for reason of additional financial gain on the part of the owner of the land or building involved.

E. Special use permits.

(1) The Board of Appeals shall have the power, after public notice and hearing, to grant special use permits in the classes of cases specified in § 140-8A of this chapter.

(2) All applications for special use permits shall be filed with the Secretary to the Board of Appeals in writing, shall be made in a form required by the Board, and shall include a plot plan, drawn to scale and accurately dimensioned, showing the location of all existing and proposed buildings and structures on the lot.

(3) Whenever the Board of Appeals grants a special use permit, appropriate conditions and safeguards and/or time limitations must be attached thereto so as to guarantee that the use of premises shall not be incompatible with other permitted uses in the vicinity and district in which subject property is situated.

(4) Any special use permit which is not exercised within one year from the date of issuance is hereby declared to be revoked without further hearing by the Board of Appeals.

F. Relief from decisions. Any person or persons jointly or severally aggrieved by any decision of the Board of Appeals may apply to the Supreme Court for relief by a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Such proceeding shall be governed by the provisions of Article 78 of the Civil Practice Law and Rules, except that it must be instituted as therein provided within 30 days after the filing of a decision in the office of the Town Clerk, the Court may take evidence or appoint a referee to take such evidence as it may direct and report the same with his findings of fact and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter, and the Court, at special term, shall itself dispose of the cause on the merits, determining all questions which may be presented for determination under the provisions of § 7803 of said article. Costs shall not be allowed against the Board of Appeals unless it

shall appear to the Court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

**§ 140-56. Amendments.**

- A. Procedure. The Town Board may, from time to time, on its own motion or on petition or on recommendation from the Planning Board, amend the regulations and districts established under this chapter after public notice and hearing in each case. All petitions for any amendment of the regulations or districts herein established shall be filed in writing, in a form required by the Town Board, and shall be accompanied by a certified check in the amount set forth from time to time by resolution of the Town Board to help defray the cost of advertising the hearing on said petition and incidental disbursements. **[Amended 12-30-1987 by L.L. No. 9-1987]**
- B. Advisory report by Planning Board.
- (1) Every proposed amendment, unless initiated by the Planning Board, shall be referred to the Planning Board. The Planning Board shall report its recommendations thereon to the Town Board, accompanied by a full statement of the reasons for such recommendations, prior to the public hearing. If the Planning Board fails to report within a period of 45 days from the date of receipt of notice or such longer time as may have been agreed upon by it and the Town Board, the Town Board may act without such report. If the Planning Board disapproves the proposed amendment or recommends modification thereof, the Town Board shall not act contrary to such disapproval or recommendation except by the adoption of a resolution fully setting forth the reasons for such contrary action.
  - (2) All petitions for amendments to this chapter when filed with the Town Board, each proposed amendment recommended by the Planning Board when the same is submitted to the Town Board and each proposed amendment initiated by the Town Board on its own motion shall, upon said filing, submission or motion, immediately stay the issuance of any building permits for any construction whatsoever within the area affected by the proposed amendment for a period of 90 days or until the amendment is rejected by the Town Board, whichever event occurs first
  - (3) In the event of the adoption of the amendment or the adoption of said amendment with modifications, the issuance of building permits shall continue to be stayed until after the effective date of said amendment.
- C. Public notice and hearing. The Town Board, by resolution, shall fix the time and place of the public hearing and cause notice to be given as follows:

- (1) By giving notice of such public hearing in accordance with Article XVI, Public Hearings, of Chapter 140, Zoning, of the Code of the Town of New Paltz. **[Amended 5-24-2007 by L.L. No. 2-2007]**
  - (2) By giving written notice of hearing to any required municipal, county, regional, metropolitan, state or federal agency in the manner prescribed by law.
- D. Protest by owners. If a protest against the proposed amendment is presented to the Town Board, duly signed and acknowledged by the owners of 20% or more of the area of land included in such proposed amendment or by the owners of 20% or more of the area of land immediately adjacent extending 100 feet therefrom or by the owners of 20% or more of the area of land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of at least 3/4 of the Town Board.
- E. Changes by Planning Board. The Planning Board, in accordance with § 281 of the Town Law,<sup>110</sup> may, simultaneously with the approval of any plat, make any reasonable change to the regulations established under this chapter with respect to the land so platted. Before the Planning Board shall make any such change, there shall be a public hearing preceded by the same notice as in the case of the approval of the plat itself. Once the plat is filed in the office of the County Clerk, such changes shall be and become part of the regulations of this chapter, shall take the place of any regulations established herein by the Town Board, shall be enforced in the same manner and shall be similarly subject to amendment.
- F. Publication and posting. Every amendment to the Zoning Local Law shall be entered in the minutes of the Town Board and shall be published and posted pursuant to the Municipal Home Rule Law and applicable local law. The map, as revised, shall be filed in the office of the Town Clerk.<sup>111</sup>

#### **§ 140-57. Interpretation of provisions.**

- A. Legislative intent. 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, morals, safety and general welfare.
- B. Noninterference and precedence. This chapter shall not interfere with, abrogate, annul or repeal any local law, ordinance, rule, regulation or permit previously or hereafter enacted, adopted or issued pursuant to law, provided that, unless specifically excepted, where this chapter imposes greater restrictions, its provisions shall control.

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**110**Editor's Note: Section 281 was renumbered as § 278 by L. 1992, c. 727.

**111**Editor's Note: The Zoning Map is included in a pocket at the end of this volume.

**§ 140-58. Penalties for offenses.**

- A. Every person who shall fail to comply with a violation order issued by the enforcement officer within the time limit stated thereon shall be deemed to have committed an offense against this chapter and also shall be liable for any such violation or the penalty therefor. **[Amended 12-30-1987 by L.L. No. 9-1987]**
- B. A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violations shall constitute a separate additional violation. **[Amended 12-30-1987 by L.L. No. 9-1987]**
- C. Any person violating this chapter shall be subject to a civil penalty enforceable and collectible by the Town. Such penalty shall be collectible by and in the name of the Town for each week that such violation shall continue. **[Amended 12-30-1987 by L.L. No. 9-1987]**
- D. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.





ARTICLE IX  
**Planning and Zoning Fees**  
**[Added 6-17-1987 by L.L. No. 6-1987]**

**§ 140-59. Intent.**

- A. The Town of New Paltz incurs significant expenses in the operation of the Planning Board, the Zoning Board of Appeals and the office of the Building Inspector.
- B. These expenses include, but are not limited to, administrative, legal and engineering costs.
- C. Administrative costs include, but are not limited to, processing applications, consultations among municipal officers and officials regarding the facts and circumstances of the application, preparation of hearing notices, publication of hearing notices, providing notice to other governmental agencies, preparation of affidavits of posting and publication, preparation and maintenance of official records regarding the application and municipal review of the application, testimony by municipal officials at public hearings, processing of resolutions and determinations, filing fees and miscellaneous services and disbursements.
- D. Legal costs include, but are not limited to, application review, review and analysis of applicable zoning law provisions, review and analysis of applicable subdivision regulations, preparation of hearing notices, attendance at meetings and public hearings, preparation of resolutions and determinations, preparation of SEQRA determinations, review of bonds for public improvements, review of offers of dedication, review of easements, preparation and review of agreements, review of deeds and miscellaneous services and disbursements.
- E. Engineering costs include review of plans at various stages, analysis of public improvements, preparation of reports, design analysis, inspection fees, preparation of improvement costs estimates, examination of property descriptions and miscellaneous services and disbursements.
- F. When these expenses are occasioned in connection with an appeal, application or petition made by an applicant to the Town or to an instrumentality of the Town, then it is proper and in the public interest for the applicant to bear the cost of these expenses.

**§ 140-60. Payment required in advance.**

Unless otherwise specifically provided in this article or a subsequent resolution establishing fees, the fees required pursuant to this article shall be paid in advance upon submission of an application, and the failure to submit the full payment required shall render the application incomplete.

**§ 140-60.1. Escrow account; professional review expenses. [Added 9-18-2008 by L.L. No. 3-2008]**

A. Escrow deposits.

(1) In connection with any application for a special permit, site plan or subdivision approval, zoning amendment, variance, or other appeal, the reviewing board may require an applicant to deposit an initial sum of money into an escrow account in advance of the review of the application. Said sum shall be based on the estimated cost to the Town of reviewing the particular type of application before it. The reviewing board may consider the professional review expenses incurred by neighboring municipalities in reviewing similar applications. The reviewing board may also consider the Town's survey of professional review expenses in determining the initial sum of money to be deposited in an escrow account by an applicant.

(2) Use of funds.

(a) Said sum of money shall be used to cover the reasonable and necessary costs of reviewing an application. Costs may include staff costs or consultant fees for planning, engineering, legal, and other professional and technical services required for the proper and thorough review of an application. The reviews governed by this section shall include all environmental review pursuant to law including review of the proposed action under the State Environmental Quality Review Act (SEQR).

(b) The review expenses provided for herein are in addition to application or administrative fees required pursuant to other sections of the New Paltz Town Code. Monies deposited by the applicant pursuant to this section shall not be used to offset the Town's general expenses for professional services for the several boards of the Town or the Town's general administrative expenses.

(c) Fees charged strictly as a result of a SEQR review shall in no event exceed the maximum amounts that can be charged pursuant to the SEQR regulations by the lead agency.

B. Upon receipt of monies requested for an escrow account, the Town Supervisor shall cause such monies to be placed in a separate noninterest bearing account in the name of the Town and shall keep a separate record of all such monies deposited and the name of the applicant and project for which such sums were deposited.

C. Upon receipt and approval by the Town Board of itemized vouchers from consultants for services rendered on behalf of the Town regarding a particular application, the Town Supervisor shall cause such vouchers to be paid out of the monies so deposited and shall debit the separate record of such account accordingly. The consultant shall make copies of

such vouchers available to the applicant at the same time the vouchers are submitted to the Town.

- D. The Town Board shall review and audit all such vouchers and shall approve payment of only such consultant charges as are reasonable in amount and necessarily incurred by the Town in connection with the review and consideration of applications. A charge or part thereof is reasonable in amount if it bears a reasonable relationship to the average charge by consultants to the Town for services performed in connection with the review of a similar application. In auditing the vouchers, the Town Board may take into consideration the size, type and number of buildings to be constructed, the topography of the site at issue, environmental conditions at such site, the infrastructure proposed in the application and any special conditions the Town Board may deem relevant. A charge or part thereof is necessarily incurred if it was charged by the consultant for a service which was rendered in order to protect or promote the health, safety or other vital interests of the residents of the Town, and to protect public or private property from damage.
- E. In no event shall an applicant make direct payment to any Town consultant.
- F. If at any time during the processing of an application there shall be insufficient monies on hand to the credit of an applicant to pay the approved vouchers in full, or if it shall reasonably appear to the reviewing board that such monies will be insufficient to meet vouchers yet to be submitted, the reviewing board shall cause the applicant to deposit additional sums as the board deems necessary or advisable in order to meet such expenses or anticipated expenses.
- G. In the event the applicant fails to deposit the requested review fees into an escrow account, any applicant review, approval, permit or certificates of occupancy may be withheld or suspended by the reviewing board, officer or employee of the Town until such monies are deposited.
- H. Upon completion of the review of an application or upon the withdrawal of an application, and after all fees already incurred by the Town have been paid and deducted from the escrow account, any balance remaining in the escrow account shall be refunded within 60 days after the applicant's request.

**§ 140-61. Establishment of fees.**

- A. The fees required pursuant to this article may be established by resolution of the Town Board, and such resolution may be modified from time to time. Any such resolution or modification shall take effect after adoption and upon filing with the Town Clerk and shall apply to all applications filed thereafter, including pending applications.

- B. Except in the case of variances, the fees established pursuant to this article shall be deemed to be minimum fees, and any additional expenses actually incurred by the Town for professional consultations, hearing notices and other nonministerial expenses shall be imposed on the applicant and paid prior to the endorsement of an approved subdivision plat or site plan or the issuance of any building permit or the filing of any applicable local law with the Secretary of State.

**§ 140-62. Zoning Board of Appeals fees.**

Fees shall be established for the following Zoning Board of Appeals matters:

- A. Area variances.
- B. Use variances.
- C. Zoning Law interpretation (at request of applicant alone).

**§ 140-63. Planning Board fees.**

Fees shall be established for the following Planning Board matters:

- A. Site plan review.
- B. Special exception use applications.
- C. Minor subdivision applications:
  - (1) For two lots.
- D. Major subdivision applications:
  - (1) For three lots.
  - (2) For each additional lot.
  - (3) Recreation fees in lieu of parkland.

**§ 140-64. Fees when adoption of local laws required.**

- A. Whenever, in connection with an application or petition, a local law is necessary or appropriate to implement the benefit or relief sought or to regulate conditions occasioned by the granting of an approval or approvals, the total actual expenses incurred by the Town in connection with the preparation and consideration of a proposed local law shall be borne by the applicant. The minimum fees established by resolution shall be paid by the applicant upon the earlier of submission of a petition, if applicable, or prior to the endorsement of an approved subdivision plat or site plan or the issuance of any building permit or the filing of any applicable local law with the Secretary of State.
- B. Fees shall be established for the following:
  - (1) Zone change local law.

- (2) Annexation local law.
- (3) Miscellaneous local laws, including stop sign, speed limit and parking local laws considered in connection with subdivisions and zoning amendments (other than zone changes).
- C. If the administrative or other expenses of the Town exceed the amount deposited pursuant to this section, the balance shall be paid by the applicant prior to the endorsement of any subdivision plat or site plan or the issuance of any building permit or the filing of any applicable local law with the Secretary of State.

**§ 140-65. Building Inspector fees.**

Fees shall be established for the following activities of the Building Inspector:

- A. Building permits:
  - (1) Residential.
  - (2) Other uses.
- B. Certificates of occupancy:
  - (1) Residential.
  - (2) Other uses.
  - (3) Temporary.
  - (4) Permanent.
- C. Demolition permits.
- D. Fire prevention and safety inspections:
  - (1) For buildings containing more than two dwelling units.
  - (2) For nonresidential buildings.
- E. Floodplain development permits.
- F. Floodplain insurance permits.
- G. Inspection of septic systems.
- H. Permit for installation of freestanding wood-burning stoves and freestanding fireplaces.

**§ 140-66. Fees for extensions of time.**

Whenever an extension is necessary to prevent an approval from lapsing or becoming otherwise void, the first such request for an extension shall be processed at no charge, and the second and each subsequent request for an

extension shall be processed only upon prior payment of fees established by resolution of the Town Board.

**§ 140-67. Abatement of fees.**

No abatement of fees shall be granted as a result of an applicant seeking more than one approval or submitting more than one application in connection with a particular project.

**§ 140-68. Expenses related to environmental analysis.**

Whenever environmental analysis is required pursuant to the provisions of the State Environmental Quality Review Act (SEQRA), or any local law implementing SEQRA, all expenses relating to the environmental analysis shall be borne by the applicant. Fees shall be established pursuant to a resolution of the Town Board, in a manner consistent with Title 6 of NYCRR, Part 617.

**§ 140-69. Amendments to approved plans.**

Whenever an application is submitted to amend an approved plan or permit, it shall be deemed a new application, and the fees specified pursuant to this section shall apply; provided, however, that in the case of an amendment to a subdivision plat, the fees shall be based on the number of lots modified or affected by the amendment, and provided further that in no event shall the fees due on a subdivision amendment application be less than the minimum provided for a minor or major subdivision, respectively.

## ARTICLE IXA

**Parkland and Recreation Fees**  
**[Added 6-24-2010 by Ord. No. 5-2010<sup>112</sup>]****§ 140-69.1. Legislative findings.**

- A. The Town Board finds and determines that the existing recreational facilities of the Town are available to, and used by, all residents of the Town. The Town Board further finds and determines that the construction of dwelling units and conversion of nonresidential building space to dwelling units places a burden upon the Town's park and recreation facilities.
- B. Sections 277, 274-b and 274-a of the New York State Town Law authorize a local government to authorize its planning board, upon finding that a subdivision, site plan, special exception use or other land use development containing residential dwelling units will contribute to the future need for park and recreational facilities in the Town, to either require that suitably located land for parks or other recreational purposes be set aside on a subdivision plat, site plan or other land development plan, or, upon finding that parks, playgrounds or recreational facilities sufficient to meet the requirements of the proposed residential development cannot be properly located on the subdivision plat or site plan, that the Planning Board may require that a sum of money in lieu thereof, in an amount to be established by the Town Board, be deposited into a trust fund to be used by the Town exclusively for park, playground or other recreational purposes, including the acquisition of property.
- C. The Town Board finds and determines that the Town of New Paltz Planning Board should review any land use development that proposes to construct new dwelling units, whether proposed on a subdivision plat or site plan, or by special use permit or accessory apartment permit, or any other permit, approval required by this chapter or Chapter 121, and make the determinations required by the New York State Town Law with respect to the suitability of land for parks, playgrounds or recreational facilities to meet the needs of the development and the impact of such development on the Town's system of parks, playgrounds and recreational facilities.
- D. When the location, character and size of land proposed for residential development is such that the reservation of land for parks, playgrounds and recreational facilities is not suitable, the Town Board further finds and determines that a system of parks, playgrounds and recreation facilities to serve the recreational needs of residents in such

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**112**Editor's Note: Section 3 of this local law provides that this local law is not intended to be inconsistent with any provisions of §§ 274-a, 276 or 277 of the Town Law that are of a general applicability. To the extent that this local law may be found to be inconsistent with any provision of New York State Town Law, including §§ 274-a, 276 or 277, or any special law, it is the intent that this local law supersede any such inconsistent provision. For further detail, refer to Section 3 of L.L. No. 5-2010, on file in the Town offices.

developments can most efficiently and effectively be provided and maintained by expanding the existing municipal system of parks, playgrounds and recreation facilities, and that developers of new dwelling units should contribute a fair share toward the improvement and strengthening those municipal park and recreation facilities, so as not to overburden the existing facilities.

#### **§ 140-69.2. Requirements.**

- A. At the time of approval of a subdivision plat, site plan, special permit, conditional use accessory apartment permit, or other plan which shows dwelling units to be constructed, the Planning Board, as a condition of approval or permit, shall determine the suitability of land within the development for recreational facilities, and require that sufficient land to meet the recreational needs of the development and that adequate provision has been made for the use, maintenance and protection of such land for the intended recreational purpose.
- B. In the event such facilities are not proposed, or, in the judgment of the Planning Board, such land is not suitable to meet the needs of the development, the Planning Board shall require the applicant to pay the sum determined by the Town Board in lieu of such land as a condition precedent to the Chairman signing the subdivision plat, site plan or special permit authorization. Such sum shall constitute a trust fund to be held by the Town and used exclusively for municipal park, playground or recreation purposes, including the acquisition or improvement of park and recreation land. No such development plan shall be signed by the Chairman of the Planning Board, and such plan shall not be valid for issuance of a building permit or certificate of occupancy, unless a receipt evidencing payment of the required recreation fee is duly issued by the Town Clerk.

#### **§ 140-69.3. Establishment of fee in lieu of parkland.**

The Town Board shall establish the amount of the parkland and recreation fee by resolution. In establishing said amount, the Board shall consider the inventory of the Town's existing parkland and recreation facilities and needs, actual and potential new residential development, and the park and recreation needs of such new development. Said amount may be amended from time to time by resolution of the Town Board as necessary to reflect current cost and requirements for municipal park, playground or recreation facilities. Notwithstanding that the parkland and recreation fee due at the time of development plan approval has been paid, dwelling unit(s) shall be subject to the parkland and recreation fee in effect at the time a building permit is issued. In the event that the Town Board increases the fee after approval of the development plan, but prior to the issuance of a building permit for a residential dwelling unit on such plan, a building permit for such unit may not be issued until the entire fee is paid and a receipt evidencing payment of the full amount of the required recreation fee is duly issued by the Town Clerk.



## ARTICLE X

**Wireless Communications Facilities Regulations**  
**[Added 6-18-1998 by L.L. No. 2-1998]****§ 140-70. Legislative purpose.**

It is the purpose of this article:

- A. To establish clear standards for the siting of wireless communications facilities, buildings and structures, equipment, communications towers, antenna towers and monopoles.
- B. To promote the health, safety and general welfare of the residents of New Paltz through the establishment of minimum standards to reduce the adverse visual effects of communications facilities, including but not limited to, transmission towers and antennas, through the use of advanced technology, careful design, siting and screening and buffering.
- C. To protect residential areas and land uses and property values from potential adverse impacts of towers and antennas.
- D. To encourage the location of communications facilities and communications towers in areas suitably screened, buffered and adequately separated from residential uses.
- E. To minimize the total number of communications facilities and communications towers throughout the community.
- F. To encourage the joint use of new and existing communications tower sites as a primary option rather than construction of additional single-use communications towers while recognizing that collocation on higher towers is not always preferable to two less visible, less obtrusive shorter towers; thereby maximizing the use of existing communications towers or alternative antenna host sites, while not unreasonably limiting competition among communication providers or unreasonably limiting reception of receive-only antennas.
- G. To require users of communications towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is shown to be minimal.
- H. To require users of communications towers and antennas to configure them in a way that minimizes adverse visual, aesthetic and community character intrusion impacts caused by the installation and view of communications towers and antennas, through careful design, siting, landscape screening and buffering, sufficient setbacks to reduce visual impacts to adjacent properties and innovative camouflaging techniques such as alternative tower structures, thereby protecting the physical appearance of the community and preserving its scenic and natural beauty.

- I. To avoid potential damage to adjacent properties from communications towers through careful engineering and appropriate siting of communications towers.
- J. To enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently by facilitating the siting of personal wireless communications facilities.

### **§ 140-71. Definitions.**

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

**ADEQUATE COVERAGE** — Coverage is considered to be adequate within the service area of the Town of New Paltz if the minimum standards set forth by the Federal Communications Commission to permit the applicant to operate a personal wireless communications services within the area are met.

**ALTERNATIVE TOWER STRUCTURE** — Man-made trees, clock towers, bell steeples, light poles and similar alternative designs including structures that camouflage or conceal the presence of antennas or towers.

**ANTENNA** — A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include but not be limited to radio navigation, radio, television, wireless and microwave communications.

**COLLOCATION** — The siting and/or mounting of multiple communications facilities used by the same provider, or by two or more competing providers, on the same property and/or antenna support structure or communications tower.

**MAJOR WIRELESS COMMUNICATIONS FACILITY** — Any wireless communications facility that is not a minor wireless communications facility, including but not limited to any facilities including any wireless communications towers, as hereinafter defined.

**MINOR WIRELESS COMMUNICATIONS FACILITIES** — Any wireless communications facility situated on or in an existing building or other structure where such equipment consists of a combination of antennas or other receiving device necessary in number to facilitate the provision of wireless communications services from such location, provided that such minor installation is comprised of antennas or transmitting and receiving devices which are no more than 10 feet in height, which are mounted on supports affixed to an existing structure, and operates with all significant equipment accessory thereto (other than the aforementioned antennas and transmitting or receiving devices, supports and connecting cables), installed in interior space appurtenant to such existing building, tower or structure.

**WIRELESS COMMUNICATIONS FACILITY** — Any site containing equipment used in connection with the commercial operation of wireless communications services, as defined herein, and as the term "personal

wireless services facility" is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7)(C), or as hereafter amended, to transmit and/or receive frequencies, including but not limited to antennas, monopoles, equipment, appurtenances and structures.

**WIRELESS COMMUNICATIONS SERVICES** — The provision of personal wireless communications services, including but not limited to those more commonly referred to as "cellular telephone service," which services are regulated by the Federal Communications Commission in accordance with the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. § 332(c)(7)(C), or as hereafter amended.

**WIRELESS COMMUNICATIONS TOWERS** — Any freestanding structure including lattice structures or framework and freestanding self-supported vertical pole (commonly known as "monopole") on which any equipment is located in connection with the provision of wireless communications services.

#### **§ 140-72. Compliance with State Environmental Quality Review Act.**

The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations. An application for approval of a major wireless communications facility shall constitute a Type 1 action.

#### **§ 140-73. Restrictions on use.**

No wireless communications facilities except those approved prior to the effective date of these regulations shall be used, located, constructed or maintained on any lot, structure or land area unless in conformity with these regulations. No wireless communications facilities may hereafter be erected, moved, reconstructed, changed or altered unless in conformity with these regulations. No existing structure shall be modified to serve as a wireless communications facility unless in conformity with these regulations.

- A. All communications facilities shall at all times be in conformance with the rules and regulations of any governmental entity having jurisdiction over such communications facilities and uses, antenna and/or supporting structures and towers, including, without limitation, the Federal Communications Commission (FCC) and Federal Aviation Administration (FAA).
- B. All communications facilities shall be operated and maintained by an FCC licensee only.
- C. All communications facilities shall be shown to be necessary to provide coverage to an area of Town which currently is proven to include inadequate coverage and that any related communications tower or antenna is proposed at the minimum height and aesthetic intrusion

possible to provide that necessary coverage. The applicant seeking to locate a communications facility in the Town of New Paltz shall demonstrate the need for new or additional antennas or communications towers.

- D. All communications facilities, if proposed for placement on a lot that is within or abuts a residential district, shall prove that adequate coverage cannot be achieved by siting the facility on a lot which is not in or does not abut a residential district.
- E. All communications facilities shall be constructed and maintained in conformance with all building, electrical, fire prevention and other applicable codes.

**§ 140-74. Wireless Communications Facilities Overlay District (WCF).**

Major wireless communications facilities shall be located only within the Wireless Communications Facilities Overlay District within the Town of New Paltz which consists of the following areas: a one-half-mile-wide corridor centered on the New York State Thruway for its entire length in the Town except that area that lies within 1,000 feet from New York State Route 299 in both a southerly and northerly direction.

**§ 140-75. Major wireless communications facilities.**

- A. Permit requirements. Major wireless communications facilities shall be a special permit use in the WCF Overlay District requiring special permit approval from the Planning Board pursuant to the procedural requirements of § 140-55E of the Zoning Law and site plan approval from the Planning Board in accordance with the provisions of § 140-52 of the Zoning Law.
- B. Wireless communications facilities siting preferences. Applicants seeking to locate wireless communications facilities in the Town of New Paltz shall endeavor to select sites that meet the following site selection criteria in descending order of preference:
  - (1) Shared use of existing personal wireless service facilities.
  - (2) The use of all available state-of-the-art technological alternatives to provide adequate coverage without requiring new tower(s).
  - (3) Clustering of towers adjacent to or near existing towers.
  - (4) The use of land distant from higher-density residential properties, and where visual impact can be minimized.
- C. Provision of independent consultants.
  - (1) Upon submission, of an application for a special use permit under this article, the Town Board may hire independent consultants to review that application and data presented and whose fees for

services shall be paid for by the applicant(s). These consultants shall each be qualified professionals with a record of service to municipalities in one of the following fields:

- (a) Telecommunications engineering.
- (b) Structural engineering.
- (c) Monitoring of electromagnetic fields.
- (d) Others as determined necessary by the Planning Board.

- (2) The Town Board shall select the independent consultant(s) after consultation with the Planning Board.

D. Conditions precedent to granting site plan or conditional use approval.

- (1) A service coverage map and report shall be provided. The service coverage map shall show and describe all existing and proposed areas of service coverage relating to the proposed communications facility. The service coverage map shall locate and identify all existing sites in the Town and in bordering communities which contain communications towers or related facilities. A detailed report shall accompany the service coverage map and shall indicate why the proposed communications tower, equipment and facility is necessary. The report shall identify locations within the proposed project site service coverage area which are not, and could not be, served by either existing facilities, by collocation, utilization of alternative technology or an alternative tower structure.
- (2) A long-range communications facilities plan shall be provided, evidencing that the proposed location of the communications facility and supporting buildings and equipment have been planned to result in the fewest number of communications transmission tower locations within the Town. The Plan shall indicate how the applicant intends to provide service throughout the Town, and how the applicant plans to coordinate with all other providers of wireless communications services in the Town. The plan shall address the applicant's planned and possible location of additional tower sites, additional antennas, related service area coverage and alternative long-range plan scenarios that illustrate the potential effects of multiple towers and tower height, community intrusion impacts and visual and aesthetic impacts.
- (3) Documentation, sufficient to demonstrate that the proposed communications tower height and bulk is the minimum height and bulk necessary to provide licensed communication services to locations within the Town which the applicant is not able to serve with existing facilities in the project site area, shall be provided, including evidence that visual, aesthetic and community character

intrusion impacts have been minimized to the greatest extent practicable.

- (4) Demonstration that shared use is impracticable. The Planning Board may issue a permit for a major wireless communications facility only when the applicant demonstrates that shared use of existing structures or sites is impractical. An applicant shall be required to present a report inventorying all existing structures within one half mile of the proposed site which are at an elevation which renders them potential sites. The report shall describe opportunities for shared use of these existing facilities as an alternative to a proposed new tower. The report shall demonstrate that the applicant used its best efforts to secure permission for shared use from the owner of each existing facility as well as documentation of the physical, technical and/or financial reasons why shared usage is not practical in each case. The applicant's written request and the property owner's written responses for shared use shall be provided.
- (5) Commitment for future shared use. New wireless communications towers shall be designed to accommodate future shared demand for reception and transmitting facilities. The applicant shall submit to the Town Board and Planning Board an irrevocable letter of intent committing the owner of the proposed new tower and its successors in interest to permit shared use of the proposed tower by other telecommunications providers in the future. This letter shall also be filed with the Building Inspector prior to issuance of a building permit. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special permit following a hearing and opportunity to be heard. The letter shall commit the new tower owner and its successors in interest to the following:
  - (a) To respond within 90 days to a request for information from a potential shared-use applicant.
  - (b) To use best efforts and negotiate in good faith concerning future requests for shared use of the tower by other telecommunications providers.
  - (c) To allow shared use of the tower if another telecommunications provider agrees in writing to pay reasonable charges. The charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
- (6) A written certification shall be submitted, prepared by a qualified engineer and/or health physicist which calculates the maximum amount of nonionizing electromagnetic radiation (NIER) which will

be emitted from the proposed wireless communications facility and demonstrates that any such emissions from the facility will be within the threshold levels adopted by the Federal Communications Commission, as of the day of application and as part of the certification required as part of § 140-75 of this law. The certification shall include a statement or explanation of how compliance was determined; an explanation as to what, if any, restrictions on access will be maintained to ensure compliance; and a statement as to whether other significant transmitting sources are located at or near the transmitting site and, if so, whether their emissions were considered in determining compliance.

**§ 140-76. Additional required information and regulations.**

A. Procedural. The following additional information shall be required:

- (1) Visual impact assessment.
  - (a) A viewshed analysis in order to determine locations where the tower and appurtenant facilities may be visible.
  - (b) Graphic representations of before and after views from key viewpoints located inside and outside of the Town including but not limited to state highways and other major roads; state and local parks; other public lands, preserves and historic sites normally open to the public; residential developments; and from any other location where the site is visible to a large number of visitors or travelers.
  - (c) Assessment of alternative tower designs and color schemes, as described in Subsection A(2) below.
  - (d) Assessment of the visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.
  - (e) Where lighting is required by FAA regulations, an assessment of alternative lighting options.
- (2) Tower design. A report regarding alternative tower designs which includes lattice and monopole structures and other designs to minimize visual impacts. The Board may request a review of the tower design by a qualified engineer in order to evaluate the need for and the design of any new tower and potential alternatives. All designs to be considered shall be required to include, at a minimum, the following characteristics:
  - (a) Towers shall be designed to accommodate future shared use by other wireless communications providers.
  - (b) Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its

degree of visual impact and shall incorporate all state-of-the-art camouflaging and/or stealth technology.

- (c) 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.
  - (d) Any new tower shall be securely mounted to withstand the wind and ice loads and earthquake damage for the place of installation in accordance with the New York State Uniform Fire Prevention and Building Code.
  - (e) The height of any new tower shall be the minimum height necessary, considering shared use, to meet the minimum requirements of the Federal Communications Commission for coverage of the service area encompassing the Town of New Paltz.
- (3) Fully engineered site plan. A site plan showing, at a minimum, all existing roads, buildings, tower(s), guy wire and anchors, antennas, parking and landscaping, and shall include grading plans for new facilities and roads.
- (4) Engineer's report.
- (a) A report by a New York State licensed professional engineer specializing in electrical engineering with expertise in radio communications facilities and, if a monopole or tower is required or the electrical engineer is not qualified to certify the structural soundness of the installation, a New York State licensed professional engineer specializing in structural engineering. The report shall contain the following information:
    - [1] Name(s) and address(es) of person(s) preparing the report.
    - [2] Name(s) and address(es) of the property owner, operator and applicant.
    - [3] Postal address and section, block and lot number of the property.
    - [4] Zoning district in which the property is situated.
    - [5] Approximate size of the property and the approximate location of all lot lines.
    - [6] Approximate location of the nearest residential structure.
    - [7] Approximate location of the nearest occupiable structure.



- [8] Approximate location of the nearest day-care center, school, camp or recreational park.
  - [9] Approximate location of all structures on the property which is the subject of the application.
  - [10] Approximate location, size and height of all proposed and existing antennas and all appurtenant structures.
  - [11] Type, size and location of all proposed and existing landscaping.
  - [12] The number, type and design of antenna(s) proposed and the basis for the calculations of capacity.
  - [13] The make, model and manufacturer of the antenna(s).
  - [14] A description of the proposed antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above grade, materials, color and lighting.
  - [15] The frequency, modulation and class of service of radio equipment.
  - [16] Transmission and maximum effective radiated power of the antenna(s).
  - [17] Certification that the proposed antenna(s) will not cause interference with existing communication devices.
  - [18] Elevation drawings depicting the front, side and rear of the property, illustrating the proposed antenna, mounting device and structure, if any, on which the antenna(s) is mounted.
  - [19] A map depicting and listing all existing sites in the Town and bordering communities containing transmitting antenna(s) used by the operator, owner or applicant.
  - [20] All applications, communications and permits submitted to and issued by the Federal Aviation Administration.
- (b) The Planning Board may, in a proper case, waive one or more of the foregoing requirements set forth in this section and may require additional reports or evidence that it deems necessary to ensure that the health, safety and welfare of the community are adequately addressed.
- (5) Intermunicipal notification. In order to keep neighboring municipalities informed, and to facilitate the consideration of shared use of existing tall structures in a neighboring municipality, and to assist the continued development of communication for

emergency services, the applicant shall provide the following additional notice of the application:

- (a) Notification in writing to the clerk of the municipality nearest the proposed site.
  - (b) Notification in writing by certified mail of all landowners within 1,000 feet of the property line of the parcel on which a new tower is proposed.
- B. Location, lot size and setbacks. Any proposed wireless communications tower and its accessory structures shall be located on a single parcel and shall comply with setback requirements as identified below.
  - (1) Distance from public facilities. In order to protect the health, safety and welfare of children who may be injured by falling ice or debris, all wireless communications towers shall be a distance of not less than 500 feet from the nearest property line of a school, day-care center, camp, public park or playground.
  - (2) Lot size of major wireless communications facilities sites shall be determined by the amount of land required to meet the setback requirements and/or the bulk and area requirements of the underlying zoning district, whichever are greater. If the land is to be leased, the entire area required shall be leased from a single parcel unless the Planning Board determines that this provision may be waived.
  - (3) Wireless communications towers shall be located with a minimum setback from any property line equal to 1/2 of the height of the tower in business and industrial zoning districts and a distance of twice the height in a residential zoning district. Accessory structures shall comply with the minimum setback requirements in the underlying zoning district.
  - (4) Additional setbacks may be required by the Planning Board to contain on-site substantially all ice fall or debris from tower failure and preserve the privacy of any adjoining residential and public properties.
- C. Vegetative screening and fencing.
  - (1) Landscaping. All communications facilities shall provide landscaping as follows:
    - (a) All communications towers shall be located and designed to have the least possible adverse visual and aesthetic effect on the environment.
    - (b) The area surrounding the installation, other than the area necessary to maintain a clear line of site to the signal source, shall be landscaped and maintained with trees, shrubs and ground cover to maximize screening and visual buffering. An

existing natural vegetative buffer which meets or exceeds the above requirements may be substituted or enhanced for said requirements.

- (c) Screening and buffering utilizing trees native to the area and of a height and density established by the Planning Board but in no event being less than four inches in diameter at breast height that will, over time, reduce visual impacts resulting from the installation of said facility shall be provided.
  - (d) The outside of security fencing shall be screened with evergreen shrubs, trees or climbing evergreen material on the fencing.
  - (e) The base of any communications tower and any accessory structure shall be effectively screened using primarily vegetative screening, including a continuous evergreen screen planted in a natural setting and consisting of native plant species forming a continuous row or hedge of at least 10 feet in height within two years of planting. Existing vegetation shall be preserved to the maximum extent practicable. Additional plantings shall be required, as necessary, to screen and buffer all structures from nearby properties or important viewsheds of scenic areas. All landscaping shall be properly maintained to ensure continued screening and buffering.
- (2) Security and safety fencing. Security and safety fencing shall be located around all communications towers, equipment and related facilities to restrict unauthorized access. Access to all structures shall be through a locked gate or principal building. Fencing shall be designed to minimize visual and aesthetic impacts and shall be equipped with appropriate anticlimbing devices. Failure to maintain said security and safety fencing in an appropriate manner shall be grounds for immediate revocation of all permits and certificates of use by the Building Inspector. In addition:
- (a) All communications towers, antenna towers or monopoles and other supporting structures shall be made inaccessible to nonauthorized persons, particularly children, and shall be constructed or shielded in such a manner that they cannot be climbed.
  - (b) All transmitter controls that could cause the transmitter to deviate from its authorized operating parameters shall be designed and installed in such a manner that they are readily accessible only to persons authorized by the licensee to operate or service them.
  - (c) All transmitters used with in-building radiation systems shall be designed in such a manner that, in the event that an unauthorized person does gain access, that person can not cause the transmitter to deviate from its authorized operating

parameters in such a way as to cause interference to other stations.

- (d) All transmitters (other than hand-carried or pack-carried mobile transmitters) and control points shall be equipped with a visual means of indicating when the control circuitry has been put in a condition that should cause the transmitter to radiate.
- (e) All transmitters shall be designed in such a manner that they can be turned off independently of any remote control circuits.
- (3) Coloring and marking. Unless otherwise required by the FAA or FCC, all communications facilities, including antenna and communications towers, shall be colored, camouflaged and/or shielded to blend with surrounding areas, provided that such coloring, camouflage and/or shielding does not inhibit their effectiveness. The painting or marking of such facilities shall have a finish or coloring which will minimize visual and aesthetic impacts. Towers and all appendages shall generally have a galvanized finish and shall be painted gray or blue gray, or some other finish or color that is shown to be visually unobtrusive.
- (4) Signals and lights. No communications tower, antenna tower or monopole shall include any signals, lights or illumination unless required by the FAA or other applicable authority. The applicant shall provide evidence mandating any requirement for lighting. If lighting is required, said lighting shall be shown to cause the least disturbance to surrounding properties and views. Any lighting necessary for accessory structures or buildings shall be minimized and shall be properly shielded to prevent light emission and glare onto adjacent properties.
- (5) Signage. No signs, including advertising signs, shall be permitted on any antenna, communications tower, antenna tower or monopole or antenna support structure, except as follows:
  - (a) Signs specifically required by a federal, state or local agency.
  - (b) Each site shall include a sign containing the name of the owner and operator of any antenna present, including an emergency phone number. In addition, any door having access to a roof-mounted antenna and all entrances to the fenced enclosure shall be similarly signed.
  - (c) Any signage permitted above shall comply with the sign regulations of the Town Code.<sup>113</sup>
- D. Undergrounding of electrical power and noise suppression. All electrical power supply to service the on-site buildings and

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**113**Editor's Note: See Art. XIII, Signs.

appurtenances supporting the tower antenna operations shall be installed underground. Noise suppression shall be utilized in the structural design and construction of the tower support buildings and appurtenances.

E. Access and parking.

- (1) Access. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- (2) Parking. Parking shall be provided on site in an amount determined by the Board based upon recommendation from the applicant. No parking shall be located in any required front yard.

**§ 140-77. Minor wireless communications facilities.**

At all times, the shared use within existing tall structures (for example, multistory buildings, church steeples, farm silos, etc.) and existing approved towers shall be preferred to the construction of major wireless communications facilities including new wireless communications towers and/or monopole.

- A. Minor wireless communications facilities are a permitted use in all zoning districts within the Town of New Paltz, subject to site plan review by the Planning Board in accordance with § 140-52 of the Code of the Town of New Paltz. The Planning Board may require the applicant to submit any of the items under §§ 140-74 and 140-75 herein as part of the site plan review process.
- B. An application for site plan approval of a minor telecommunications facility shall include the following:
  - (1) A completed site plan application form.
  - (2) Consent from the owner of the existing facility to allow shared use.
  - (3) A site plan. The site plan shall show all existing and proposed structures and improvements including antennas, roads, buildings, guy wires and anchors, parking and landscaping and shall include grading plans for new facilities and roads. Any methods used to conceal the modification to the existing facility shall be indicated on the site plan.
  - (4) An engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure, will not hamper existing emergency networks and

explaining what modifications, if any, will be required in order to certify the above.

- (5) A copy of the applicant's Federal Communications Commission license.
- (6) The Planning Board may waive any of the above requirements if it is demonstrated by the applicant that under the facts and circumstances the submission of such documentation would cause an unnecessary and undue hardship.
- (7) The Planning Board may require any other documentation, reports or evidence that it deems necessary to ensure that the health, safety and welfare of the community are adequately addressed.

**§ 140-78. Required to be imposed on all approvals: removal; certification; review; existing installations.**

**A. Removal.**

- (1) Any antenna, communications facility, communications tower, antenna tower or monopole, including any supporting structure and related appurtenances, or part thereof, that is not used for a period of six months in any twelve-month period shall be removed by and at the expense of the owner of the property or the operator of said facility.
- (2) An extension of an additional six months may be granted by the Building Inspector upon submittal of a written request for said extension, including proof as determined reasonable by the Building Inspector that the owner is actively engaged in the marketing of the property for sale or rent.
- (3) In the event that the tower is not removed as herein required, the Town, in addition to any other remedy permitted by law, and after notice and opportunity to be heard, may cause the same to be removed at the expense of the owner collectible in the same manner as a real property tax.

- B. Operational certification.** Within 45 days of initial operation or modification of a wireless communications facility, the owner or operator shall submit to the Building Inspector a written certification by a professional engineer that the operation facility is in compliance with the application submitted, any conditions imposed and all other provisions of this chapter as a condition to continue operating past the forty-five-day period. The Town may confirm and periodically reconfirm compliance as necessary to ensure that the provisions of this chapter, including NIER level thresholds, as set forth by the FCC, are in compliance. The owner/operator of the facility shall supply all necessary documentation to permit the Town to make such a determination regarding compliance. If found not to be in compliance the facility shall cease operation until compliance is restored.

- C. Review. In any event, the special permit shall be subject to review by the Planning Board at two-year intervals to determine whether the owner or operator is in compliance with all terms and conditions imposed by the Planning Board in such permit, and whether the technology in the provision of wireless communications services has changed such that the facilities can be altered or modified, by reasonable means available to the industry, to reduce any adverse impacts associated with the provision of such services.
- D. Existing installations.
- (1) The current operator of any communications facility or communications tower, antenna or monopole existing at the time that these regulations take effect shall be permitted to remain in operation, provided that the operator submits proof within six months of the enactment of these regulations that a valid building permit was issued for the facility and that the facility complies with current emission standards as recommended by the FCC.
  - (2) Any legal nonconforming communications facility or communications tower shall be permitted to remain until such time as said use and facility is altered, at which time the compliance herein shall be brought in.
  - (3) Any facility for which emission and security compliance documentation is not received shall cease operation within six months of the enactment of these regulations and shall be immediately removed thereafter.

**§ 140-79. Severability.**

If any provision of this article or the application of any other provision to any item in this article is held invalid, the invalidity of that provision or application shall not affect any of the other provisions or the application of those provisions to other items in this chapter or article.





## ARTICLE XI

**Wallkill River Recreation Overlay District  
[Added 4-27-2000 by L.L. No. 2-2000]****§ 140-80. Legislative intent.**

The Town Board of the Town of New Paltz finds that it is in the best interests of Town residents to provide a means and procedure by which river-oriented recreational facilities may be located and developed in the Town.

**§ 140-81. Purpose and objectives.**

- A. The Community Comprehensive Plan, adopted in August 1995, affirmed environmentally sound planning along with policies for economic growth that enable responsive and responsible growth while retaining the Town's unique features, protecting agriculture and preserving natural resources. The Comprehensive Plan guides the Town Board in making provisions for appropriate recreational facilities for all ages within the bounds of affordability. The plan recognizes that recreation and tourism are an important economic driver for the Town, while it also promotes the consideration of the Town as a part of a larger environmental region.
- B. The Comprehensive Plan expresses a desire to protect the unique aesthetic character of New Paltz; to maintain a balance between environmental protection and future development; to preserve open space; and to preserve one-hundred-year floodplain lands which add an additional component of open space to the character of the Town and which have recognized environmental significance. Among the purposes of the plan is to provide additional protective measures to existing regulations to ensure protection from changes to the physical character of the land.
- C. For open space and recreational endeavors, the Comprehensive Plan acknowledges the importance of designating areas for open space and planning efficient, appropriate recreational facilities. The plan advances the concept that specific approaches used to protect open space should be determined by the attributes of particular sites and that development should be prevented, or restricted, in environmentally sensitive areas (floodplains, steep slopes, continuous open space areas and wildlife corridors, wetlands, lakes, ponds and streams).
- D. It is the objective of the Wallkill River Recreational Overlay District to recognize the opportunities presented by the Wallkill River as an area of varied natural resources that can be used and enjoyed by the public while preserving and protecting sensitive wildlife habitat. As such, an objective of the overlay district is to encourage river-oriented recreational facilities, and associated accessory uses, as an integrated development with adequate transportation and utility facilities, while

maintaining the integrity of the river environment. Provision for public access to and along the Wallkill River shall be encouraged as part of any application for designation of land as the Wallkill River Recreational Overlay District.

#### **§ 140-82. Definitions.**

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

**CAMPING/RECREATIONAL VEHICLE SITE (CR/V SITE)** — A designated area within a recreational village used as a tent camping site or as a site for recreational vehicles.

**RECREATIONAL VEHICLE** — A vehicular structure built on a chassis primarily designed as temporary living quarters for recreational camping or travel use, which either has its own mode of power or is mounted on or drawn by another vehicle. Typical entities include (but are not limited to) a travel trailer, camping trailer, pop-up camper, motor home and recreational vehicle.

**RECREATIONAL VILLAGE (aka CAMPGROUND or RV PARK)** — A parcel of land developed for the purpose of providing sites for tents, recreational vehicles or similar accommodations for temporary residence use. Campgrounds, RV parks, primitive camping facilities and other similar facilities shall fall under this definition. A recreational village may be either publicly or privately operated, offering sites for tent and recreational vehicle occupancy on a temporary residence basis. Such sites are generally rented on a daily or weekly basis and may be accompanied by the usual accessory recreational and service facilities, such as boat launch/docks, court and field game facilities and a consumer convenience goods store, primarily serving users of the recreational village. This definition is not, however, intended to cover second-home communities of single-family dwellings, labor camps, mobile homes or RV parks where sites are owned individually by deed conveyance or leased on a monthly basis or on a longer basis.

**TEMPORARY RESIDENCE** — A property consisting of a tract of land and any tents, vehicles, buildings, rooms, camping sites or other structures and installations, temporary or permanent, pertaining thereto, any part of which is used or maintained primarily for overnight occupancy by people, with or without stipulated agreement as to the duration of their stay, who are provided at least some portion of the use of the property's facilities with the consent or implied permission of the owner, operator or lessee thereof.

**WATERCRAFT** — Any vessel used for water transportation, including but not limited to boats, canoes, rafts, personal watercraft or other similar vessels.

#### **§ 140-83. District eligibility criteria.**

- A. Location. A Wallkill River Recreation Overlay District may be established for a qualifying parcel or parcels, or sites having access to

frontage on the Wallkill River and having frontage on one of the following highways:

- (1) Libertyville Road.
- (2) NYS Route 299 (from Libertyville Road to Springtown Road).
- (3) Springtown Road.
- (4) NYS Route 32 (north from Old Kingston Road).
- (5) Old Kingston Road.
- (6) NYS Route 208 (south from Cedar Lane).

B. Development area.

- (1) To qualify for designation as a Wallkill River Recreational Overlay District, such property, at minimum, shall:
  - (a) Include at least 25 contiguous acres of land outside of any underlying F (Floodplain) District.
  - (b) Be accessible without crossing any F (Floodplain) District area.
  - (c) Be exclusive of wetlands, wetland buffers, protected streams and slopes greater than 15%.
  - (d) Include open space, exclusive of roads, CR/V sites, buildings, structures, facilities and impervious surfaces used for recreational purposes, of not less than 50% of the gross acreage of the site outside of the F (Floodplain) District.
- (2) Additional uses within the property, but outside the development area, shall maintain the required density and setbacks of the underlying zoning. (See also § 140-86.)

C. Ownership. The land proposed for designation as a Wallkill River Recreational Overlay District may comprise one or more tracts, parcels or lots of land owned, leased or controlled by one or more owners or corporations, but the use of land within the Wallkill River Recreational Overlay District shall be planned and designed as a unit, and the recreational village use shall be operated, maintained and controlled by a central management agency or entity, acceptable to the Town Board, that is responsible for the improvement and maintenance of facilities and improvements shown on the site plan and for general management of the proposed use.

D. Public access. Access along the Wallkill River shall be encouraged in any application for the Wallkill River Recreational Overlay District. For example:

- (1) Day-use fee.
- (2) Designated parcels in locations appropriate for such use.

**§ 140-84. Establishment of district.**

- A. The Town Board may, after Planning Board review, public notice and hearing, pursuant to Article VIII, § 140-56 of the Code of the Town of New Paltz, approve the establishment of a Wallkill River Recreation Overlay District. Where such a district is established, it shall be delineated on the Official Zoning Map of the Town.
- B. Application. The application to the Town Board for designation of a district shall include:
  - (1) Duly acknowledged consents to the application by the record owners of land proposed for inclusion in the district;
  - (2) A narrative statement that generally describes:
    - (a) The applicant's overall plan for the proposed use of lands within the district.
    - (b) The proposed management entity and management plan for facilities and improvements.
    - (c) The proposed plan for public access.
    - (d) The legally binding arrangements proposed for operation of the use and maintenance of facilities and improvements.
    - (e) Any environmental constraints on the land proposed for the district; and
  - (3) Appropriate SEQRA documentation.
- C. Management plan. It shall be the responsibility of the owner/applicant to prepare a management plan that addresses the following:
  - (1) Records. The management of every recreational village shall be responsible for maintaining accurate records concerning the occupancy of all camping/recreational vehicle sites and including the following minimum requirements:
    - (a) The name and address of the occupant of each camping/recreational vehicle site and the dates of arrival and departure.
    - (b) The name and address of the owner of each recreational vehicle which is not occupied by such owner.
    - (c) The state in which the recreational vehicle is registered and the registration number.
    - (d) The name and address of the owner of the automobile or other vehicle which propelled the recreational vehicle or which is or may be intended for use by any camper.
    - (e) The state in which such automobile or other vehicle is registered and the registration number.

- (f) Identification of all pets registered, showing date of arrival and departure, owner's name and address and proof of rabies inoculation.
- (2) Daily operations. Normal activities associated with the operation of a recreational village shall take place within the following guidelines:
  - (a) Setup and take-down of any campsite/recreational vehicle shall be limited to the hours of 8:00 a.m. to 9:00 p.m.
  - (b) Outdoor activities, such as campfires, music, barbecues and similar activities, shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m.
  - (c) Area lighting of roads, buildings and other structures or areas shall be reduced to a minimum between the hours of 10:00 p.m. and 6:00 a.m.
  - (d) Dock use shall be limited to the hours between one-half hour before sunrise and one-half hour following sunset.
- (3) Maintenance of the following:
  - (a) Roads.
  - (b) Sanitary system.
  - (c) Landscape litter.
  - (d) Sites.
  - (e) Bathrooms.
  - (f) Fences.
  - (g) Water supply.
  - (h) Garbage/refuse.
  - (i) Camping accessories.
- (4) Recreational vehicle placement. The recreational village management shall supervise the placement of each recreational vehicle on its site, including securing its stability and installing all utility connections.
- (5) Noise. The recreational village management shall be responsible for maintaining compliance by those persons lawfully upon the grounds of the recreational village with all local laws in force and effect throughout the Town, including but not limited to local laws relating to noise, as contained in the Code of the Town of New Paltz.<sup>114</sup> Owing to the proximity of campsites within a recreational

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**114**Editor's Note: See Ch. 100, Noise.

village and to the proximity of any recreational village to surrounding or nearby neighborhoods, the following shall apply: In any prosecution for any offense alleged to have occurred in violation of any local law affecting noise or other sounds, the making of any sound within the geographical boundaries of the recreational village in excess of 55 dB(A) or evidence of any sound measured at the shoreline of the Wallkill River in excess of 45 dB(A) shall be presumptive evidence of a violation of the provisions of Chapter 100, entitled "Noise," of the Code of the Town of New Paltz.

- (6) Health. The recreational village management shall notify the Ulster County Health Department immediately of any suspected communicable or contagious disease within the recreational village.
  - (7) Nuisance. The recreational village management shall not permit any noxious or offensive activities within the facility.
  - (8) Animals. The recreational village management shall not allow animals to be kept or maintained on any camping/recreational vehicle site, except for usual household pets. No pet shall be allowed to roam free, and pets shall be confined and or leashed and under the control of the pet owner. Pet owners must register pets with the management and provide proof of current rabies inoculation.
  - (9) Alcohol use. The management of the recreational village is responsible to ensure that the use of any alcoholic beverages within the recreational village does not cause or contribute to any noxious or offensive activity with the recreational village (i.e. noise, litter, etc.).<sup>115</sup>
  - (10) Additional restrictions. The owner/applicant may impose more restrictive requirements with respect to use, operations and/or management of the recreational village than those contained in this article. The owner/applicant may also impose additional requirements and/or regulations in addition to those included in this article, such as alcohol use, noise, registration, pets, smoking, etc. Such additional requirements shall be included in the management plan provided to the Town.
- D. Forms and filing. Application for approval of a recreational village pursuant to this section shall be upon forms issued by and filed with the Building Inspector for review by the Planning Board. Applications shall include a site plan delineating all uses in accordance with the provisions of Article VIII, § 140-52, Site plan review, of the Code of the Town of New Paltz.

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<sup>115</sup>Editor's Note: See also Ch. 49, Alcoholic Beverages.

**§ 140-85. Review and determination of special permits.**

- A. Use of lands lying within an established Wallkill River Recreation Overlay District as a recreational village shall be issued by the Planning Board by special use permit following site plan approval in accordance with the provisions of § 140-52 and procedures in § 140-55E of the Code of the Town of New Paltz.
- B. Lands for which a special use permit has been issued for use as a recreational village shall not be divided during the effective period of such special use permit without the approval of the Planning Board.
- C. Standards for special permit.
  - (1) The following standards for a special permit are intended to ensure that a proposed recreational village use is in harmony with adjoining land uses, particularly those in any underlying residential zoning district, and will not adversely affect the public health, safety and welfare, the neighborhood of the proposed use or other areas of the Town of New Paltz or environmentally sensitive lands and uses.
  - (2) Before issuing a special permit, the Planning Board shall find and determine that:
    - (a) Proposed means of access, including adjoining streets and highways, are sufficient to accommodate traffic from the use.
    - (b) Adjoining properties, highways and streets, and residential areas, particularly existing residences and lands and waters used for recreational uses, are adequately buffered from any adverse noise, lighting or visual impact of the proposed use.
    - (c) Environmentally sensitive lands and waters, particularly federal and state wetlands and wetland buffer areas, watercourses, slopes in excess of 15%, existing wells or groundwater resources and floodplains, are adequately buffered or protected against any adverse impacts of the proposed use.
    - (d) Open space and buffer zones shall be designated so as to protect known areas of wildlife movement, feeding and rearing of young.
    - (e) The proposed plan of development and management of the use, including proposed access or use by the public, will avoid or minimize impacts on adjoining residences, neighborhood or community character and emergency services.
    - (f) The satisfactory provision has been made by the applicant to monitor compliance with the conditions of approval, including, where appropriate, covenants that can be enforced by adjoining residents or the Town, inspections by the Building

Inspector, Town Engineer or other Town officials and procedures for residents to register complaints.

**§ 140-86. Uses; restrictions; regulations.**

Establishment of a Wallkill River Recreation Overlay District may be granted, subject to conditions, including but not limited to the following:

- A. The use of the site and any buildings, structures and improvements thereto outside of the recreational village district development area, may include those allowed in the underlying zoning district in accordance with the Code of the Town of New Paltz.
- B. The following additional use(s): recreational village.
- C. The following site design and development requirements:
  - (1) Design of sanitary systems and water supply shall be in accordance with the requirements of the Ulster County Health Department and the New York State Department of Environmental Conservation and approval of the Town of New Paltz Engineer. Compliance shall be determined by the Town Engineer and any other consultant as may be required by the Town Board; provided, however, that no sanitary system shall be located within the Floodplain (F) Zoning District.
  - (2) Development shall be limited to a maximum of 100 CR/V sites for a combination of self-propelled recreational vehicles and vehicle-drawn trailer/pop-up units (and tents). Recreational vehicles shall not exceed 25% of the total sites.
  - (3) A soil erosion and sediment control plan shall be prepared in accordance with the New York Guidelines for Urban Erosion and Sedimentation Control, latest edition.
  - (4) Design of an individual CR/V site shall provide a minimum of 3,000 square feet of area in a configuration which accommodates the proposed use, including parking which shall be 360 square feet per CR/V site, complete with an improved access driveway to the designated parking area, and must be located outside of the boundaries of any floodplain (F) Zoning District.
  - (5) Any proposed on-site convenience goods store shall consist of a maximum of 1,000 square feet in gross floor area and shall be serviced by a parking area consisting of not more than 1,500 square feet containing not more than four parking spaces for temporary use and by designated pedestrian walkways. Such on-site convenience goods store shall be open only during the seasonal operation of the recreational village.
  - (6) Roadways.



- (a) The entrance roadway from any road from which access is required pursuant to § 140-83 shall be paved and built to Town of New Paltz Town road standards.
  - (b) All interior circulation roadways shall be constructed with minimum twelve-inch-thick compacted shale, gravel or crushed stone.
  - (c) Parking areas and access driveways for CR/V sites shall be constructed with a minimum eight-inch-thick compacted shale, gravel or crushed stone.
  - (7) A minimum setback of 150 feet from any NYS/Ulster County/Town of New Paltz highway, or road, shall be provided for the purpose of minimizing the visual impact of any proposed development. Such buffer areas are to be densely landscaped for visual screening and noise abatement purposes.
  - (8) A buffer area of at least a setback of 150 feet from any proposed development and from all other property lines and from interior streams and watercourses shall be provided. Such buffer areas are to be densely landscaped for visual screening and noise abatement purposes.
  - (9) No development of the site shall occur within 200 feet of any stream or watercourse, except as designated and approved for access to such stream or watercourse. Such two-hundred-foot buffer area shall be densely landscaped for visual screening and noise abatement purposes.
  - (10) On-site presence of the owner or designated site manager is required at all times during business operation. One permanent residence may be included for this use.
  - (11) Seasonal operation extends two weeks prior to Memorial Day through two weeks after Columbus Day.
  - (12) Permitted lighting shall be noninvasive, low voltage and shall be limited to those areas, buildings or structures as designated by the Planning Board as part of its site plan review process.
  - (13) All site electrical primary distribution and individual services shall be underground.
  - (14) Disposal of trash shall be in covered dumpsters secured in fenced areas central to CR/V sites. The open storage of trash and/or food at individual sites is prohibited.
  - (15) Natural landscape features shall be incorporated into the site plan so as to maintain natural screening and buffering.
- D. Site access. Primary site and development access shall be designated to directly connect to one of the roads identified in § 140-83 of this

chapter. Consideration for connected interior access roadways (looped roadway connections) and additional primary access locations for emergency vehicle access shall be provided when required by the Planning Board.

E. River access.

- (1) Access to the Wallkill River may be provided as part of the development plan for the site even where such access crosses the F Floodplain District.
- (2) Where appropriate, boat access and docking may be constructed in accordance with the following:
  - (a) Compliance with all applicable permit provisions required by the New York State Department of Environmental Conservation (DEC) and any site plan or special use conditions imposed by the Planning Board.
  - (b) Docking shall be limited to one single-lane dock per recreational village, appropriate in size to accommodate small trailer-type or other small boats.
  - (c) Docks shall be sited on the site plan so as to minimize the impact to neighboring residents.

F. Permitted recreational uses in floodplain. Uses such as ball fields, trails, picnic areas, open pavilions and other such nonpermanent uses and structures shall be permitted within the F (floodplain) areas, provided that any use and/or structure complies in all respects to the construction standards in effect as specified by the National Flood Insurance Program and subject to the requirements of Chapter 82 of the Town Code, entitled "Flood Damage Prevention."

G. Restrictions on campfires. Campfire restrictions shall be posted at the registration area and distributed to all users at registration.

- (1) Fires are restricted to designated campsites.
- (2) There shall be not more than one designated open-air campfire area per site, adequately protected against fire spread through use of a fireplace, fire ring or similar device.
- (3) There shall be no unattended fires.
- (4) There shall be no cutting of trees, brush, bushes or other vegetation. Any on-site taking of firewood shall be limited to fallen, horizontal wood.
- (5) The use of portable camp cooking stoves shall be encouraged.
- (6) Campfires are prohibited during periods of drought upon order of the appropriate federal, state or local governmental official or other authority having jurisdiction.

H. Prohibited uses and facilities. Notice of all prohibited or restricted uses and facilities shall be posted at the registration area and distributed to all users upon registration.

- (1) On-site laundry.
- (2) Docking and/or launching of fossil fuel motorized boats or fossil fuel motorized personal watercraft.
- (3) The discharge of firearms except by law enforcement personnel actually engaged in the course of their official duties.
- (4) Trapping.
- (5) Firearms for target, skeet or similar shooting purposes.
- (6) All-terrain vehicles (commonly referred to as ATV's, three-wheelers or four-wheelers or similar vehicles) and off-road type motorcycles except for use as maintenance vehicles by the site owner, site manager or site employees.
- (7) Paved surfaces shall be kept to a minimum. There shall be no paved surfaces except as expressly permitted by the Planning Board as, for example, to service any convenience goods camp store, dump stations or dumpsters.
- (8) There shall be no exterior lighting except as permitted pursuant to § 140-86 of this chapter.
- (9) Concerts and other nonrelated public functions.
- (10) Except in the case of emergency, the use of loudspeakers, public address systems or similar sound amplification devices is prohibited.
- (11) There shall be no storage of vehicles beginning two weeks after Columbus Day through two weeks before Memorial Day.
- (12) Any and all uses not specifically permitted on the site plan shall be prohibited.

**§ 140-87. Review and renewal of special permits.**

A. Annual review.

- (1) The Building Inspector or designee shall be responsible for conducting an annual review of the project site and facilities and shall report his/her findings to both the owner and Planning Board. In conducting such review, the following issues shall be considered:
  - (a) Compliance with the approved special permit and approved site plan.
  - (b) Nature of emergency calls and neighbor complaints, if any.

- (c) Compliance with conditions of approval by the Ulster County Health Department.
  - (d) Maintenance of the site, including but not limited to site access road(s), camping sites, recreational facilities, docks (if any), wooded areas, etc.
- (2) The Town of New Paltz Engineer shall review the adequacy and safety of the septic system(s), water supply and site drainage to determine whether their use and operation adequately protect the public health and safety and report his or her findings to the Building Inspector and Planning Board.
  - (3) Where noncompliance issues or new information relevant to public health and safety are identified by the Building Inspector or his or her designee, the Planning Board shall review the approved special permit/site plan to enable compliance with the intent of this section.
  - (4) The special permit, as approved by the Town of New Paltz, may be terminated:
    - (a) In writing by the owner; or
    - (b) By the Building Inspector for noncompliance with the approved special permit.
  - (5) The fee for annual review shall be as determined by the Town Board. Upon receipt of such fee, the Building Inspector or designee shall certify to the Town Board in writing whether the recreational village is in compliance with the approved special permit and approved site plan.

B. Special permit renewal.

- (1) Special permits issued for recreational village uses shall expire one year after the date of issuance unless renewed by the Planning Board upon application by the holder of the special permit and a public hearing. The application for renewal of the special permit shall be submitted, with any required fee, to the Planning Board at least one month prior to the expiration of the permit, in which case the expiration date of the permit shall be extended to the date of Planning Board action on the application for renewal. The public hearing upon the application for renewal of such special permits shall be noticed in accordance with Article XVI, Public Hearings, of Chapter 140, Zoning, of the Code of the Town of New Paltz. **[Amended 5-24-2007 by L.L. No. 2-2007]**
- (2) Upon receipt, the Planning Board Clerk shall refer the application to the Building Inspector and the Town Engineer for review and report as to the compliance of the applicant with the requirements of the Town zoning law and all conditions of approval. The Planning

Board shall consider the reports of the Building Inspector, the Town Engineer and any other Town departments, conduct a public hearing and take action on the application within 62 days of the close of the public hearing to approve, approve with modifications or deny the application for renewal of the special permit.

- (3) An application for renewal shall be approved when the Planning Board determines that the management and operation of the use has conformed with the requirements of the Town zoning law and the conditions of special permit and site plan approval and that there is no new information or changed circumstances which would have, if known at the time of the prior application, resulted in denial or modification of the expiring approval. In the event that the Planning Board approves the renewal application with modifications or denies approval, it shall make specific findings as to the grounds for its action. The Clerk shall file a copy of the Planning Board's determination, together with any conditions of approval, with the Town Clerk and the Building Inspector and mail a copy to the applicant within five business days of its filing in the office of the Town Clerk.

**§ 140-88. Severability.**

If any section, paragraph, subdivision, clause or provision of this article shall be adjudged as invalid, such adjudication shall apply to the section, paragraph, subdivision, clause or provision so adjudicated and the remainder of this article shall be deemed valid and effective.

**§ 140-89. When effective.**

This article shall be effective immediately upon filing pursuant to the Municipal Home Rule Law.



## ARTICLE XII

**Adult Uses****[Added 9-28-2000 by L.L. No. 6-2000]****§ 140-90. Legislative intent, findings and purpose.**

- A. It is declared that the nature of certain land uses, known as "adult uses," possess characteristics which are likely to cause serious secondary impacts on adjoining land uses. Adult uses, therefore, have a significant potential to adversely impact the public health, safety, welfare, quality of life and/or the character and tranquillity of the neighborhoods in which they are located, and also in all zoning districts.
- B. The deleterious effects of such land uses on adjoining uses and properties have been demonstrated and documented in reports and studies which have been undertaken in other communities, including the City of Kingston, New York; the Town of Lloyd, New York (in Ulster County); the Village of Washingtonville, New York (in Orange County); the Town of Ryebrook, New York (in Westchester County); and the Town of Islip, New York (in Suffolk County.) These effects include increased crime rates, depreciation of property values, deterioration of community character and adverse impact on the quality of life in surrounding residential areas. Such effects increase where adult uses are located in close proximity to each other. These studies have been reviewed by the Town Board (here, "Board"), along with legislation enacted in other Ulster County communities, including the Village of New Paltz, the Towns of Marbletown, Lloyd and Ulster, and the City of Kingston, as well as the opinions expressed by local residents and business owners.
- C. Having reviewed the location and type of sensitive uses that exist in the Town, the Board finds that such land uses would be susceptible to the greater adverse impacts that have become associated with active adult uses which tend to result in the congregation of patrons at the location of the use. The Board finds that residential areas and sensitive land uses are intermixed with business areas and commercial uses, and that there is no discrete business area separated from residences and sensitive uses. The Board recognizes that the potential deleterious effects of unrestrained proliferation and/or concentration of adult uses is inconsistent with existing development and future development plans for the Town of New Paltz, and that this presents a threat to property values and the future economic vitality of our business community.
- D. The Board finds that residential areas and sensitive land uses are intermixed with business areas and commercial uses, and that business areas and commercial districts are located along streets routinely traveled by school buses to and from local schools and residences. The prospect that adult uses may be located in any of the many areas of the Town where children assemble is of great concern to the Town of New

Paltz. This concern stems from the numerous reports and studies (cited herein) which demonstrate that adult uses are associated with increased crime rates, deterioration of property, marginalization of commercial areas, disorderly conduct and other blighting which affect schools, houses of worship and other community institutions serving the children of New Paltz. The reports and studies have also demonstrated that adult uses increase the potential for minors to be exposed to age-inappropriate materials.

- E. Upon consideration of the particular circumstances and patterns of land use in the Town of New Paltz, it is declared that the potential deleterious effect of adult uses on adjacent areas and on the community are such as to require special regulations. These special regulations will ensure that these adverse effects will not create or contribute to the blighting or downgrading of the surrounding neighborhoods or land uses in the Town.
- F. Adult uses are recognized as having operational characteristics demonstrated to have a deleterious secondary impact on surrounding neighborhoods. The Town of New Paltz surrounds the Village of New Paltz; where the campus of the State University of New York College at New Paltz is located. As a suburban community which surrounds an urban community, the Town is uniquely vulnerable to the deleterious secondary impacts of adult uses. Town resources would be severely strained if called upon to address the potential increased demand for crime prevention, the degradation of the community's retail area and/or the potential decline in property values in the Town's neighborhoods which are located adjacent to the college and are used for student housing.
- G. The Town Board recognizes and affirms the rights of free speech and expression protected by both federal and state constitutions and acknowledges that such regulations must be subject to strict scrutiny in order to determine whether they are consistent with the spirit and intent of the constitutional protection of free speech and expression.
- H. The Town Board recognizes that the area within and immediately surrounding the Town of New Paltz currently has several different forms of adult uses which serve as an outlet for free expression in the Town of New Paltz area.
- I. The Town Board finds that the health, safety and general welfare of the community would be protected and that orderly economic growth, the reduced threat to property values and the regulation of the flow of traffic in the Town would be promoted by the regulation of adult uses.
- J. The Town Board finds that the Comprehensive Plan of New Paltz encourages "commercial development consistent with community character and infrastructure capacity." The plan notes that "uncontrolled and unfocused" commercial development may well



"erode the very attributes, resources and values that make New Paltz a special place to live and visit."

- K. It is therefore declared that the regulations set forth in this article shall be adopted to accomplish the primary purpose of preventing the potential deleterious effects of such uses on minors and upon residential, recreational, social, religious, commercial and retail business, civic, and academic areas of the Town.

#### **§ 140-91. Definitions.**

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

**ACTIVE ADULT USE** — The use of a building, or portion of a building or land for any adult use that is not a passive use, as defined herein, including but not limited to adult entertainment cabaret; adult motel/hotel; adult theater; adult massage establishment; peep show or similar adult use, generally of such nature as to result in customers congregating in or about the use. For guidelines to determine active adult uses relative to other uses, see the allocations of floor use under "adult bookstore or video store."

**ADULT BOOKSTORE OR VIDEO STORE** — An establishment having a substantial or significant portion of its stock-in-trade being books, magazines, other periodicals, films, slides and/or video tapes and other merchandise, a substantial portion of which is customarily not open to the public generally but which excludes or is required by law to exclude any minor by reason of age. A bookstore or video store shall be declared to be an adult use if:

- A. Greater than 25% of the floor area allocated to such use is not available to the general public, in comparison to the retail floor area available to customers without restriction because of age; or
- B. Greater than 50% of all merchandise is not available to the general public without restriction by reason of age. Whichever guideline is more restrictive shall apply.

**ADULT ENTERTAINMENT CABARET** — A public or private establishment which presents nude or seminude dancers, male or female impersonators or exotic dancers, or other similar entertainment, and which is customarily not open to the public generally but which excludes or is required by law to exclude any minor by reason of age.

**ADULT MOTEL/HOTEL** — A motel/hotel or lodge which is not open to the public generally but which excludes or is required by law to exclude any minor by reason of age, or a motel/hotel or lodge which makes available to patrons on the premises adult-oriented materials or entertainments which, if presented in a public movie theater, would not be available to the public generally but which would exclude or be required by law to exclude any minor by reason of age, or a motel/hotel or lodge which routinely offers to the public for rental or allows a tenant to sublet private rooms or

accommodations for any period of time less than 10 hours in any consecutive twenty-four-hour period.

**ADULT THEATER** — A theater that customarily presents motion picture films, videotapes, slide shows and entertainments that are not open to the public generally, but which excludes or is required by law to exclude any minor by reason of age.

**ADULT USE** — The use of any building, structure or land, or portion thereof, for any purpose involving activities that are not open to the public generally, but exclude, or by law are required to exclude, any minor by reason of age, or which sell products designed or intended for use by adults, including but not limited to adult bookstore or video store; adult entertainment cabaret; adult motel/hotel; adult theater; adult massage establishment; and peep shows.

**MASSAGE ESTABLISHMENT** — Any establishment where massages are administered by unlicensed practitioners., including massage parlors, sauna baths, and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic or other lawfully established office providing therapeutic massage by a duly licensed health care professional, such as a physician, surgeon, chiropractor, osteopath or physical therapist. This definition shall not be construed to include barbershops or beauty salons in which therapeutic massages are administered only to face, scalp, neck, shoulders. This definition shall not be construed to include any individual holding a New York State Department of Education license as a masseuse or masseur who maintains a professional practice, including a professional practice conducted in a private residence in the Town of New Paltz. This definition also excludes health clubs which have facilities for exercise, such as tennis courts, racquetball courts or exercise rooms, or similar facilities, and which do not receive their primary source of revenue from the administration of massages.

**PASSIVE ADULT USE** — The use of a building or portion of a building or land for the sale or rental for use off-site of books, films, videotapes or other materials, including products designed or intended for use by adults displayed in an area that is not open to the public generally, and/or from which area the owner or operator of the use excludes, or by law is required to exclude, any minor by reason of age. For guidelines to determine passive adult uses relative to other uses, see the allocations of floor use under "adult bookstore or video store."

**PEEP SHOWS** — The use of any building or portion of a building to present material in the form of live shows, films, videotapes or any other electronic medium viewed from an individual room or similar enclosure which is not open to the public generally, but excludes or by law is required to exclude any minor by reason of age.

**SENSITIVE USE** — The use of a parcel of land for certain uses determined to be, by their nature, particularly susceptible to the secondary impacts of adult uses, including but not limited to public or private school, public library, church or other place of religious worship, mortuary or cemetery, cultural use, civic use, a designated historic preservation site open to the

general public, day-care use, park, playground or other recreational facility open to the general public, or any area designated as "scenic" under the laws of the United States of America or of New York State law.

SETBACKS — Determined by a measurement of a straight line from the nearest outside wall of a structure for an adult use to the property line or the zoning line of another use.

**§ 140-92. Establishment of use.**

- A. It is unlawful for the owner or person in control of any property to establish or to operate thereon, and it is unlawful for any person to establish or to operate any active or passive adult use without first receiving a special use permit.
- B. No adult use establishment shall be located in any zoning district except in the I-1 Light Industrial District in accordance with a special use permit issued by the Town Planning Board under the provisions of § 140-55E of the Code of the Town of New Paltz, and site plan approval by the Town Planning Board in accordance with § 140-52 of the Code of New Paltz.
- C. No passive adult use, as defined herein, shall be located within 500 feet of any zoning district which is zoned for residential use, or within 500 feet of any existing residential use in the I-1 Light Industrial District.
- D. No active adult use, as defined herein, shall be located within 1,000 feet of any zoning district which is zoned for residential use, or within 1,000 feet of any existing residential use in the I-1 Light Industrial District.
- E. No active or passive adult use shall be located within 1,000 feet of any sensitive use or a sensitive use for which a completed application has been received or for which a building permit has been issued by the Town.
- F. No active or passive adult use shall be located within 1,500 feet of another active or passive adult use, or an adult use for which a completed application has been received by the Town.

**§ 140-93. Review of applications and renewal of special use permits; preexisting uses.**

- A. Local procedure.

- (1) Application.

- (a) Application for a special use permit pursuant to this section shall be upon forms issued by and filed with the Planning Board. The application for a special permit shall be submitted, with any required fee, to the Building Inspector. A completed application for an adult use shall include:

- [1] Description and location of property;

- [2] A site plan delineating all uses in accordance with the provisions of Article VIII, § 140-52, Site plan review, of the Code of the Town of New Paltz;
  - [3] A narrative statement describing the applicant's proposed business plan, including a description of the operation, hours of operation, provisions for parking and traffic; and
  - [4] Plans to avoid the deleterious secondary impacts associated with adult uses, including increased crime rates, depreciation of property values, deterioration of community character and adverse impact on the quality of life in surrounding residential areas.
- (b) The Building Inspector shall forward complete applications to the Planning Board for review, public hearing, and further action, if necessary.
- (2) Operating standards for special use permit. The following standards for a special permit are intended to ensure that any proposed adult use is established in harmony with adjoining land uses, and will not adversely affect the public health, safety and welfare of the community, or adversely impact the neighborhood immediately surrounding the proposed use, or other areas of the Town of New Paltz. Before issuing a special permit, the Planning Board shall find and determine that:
- (a) The proposed location of the use is within the I-1 zone, and is in compliance with all setback requirements from sensitive, residential or other land uses;
  - (b) The proposed location of the adult use has adequate parking and access, including adjoining streets and highways, sufficient to handle increased traffic from the use;
  - (c) Adjoining properties, highways and streets, and residential areas, particularly existing residences and sensitive uses, are adequately buffered from any potential adverse impacts associated with adult uses, including excessive noise, lighting or other visual impacts, and traffic; and
  - (d) The applicant's plan to avoid the deleterious secondary impacts associated with adult uses is adequate.
- (3) Public hearing. Upon receipt of a completed application, the Planning Board shall schedule a public hearing within 30 days. A notice of time and place of the public hearing shall be published at least 10 days before the hearing in a newspaper of general circulation in the Town. Within 62 days of the close of the public hearing, the Planning Board shall take action on the application.

- (4) Compliance with State Environmental Quality Review Act. The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

B. Annual review.

- (1) Annual report. The Building Inspector or his/her designee shall be responsible for conducting an annual review of adult uses operating under special use permits no later than one month before the anniversary of permit expiration, and shall report his/her findings to both the owner and the Planning Board. In conducting such review, the following issues shall be considered:
  - (a) Compliance with the approved special use permit, site plan and operating standards.
  - (b) Nature and frequency of emergency calls and neighbor complaints, if any.
  - (c) Compliance with other regulating authorities, including the State Liquor Authority and the Ulster County Board of Health.
- (2) Fee. The fee for annual review shall be determined by resolution of the Town Board. Upon receipt of such fee, the Building Inspector or his/her designee shall certify to the Planning Board, in writing, that the adult use is in compliance with the approved site plan and operating standards for the special use permit.
- (3) Noncompliance. If the Building Inspector determines that the adult use operation is not in compliance with the conditions and operating standards of the special use permit, the Building Inspector shall direct the owner/operator to bring the operation into compliance. If the operation is not brought into compliance within 30 days, the Building Inspector shall direct the Planning Board to commence proceedings to terminate the special permit. If the Building Inspector determines that there is an immediate danger to the health, safety and welfare of the area due to such noncompliance, the Building Inspector may suspend the Special Permit, pending review and determination of the Planning Board.
- (4) Termination of special use permit. Special use permits for adult uses may be terminated:
  - (a) In writing by the owner; or
  - (b) By the Planning Board, after providing notice, and the opportunity to be heard, to the holder of the special use permit, following a suspension or for violation of the operating standards for special use permit.

C. Special use permit renewal.

- (1) Special use permits issued for adult uses shall be subject to annual renewal as provided under this section. The application for renewal of the special use permit shall be submitted, with any required fee, to the Building Inspector at least one month prior to the expiration of the permit, in which case the expiration date of the permit shall be extended until the date of the Planning Board's action on the application for renewal. Failure to submit such renewal application may be grounds for termination of the special use permit for noncompliance pursuant to § 140-93B(3).
  - (2) Upon receipt, the Building Inspector shall conduct an inspection and prepare a report to the Planning Board as to the applicant's compliance with the Town Code and with the conditions and operating standards of the special use permit. The Planning Board shall consider the reports of the Building Inspector, Town Engineer and any other Town departments. In the event that noncompliance issues or violations are discovered, the Planning Board shall conduct a public hearing and provide notice to the special use permit holder, prior to any action to terminate or renew the special permit. An application for renewal shall be approved when the Planning Board determines that the management and operation of the adult use has conformed with the requirements of the Town Code, the conditions of the special use permit and with site plan approval. In the event that the Planning Board approves the renewal application with modifications or denies approval, it shall make specific findings as to the grounds for its action. The Planning Board Clerk shall file a copy of the Planning Board determination, together with any conditions of approval, with the Town Clerk and the Building Inspector and shall mail a copy to the applicant within five business days of filing with the Town Clerk.
  - (3) Any public hearing required pursuant to the provisions of this subdivision shall be noticed in accordance with Article XVI, Public Hearings, of Chapter 140, Zoning, of the Code of the Town of New Paltz. **[Added 5-24-2007 by L.L. No. 2-2007]**
- D. Preexisting adult uses. Any adult use existing as of the effective date of this article shall be deemed a nonconforming use and shall be subject to all conditions and provisions relating to nonconforming uses in the Town of New Paltz as set forth in Article VII of the Code of the Town of New Paltz.

#### **§ 140-94. Penalties for offenses.**

- A. Every person who shall fail to comply with a violation order issued by the enforcement officer within the time limit stated thereon shall be deemed to have committed an offense against this chapter and also shall be liable for any such violation or the penalty therefor.
- B. A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period

not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violations shall constitute a separate additional violation.

- C. Any person violating this chapter shall be subject to a civil penalty enforceable and collectible by the Town. Such penalty shall be collectible by and in the name of the Town for each week that such violation shall continue.
- D. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.





## ARTICLE XIII

**Signs****[Added 12-20-2001 by L.L. No. 6-2001]****§ 140-95. Legislative intent.**

The purpose of this article is to add to the Zoning Law of the Town of New Paltz uniform provisions applicable to the location, construction, design and placement of signs within the Town of New Paltz and the zoning districts thereof and to provide a reasonable period for replacement of nonconforming signs.

**§ 140-96. Title.**

This article shall be known and may be cited as the "Sign Zoning Law of the Town of New Paltz, New York."

**§ 140-97. Purpose.**

This article is enacted pursuant to the Municipal Home Rule Law and to the Town Law to promote and protect public health, safety, comfort, convenience, economy, Town aesthetics and the general welfare of the New Paltz community and for the following additional purposes:

- A. Protect and enhance the unique visual qualities of New Paltz;
- B. Conform to the guidelines and intent of the Comprehensive Master Plan of the Town;
- C. Encourage the installation of appropriate signs that harmonize with the buildings, neighborhood, and other signs in the area;
- D. Eliminate excessive and unsightly competition for visual attention through signs;
- E. Safeguard the general public by elimination of signs which may distract a motorist and/or contribute to the hazards of driving;
- F. Create a more attractive economic and business climate;
- G. Preserve citizens' rights to a customary means of earning a living;
- H. Protect property values;
- I. Maintain a standard of quality of all signs;
- J. Protect free speech and expression as guaranteed by both federal and state constitutions;
- K. Provide a method for the implementation of this article reasonably related to the foregoing purposes and to the objectives sought to be promoted by the community consistent with its comprehensive plan.

**§ 140-98. Word usage and definitions.**

- A. Except where specifically defined herein, all words used in this section shall carry their customary meanings. Words used in the present tense include the future and the plural includes singular. The word "shall" is intended to be mandatory.
- B. The following terms used in this article shall have the meanings indicated:

ACCESSORY SIGN — A sign located on premises which provides traffic flow information, such as "In," "Enter," "Out," "Exit," "Parking in Rear," "Crosswalk," "Watch for Pedestrians," etc.

A-FRAME, EASEL SIGN or SANDWICH BOARD — A double-faced sign, with the two faces connected at the top and spaced at the bottom, so as to form the shape of the letter "A," and therefore being self-supporting on a flat surface; or a single-faced sign similarly self-supporting.

AWNING or CANOPIES — A roof-like covering consisting of any pliable material attached to a metal or other frame and supported entirely from a building or other structure and projecting over a sidewalk, entrance, or other traveled way.

AWNING SIGN — Any visual message on an awning.

BANNERS and ADVERTISING FLAGS — A piece of cloth, plastic or similar pliable material attached at one or more points to a pole, staff or other support. Banners and advertising flags are permitted only as temporary signs. (See § 140-105.)

BARBER POLE — Any circular, rectangular or polygonal upright column, either with or without a rotating core, customarily used for advertising a barbershop.

BENCH SIGN — Any sign painted on or otherwise attached to a bench or other seat meant to be seen by the public.

BILLBOARD — A large off-premises advertising sign specifically designed with large height, width, and letters for visibility over a long distance.

BULLETIN BOARD — A structure used specifically for the displaying of listings of services or articles for sale, and posters for future events.

BUSINESS SIGN — A sign which directs attention to a permitted business or profession conducted on the premises, including permitted home occupations.

CONSTRUCTION SIGN — A nonilluminated sign denoting the architect, engineer and/or contractor when placed on work under construction, provided that such sign not exceed 16 square feet in area.

CORNER LOT — Commercial establishments and residences which have building faces fronting on two or more streets.

**DIRECTIONAL SIGN** — A sign located within the premises (e.g., parking lot or building lobby) providing direction to businesses within the premises.

**DIRECTORY SIGN** — A listing of multiple business enterprises at the same location for identification purposes on a common matrix or support.**[Amended 12-3-2009 by L.L. No. 7-2009]**

**FLAG** — Flexible or pliable material supported by any means and bearing the emblem or insignia of any government, religious, professional, education, charitable. or fraternal organization.

**FREESTANDING SIGN** — A sign not attached to or part of any building or screening surface but permanently affixed, by any other means, to the ground, including pole, post and arm, ladder and monument signs.

**GROUND** — Natural earth, soil or pavement surface at the sign location.

**HIGHWAY DIRECTIONAL SIGN** — An on-premises or off-premises sign located adjacent or in proximity to a street, road or highway and which provides directional information to a particular destination distant from the location of such sign.**[Added 8-21-2008 by L.L. No. 2-2008]**

**HISTORICAL MARKERS** — Emblems, tablets, plaques, memorial signs or statues when cut into masonry surface or constructed of bronze, stainless steel, or other similar permanent material installed by governmental agencies, religious, or nonprofit organizations.

**INFLATABLE SIGN** — A sign that is supported by any type of inflation and is either attached to a permanent structure, freestanding or tethered.

**INFORMATIONAL KIOSK** — A sign or group of signs for public, charitable, service or religious organizations and institutions and which bears no commercial advertising.**[Amended 12-3-2009 by L.L. No. 7-2009]**

**INTERIOR SIGN** — Any advertising sign displayed, affixed or painted on or within any window, show window, or window screen and visible from the building exterior.

**LADDER SIGN** — A freestanding sign with two vertical supports and with not more than three horizontal crosspieces serving as individual signs for identification.

**LIGHTED SIGN** — Any sign designed to give forth or to reflect artificial light.

(1) **EXTERNALLY ILLUMINATED** — A sign illuminated with an artificial light which is separated from or is not an intrinsic part of the sign itself.

(2) **FLASHING** — An illuminated sign on which the artificial lighting is not maintained stationary or constant in intensity and color at all times while in use.

- (3) ILLUMINATED — A sign designed to give forth any artificial light or designed to reflect such light and on which the external lighting is an integral part of the sign, such as bulbs forming letters or logos.
- (4) INTERNAL RADIATION — A sign which is illuminated as a result of electrification or radioactivity of a gaseous material or substance, such as neon.
- (5) INTERNAL ILLUMINATED — A sign illuminated by use of an artificial light which is located within the sign structure and which depends for its illumination on transparent or translucent material.

MARQUEE — Any hood or awning of permanent construction, securely affixed to a building or any projection from the wall of a building.

MONUMENT SIGN — A freestanding sign either with a base affixed to the ground or mounted on short poles that are no greater than two feet in height.

MURAL — A picture, design or decorative treatment painted on or otherwise affixed to and covering a portion of a wall surface, and shall include sculpture and sculptural treatments of solid elements.

NAMEPLATE — A business or professional sign not exceeding one square foot on an area identifying a professional tenant of the site. Each sign shall be affixed to the building exterior wall or door.

OFF-PREMISES SIGN — Any sign advertising a business not located on the same lot.**[Added 3-24-2005 by L.L. No. 1-2005]**

PERSON — Shall include an individual corporation, society, association, partnership, trust or other entity, public or private.

POLE SIGN — A freestanding sign with a base of the actual sign area at least five feet above ground and supported by a single vertical pole.

POLITICAL SIGNS, ADVOCACY — A sign placed on private property which expresses an opinion on an issue of public interest.

POLITICAL SIGNS, CAMPAIGN — A temporary sign placed on private property which concerns candidates or issues before the voters.

PORTABLE SIGN — A sign, whether on its own trailer, wheel or otherwise, designed to be movable and not permanently affixed to the ground, a building, structure or another sign.

POST-AND-ARM SIGN — A freestanding sign comprised of a vertical post to which a perpendicular arm is attached and from which the sign hangs.

POSTER — Temporary and nonpermanent signs covering such dated activities as political and sporting events, entertainments and elections.

PREMISES SIGN — A sign denoting the name and address of the residents of the premises.

PRIMARY SIGN — Principal sign which identifies the business or service to the passerby and communicates the most pertinent information.

PROJECTING SIGN — A sign attached to the building wall or structure that projects horizontally or at a right angle more than 12 inches from the face of the wall over the traveled way.

PUBLIC WAY — Any street, avenue, route, and/or thoroughfare, and including any private, business or commercial way which provides ingress or egress if accessible for public use.

RAIL TRAIL KIOSK — A sign or group of signs for Rail Trail information and which bears no commercial advertising. **[Added 12-3-2009 by L.L. No. 7-2009]**

REAL ESTATE SIGN — A sign advertising the sale, lease or rental of the premises on which the sign is located, limited to 16 square feet in area.

REPRESENTATIONAL SIGN — Any three-dimensional sign which is built so as to physically represent the object advertised.

REVERSE CHANNEL SIGNS — A sign having individual letters and graphics constructed of a metal face and returns (sides), a clear plastic backing, an internal channel for neon glass and mounted one to two inches from the wall. **[Added 3-24-2005 by L.L. No. 1-2005]**

ROOF SIGN — A sign erected on a roof and extending in height up to or above the peak of the roofline of the building on which the sign is erected.

SALE SIGN — A nonilluminated residential "garage sale," "yard sale," "barn sale," "tag sale," or similarly descriptive sign located fully upon the residential property on which the sale is being conducted.

SECONDARY SIGN — A sign which communicates accessory information other than the most pertinent information appearing on the primary sign, e.g., types of products or services, etc.

SETBACK — Distance of the nearest point of a sign from any property line.

SIGN — Any letter, figure, character, mark, point, design, pictorial, picture, poster, stroke, stripe, line, trademark, reading matter, illuminating device or reflecting device which shall be so constructed, placed, attached, erected, fastened, or manufactured in any manner whatsoever, that the same shall be used for the attraction of the public to any place, object, person, firm, corporation, public performance, article, machine, merchandise, or other purpose whatsoever, out-of-doors or in any window, show window, or window screen visible from the outside.

SIGN AREA — The area of a sign measured as follows:

- (1) When any sign is framed or outlined, all of the area of the frame or outline shall be included;

- (2) Sign measurement shall be based upon the entire area of the sign with a single continuous perimeter enclosing the extreme limits of the actual sign surface, not including structural supports if they are not used for advertising purposes, or, in the case of irregularly shaped signs, such irregularly shaped signs may be measured by the sum of two or more adjacent square or rectangular perimeter measurements, whichever of the above areas is less; **[Amended 12-3-2009 by L.L. No. 7-2009]**
- (3) Measurement of signs with two faces shall be taken as the area of either face, provided that the faces are either back to back or are attached at least on one side and the angle of the attachment does not exceed 30°. Where faces are not back to back, or are attached at an angle exceeding 30°, each face shall be measured individually and the cumulative amount shall be used to determine gross area.
- (4) The street number shall be required to be top center and separate and distinct from the text of the sign; when this criteria is followed, the street number shall not be included in the measurement of the sign area. **[Added 12-3-2009 by L.L. No. 7-2009]**

**STREET NUMBERS** — A sign providing the 911 identifying number of the property, either residential or commercial, and clearly visible from the road.

**SUBDIVISION SIGN** — A sign located at the entrance to a subdivision identifying the neighborhood or community by name.

**TEMPORARY SIGN** — Any sign that is displayed only for a specified period of time and is not permanently mounted.

**WALL SIGN** — A sign that is painted on or attached directly to the outside wall of a building or structural screening, with the face of the sign parallel to the wall and having a visible edge or border extending not more than 12 inches from the wall. The term "wall sign" shall include any sign erected on a roof and extending a height to a point below the peak of the roof line of the building on which the sign is erected.

**VENDING MACHINES** — When vending machines (e.g., soda) are placed outside or placed inside windows so that faces are visible from the nearest sidewalk or street, the face of the machine shall be considered in the total allowable signage for the business.

**ZONE** — Shall refer to the appropriate residential, light industrial or business zoning district.

#### **§ 140-99. Permits.**

- A. General regulations. Except as otherwise provided herein, no sign or other advertising device shall be erected, constructed, displayed, moved, reconstructed, extended, enlarged or altered nor shall any person cause any sign or other advertising device to be erected,

constructed, displayed or maintained within the Town of New Paltz, except in conformity with these regulations and, where applicable, without first having obtained a permit from the Building Inspector.

B. Application and fees.

- (1) A written application shall be submitted to the Code Enforcement Officer or Building Inspector on a sign permit form prescribed by the Town.
- (2) A plan drawing shall be included with the application showing the location of the building, structure, or land upon which the sign now exists or is to be erected.
- (3) An elevation drawing shall be included with the application providing a full description of the placement and appearance of the proposed sign showing:
  - (a) Sign construction details, including materials;
  - (b) Sign dimensions;
  - (c) Sign colors;
  - (d) Lettering and other matter on the sign;
  - (e) Method of illuminations, if any, and the position of lighting or other extraneous devices, and a copy of the wiring diagram(s) for the electrical connections;
  - (f) Required setback distance. **[Added 12-3-2009 by L.L. No. 7-2009]**
- (4) Written consent from the land owner or authorized representative if not the applicant.
- (5) Payment of the fee for the issuance of the sign permit, together with a nonrefundable application and review fee, as established from time to time by resolution of the Town Board.

C. Issuance of a permit.

- (1) Process. It shall be the duty of the Code Enforcement Officer or Building Inspector, upon receipt of a properly completed application for a sign permit and fee, to examine such plans, specifications, locations and other data submitted and shall:
  - (a) Refer all applications for new signs, and all applications for replacement, repair or other modification of any existing sign which will result in a change in size, location, type, or lighting to the Planning Board for review; or
  - (b) If the submitted application is for a modification to an existing sign which is in compliance with all requirements of this article

and the Code of the Town of New Paltz and does not constitute a change in size, location, type, or lighting, the Building Inspector shall, within 10 days, issue a permit for the proposed changes.

- (2) Condition. All sign permits shall carry the condition that the permitted sign shall be maintained in a safe, orderly condition and in good repair at all times. The Building Inspector may add such other conditions as may be necessary for the public safety and welfare. **[Amended 12-3-2009 by L.L. No. 7-2009]**
- (3) Disapproval. In the event that plans submitted do not meet requirements of local laws and ordinances, the Building Inspector/Code Enforcement Officer shall then notify the applicant, in writing, of the reason for refusal to issue a permit. **[Amended 12-3-2009 by L.L. No. 7-2009]**
- (4) Time limit. If the authorized sign is not erected within six months of the date the sign permit is granted, the permit shall become null and void and a new application must be submitted.
- (5) Violation. If, subsequent to inspection by the Code Enforcement Officer/Building Inspector, a sign is found in violation of the conditions specified in the sign permit, the owner shall be notified to bring the sign into compliance with specified conditions. Failure to comply within 30 days shall be cause for revocation of the permit and removal of the sign within 10 days after written notification from the Code Enforcement Officer/Building Inspector, and upon failure to comply with such notice within the time specified in such order, the Building Inspector/Code Enforcement Officer is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the building or structure to which such sign is attached or, if the sign is not attached to a building or structure, by the owner of the land on which the sign is located. If such expense is not paid within 30 days of the date that a demand for payment is mailed to such owner at the address listed on the most recent tax roll of the Town of New Paltz, such expense shall become a lien upon the property and may be collected in the same manner as a property tax. **[Amended 12-3-2009 by L.L. No. 7-2009]**

**§ 140-99.1. Waiver of sign permit review. [Added 12-6-2007 by L.L. No. 5-2007]**

- A. Notwithstanding the provisions contained in § 140-99C(1)(a) of this chapter, regarding sign application review by the Planning Board, the Planning Board, upon recommendation of the Building Inspector, is authorized to waive sign permit review and the Building Inspector is authorized to issue a permit for the sign for which the application is being made, provided:



- (1) That the applicant has demonstrated that the proposed sign for which the application is being made will replace an existing sign owned or maintained by the applicant; and
  - (2) That the applicant has demonstrated that the proposed sign for which the application is being made will be installed at the same general location of the sign to be replaced; and
  - (3) That the applicant has demonstrated that the proposed sign for which the application is being made conforms in all respects to the design objectives and applicable requirements of this article, including height, area and type of illumination.
- B. As part of any referral to the Planning Board of an application for sign review and approval required under this chapter, the Building Inspector may include as part of such referral a recommendation to the Planning Board, upon forms prepared by the Building Inspector for such purpose, that sign review and approval should be waived, setting forth reasons in support of such recommendation.
- C. Following receipt by the Planning Board of the submission of any application made to it by the Building Inspector, the Planning Board shall find and determine that sign review and approval is required pursuant to the provisions of this chapter or, in the alternative, may find and determine that the provisions of this section have been met and that further review by the Planning Board is not required.
- D. Under circumstances where the Building Inspector has delivered to the Planning Board a recommendation that sign review and approval should be waived and such recommendation has been received by the Planning Board at least three days prior to the conduct of its next regularly scheduled meeting (exclusive of the date of delivery), the Planning Board shall make its findings and determination at such regularly scheduled meeting and shall cause written notice of such determination, signed by the Chairperson or authorized representative of such Board, to be delivered to the Building Inspector within the three days next following the date upon which such determination is made.
- E. In the event that the Planning Board, under circumstances where there has been delivered to it a recommendation by the Building Inspector to waive review and approval of the application submitted within the time periods set forth above, fails to determine whether or not further review by the Planning Board is required or, having made a determination, fails to provide to the Building Inspector timely notice of such determination, the Planning Board shall be deemed to have waived sign application review and approval as authorized pursuant to this chapter, and the Building Inspector/Code Enforcement Officer shall be entitled to take and to complete such procedures as are required for the proper disposition of the application. **[Amended 12-3-2009 by L.L. No. 7-2009]**

- F. In the event that the Planning Board, notwithstanding that there has been delivered to it a recommendation by the Building Inspector to waive review and approval of the application submitted, determines that sign application review and approval is required pursuant to the provisions of this chapter, the Building Inspector/Code Enforcement Officer shall not issue a permit for the sign requested until such time as the Planning Board shall have approved the application in accordance with the provisions of this chapter. **[Amended 12-3-2009 by L.L. No. 7-2009]**
- G. The procedures set forth in this section shall not be applicable to master sign plans required pursuant to § 140-112 of this chapter nor shall this section be deemed to supersede, replace, repeal or otherwise modify the provisions of § 140-106 of this chapter.

**§ 140-100. Exempt signs.**

A permit shall not be required for the following exempt signs. Such exceptions, however, shall not be construed as relieving the owner of the sign from the responsibilities for conformance with all other applicable provisions of these regulations.

- A. Nameplates, with a maximum of four each per building site. Each nameplate up to four shall be one square foot each. Five or more nameplates shall be limited to an aggregate of four square feet.
- B. Street number signs, except that the area of any business, commercial and industrial number sign shall not be included in aggregate permitted sign area.
- C. Premises signs, in residential zones only.
- D. Construction signs.
- E. Real estate signs.
- F. Traffic or municipal signs, legal notices and temporary emergency nonadvertising signs as may be authorized by the Town Board of the Town of New Paltz.
- G. Temporary nonilluminated window advertising signs which occupy no more than 20% of the total window area of the principal facade of the establishment and are displayed for no longer than two weeks.
- H. Political signs, campaign, are temporary by definition, and may be displayed on private property in any district without a permit for a period not to exceed four consecutive weeks.
- I. Political signs, advocacy, or other noncommercial signs which express opinions are protected by the First Amendment of the United States Constitution and may be displayed on private property in any district without a permit.

- J. Historical markers.
- K. Sale signs.
- L. Accessory signs.
- M. Posters.
- N. Winter holiday decorations, including lighting, are exempt from the provisions of this article and may be displayed in any district without a permit for a period from three days before Thanksgiving until the first week of the following year.
- O. Decorations, including lighting, for other holidays are exempted from the provisions of this article and may be displayed in any district without a permit for a period of two weeks prior to and one week after the holiday.
- P. Not more than two exterior-mounted wall signs having a total combined area not exceeding 3.5 square feet, owned by and used to display the name and emblem of a nonprofit civic, fraternal, benevolent, service, philanthropic or similar membership club, association or organization, may be affixed to the exterior of the usual and customary meeting place of such club, association or organization. **[Added 6-15-2006 by L.L. No. 4-2006]**
- Q. Temporary freestanding signs within a shopping center, provided that they comply with the following: **[Added 12-3-2009 by L.L. No. 7-2009]**
  - (1) No sign shall exceed eight square feet; and
  - (2) No sign shall obstruct the walkway or curb cuts, nor shall any sign be located within any parking area or traveled way; and
  - (3) Each sign shall be consistent with temporary sign standards adopted by the landowner and filed with the Town Building Department.
- R. Permanent window signs not to exceed 20% of the window area of the principal facade. **[Added 12-3-2009 by L.L. No. 7-2009]**
- S. Rail Trail kiosks at the intersection of the Rail Trail with any state, county or Town roadway. **[Added 12-3-2009 by L.L. No. 7-2009]**
- T. Temporary seasonal farm stand: All farms located within the Town of New Paltz or within 1/4 mile of any Town boundary may display up to two off-premises signs, not greater than 24 square feet each, during the harvest season(s). A written letter of permission from the landowner must be filed with the Town of New Paltz Building Department. **[Added 12-3-2009 by L.L. No. 7-2009]**

**§ 140-101. Prohibited signs.**

All signs not specifically permitted are prohibited unless allowed and approved by local law, variance, special use permit, or other modification to the Zoning Law of the Town of New Paltz, or by a superseding governmental agency. Prohibited signs include but are not limited to:

- A. Billboards.
- B. Bench signs.
- C. Roof signs.
- D. Flashing signs or lights.
- E. Posters fastened, painted or otherwise attached to utility poles, posts, trees, sidewalks, curbs, retaining walls, rocks or other public property.
- F. Signs which have any visible moving parts, including signs which achieve movement by action of wind currents.
- G. Signs which, by reason of size, location, content, coloring, or manner of illumination, obstruct the vision of the drivers or obstruct or detract from the visibility or effectiveness of any traffic sign or control device on public streets and roads.
- H. Signs which make use of words such as "stop," "look," "one-way," "danger," "yield," or similar words, phrases, symbols, lights or characters in such manner as to interfere with, mislead, or confuse vehicular or pedestrian traffic.
- I. Signs on public property or a public right-of-way, other than signs erected by a governmental agency, unless specifically authorized by the Town of New Paltz.
- J. Signs displayed on an automobile, truck, or other motorized vehicle when that vehicle is used primarily for the purpose of such advertising display.
- K. Signs obstructing any fire escape, means of ingress and/or egress, other required exit way or window.
- L. Signs obstructing any opening required for ventilation, venting or other access which may constitute a hazard to public health and safety.
- M. Exterior directory signs listing business occupants of any building. (See Master Sign Plan in § 140-112.)
- N. Inflatable signs.
- O. Internally illuminated signs, except those with opaque background, semi-transparent letters and the average level of illumination measured at three inches from the vertical surface not exceeding three

footcandles and utilizing LED fixtures. **[Amended 12-3-2009 by L.L. No. 7-2009]**

- P. A-frame, easel, or sandwich board, except as allowed in § 140-100Q. **[Amended 12-3-2009 by L.L. No. 7-2009]**
- Q. Off-premises signs, except signs of nonprofit associations or organizations that display information regarding community or performance events and highway directional signs as defined in this chapter. **[Added 3-24-2005 by L.L. No. 1-2005; amended 6-15-2006 by L.L. No. 4-2006; 8-21-2008 by L.L. No. 2-2008]**
- R. Reverse channel signs, except as permitted by the Planning Board pursuant to Subsection F of § 140-112 of this article. **[Added 6-23-2005 by L.L. No. 4-2005]**

#### **§ 140-102. Special permits.**

- A. Special permits may be granted by the Planning Board of the Town of New Paltz for the installation of bulletin boards, informational kiosks and murals. The Building Inspector shall forward any applications for a special use permit with preliminary recommendations to the Planning Board. The Planning Board may disapprove the application upon a finding that approval would be detrimental to the desirability, property values, safety, or harmonious development of the municipality.
- B. Bulletin boards shall be limited to one and only one for each shopping center within the Town containing three or more businesses, except that one may also be installed at the Town Hall. Boards shall be cleared by the applicant at least once per month to minimize clutter and to enhance communication.
- C. Information kiosks shall be limited to NY State routes which provide entrance into New Paltz and shall not exceed two for Route 299, two for Route 32 and one Route 208. **[Amended 12-3-2009 by L.L. No. 7-2009]**
- D. Murals painted in conjunction with signage shall not be considered as signs for the purposes of these regulations if such murals are clearly separate from the signage and the content and design of the mural does not overtly represent specific goods, services, or activities offered for sale. Generalized depictions of types of goods, commonly used symbols other than trademarks, brand names and logos, and scenes which do not specifically illustrate commercial activity may be allowed in murals. Graphic, pictorial or representational material which is clearly subordinate to signage, which is contained within a sign or which forms a design element integral to a sign, shall be considered to be signage rather than a mural and shall be counted as part of the signage for the premises on which it is located.

**§ 140-103. Design objectives.**

In reviewing sign applications, the Building Inspector or Planning Board shall determine that the sign will meet the following criteria:

- A. Signs shall be a subordinate part of the streetscape;
- B. Whenever feasible, multiple signs shall be combined into one to avoid clutter;
- C. Signs shall be as close to the ground as possible, consistent with legibility considerations;
- D. Sign design shall be consistent with the architectural character of the building on which it is placed and not cover any significant architectural features on the building;
- E. The illumination from any sign shall not cause any reflection or glare upon a public street, highway, sidewalk or adjacent property;
- F. Light lettering on dark background which enhances legibility is preferred for all signs;
- G. Signs in a particular area or district shall incorporate colors and materials that will be compatible with the general guidelines set forth in § 140-97 hereof and should enhance visual continuity in the district.
- H. Signs shall include the 911 property identification number(s) in conformance with § 140-111A.

**§ 140-104. Maintenance requirements.**

All signs and other advertising structures, together with all supports, braces, hooks, guys and anchors, and exposed lighting sources, shall be of substantial and sturdy construction, shall be kept in good repair, and shall be painted or cleaned as often as necessary to maintain a clean, neat, safe and orderly appearance. Within 15 days of notice of default, the property owner or tenant shall take steps to correct same.

**§ 140-105. Temporary signs.**

- A. All signs of a temporary nature must receive permits before being displayed except those designated as specified under exempt signs.<sup>116</sup> Temporary signs shall be permitted for a period not exceeding two weeks prior to the activity or event, nor exceeding one week after the activity or event, for a total maximum of five weeks. Commercial establishments shall be limited to one temporary sign permit for four events per calendar year, limited to 16 days per event. The permit shall note the date of the first day the sign may be displayed and the date it must be removed. **[Amended 6-15-2006 by L.L. No. 4-2006; 12-3-2009 by L.L. No. 7-2009]**

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<sup>116</sup>Editor's Note: See § 140-100, Exempt signs.

- B. Temporary noncommercial signs of nonprofit associations and organizations which display information regarding community or performance events shall be permitted for a period not exceeding two weeks prior to the activity or event or exceeding two days after the activity or event. Written permission of the landowner is required for all off-premises signs. **[Amended 12-3-2009 by L.L. No. 7-2009]**
- C. The Building Inspector/Code Enforcement Officer shall ensure that temporary sign size and location shall be compatible with the general guidelines set in § 140-97. **[Amended 12-3-2009 by L.L. No. 7-2009]**
- D. Removal of temporary signs. If the sign is not removed upon expiration of the permit, the Code Enforcement Officer shall issue an order to remedy. Then, if the sign is not removed within seven days, an appearance ticket shall be issued.

**§ 140-106. Nonconforming signs. [Amended 12-3-2009 by L.L. No. 7-2009]**

- A. Any lawful sign existing on the date of adoption of this article shall be permitted to remain for a period of 24 months following the date of such adoption. At the expiration of such twenty-four-month period, all signs shall comply with the requirements of this article.
- B. No lawfully preexisting, nonconforming sign shall be moved, enlarged, replaced and/or altered unless it is brought into compliance with the requirements of this article within 24 months next following the effective date of this article.

**§ 140-107. Abandoned signs.**

- A. Any nonconforming sign currently or hereafter existing which no longer advertises a bona fide business conducted or product available to purchase by the public on the premises shall be taken down by the owner, agent or person having beneficial use of the building or structure upon which the sign may be found within 10 days after notice of violation from the Code Enforcement Officer to the property owner. Upon failure to comply within 10 days, the Building Inspector is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the building or structure in which the sign is attached. The owner who refuses to pay removal costs will not be issued another permit for a sign on this building or property nor will the tenant or lessee be issued a permit for a sign on this building or property until such time as all costs, including enforcement, administration, and legal expenses are reimbursed to the Town. Upon nonpayment, Town costs shall be recovered through the property owner's tax bill.
- B. Any conforming sign which no longer advertises a bona fide business conducted or product available to purchase by the public on the

premises shall be allowed to remain to enhance resale or rental of the premises upon which the sign is located.

**§ 140-108. Residential districts. [Amended 6-15-2006 by L.L. No. 4-2006]**

No sign or other device for advertising purposes of any kind may be erected or established in any residential district except as provided under § 140-111B, Home occupations, and as follows:

- A. Each private residence may display one projecting, freestanding or wall sign having an aggregate total face area of not more than two square feet. **[Amended 6-23-2005 by L.L. No. 4-2005]**
- B. Each dwelling unit in a condominium, townhouse, or apartment building may display one wall nameplate or professional sign having an aggregate total face area of not more than 1 1/2 square feet. **[Amended 6-23-2005 by L.L. No. 4-2005]**
- C. Each apartment building may display one freestanding or one wall sign having an aggregate total face area of not more than four square feet. **[Amended 6-23-2005 by L.L. No. 4-2005]**
- D. One subdivision identification sign (meaning a graphic to identify the entrance to a particular subdivision recognized by a given name) is permitted at its entrance, may be double-faced, and is not to exceed an aggregate total face area of 12 square feet. If a subdivision has access from more than one location, identification signs will be permitted at each entrance, unless both entrances are within vision, and are to have suitable landscaping at each sign. **[Amended 6-23-2005 by L.L. No. 4-2005]**
- E. Street numbers used on any mailbox shall be two-inch numbers. Where there is no mailbox, numbers shall be a minimum of three inches and shall additionally conform with any other applicable requirements of the Code of the Town of New Paltz and 911 regulations.
- F. Churches, schools, cultural facilities and lawfully existing business establishments may each display one monument-type sign with a maximum sign area of 12 square feet and a maximum height of six feet from the ground. **[Amended 12-3-2009 by L.L. No. 7-2009]**
- G. Each lawful preexisting, nonconforming business establishment located in a residential district may display one sign advertising that business. Such sign shall be either a monument-style sign having a maximum of 12 square feet of sign area or a post-and-arm style sign having a maximum of 12 square feet of sign area and maximum height of six feet. **[Added 3-24-2005 by L.L. No. 1-2005]**
- H. No internally illuminated sign shall be allowed in a residential district. **[Added 12-3-2009 by L.L. No. 7-2009]**



**§ 140-109. Highway Business Gateway, and Planned Resort Overlay Zoning Districts. [Amended 12-3-2009 by L.L. No. 7-2009; 10-3-2019 by L.L. No. 7-2019]**

Each business establishment shall be permitted two signs. No establishment may have two of any single freestanding type of sign (e.g., two pole signs are not allowed; two wall signs are allowed). Individual business signs shall incorporate the street number(s) at the top center. The following signs are permitted unless otherwise indicated in the design guidelines for the district:

- A. Wall signs (with or without border) up to one square foot per two linear feet of building structure frontage or a maximum of 32 square feet, whichever is less.
- B. Freestanding signs only for establishments that are set back from the property line by 25 feet or more:
  - (1) Monument signs up to 30 square feet in sign area, with a maximum of five feet from the ground (including the base) to the top of the sign. The sign must be set back 10 feet or more from the property line.
  - (2) Ladder signs up to 18 square feet in sign area, with a maximum of 12 feet from the ground (including the base) to the top of the sign. The sign must be set back 10 feet or more from the property line.
  - (3) Post-and-arm signs up to 12 square feet in sign area, with a maximum height of eight feet from the ground to the top of the sign. The sign must be set back 10 feet or more from the property line.
  - (4) Pole signs up to 14 square feet in sign area, with a maximum height of 12 feet from the ground to the top of the sign. The sign must be set back 10 feet or more from the property line.
  - (5) Freestanding signs must be a minimum of three feet from any sidewalk.
- C. Projecting signs up to eight square feet in sign area: maximum projection of four feet from the building face; minimum clearance from the ground eight feet; and maximum clearance 10 feet from the ground.
- D. Permanent window signs with an aggregate total square footage not to exceed 20% of the total window area of the principal facade, with lettering up to eight inches in height.
- E. Awning signs projecting at least five feet onto the sidewalk but no more than seven feet; lettering up to six inches in height and on the valance only. The extent of the lettering may cover a maximum of eight feet or 50% of the valance width, whichever is less.

**§ 140-110. Light Industrial Zoning District (I-1). [Amended 12-3-2009 by L.L. No. 7-2009]**

Each establishment shall be permitted two signs. No establishment may have two of any single freestanding type of sign (e.g., two pole signs are not allowed; two wall signs are allowed). The following signs are permitted:

- A. Wall signs (with or without border) up to one square foot per two linear feet of building frontage or 64 square feet, whichever is less.
- B. Freestanding signs only for establishments that are set back from the property line by 45 feet or more:
  - (1) Monument or ladder signs with a maximum area of 40 square feet in the sign area with a maximum height of six feet from the ground (including the base) to the top of the sign. The sign must be set back 10 feet or more from the property line.
  - (2) Post-and-arm signs up to 24 square feet in sign area, with a maximum height of 12 feet from the ground to the top of the sign. The sign must be set back 10 feet or more from the property line.
  - (3) Pole signs or ladder signs as large as 24 square feet in sign area, with a maximum height of 12 feet from the ground to the top of the sign. The sign must be set back 15 feet or more from the property line.
- C. Projecting signs up to 16 square feet in sign area; maximum projection of six feet from the building face; minimum clearance from the ground eight feet; and maximum clearance 12 feet.
- D. Permanent window signs with an aggregate total square footage not to exceed 20% of the total window area of the principal facade; lettering up to 12 inches high.
- E. Awning signs projecting at least five feet onto the sidewalk but no more than seven feet; lettering up to 10 inches in height and on the valance only. The extent of the lettering may cover a maximum of eight feet or 50% of the valance width, whichever is more.

**§ 140-111. Requirements applicable in all districts. [Amended 3-24-2005 by L.L. No. 1-2005; 12-3-2009 by L.L. No. 7-2009]**

- A. Property numbers.
  - (1) Property numbers should be displayed on the building, or in front of it, in a prominent and conspicuous place and in such manner as to be legible from the street.
  - (2) All numbers should be at least four inches in height with a minimum one-half-inch stroke and be located approximately four feet above the ground;

- (3) The colors of said numbers should be in sharp contrast to the color of the background.
  - (4) When practical, the numbers should be placed near a light so that they may be readily seen at night. If the numbers are not illuminated, they should be reflective.
  - (5) The street number must be visible from both directions.
  - (6) If the property is more than 75 feet from the roadway, the number should be displayed on a post or mailbox, no farther than 25 feet from the edge of the street, and on the same side of the street as the house.
  - (7) In the event that more than one building has access from a single driveway, the numbers must be displayed at each location at which the driveway access diverges, in addition to being displayed on the building.
- B. Home occupation. In any district where home occupations are permitted, each home occupation may display, in addition to the aforementioned residential sign, one projecting, freestanding, or wall sign having an aggregate total face area of not more than two square feet (one foot high by two feet wide), provided that a projecting sign shall not project more than three feet from the principal building on the lot.
- C. General rules by sign type.
- (1) Wall signs. The visible edge or border of a wall sign may extend up to 12 inches from the face of the wall and may not extend beyond the walls of the building. The placement of all wall signs must be above the display window and the cornice in a single-story building or between the shop window and the second-story window sill in a multistory building.
  - (2) Window signs. Permanent window signs must be painted on or attached directly and permanently to the window.
  - (3) Freestanding signs. No freestanding pole sign may be located less than 50 feet from any other pole sign.
  - (4) Projecting signs. Projecting signs may not extend above the height of the eave line of the roof.
  - (5) Directional signs. The Building Inspector/Code Enforcement Officer may issue sign permits for the erection of on-site directional signs, provided that the individual signs are no more than two square feet and are limited to generic text such as "entrance" and "exit." Permits will be granted only if the applicant can clearly demonstrate necessity based on motorist safety and that any such on-site directional sign will be set back from any public right-of-way or property line and not block any view of oncoming traffic.

- (6) Freestanding signs. Where the undisturbed ground elevation of a proposed sign location is lower than the adjoining road, street, or highway, a freestanding sign may be constructed so that the height of the sign is no greater than the allowed height, as measured from the elevation of the adjoining road, street, or highway.

D. Illumination.

- (1) Only white lights may be used to illuminate a sign, except in the case of neon which is permitted only for window signs.
- (2) Exposed lighting sources such as bulbs, tubes, and the like are prohibited. All ground level, external sources of illumination must be hidden from view by landscaping or improvements.
- (3) No exterior signs on any building premises shall be illuminated after 12:00 midnight, except in those places of business which shall remain open after midnight, and they shall be extinguished at the time of closing of such business.

E. Lettering. The lettering on any sign may not exceed 60% of the sign area of any one side of the sign.

F. Landscaping.

- (1) The Planning Board and/or Building Inspector/Code Enforcement Officer shall require that landscaping be used at the base of a freestanding sign to make the sign compatible with the surrounding area.
- (2) Neither the Planning Board nor the Building Inspector/Code Enforcement Officer shall approve a sign permit if landscaping is insufficient for such purpose.

**§ 140-112. Master sign plan for shopping centers, business centers and office buildings. [Amended 3-24-2005 by L.L. No. 1-2005; 2-16-2006 by L.L. No. 1-2006; 12-3-2009 by L.L. No. 7-2009]**

Where seven or more business establishments comprise an office building, shopping center or business center, the following sign criteria shall apply:

- A. Common sign. One common freestanding monument sign identifying the name and address of the shopping center, business center or office building, plus not more than six additional descriptive words, is permitted. Appropriate height and size shall be determined by the Planning Board based upon site conditions and size of lot; provided, however, that such common sign shall not exceed 12 feet in height, nor shall its area exceed 80 square feet.
- B. Business signs. Freestanding signs may not be displayed by individual establishments located within the center. The types of signs displayed by each individual establishment shall adhere to a master sign plan.

Each establishment may display up to two signs, except for temporary signs allowed in accordance with §§ 140-100 and 140-105.

- C. Requirement. A master sign plan is required of establishments that share a zoning lot or parcel or are part of a shopping or business center or office. The plan is a sign system to create visual unity among the signs within the plan area and ensure compatibility with surrounding establishments, landscaping and structures. It shall include specifications to which all signs within the plan shall conform, including but not limited to the following: sign type, style, height, colors, lettering or graphic style, materials, shape, lighting, and location on the establishment. In creating the master sign plan the Planning Board may approve additional business or directional signage as it deems necessary in order to facilitate the safe and efficient identification of and access to the businesses within the center or building.
- D. Process. Before any individual sign permits for the plan area are approved, the master sign plan must be reviewed and approved by the Planning Board and the Building Inspector/Code Enforcement Officer. Changes in individual signs, in conformance with the approved master sign plan, shall be permitted by the Building Inspector/Code Enforcement Officer through application. Nonconforming signs in the plan area that exist prior to the date upon which this article shall take effect shall be deemed nonconforming signs and shall be subject to the provisions for nonconforming signs contained in § 140-106 of this article.
- E. Shopping centers constructed prior to the adoption of this subsection and shown on an approved site plan, having a central parking area with buildings around its perimeter, shall adhere to the following size requirements for wall signs:
  - (1) For each storefront shown on an approved site plan measuring up to 100 linear feet: one square foot per linear foot, with a maximum area of 80 square feet.
  - (2) For each storefront shown on an approved site plan measuring greater than 100 linear feet: 6/10 square foot per linear foot, with a maximum area of 120 square feet.
  - (3) In addition, each establishment may have one business identification sign of four square feet placed at or in the vicinity of the store entrance with the business name. The intention of this provision is to ensure a clear demarcation of each entrance. This sign shall hang from a common overhang perpendicular to the store face in a manner that is consistent with safety standards. A consistent color scheme shall be used for all.
- F. The Planning Board may approve the use of reverse channel signs as part of a master sign plan for shopping centers.

- G. Shopping centers and professional buildings constructed prior to the adoption of this subsection and shown on an approved site plan, having a central parking area with buildings around its perimeter and set back from the street greater than 60 feet, shall be allowed one freestanding monument directory sign in lieu of the common sign. Such directory sign shall be the minimum size necessary to allow for seven-inch letters, with a maximum of 80 square feet in area, with a maximum height of 10 feet, and set back to be determined consistent with safety standards. Lighting, architectural and structural elements of a directory sign may be permitted by the Planning Board and shall not be included in the sign area and height measurements. Directory signs must use one common background color.

**§ 140-113. Schedule of sign specifications. [Amended 12-3-2009 by L.L. No. 7-2009; 10-3-2019 by L.L. No. 7-2019]**

<b>Schedule of sign specifications.</b>			
<b>(Two per establishment; no two signs of the same type, except that two wall signs are allowed)</b>			
<b>Sign Type</b>	<b>B-2 Highway Business</b>	<b>Any Industrial</b>	<b>Gateway Districts</b>
Wall			
Whichever is less:			
Linear frontage formula; or	1 square foot per 2 linear feet up to 32 square feet	1 square foot per 2 linear feet	1 square foot per 2 linear feet up to 32 square feet
Maximum sign area	32 square feet	64 square feet	32 square feet
Freestanding			
Permitted only if establishment is set back from property line at least	25 feet	45 feet	25 feet
Monument			
Maximum sign area	30 square feet	40 square feet	30 square feet
Maximum height	5 feet	6 feet	5 feet
Minimum setback from property line	10 feet	10 feet	10 feet
Ladder			

<b>Schedule of sign specifications.</b>			
<b>(Two per establishment; no two signs of the same type, except that two wall signs are allowed)</b>			
<b>Sign Type</b>	<b>B-2 Highway Business</b>	<b>Any Industrial</b>	<b>Gateway Districts</b>
Maximum sign area	18 square feet	24 square feet	18 square feet
Maximum height	12 feet	12 feet	12 feet
Minimum setback from property line	10 feet	15 feet	10 feet
Post-and-arm			
Maximum sign area	12 square feet	24 square feet	12 square feet
Maximum height	8 feet	12 feet	8 feet
Minimum setback from property line	10 feet	10 feet	10 feet
Pole			Not permitted
Maximum sign area	14 square feet	24 square feet	NA
Maximum height	12 feet	12 feet	NA
Minimum setback from property line	10 feet	15 feet	NA
Projecting			
Maximum sign area	8 square feet	16 square feet	8 square feet
Maximum projections from building face	4 feet	6 feet	4 feet
Minimum clearance from ground	8 feet	8 feet	8 feet
Maximum clearance from ground	10 feet	12 feet	10 feet
Window			

<b>Schedule of sign specifications.</b>			
<b>(Two per establishment; no two signs of the same type, except that two wall signs are allowed)</b>			
<b>Sign Type</b>	<b>B-2 Highway Business</b>	<b>Any Industrial</b>	<b>Gateway Districts</b>
Permanent percentage of total window area of principal facade	20%	20%	20%
Maximum height of lettering	8 inches	12 inches	8 inches
Awning			
Minimum projection over sidewalk	5 feet	5 feet	5 feet
Maximum projection over sidewalk	7 feet	7 feet	7 feet
Lettering height	6 inches	10 inches	6 inches
Lettering location	Valance only	Valance only	Valance only
Width of lettering across awning	8 feet or 50% of valance, whichever is less	8 feet or 50% of valance, whichever is less	8 feet or 50% of valance, whichever is less

**§ 140-113.1. Highway directional signs. [Added 8-21-2008 by L.L. No. 2-2008]**

- A. The Planning Board of the Town of New Paltz is hereby authorized to grant special permits for the installation of on-premises and off-premises signs as part of historic master highway directional sign plans for lawfully existing uses within the Town listed on the national, state or Town register of historic places.
- B. Permits.
  - (1) Special permits may be granted by the Planning Board for the Town of New Paltz for the installation of certain signs as part of a historic use master highway directional sign plan approved by the planning board pursuant to the provisions of this § 140-113.1. The permit process shall conform to all applicable requirements of § 140-99 of this article.



- (2) The Building Department of the Town of New Paltz is hereby authorized to grant sign permits for highway directional signs which are shown on a historic use master highway directional sign plan approved by the Town of New Paltz Planning Board.
- (3) Applications for approval of a historic use master highway directional sign plan shall be upon forms issued by and filed with the Planning Board. The application shall be submitted, together with any required fee to the building inspector. A completed application shall include:
  - (a) Detailed description of the location, size, type, appearance and content of each sign included as part of the plan;
  - (b) Where off-premises highway directional signs are proposed, the applicant shall include written consent by the owner or owners of the property upon which all signs will be placed, such consent to be acknowledged before a notary public;
  - (c) In the event that any other agency or jurisdiction must approve the installation or maintenance of any sign, the applicant shall provide satisfactory evidence of such approval;
  - (d) Evidence that the sign plan for which application is being made directs persons to a destination, location or area listed on a national, state or local historic register;
  - (e) A map showing the location of all proposed sign(s) and indicating safe and adequate sight lines and other details as recommended by the building department according to state and local law;
  - (f) An elevation drawing providing a full description of the placement and appearance of each proposed sign showing:
    - [1] Sign construction details, including materials;
    - [2] Sign area and total sign dimensions;
    - [3] Sign colors;
    - [4] Lettering and any graphics on the sign;
  - (g) A narrative shall be included explaining the need and rationale for each highway directional sign shown on the map.
- (4) The Building Department shall review the application and shall determine whether the application is complete. Upon making such determination, the Building Department shall forward such completed application to the Planning Board together with a recommendation as to whether or not each sign is consistent with prevailing safety standards, taking into consideration sight lines

and other safety and visibility standards contained in local and state highway laws, codes, rules and regulations.

C. Plan and sign requirements.

- (1) The plan shall consist of not more than five freestanding on-premises or off-premises highway directional signs identifying the name of the entity for which application is being made plus not more than six additional descriptive words, logos or symbols for directional purposes.
- (2) Off-premises or on-premises highway directional signs may be of the pole, ladder or post-and-arm type. No off-premises or on-premises, nonprimary historic directional sign shall exceed 12 feet in height measured from the elevation of the adjoining road, street or highway nor shall its sign area exceed 15 square feet.
- (3) The sign area of each highway directional sign shall be the minimum area necessary for directional purposes. Appropriate quantity, type, height and size shall be determined by the Planning Board based upon site conditions, roadway speed limit, and visibility as recommended by the Building Department. The Planning Board may approve highway directional signs that exceed the height and sign area requirements of this section by not more than 20% in order to facilitate safe and convenient travel by the public.
- (4) The proposed plan shall be designed to create visual unity among the signs within the plan and to ensure compatibility with the primary business sign, surrounding establishments, landscaping and structures, areas and neighborhoods. The proposed plan shall include specifications to which all signs in the plan shall conform, including but not limited to the following: sign type, height, sign area, colors, lettering or graphic style, materials, shape, landscaping and location. Each highway direction sign incorporated in the master highway directional sign plan shall be appropriate to the location and compatible with surrounding land uses, structures, views and landscapes. Lighting of highway directional signs shall be prohibited, unless provided by existing street lighting.
- (5) All highway directional signs approved as part of a master highway directional sign plan shall be subject to the inspection and maintenance requirements set forth in § 140-104 of this chapter.

**§ 140-114. Interpretation of provisions.**

- A. Legislative intent. In their interpretation and application, the provisions of this article shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare.

- B. Noninterference and precedence. This article shall not interfere with, abrogate, annul or repeal any local law, ordinance, rule, regulation or permit previously or hereafter enacted, adopted or issued pursuant to law, provided that, unless specifically excepted, where this article imposes greater restrictions, its provisions shall control.

**§ 140-115. (Reserved)<sup>117</sup>**

**§ 140-116. Severability.**

If any section, clause, sentence or part of this article shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the section, clause, sentence or part thereof directly involved in the controversy in which such judgment was rendered.

**§ 140-117. Effect on other laws.**

All local laws or parts of local laws, state laws or ordinances in conflict with the provisions of this article are hereby superseded and rendered null and void to the extent necessary to give this article full force and effect upon its adoption pursuant to New York State Municipal Home Rule Law.

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<sup>117</sup>Editor's Note: Former § 140-115, Penalties for offenses, was repealed 12-3-2009 by L.L. No. 7-2009.



ARTICLE XIII  
**Clearing and Grading Control**  
**[Added 5-23-2002 by L.L. No. 3-2002]**

**§ 140-117.1. Title.**

This article shall be known and may be cited as the "Clearing and Grading Control Local Law of the Town of New Paltz."

**§ 140-117.2. Findings, purpose and intent.**

A. The Town Board of the Town of New Paltz finds and affirms:

- (1) The Community Comprehensive Plan of the Town of New Paltz, adopted August 1995, "Executive Summary" set forth a development policy for the Town, to guide future growth while protecting the community's many resources for the future. Community values were expressed in the objectives of the Comprehensive Plan, which included:
  - (a) Preservation and enhancement of the natural beauty and rural quality of the community;
  - (b) Protection of environmentally sensitive areas and natural resources, scenic roads and vistas, waterways, floodplain and wetlands by establishing guidelines and regulating development density.
- (2) The Community Comprehensive Plan of the Town of New Paltz includes Comprehensive Plan Development Policies which guide the Town to: "(3) Establish environmentally sound land use development policies to ensure a balanced and orderly pattern of future growth."
- (3) The Community Comprehensive Plan of the Town of New Paltz Environmental Protection Measures encourage the Town to consider techniques for "protecting the unique physical attributes of the community."

B. It is the purpose of this article to protect water and soil resources, wildlife habitats and the public health, safety and welfare in the Town of New Paltz by providing reasonable regulations with respect to timber harvesting, site preparation, construction activities and other activities impacting on the land, including excavation, filling, grading and clearing, so as to protect the natural environment, prevent the indiscriminate and excessive cutting of trees and natural vegetation and prevent problems related to erosion, sediment or drainage. In relation to this purpose the article is intended to:

- (1) Preserve the quality of the natural environment from such adverse effects of activities impacting on the land as:

- (a) Pollution of lakes, ponds and watercourses from silt or other materials;
  - (b) Unnecessary destruction of trees and other vegetation;
  - (c) Excessive exposure of soil to erosion;
  - (d) Unnecessary modification of natural topography, wildlife habitats or unique geological features; and
  - (e) Failure to restore sites to a stable natural condition.
- (2) Protect people and properties from such adverse effects of activities impacting on the land as:
- (a) Increased runoff, erosion and sediment;
  - (b) Increased threat to life and property from flooding or stormwaters;
  - (c) Increased slope instability and hazards from landslides and sloughing; and
  - (d) Modifications of groundwater regime that adversely affect wells and surface water levels (i.e., the building of ponds).

### **§ 140-117.3. Definitions.**

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

**AGRICULTURE** — All agricultural operations and activities related to the growing or raising of crops, livestock or livestock products, and agricultural products, as such terms are defined in or governed by the Agriculture and Markets Law of the State of New York on lands qualified under Ulster County and NYS law for an agricultural exemption by the Assessor of the Town of New Paltz.

**CLEAR-CUTTING** — Any cutting of trees over six inches in diameter at breast height over any ten-year cycle where the average residual basal area of trees over six inches in diameter at breast height remaining after such cutting is less than 15 square feet per half acre, measured within the area harvested; provided, however, that where regeneration is assured by stand conditions such that, after such cutting, the average residual basal area of trees at least one inch in diameter measured at breast height is at least 15 square feet per half acre, measured within the area harvested, a clear-cut shall not be deemed to have taken place unless the average residual basal area of trees over six inches in diameter at breast height is less than five square feet per half acre, similarly measured.

**CLEARING** — Destruction and removal of vegetation by manual, mechanical, biological or chemical methods.

**DOMESTIC GARDEN** — A maintained vegetable, flower or cutting garden, or bed of shrubs and plants not cultivated for commercial resale.

**DRAINAGE** — The gravitational movement of water or other liquids by surface runoff or subsurface flow.

**EMERGENCY ACTION** — That which is immediately necessary for the protection or preservation of life, property or intrinsic resource values. Examples of emergency activities include search-and-rescue operations, and the preventive and remedial activities related to large-scale contamination of land, air or water.

**EROSION** — The wearing away of the land surface by action of wind, water, gravity or other natural forces.

**EXCAVATION** — Any activity which intentionally removes or significantly disturbs rock, gravel, sand, soil or other natural deposits.

**FILLING** — Any activity which intentionally deposits natural or artificial material so as to modify the surface or subsurface conditions of land, lakes, ponds or watercourses.

**FLOODPLAIN** — The land within an area of special flood hazard identified by the Federal Emergency Management Agency subject to a 1% or greater chance of flooding in a given year. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

**GRADING** — The alteration of surface or subsurface conditions of land, lakes, ponds or watercourses by excavation or filling.

**LAND STEWARDSHIP PLAN** — A written description of land management and stewardship practices employed on the property, and how such practices are in keeping with the intent of this article as set forth in the purposes section herein. Said written description shall include an enumeration of all such land management practices, but does not need to be specific in terms of location, scope or duration of said practices.

**NATURAL LANDMARKS** — Glacial and other geomorphic or physiographic features; areas of natural or ecological value.

**SEDIMENT** — Solid material, both mineral and organic, that is in suspension, is being transported, has been deposited or has been removed from its site of origin by erosion.

**SENSITIVE ENVIRONMENTAL AREA** — Land areas that include, but are not limited to, the following physical conditions and/or environmental settings:

- A. Slopes greater than 15% as mapped and defined on US Geological Survey topographic quadrangle maps, the Ulster County Soil Survey, or as delineated by the Town of New Paltz;
- B. Wetlands, bogs and marshes, as mapped and regulated by state and/or federal agencies;
- C. Floodplains, as shown on Federal Emergency Management Agency (FEMA) mapping;

- D. Historic places, landmarks, structures or landscapes of local, state or national importance, as listed on State or National Registers of Historic Places, as identified by the Town Comprehensive Plan, or as identified by the Town of New Paltz Historic Preservation Commission;
- E. Natural landmarks, scenic views and open spaces as identified by the Town Comprehensive Plan, or as inventoried by the Environmental Conservation Commission of the Town of New Paltz;
- F. Critical environmental areas supporting rare, threatened, or endangered plant and/or animal species as identified by the New York State Natural Heritage Program, the NYS Department of Environmental Conservation, or as delineated by the Town of New Paltz.

SITE PREPARATION — The activities of clearing, excavation, filling, grading or any other activity that prepares a site for a land use change or modification.

TOPSOIL — The natural surface layer of soil, usually darker than subsurface layers, to a depth of at least six inches within an undisturbed area of soils.

WATERCOURSE — A river, creek, stream, ditch, or channel in which water flows as listed (classified and unclassified) by the NYS Department of Environmental Conservation, or as delineated by the Town of New Paltz.

**§ 140-117.4. Resource protection: activities subject to plan approval.**

Unless specifically exempt pursuant to § 140-117.5, no person shall commence, continue, complete or otherwise engage in any of the following activities without having first applied for and having been granted a permit pursuant to the requirements of § 140-117.7:

- A. Clear-cutting of 10,000 square feet or more of ground surface upon any one parcel, or contiguous parcels under common ownership;
- B. Site preparation, filling, excavation, grading, clearing or other activity (except where it is required in connection with incidental landscaping or minor site improvements, such as the construction of walks, retaining walls, and fences) which involves an area of land disturbance greater than 10,000 square feet in area, or involving the addition or removal of greater than 40 cubic yards of fill.
- C. Harvesting by any means in any one calendar year more than six cords (8'0 L x 4'0 W x 4'0 H) of live timber, or equivalent measured in board feet, upon any one parcel, or contiguous parcels under common ownership;
- D. Cutting of any timber or trees associated with any new curb cut, driveway, access or other opening upon any roadway, unless associated with a building permit;



- E. Site preparation within a floodplain;
- F. Clearing, grading or filling within 50 feet of a watercourse.

**§ 140-117.5. Exempt activities.**

The following are exempt activities:

- A. Agriculture, as defined herein;
- B. Site preparation, filling, excavation or grading upon any parcel of land undertaken for the purpose of constructing, enlarging, removing, improving, changing or otherwise altering any building or structure for which a valid building permit has been issued; provided, however, that the following minimum requirements shall apply to the permitted activity:
  - (1) Significant wooded areas and hedgerows, including their root systems, and standing trees having a diameter of three inches or more measured at breast height and located within 20 feet from any exterior property boundary line shall be preserved;
  - (2) When existing vegetation is destroyed or removed from the land during the project, work shall be diligently pursued and completed so as to keep the exposure to the shortest possible time, using techniques such as straw or hay bales, silt fences or similar measures as specified in the New York Guidelines for Urban Erosion and Sediment Control, latest edition, utilized where necessary and maintained to remove sediment from runoff waters on lands affected by project activities, where necessary;
  - (3) Permanent final vegetation and structures should be installed as soon as practical upon completion of the project. Wherever feasible, natural vegetation should be retained and protected.
- C. The removal, replacement or repair of wells and septic systems;
- D. Soil mining and land reclamation activities conducted pursuant to laws, rules, regulations or orders of any appropriate federal, state or local governmental board, body or authority having jurisdiction of the regulated activity;
- E. Harvesting of trees with a diameter of less than six inches at breast height, and of trees, firewood, dead trees and tree limbs for the personal use of the property owner, except where such activities are regulated pursuant to Chapter 130, Tree Conservation, of the Code of the Town of New Paltz, or regulated pursuant to § 140-117.4, Resource protection: activities subject to plan approval, Subsection A(1);
- F. Maintenance of driveways, roads, carriageways, hiking trails, culverts and drainage ditches, swales and other drainage courses;

- G. Temporary stockpiles or storage of materials during otherwise approved construction or maintenance activities, provided that such storage or stockpiling not take place within 50 feet of any watercourse or sensitive area;
- H. Trimming of vegetation related to utility lines and public safety;
- I. Routine landscape maintenance of existing landscaped areas on developed lots, including mowing or brush-hogging of grasses and weedy vegetation which does not disturb soils, pruning, weeding, planting annuals and domestic gardening activities;
- J. Site preparation, clearing, grading, filling and the cutting or removal of trees which is in compliance with any site plan or subdivision plan which has previously been lawfully approved by the appropriate governmental board, body or agency having jurisdiction to issue such approval;
- K. Cutting of any timber or trees associated with a curb cut, driveway, or other opening upon a roadway for purposes of providing access to any property for which a building permit has been issued;
- L. Regulated activities on lands which are open to the public for a park, nature preserve or wildlife refuge, for recreation or tourism, whether or not a fee is charged for such use, or lands governed by the terms of a conservation easement on file with the Assessor of the Town of New Paltz and the County Clerk, or on lands protected by a conservation easement or owned in fee by a not-for-profit land trust or conservation organization, or nonpublic lands owned and maintained by bona fide religious/apostolic organizations possessing a tax exemption under Section 501(d) of the United States IRS Code, or on lands designated as a national landmark, provided that all such lands are managed by a land stewardship plan on file with the Town of New Paltz Environmental Conservation Commission, which plan is determined by said Conservation Commission to meet the spirit and intent of this article.
- M. Emergency actions, and measures necessary to protect human life and preserve property, such as clearing rock slides, creating a fire break to fight fire, or other situations in which the public health, safety and welfare are threatened.
- N. The Town of New Paltz Highway Department shall be exempt from the procedural requirements of this article, upon filing a memorandum of understanding (MOU) along with the annual 284 Agreement with the Town Board. Such MOU shall be subject to annual review and renewal requiring practices keeping to the purpose, intent and spirit of this article as set forth in this chapter.

**§ 140-117.6. Permit required.**

No person shall commence, continue or enter upon any lands for the purpose of commencing or continuing any activity not expressly exempt

by this article, or enter upon any lands for the purpose of commencing or continuing such activity, without first having obtained a permit for such activity approved and issued pursuant to the provisions of this article.

**§ 140-117.7. Permit application.**

A. Any person seeking to commence, continue or to otherwise conduct any activity subject to plan approval as described in this article shall submit to the office of the Building Inspector an application upon forms furnished by such office, which application shall set forth the following for each project for which application for a permit is made.

B. Application documents.

- (1) Initial application documents may be a survey or a freehand sketch made directly upon a print of a topographic survey or an enlargement of a USGS topographic map of the proposed parcel accurately dimensioned and drawn to scale showing existing physical conditions, the proposed plan, streets, highways, property lines, buildings and other structures, together with all other physical and geologic features and topographic data required for compliance with the provisions of this article and such other data as the Planning Board considers necessary for its review and approval of the plan pursuant to the provisions of this article.
- (2) The applicant shall describe or outline existing conditions of the site wherever necessary to explain and/or to supplement the map, plan, survey or sketch submitted. This information shall include existing data on land characteristics, available community facilities, the location of streets, highways, driveways, roadways and all other physical improvements located upon and immediately adjacent to the site.
- (3) In addition to the foregoing requirements, additional application documents may be required to facilitate Planning Board review. In determining to waive, modify or require additional application documents, the Planning Board shall additionally be authorized to require such alternative submissions as will assure substantial compliance with the objectives and standards of this article.

C. Referral of application to the Planning Board.

- (1) Upon receipt of an application, the Building Inspector shall determine whether or not it conforms to the basic requirements of this section. If such conformance is determined, the Building Inspector shall expeditiously refer copies of the application to the Planning Board.
- (2) Upon Planning Board determination that an application is complete, the Planning Board shall act to approve, disapprove or approve with modifications the proposed plan within 62 days. This period may be extended by mutual consent of the applicant and the

Planning Board. Upon approval of the plan and payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board shall endorse its approval on a copy of the plan and shall forward a copy to the applicant, the Building Inspector, or if not the Building Inspector, then such other duly authorized person or persons as designated by the Town Board, and file same with the Town Clerk. The Building Inspector, or his/her designee, shall issue the permit. In the event of disapproval, the Planning Board shall state its reasons therefor in writing in its records and shall send a written notice of its decision to the Building Inspector, or if not the Building Inspector, then such other duly authorized person or persons as designated by the Town Board. The Planning Board shall also notify the applicant in writing of its decisions and its reasons for disapproval, and file them with the Town Clerk. The plan application fee shall be in addition to the regular fee for issuance of the permit.

- (3) Standards for plan approval. In acting on any plan application, the Planning Board shall take into consideration the public health, safety and general welfare, the recommendations of the Town Master Plan and the Official Map, recommendations of other agencies as identified within this article, and the compliance of the proposed plan with the requirements of this article.
- (4) Standards. In applying the provisions of this section, the Planning Board shall, whenever possible, adhere to the following standards so as to encourage the preservation of natural features which contribute positively to the community, such as mature trees or groves, watercourses and falls, and sensitive environmental areas as defined herein:
  - (a) The proposed plan shall preserve, insofar as possible, the natural terrain, natural watercourses and drainage areas.
  - (b) Appropriate measures shall be taken to preserve significant wooded areas and hedgerows, including their root systems, which exist on the site. If the plan requirements indicate that existing trees probably would not stand the shock of the site development, appropriate replacement trees should be considered by the applicant.
  - (c) Natural fertility of the soil shall be preserved by disturbing it as little as is possible; maximum reuse of topsoil should be accomplished by stockpiling the topsoil material within an appropriate area of the site, and to be respread during final site regrading. The Planning Board shall have the authority to establish the amount of area that may be disturbed at one time, taking into account the nature and extent of the area to be disturbed, the need to undertake appropriate mitigating measures to minimize or eliminate wind or water erosion, and the type of mitigation required.

- (d) The Planning Board shall have the authority to require mitigating activity to minimize, to the extent practicable, adverse impacts on watercourses on property affected by the plan and/or on adjoining property.
- (e) The applicant shall provide effective erosion and sediment control measures for planning and construction in accordance with the criteria set forth in § 140-117.5B(2).

D. Application procedures.

- (1) The applicant may submit a written request to the Planning Board for waiver of any of the above-listed plan requirements. This waiver request must specifically state the reason or reasons why the particular plan requirement is not applicable to the particular plan application. The Planning Board may consider the submitted plan requirement(s) waiver request(s) and waive a requirement, or requirements, for a plan if such requirement, or requirements, are found not to be requisite in the interests of the public health, safety or general welfare, or if found inappropriate for a particular plan. If a waiver to the plan requirements is granted, the Planning Board may impose appropriate conditions on such waiver.
- (2) Reimbursable costs. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed plan shall be charged to the applicant, as determined by the Town Board in its sole discretion.
- (3) Performance guarantee and inspection of improvements. No certificate of compliance shall be issued until all work shown on the plan is completed or a sufficient performance guarantee has been posted for work not yet completed. The sufficiency of such performance guarantee shall be determined by the Town Board after consultations with the Planning Board, the Building Inspector, the Town Engineer, the Town Attorney and other appropriate parties. The Building Inspector, or if not the Building Inspector, then such other duly authorized person or persons as designated by the Town Board, shall be responsible for the overall inspection of the project, including coordination with the Planning Board and other officials and agencies, as appropriate.
- (4) Expiration of approval. Any plan approval shall expire if the work to be performed on the project is not begun within one year of the date of approval; provided, however, that the applicant may make written application to the Planning Board, before such approval expires, for an initial extension of such approval for an initial period of 180 days and, thereafter, for additional extensions of not more than 90 days each, which extensions may, for good cause shown, be granted or denied by the Planning Board. **[Amended 12-15-2011 by L.L. No. 6-2011]**

**§ 140-117.8. Land stewardship plan.**

For lands eligible to submit a land stewardship plan (see § 140-117.5, Exempt activities, Subsection L), to ensure that such lands are managed consistent with the intent and spirit of this article, the following procedures apply and shall supercede all other application procedures:

- A. The owner of said land shall submit to the Planning Board a land stewardship plan as defined herein to define practices employed on the property. The plan shall demonstrate that all such practices are in keeping with the intent of this article, as set forth in the findings, purpose and intent section herein. Said written description shall enumerate all such land management practices, but shall not necessarily specify the precise locations, scope, schedules or duration of said practices on forms provided by the Planning Board.
- B. The Planning Board shall refer the land stewardship plan to the Town of New Paltz Environmental Conservation Commission to determine if such description conforms to the intent of this article. Upon written finding that the land stewardship plan conforms, the Planning Board shall issue the landowner a permit allowing such activities without restriction or other plan approval as required under this article.
- C. Said landowner shall submit updated descriptions if its land management plan activities change or new techniques are added, in which case it shall submit an updated description to the Planning Board for review.

**§ 140-117.9. Compliance with State Environmental Quality Review Act.**

All actions by the Planning Board under the provisions of this article shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

**§ 140-117.10. Fees.**

- A. The Town Board of the Town of New Paltz shall establish by resolution the fee to be charged, collected and received for the granting of each permit required by this article.
- B. The fees required pursuant to the provisions of this article shall be paid in advance upon submission of an application, and the failure to submit the full payment required shall render the application incomplete.

**§ 140-117.11. Penalties for offenses.**

- A. Every person who shall fail to comply with a violation order issued by the enforcement officer within the time limit stated thereon shall be deemed to have committed an offense against this article and also shall be liable for any such violation or the penalty therefor.

- B. A violation of this article is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this article shall be deemed misdemeanors, and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
- C. Any person violating this article shall be subject to a civil penalty enforceable and collectible by the Town. Such penalty shall be collectible by and in the name of the Town for each week that such violation shall continue.
- D. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this article.
- E. The enforcement responsibility, procedure and fines shall be coordinated with zoning enforcement and flood damage control law provisions so that in any instance where multiple violations occur because of the same set of facts, they can be effectively and efficiently prosecuted.

**§ 140-117.12. Relief from decisions.**

Any person or persons jointly or severally aggrieved by any decision of the Planning Board under this article may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Such proceeding shall be governed by the specific provisions of Article 78, except that the action must be initiated, as therein provided, within 30 days after the filing of the Planning Board's decision in the office of the Town Clerk.





## ARTICLE XIV

**Historic Preservation Commission**  
**[Added 2-28-2002 by L.L. No. 1-2002]****§ 140-118. Legislative intent.**

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic districts are necessary to promote the economic, cultural and general welfare of the public. Inasmuch as the identity of a people is founded on its past, and inasmuch as the Town of New Paltz has many significant historic, architectural and cultural resources which constitute its heritage, this article is intended to:

- A. Protect and enhance the landmarks and historic districts which present distinctive elements of the historic, architectural and cultural heritage of the Town;
- B. Focus attention on and foster civic pride in the historic resources of the Town;
- C. Protect and enhance the attractiveness of the Town to visitors and support and provide stimulus to the local economy; and
- D. Ensure the harmonious, orderly and efficient growth and development of the Town.

**§ 140-119. Commission established.**

There is hereby established a commission to be known as the "Historic Preservation Commission of the Town of New Paltz," hereinafter referred to as the "Commission."

**§ 140-120. Membership; terms of office; officers; meetings; quorum.**

- A. The Commission shall consist of five members who shall be appointed by the Town Board. Persons residing within the Town of New Paltz who shall have demonstrated significant interest in and commitment to the field of historic preservation evidenced by involvement in a local historic preservation group, employment or volunteer activity in the field of historic preservation, or other serious interest in the field shall be eligible for appointment as members of the Commission. The Town Historian shall be an ex officio member of the Commission.
- B. Commission members shall serve for a term of four years, with the exception of the initial term of one of the members which shall be one year, one which shall be two years, one which shall be three years, and two which shall be for four years.
- C. The Town Board shall designate a member of the Commission to act as Chairman thereof. The Commission shall elect from among its members a Vice Chairman who shall serve as Recording Secretary.

- D. The Commission shall meet at least bimonthly.
- E. A quorum for the transaction of business shall consist of three of the Commission's members, but not less than a majority of the full authorized membership may render a decision regarding landmark status or grant or deny a certificate of appropriateness.

**§ 140-121. Powers and duties.**

The powers and duties of the Commission shall include:

- A. Employment of staff and professional consultants as necessary to carry out the duties of the Commission;
- B. Promulgation of rules and regulations as necessary for the conduct of its business;
- C. Conduct of surveys of significant historical, architectural and cultural landmarks and historic districts within the Town;
- D. Proposal of identified structures or resources to be designated as landmarks and recommendations to the Town Board on the creation of historic districts;
- E. Acceptance on behalf of the Town of the donation of facade easements and development rights; the making of recommendations to the Town Board concerning the acquisition of facade easements or other interests in real property as necessary to carry out the purposes of this article;
- F. Increasing public awareness of the historic, cultural and architectural preservation of development and participating in public education programs;
- G. Making recommendations to Town Board concerning the utilization of state, federal or private funds to promote the preservation of landmarks and historic districts with the Town;
- H. Making recommendations to the Planning Board regarding applications for site plan review or subdivisions of real property containing landmarks or within a historic district;
- I. Employment, where justified, of the use of special techniques or policies so as to improve the quality of the area or, where economic assistance is warranted, to provide such aids or other incentives so that privately owned properties may realize a reasonable economic return;
- J. Recommending acquisition of a landmark structure by the Town Board where its preservation is essential to the purposes of this article and where private preservation is not feasible;
- K. Approval or disapproval of applications for certificates of appropriateness pursuant to this article; and

- L. Making recommendations to the Town Board for the creation and establishment of historic districts.

**§ 140-122. Designation of landmarks.**

- A. The Commission may propose an individual property for designation as a landmark if it:
  - (1) Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation;
  - (2) Is identified with historic personages;
  - (3) Embodies the distinguishing characteristics of an architectural style;
  - (4) Is the work of a designer whose work has significantly influenced an age; or
  - (5) Because of a unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood.
- B. Notice of a proposed designation shall be sent by registered mail to the owner of the property proposed for designation appearing on the most recent real property tax rolls of the Town, describing the property proposed and announcing a public hearing by the Commission to consider the designation to be held not less than 20 days after the date the notice is mailed to the owner. Simultaneously with the mailing of such notice, the Commission shall cause a copy of the same to be delivered to the Building Inspector and to the Assessor for their respective review and comment. Once the Commission has issued notice of a proposed designation, no building or demolition permits shall be issued by the Building Inspector nor shall any material change be made to the appearance of the property until the Commission has made its decision.
- C. The Commission shall hold a public hearing on the date set forth in the notice prior to designation of any landmark. The Commission, owner and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural or cultural importance of the proposed landmark or historic district. The Commission shall make a decision in writing within 62 days of closing of the public hearing and send a copy of its decision to the owner of the property and file a copy with the Town Clerk, with the Building Inspector and with the Town Assessor. The Commission decision shall state the reasons for granting, modifying or denying a landmark designation.
  - (1) The public hearing required pursuant to the provisions of this section shall be noticed in accordance with Article XVI, Public

Hearings, of Chapter 140, Zoning, of the Code of the Town of New Paltz. **[Added 5-24-2007 by L.L. No. 2-2007]**

- D. The Commission shall prepare and present to the Ulster County Clerk for recording a notice of each property designated as a landmark and describing the decision of the Commission with regard to such property.

**§ 140-123. Certificate of appropriateness.**

- A. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a building designated as a landmark or any property within a historic district, nor shall any person make any material change in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving, major landscape feature or design or other exterior elements which affect the appearance and cohesiveness of a historic district, without first obtaining a certificate or appropriateness from the Commission.
- B. The Town Building Inspector shall be responsible for administering and maintaining records of the applications for a certificate of appropriateness, whether or not they are accompanied by an application for a building permit. The Building Inspector shall have the same enforcement capability with respect to a certificate of appropriateness that the Inspector may exercise with respect to a building permit.
- C. No fees shall be collected for a certificate of appropriateness application.
- D. Any application for a variance, special use permit, site plan, building permit, demolition permit, sign permit or subdivision affecting a landmarked property or any property within a historic zoning district under this chapter or a structure or premises listed in the National Register of Historic Places shall be referred to the Commission for its recommendations in order to facilitate the review process and for a certificate of appropriateness, if necessary.

**§ 140-124. Criteria for approval of certificate of appropriateness.**

- A. In passing upon an application for a certificate of appropriateness, the Commission shall not consider changes to interior spaces.
- B. The Commission's decision shall be based upon the following principles:
- (1) Historic properties shall be retained with their historic features altered as little as possible.
  - (2) Any alteration of existing property shall be compatible with its historic character, and with the historic character of surrounding properties, if any. Changes that may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have

acquired significance in their own right, and this significance shall be recognized and respected. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material and such design is compatible with the size, scale, color, material and character of the property, neighborhood or environment.

- (3) New construction shall be compatible with the historic character of its surroundings.
- C. In determining compatibility, the Commission shall consider the following factors:
- (1) The general design, character and appropriateness to the property of the proposed alteration or new construction;
  - (2) The scale of proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
  - (3) Texture, materials and color and their relation to similar features of other properties in the neighborhood;
  - (4) Visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape, and the rhythm of spacing of properties on the streets, including setback; and
  - (5) The importance of historic, architectural or other features to the significance of the property.

**§ 140-125. Application procedure for certificate of appropriateness.**

- A. Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such certificate with the Building Inspector. The application shall state, where appropriate:
- (1) Name, address and telephone number of the applicant;
  - (2) Location and photographs of property;
  - (3) Detailed description of proposed changes;
  - (4) Perspective and elevation drawings, including relationship to adjacent properties;
  - (5) Samples of color and/or materials to be used;
  - (6) Where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination and a plan showing the sign's location on the property; or

- (7) Any other information which the Commission may deem necessary in order to visualize the proposed work.
- B. No building permit, demolition permit or sign permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Commission. The certificate of appropriateness required by this article shall be in addition to and not in lieu of any permits that may be required by any other laws or regulations of the Town. The Building Inspector shall refer any application for a certificate of appropriateness on property within a historic zoning district or a landmark property to the Commission within 10 working days of receipt by the Building Inspector or by such other deadline established by the Commission.
- C. The Commission shall approve, approve with modifications, or deny the certificate of appropriateness within 62 days from receipt of the completed application. The Commission shall hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views.
- (1) The public hearing required pursuant to the provisions of this subsection shall be noticed in accordance with Article XVI, Public Hearings, of Chapter 140, Zoning, of the Code of the Town of New Paltz. **[Added 5-24-2007 by L.L. No. 2-2007]**
- D. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by certified mail, return receipt requested, and a copy filed with the Town Clerk and the Town Building Inspector for public inspection. The address used for such notification shall be the address of the applicant as shown on his application for the building permit. The Commission decision shall state the reasons for granting, modifying or denying any application.

**§ 140-126. Compliance with State Environmental Quality Review Act.**

The Historic Preservation Commission shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

**§ 140-127. Enforcement.**

All work performed pursuant to a certificate or appropriateness issued under this article shall conform to any requirements included therein. It shall be the duty of the Building Inspector to inspect any such work to assure compliance. In the event work is performed that is not being performed in accordance with the certificate of appropriateness, or upon notification of such fact by the Commission, the Building Inspector shall issue a stop-work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop-work order is in effect.

**§ 140-128. Maintenance and repair required.**

- A. Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark, a property under consideration for landmark designation, or a property within a historical district which does not involve a change in design, material, color or outward appearance.
- B. No owner or occupant of real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Commission, produce a detrimental effect upon the character of a landmark or a historic district as a whole or the life and character of the property itself. Examples of such deterioration include:
  - (1) Deterioration of exterior wall or other vertical supports.
  - (2) Deterioration of roofs or other horizontal members.
  - (3) Deterioration of exterior chimneys.
  - (4) Deterioration or crumbling of exterior stucco or mortar.
  - (5) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.
  - (6) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.
- C. The Building Inspector shall conduct an annual survey of all buildings designated as landmarks to determine that they are not in a state of disrepair and that no alterations have been made in the features described in § 140-123 of this article without the owner having first obtained a certification of appropriateness.

**§ 140-129. Appeals regarding landmark designation.**

- A. Any person whose application for a certificate of appropriateness has been denied by the Commission may apply for relief on the ground of hardship, within 30 days of the filing of the decision in the office of the Building Inspector, by making a written application to the Building Inspector for review of the decision by the Town Zoning Board of Appeals.
- B. The Zoning Board of Appeals shall review the decision of the Commission at a public hearing noticed in accordance with Article XVI, Public Hearings, of this chapter, such public hearing to be held within 30 days after the application for review is filed with the Building Inspector, at which time an opportunity to comment on the application shall be afforded to all interested parties and to any member of the public. The Zoning Board of Appeals shall decide the application within

62 days after the public hearing, or any adjournments or extensions thereof. The concurring vote of a majority of the Zoning Board of Appeals shall be necessary to reverse or modify a decision of the Commission. **[Amended 5-24-2007 by L.L. No. 2-2007]**

- C. In order to prove hardship, the applicant shall demonstrate to the Zoning Board of Appeals that:
- (1) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
  - (2) The alleged hardship relating to the property is unique and does not apply to a substantial portion of the district or neighborhood;
  - (3) The requested use, if approved, would not alter the criteria for the designation of landmarks as described in § 140-122A of this article; and
  - (4) The alleged hardship has not been self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of relief.

**§ 140-130. Judicial review.**

- A. Any person aggrieved by a decision of the Commission regarding landmark designations or a decision of the Zoning Board of Appeals regarding certificates of appropriateness may apply to the Supreme Court for relief by a proceeding under Article 78 of the Civil Practice Law and Rules. The proceeding must be commenced within 30 days after the filing of the decision appealed from in the office of the Town Clerk.
- B. Costs shall not be allowed against the Town Board or the Zoning Board of Appeals unless it shall appear to the Court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.
- C. If upon the hearing at the Supreme Court it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the Court with his or her findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review determining all questions which may be presented for determination.

**§ 140-131. Penalties for offenses.**



- A. Failure to comply with any of the provisions of this article shall be deemed a violation, and the violator shall be liable for a fine of not less than \$50 nor more than \$250.
- B. Any person who constructs, alters, demolishes or permits a property designated as a landmark to fall into a serious state of disrepair in violation of this article shall be required to restore the property and its site to its appearance prior to the violation. Any action to enforce this article shall be brought by the Town Attorney, who shall be entitled to recover, in addition to the fine, all costs and expenses incurred by the Town in pursuing compliance with this article.
- C. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.



## ARTICLE XV

**Steep Slope Protection****[Added 3-25-2004 by L.L. No. 1-2004]****§ 140-132. Purpose.**

It is the intent of the Town of New Paltz to preserve steep slopes to the greatest extent practicable and to regulate their use to protect the public interest by minimizing detrimental effects of disturbance and development of these areas. This section is intended to protect the public from the potential negative impacts of the erosion, siltation, pollution of water supplies, slope failure, increase in downstream runoff, alteration of scenic views, and destruction of potentially significant habitat, which may result from disturbance of steep slopes.

**§ 140-133. Findings.**

- A. Steep slopes and adjacent watercourses and wetlands have been and are in jeopardy of being damaged and destroyed by unregulated filling, excavating, building, clearing and grading, and other such acts inconsistent with the natural conditions of steep slopes. Steep slopes in the Town of New Paltz are environmentally sensitive landforms and valuable natural resources, which are of benefit to the entire Town and surrounding region. The environmental sensitivity of steep slopes often results from such features as rock outcrops, shallow soils over bedrock, bedrock fractures, groundwater seeps, watercourses, and other wetlands found on or immediately adjacent to steep slopes.
- B. Protection of steep slopes is a matter of concern to the entire Town of New Paltz. The establishment of regulatory and conservational practices in this critical area is needed to protect the public health, safety, and general welfare. Experience has demonstrated that effective protection of steep slopes requires preservation wherever possible. Experience has further demonstrated that where steep slopes have to be disturbed, careful review and regulation, including stringent mitigation measures, are required.
- C. The Town of New Paltz's experience with past development has shown that improperly managed disturbances of steep slopes can aggravate erosion and sedimentation beyond rates experienced in the natural geomorphological processes. Erosion and sedimentation often include the loss of topsoil, a valuable natural resource, and can result in the disturbance of habitats, the degradation of the quality of surface water, the silting of wetlands, the alteration of drainage patterns, obstruction of drainage structures, and the intensification of flooding.
- D. The Town of New Paltz's experience with past development has shown that inadequately controlled disturbance of certain steep slopes can lead to the failure of slopes and the mass movement of earth, rock slides

and landslides, damage to the natural environment, threats to man-made structures and personal safety, and the degradation of aesthetics.

- E. Steep slopes, including vegetation on rock cliffs, are an important environmental feature that contribute to the character of the Town. Overdevelopment or improperly managed disturbances are detrimental to the character of the Town and can result in public and private expenditures for corrective measures.
- F. Regulation of development on steep slopes is consistent with the legitimate interest of landowners to make reasonable use of their land. Regulation can prohibit the degradation of steep slopes and allow reasonable use of private property by encouraging flexible design of development so as to avoid disturbance of steep slopes. Regulation can also permit environmentally sound disturbance of steep slopes conducted in accordance with acceptable management and engineering practices to permit reasonable use of private property.
- G. Regulation of development on steep slopes will not preclude the Town from continuing to meet its social, economic and other essential responsibilities.
- H. These regulations are enacted with the intent of providing reasonable balance between the rights of the individual property owner to the fair use of his property and the rights of present and future generations. Therefore, this chapter recognizes the rights of owners of property exhibiting steep slopes to use their property for reasonable purposes consistent with other regulations and controls, provided that such use, in the judgment of the appropriate agencies or officials of the Town, does not result in a significant loss or degradation of steep slopes or a loss of visual or open space benefits which steep slopes have been found to provide.
- I. It is declared to be the intent of the Town of New Paltz to preserve steep slopes to the greatest extent practicable and to regulate their use within the Town to protect the public interest by ensuring the maximization of benefit found to be provided by the preservation of steep slopes and by ensuring the minimization of detrimental effects for the practice of properly managed disturbance of steep slopes as set forth in this article.

#### **§ 140-134. Definitions.**

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

**AGRICULTURE** — All agricultural operations and activities related to the growing or raising of crops, livestock or livestock products, and agricultural products, as such terms are defined in or governed by the Agriculture and Markets Law of the State of New York on lands qualified under Ulster County and NYS law for an agricultural exemption by the Assessor of the Town of New Paltz.

ANGLE OF REPOSE — The maximum angle at which the exposed face of various soil and rock minerals can deviate from the horizontal without incurring the likelihood of slope failure.

APPLICANT — A person requesting a steep slope permit from the Town of New Paltz in accordance with the provisions of this chapter.

APPROVING AUTHORITY — The municipal agency or public official empowered to administer the permit procedures of this chapter.

CLEARING — Any activity which removes or significantly disturbs trees, brush, grass, or any other type of vegetation.

CUSTOMARY LANDSCAPING — Land maintenance involving tree trimming and pruning, the removal of dead and/or diseased vegetation, lawn and garden care and the planting of decorative trees, shrubs, and plants.

DEPOSIT — To fill, place, eject, or dump any material (not including stormwater).

DISTURBANCE — The removal of vegetation, excavation, regrading, filling, removal of soil, rock or retaining structures in areas of steep slope, or any combination thereof, whether by manual labor, machine, or explosive, and shall include the conditions resulting from any excavation or fill. The condition of disturbance will be deemed to continue until the area of disturbance is revegetated and/or permanently stabilized.

DISTURBED AREA — Any steep slope area for which a disturbance is proposed or is ongoing.

DRAINAGE — The gravitational movement of water or other liquids by surface runoff or surface flow.

EROSION — The wearing away of the land surface by action of wind, water, gravity, or other natural forces.

EXCAVATION — Any act by which earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced or spread.

FILL — Any act by which earth, sand, gravel, rock, or any other material is deposited, placed, replaced, dumped, transported, or moved by person or persons to a new location and shall include conditions resulting therefrom.

FOREST LAND — An ecosystem supporting a dense growth of trees covering a large area. The fence rows alone do not constitute a forest system.

GRADING — The alteration of the surface or subsurface conditions of land, lakes, ponds, or watercourses by excavating or filling.

LAND STEWARDSHIP PLAN — A written description of land management and stewardship practices employed on the property, and how such practices are in keeping with the intent of this Local Law as set forth in the "purpose" section herein. Said written description shall include an enumeration of all such land management practices, but does not need to be specific in terms of location, scope or duration of said practices.

MULCHING — The application of a layer of plant residue or other material for the purpose of controlling erosion.

PERSON — Any person, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including public agencies and municipal corporations.

REMOVAL — Cutting vegetation to the ground, leaving it as stumpage, extracting it completely, or killing it by spraying.

SEDIMENT — Solid material, both mineral and organic, that is in suspension, is being transported, has been deposited, or has been removed from its site of origin by erosion.

SITE — One or more lots or parcels of land, where regrading work is performed as a single unified operation.

SITE PLAN — The map or drawn representation of a proposed development, which is submitted to the municipal approval authority for consideration and approval.

SITE PREPARATION — The activities of stripping, removal, excavating, filling, and grading, no matter what the purpose of these activities.

SOIL — The natural, unconsolidated, mineral and organic material occurring on the surface of the Earth; it is a medium for the growth of plants.

SOIL CONSERVATION — The protection of soil by careful management in order to prevent physical loss by erosion and to avoid chemical deterioration.

SOIL STABILIZATION — Measures which protect soil from the erosive forces or raindrop impact and flowing water and include, but are not limited to, vegetation establishment, mulching and the early application of gravel base on roads to be paved.

SOIL SURVEY — The systematic examination and mapping of soil in the field.

STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) — The law pursuant to Article 8 of the New York Environmental Conservation Law providing for environmental quality review of actions which may have a significant effect on the environment.

STEEP SLOPE — Any geographical area proposed for disturbance, whether on a single lot or not, having a topographical gradient of 15% or greater (ratio of vertical distance to horizontal distance), with a minimum horizontal dimension of 10 feet, and a minimum area as defined below, and whether man-made or natural, and whether created by a retaining structure or not. Steep slopes are further categorized as:

- A. MODERATELY STEEP SLOPE — - A slope equal to or greater than 15% but less than 25% and covering a minimum horizontal area of 3/10 acre or 13,068 square feet.

- B. EXTREMELY STEEP SLOPE — - A slope greater than 25% and covering a minimum horizontal area of 2/10 acre or 8,712 square feet.

STEEP SLOPE PERMIT — A written form of municipal approval granted by the approving authority and required for the issuance of a work permit and the conduct of any "steep-slope-regulated activity."

TOPOGRAPHY — The configuration of the land surface, including its relief and the position of its natural and man-made features.

VEGETATED — Covered or provided with vegetation or plant life.

VEGETATION — The process of vegetating, the faculty of growth possessed by plants and seeds.

### **§ 140-135. Exempt and regulated activities.**

A. Exempt activities.

- (1) Agriculture, as defined herein;
- (2) Any customary landscaping, not involving regrading, is allowed without the need for obtaining a permit, provided that any such activities conform to all other applicable laws of the Town of New Paltz;
- (3) Regulated activities on lands which are open to the public for a park, nature preserve or wildlife refuge, for recreation or tourism, whether or not a fee is charged for such use, or lands governed by the terms of a conservation easement on file with the Assessor of the Town of New Paltz and the County Clerk, or lands protected by a conservation easement or owned in fee by a not-for-profit land trust or conservation organization, or nonpublic lands owned and maintained by bone fide religious/apostolic organizations possessing a tax exemption under Section 501(d) of the United States IRS Code, or on lands designated as a national landmark, provided that all such lands are managed by a land stewardship plan on file with the Town of New Paltz Environmental Conservation Commission to meet the spirit and intent of this chapter;
- (4) Emergency actions, and measures necessary to protect human life and preserve property, such as clearing rock slides, creating a fire break to fight fire, or other situations in which there is an imminent threat to public health, safety and welfare.
- (5) Any property that is already subject to one or more established plans of land stewardship, such as a: **[Added 4-15-2004 by L.L. No. 4-2004]**
  - (a) Federal, state, or local historic landmark designation;
  - (b) Farmland conservation easement pursuant to the New York State Agricultural and Markets Law, Article 25-AAA;

- (c) New York State DEC-approved forestry plan pursuant to §§ 480 and 480-a of the Real Property Tax Law, or pursuant to a Forest Land Enhancement Program (FLEP);
  - (d) USDA Natural Resource Conservation Services-approved Wildlife Habitat Incentives Program plan (WHIP);
  - (e) USDA Agricultural Management Assistance Conservation Plan (AMA);
  - (f) USDA Conservation Security Plan (CSP);
  - (g) USDA Conservation Reserve Program (CRP);
  - (h) USDA Conservation Reserve Enhancement Program (CREP);
  - (i) USDA Debt for Nature Program;
  - (j) USDA Wetland Reserve Program (WRP);
  - (k) Cooperative Agricultural Environmental Management Plan (AEM) (implemented through Cornell Cooperative Extension, Soil and Water Conservation Service and the USDA Natural Resources Conservation Service).
- B. Regulated activities. It shall be unlawful to create any disturbance and/or to remove any more than two trees with a diameter greater than four inches, when measured from 1 1/2 feet from ground level, on any steep slope as defined by this section, with the exception of an exempt activity as defined herein, without a specific written permit as required by this section.

**§ 140-136. Approval authority.**

The approval authority with respect to applications hereunder shall be as follows:

- A. The Zoning Board of Appeals shall be the approval authority with respect to any application which requires the issuance of any other permit or approval by it pursuant to the local laws of the Town of New Paltz.
- B. The Planning Board shall be the approval authority with respect to any application which requires the issuance of any other permit or approval by it pursuant to the local laws of the Town of New Paltz, including any application which also requires the issuance or approval by the Zoning Board of Appeals.
- C. The Town of New Paltz Town Board shall be the approval authority with respect to any application which requires the issuance of any permit or other approval by it pursuant to the laws, rules and regulations of the State of New York and/or the local laws of the Town of New Paltz.



- D. The Town of New Paltz Town Engineer or other qualified representative that is duly authorized by the Town Board shall be the approval authority with respect to all other regulated activities.

**§ 140-137. Standards for approval.**

In denying, granting or granting with modifications any application for a permit, the approval authority shall consider the consistency of the proposed activity with the findings set forth in § 140-133 of this chapter and the following standards:

- A. Alterations of trees and forests and topographical alterations on steep slopes shall conform with any applicable regulations of the Town of New Paltz.
- B. Activities within wetlands and their adjacent area, and within the regulated areas of protected streams shall be in conformance with the applicable federal and state regulatory requirements.
- C. Disturbance of areas with steep slopes should conform with the following provisions:
- (1) The planning, design, and development of buildings shall provide the maximum structural safety, slope stability and human enjoyment while adapting the affected site to, and taking advantage of, the best use of the natural terrain.
  - (2) The terracing of building sites, including the mounding of septic tile fields, shall be kept to an absolute minimum.
  - (3) The roads and driveways shall follow the natural topography to the greatest extent possible in order to minimize the potential for erosion and shall be consistent with other applicable regulations of the Town of New Paltz and current engineering practices.
  - (4) Replanting shall consist of indigenous vegetation and shall replicate the original vegetation on the site as much as possible.
  - (5) The natural elevations and vegetative cover of ridgelines shall be disturbed only if the crest of a ridge and the treeline at the ridge remains unobstructed. This may be accomplished either by positioning buildings and areas of disturbance below a ridgeline or by positioning buildings and areas of disturbance at a ridgeline so that the elevation of the roofline is no greater than the elevation of the natural treeline. However, under no circumstances shall more than 100 feet along the ridgeline, to a width of 100 feet generally centered on the ridgeline, be disturbed.
  - (6) Regrading shall blend in with the natural contours of the land.
  - (7) Cuts and fills shall be rounded off to eliminate sharp angles at the top, bottom, and sides of regraded slopes.

- (8) The angle of cut and fill slopes shall not exceed a slope of one vertical to two horizontal except where retaining walls, structural stabilization, or other methods acceptable to the Town Engineer are used.
- (9) Tops and bottoms of cut and fill slopes shall be set back from structures a distance that will ensure the safety of the structure in the event of the collapse of the cut or fills slopes. Generally, such distance shall be considered to be six feet plus 1 1/2 the height of the cut or fill. Nevertheless, a structure built on a slope or at the toe of a slope is permitted if it is properly designed to retain the slope and withstand the forces exerted on it by the retained slope.
- (10) The disturbance of rock outcrops shall be by means of explosive only if labor and machines are not effective and only if rock blasting is conducted in accordance with all applicable regulations of the Town of New Paltz and the State of New York.
- (11) Disturbance of steep slopes shall be undertaken in workable units in which the disturbance can be completed and stabilized in one construction sequence so that areas are not left bare and exposed during winter and spring thaw periods (December 15 through April 15).
- (12) Disturbance of existing vegetative groundcover shall not take place more than 15 days prior to grading and construction.
- (13) Temporary soil stabilization, including, if appropriate, temporary stabilization measures such as netting or mulching to secure soil during the grow-in period, must be applied to an area of disturbance not longer than two days after establishing the final grade, and permanent stabilization must be applied within 15 days of establishing the final grade.
- (14) Soil stabilization must be applied not longer than two days after disturbance, if the final grade is not expected to be established within 60 days.
- (15) Measures for the control of erosion and sedimentation shall be undertaken consistent with the New York State Guidelines for Urban Erosion and Sediment Control, latest edition, or its equivalent (satisfactory to the approval authority).
- (16) All proposed disturbance of steep slopes shall be undertaken with consideration of the soils limitations characteristics contained in the Soils Survey of Ulster County, 1979, as prepared by the Soil Conservation Service, in terms of recognition of limitation of soils on steep slopes for development and application of all mitigating measures as deemed necessary by the approval authority.
- (17) Topsoil shall be stripped from all areas of disturbance and then stockpiled and stabilized in a manner to minimize erosion and

sedimentation and replaced elsewhere on the site at the time of final grading. Stockpiling shall not be permitted on slopes greater than 10%.

- (18) No organic material or rock shall be used as fill material that is of a size that will not allow appropriate compaction or cover by topsoil. Fill materials shall be no less granular than the soil upon which it is placed and shall drain readily.
- (19) Compaction of fill materials and fill areas shall be such to ensure support of proposed structures and stabilization for intended uses.

**§ 140-138. Permit procedures.**

- A. Application for permit. An application for permit to alter a steep slope shall be filed with the approval authority and shall contain the following information and such other information as required by it, except when waived by it as not pertinent or necessary for the proposed disturbance:
  - (1) The name and post office address of the owner and applicant.
  - (2) This street address and tax map designation of the property covered by the application.
  - (3) A statement of authority from the owner for any agent making application.
  - (4) A listing of property owners adjacent to, across streets from, and downgradient within 500 feet of the property as well as any additional property owners deemed appropriate by the approval authority.
  - (5) A statement of the proposed work and purpose thereof.
  - (6) Copies, in such reasonable number as determined by the approval authority, of plans for the proposed regulated activities drawn to a scale of not less than one inch equals fifty feet (unless otherwise specified by the approval authority). Such plan for alteration of land containing moderately steep slopes shall be prepared by an experienced professional with qualifications satisfactory to the approval authority. Plans for alteration of land containing extremely steep slopes shall be prepared and certified by a qualified professional licensed by the State of New York, such as a professional engineer, a certified professional in erosion and sediment control, or a landscape architect. The plan for the regulated activities must incorporate the following information:
    - (a) The location of the proposed construction or area of disturbance and its relationship to the property lines, easements, buildings, roads, walls, sewage disposal systems, wells, and streams and wetlands within 100 feet of the proposed construction or area of disturbance for adjacent

properties at the same elevation and within 500 feet of the properties significantly lower.

- (b) The estimated material quantities of excavation/fill.
  - (c) The location and size of areas of soils listed by soil types in the area of the proposed disturbance and to a distance of 100 feet beyond same.
  - (d) The existing and proposed contours [National Geodetic Vertical Datum (NGVD)] at two-foot intervals in the area of the proposed disturbance and to the distance of 100 feet beyond same.
  - (e) Cross sections of steep slope areas.
  - (f) Retaining walls or like constructions, with details of construction.
  - (g) The erosion and sedimentation control plan.
  - (h) Other details, including specific reports by qualified professionals on soils, geology and hydrology, and borings and/or test pits, as may be determined to be necessary by the approval authority.
  - (i) A list of all applicable County, State, or federal permits which are required for such work or improvements.
  - (j) An application fee in the amount set forth in a fee schedule established by the Town of New Paltz Town Board.
- B. Referral. The approval authority shall refer any application submitted to it pursuant to this chapter to the Environmental Conservation Commission for review and report. The Environmental Conservation Commission shall report back to the approval authority within forty five days of the date of the referral or within such greater period as may be specified by the approval of authority (at the time of the referral). Failure to comply with the specified time period shall be interpreted by the approval authority as indicating no objection to the application.
- C. Notice. Upon receipt of a completed application under this chapter, the approval authority shall cause notice of receipt of the same to be mailed by first-class mail to the adjoining property owners, including those across the street adjoining the involved property. Such property owners shall have ten days from said day of notice to submit written comment to the approval authority with regard to said application. The approval authority may waive this notice procedure if it has received responses from all the adjoining property owners prior to action by it. In cases where the approval authority is the Town Engineer or other qualified representative that is duly authorized by the Town Board, he/she shall cause such notice to be posted at one or more locations along the street or streets abutting the property.

- D. Public hearing. A public hearing shall be held by the approval authority on the application made hereunder at such times, under such circumstances, and upon such notice as may be required for the granting of the permit or approval required of such approval authority pursuant to the local laws and ordinances of the Town of New Paltz. A public hearing may be held when the approval authority is the Town Engineer or other qualified representative that is duly authorized by the Town Board.
- E. Action by the approval authority. In approving any application, the approval authority may impose such conditions or limitations as it determines necessary to insure compliance with the intent, purposes, and standards of this chapter.
- (1) On applications for which no public hearing is required, a determination shall be made to approve, approve with modifications or disapprove the application within 60 days of receipt of a completed application therefor.
  - (2) On applications for which a public hearing is required, a determination shall be made to approve, approve with modifications, or disapprove the issuance of such permit simultaneously with a determination by the approval authority of the other permit or approval for which the application was made.
- F. Appeal. Any party aggrieved by a decision of the Town Engineer or other qualified representative that is duly authorized by the Town Board to approve, approve with conditions, or disapprove an application may appeal the decision to the Zoning Board of Appeals.

**§ 140-139. Duration of permit.**

- A. Activities specified by the permit shall be undertaken pursuant to any conditions of the permit and shall be completed according to any schedule set forth in the permit.
- B. A permit shall expire on completion of the activities specified and shall be valid for a period of one year from the date of approval or for the period of any other permit issued by the approval authority.
- C. A permit may be renewed by the approval authority for a period of up to one year.
- D. The approval authority may revoke or suspend a permit if it finds that the applicant has not complied with any of the conditions or limitations set forth in the permit.

**§ 140-140. Security.**

In granting a permit, the approval authority shall require a security (in an amount and with surety and conditions satisfactory to it), securing to the

Town of New Paltz compliance with the conditions and limitations set forth in the permit.

**§ 140-141. Inspection and monitoring.**

- A. The approval authority may inspect activities undertaken pursuant to a permit (or have such activities inspected by its representative) so as to ensure satisfactory completion.
- B. The approval authority may require that the applicant submit for approval a detailed monitoring program, including but not necessarily limited to written status reports at specified intervals documenting activities undertaken pursuant to a permit.
- C. The approval authority may require that the activities undertaken pursuant to a permit be supervised by an appropriate licensed professional.

**§ 140-142. Compliance with State Environmental Quality Review Act.**

All actions by the Planning Board under the provisions of this chapter shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

**§ 140-143. Fees.**

- A. The Town Board of the Town of New Paltz shall establish by resolution the fee to be charged, collected and received for the granting of each permit required by this chapter.
- B. The fees required pursuant to the provisions of this chapter shall be paid in advance upon submission of an application, and the failure to submit the full payment required shall render the application incomplete.

**§ 140-144. Penalties for offenses.**

- A. Every person who shall fail to comply with a violation order issued by the enforcement officer within the time limit stated thereon shall be deemed to have committed an offense against this chapter and also shall be liable for any such violation for the penalty therefor.
- B. A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not

less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and, for such purposes only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violations shall constitute a separate additional violation.

- C. Any person violating this chapter shall be subject to a civil penalty enforceable and collectible by the Town. Such penalty shall be collectible by and in the name of the Town for each week that such violation shall continue.
- D. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.
- E. The enforcement responsibility, procedures and fines shall be coordinated with zoning enforcement and flood damage control law provisions so that any instance where multiple violations occur because of the same set of facts can be effectively and efficiently prosecuted.

#### **§ 140-145. Relief from decisions.**

Any person or persons jointly or severally aggrieved by any decision of the Planning Board, and/or the Town Board, and/or the Zoning Board of Appeals, and/or the Town Engineer and/or their duly authorized representative under this article may apply to the Supreme Court of the State of New York for relief through a proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Such proceeding shall be governed by the specific provisions of Article 78, except that the action must be commenced within 30 days after the filing of the decision of the Planning Board, or of the Zoning Board of Appeals, or of the Town Engineer, or of such duly authorized representative, as the case may be, in the office of the Town Clerk in accordance with applicable provisions of New York State Town Law.

#### **§ 140-146. (Reserved)**

#### **§ 140-147. (Reserved)**

#### **§ 140-148. (Reserved)**

#### **§ 140-149. (Reserved)**





## ARTICLE XVI

**Public Hearings****[Added 5-24-2007 by L.L. No. 2-2007]****§ 140-150. Public notice and hearing.**

Whenever this chapter requires that the Town Board, Planning Board, Zoning Board of Appeals or the Historic Preservation Commission conduct a public hearing on a matter before it, notice of such public hearing shall be given in accordance with all applicable laws and regulations, including the following requirements:

- A. Notice of public hearing and publication. The board shall set the date and time of the public hearing by resolution and direct the secretary of the board to prepare a notice of hearing, including, at minimum, the date, time and place of the hearing; the substance of the action or approval sought from such board, including any change in the nature of permitted uses or density that would result from adoption of a proposed zoning amendment; and the place where copies of the application and supporting documents may be examined by the public, and cause such notice to be:
  - (1) Published in an official newspaper of the Town of New Paltz not less than five calendar days prior to the date of such hearing, unless SEQRA requires the notice to be published 14 days prior to the date of hearing;
  - (2) Provided to the applicant, Planning Board, Zoning Board of Appeals, Historic Preservation Commission, Building Department and Town Board on or before the date of publication; and
  - (3) Provided to any other municipal, county, regional, state or federal agency in the manner prescribed by applicable law.
- B. Mailing to adjoining owners. In addition to such published notice, the applicant shall mail notice of the hearing, at least 10 calendar days prior to the date of the hearing, unless 14 days' notice is required by SEQRA, to the owners of all real property that is contiguous with the boundaries of the plot, piece or parcel of land to which the appeal or application applies and to all other owners of real property within 500 feet of such boundaries. The board conducting the hearing may also require that notice be mailed to owners, occupants or others within such additional distance as it deems reasonable and necessary under the circumstances. In the case of land subject to a declaration of condominium or homeowners' association, notice may be mailed to the office of the association.
- C. Addresses of adjoining owners. The board holding the hearing shall request that the office of the Assessor of the Town promptly provide the applicant with a list of the names and addresses of the owners, as

shown on the last completed assessment roll of the Town, to whom notice shall be mailed.

- D. Mailing by applicant. Such notice shall be mailed by the applicant, at his or her sole cost and expense, by depositing a true copy of such notice in a post-paid, properly addressed envelope, in a post office or other official depository under the exclusive care and custody of the United States Postal Service within the State of New York. The applicant shall, at or prior to the date of the public hearing, file with the secretary of the board an affidavit of mailing, as proof of compliance with the foregoing notification procedure.
- E. Continued hearings. When a hearing has been continued, the board holding the hearing may require that notice of a continued hearing date be remailed where circumstances warrant, such as a hearing date that has been repeatedly adjourned or adjourned to a future date such that those interested in the application would benefit from the additional notice, or the board receives plans with significant changes or new information bearing on the application.
- F. Property signage for zoning amendments. In the case where an amendment of the Zoning Map or Zoning Law of the Town of New Paltz has been initiated by a property owner or applicant, at least 15 days prior to the initial hearing on such amendment the owner or applicant shall post a sign giving notice of the public hearing within 25 feet of each property line having frontage on a road or highway, including the road or highway providing access to the property, so that it is clearly visible to the public from such road or highway. The size of the sign and text shall be approved by the Town Board or such Town official as the Board may designate, and the notice shall include a statement that an application to change the zoning classification or regulations affecting the property has been made and such other information as the Town Board may require. The applicant shall submit a photograph and affidavit, or other satisfactory evidence, at the public hearing that the required signage was duly erected and maintained in good condition until the hearing, and shall ensure that the sign is maintained until after the hearing is closed or the application is withdrawn, whichever occurs first. It shall be a violation of this chapter for any person, except the applicant or duly authorized Town official, to remove, deface or tamper with duly erected signage during the period it is required by this section to be maintained.
- G. Property signage for Planning Board and Zoning Board of Appeals hearings. The Planning Board and Zoning Board of Appeals shall require that signage be erected in accordance with the provisions above whenever a public hearing on a site plan, subdivision plan, special use permit or variance application is required, except that the board with jurisdiction over such hearing may waive the requirement that signage be erected when it finds that the benefit of notice would be disproportionate to the cost imposed on the applicant. In such case, a waiver shall be granted by a favorable vote of a majority of its members

plus one, and the board shall set forth the basis on which it determined the waiver appropriate.

- H. Substantial compliance. Provided that notice shall have been published as above set forth and that there shall have otherwise been substantial compliance by the applicant with the provisions above, the failure to give notice in exact conformance herewith shall not be deemed to invalidate action taken by the board holding a public hearing in connection with any appeal or application.
- I. Any proposed zoning amendment introduced by the Town Board and of Town-wide or district-wide effect, shall not be subject to this section except for the publication of notice. However, nothing in this article shall prohibit the Town Board from determining on a case-by-case basis to provide additional notice of any such zoning amendment.

**§ 140-151. through § 140-159. (Reserved)**



## ARTICLE XVII

**Planned Resort Overlay District  
[Added 10-3-2019 by L.L. No. 7-2019]****§ 140-160. Legislative intent.**

The Town Board of the Town of New Paltz finds that it is in the best interests of the Town to provide a means and procedure by which a planned resort can be developed at the gateway entrance to the Town from the New York State Thruway, in keeping with the character of the nearby Gateway Districts.

**§ 140-161. Purpose.**

A. It is the purpose of the creation of the Planned Resort Overlay ("PRO") District:

- (1) To further the goals of the Town Comprehensive Plan, which recognizes that recreation and tourism are important drivers for the Town, and also promote the consideration of the Town of New Paltz as part of a larger environmental region, by encouraging recreation tourism, which supports the local economy since tourist visitors who stay overnight contribute substantially to the local economy, and also promotes healthy recreational and entertainment activities.
- (2) To facilitate appropriate development at the Town's Gateway, close to the Thruway interchange, thus minimizing impacts on vehicular, pedestrian, and bicycle traffic in downtown and other congested parts of the Town and Village.
- (3) To encourage development that meets the design standards of the Town's Gateway Committee report, including connectivity with bike and pedestrian connections to the Empire State Trail and Ohioville Hamlet.
- (4) To contribute to the creation of diverse full and part-time employment opportunities for residents of the Town, county, and region by providing for development at a Gateway location that will not compete with existing local merchants.
- (5) To capitalize on the Town's location near major existing regional historic, educational, and tourism attractions, such as Historic Huguenot Street, Mohonk Preserve, Minnewaska State Park, the Catskill Mountains, the Appalachian Trail, West Point, the Franklin D. Roosevelt and Eleanor Roosevelt National Historic Sites, Vanderbilt Mansion National Historic Site, the Walkway over the Hudson, and the Culinary Institute of America; and to enhance the stature of the community as a tourist and outdoor recreation destination.

- (6) To provide for planned resort development in a manner that is consistent with the character of the Town of New Paltz, that enhances the aesthetic aspects of the proposed development and its community context, and that encourages a plan of development that will meet design objectives to suitably protect environmentally sensitive resources, community character and natural features to the extent practicable.
- (7) To encourage connections between tourists, local residents, and existing local recreational and tourist support providers.

**§ 140-162. Description of Planned Resort Overlay District.**

- A. The PRO applies to the designated property in addition to the zoning designation in the underlying zoning. Property within the PRO District retains its underlying zoning character.
- B. Development and use of lands lying within the PRO District as a planned resort shall be authorized by the Planning Board by site plan approval in accordance with the provisions of this article, in accordance with the procedures applicable for site plan approval. Such proposed planned resort development shall be governed exclusively by the use, bulk, area, and development standards of the PRO District as set forth in this article, and not by those applicable to the underlying district. Development and use of lands within the Planned Resort Overlay (PRO) District, which is outside the area of any approved planned resort development, may also be proposed for development for uses allowed in the underlying zoning district, in accordance with the applicable permitting standards in such district. Such proposed development shall be governed exclusively by the use, bulk, area, and development standards of the underlying zoning district.
- C. The PRO District includes all land designated as such on the Town Zoning Map.

**§ 140-163. Planning Board site plan review.**

Use of lands within the PRO for a planned resort in accordance with this article shall be permitted by the Planning Board subject to site plan approval in accordance with the substantive provisions of this article and in accordance with the procedures for site plan review and approval set forth in the Town Zoning Law. Any subdivision or lot line adjustment of lands within a planned resort shall be reviewed by the Planning Board in accordance with the subdivision regulations.

**§ 140-164. Uses.**

- A. The principal permitted use in the PRO is a planned resort, which shall include the following:

- (1) Hotel facilities providing not less than 75 rooms and not more than 250 rooms. Guest rooms shall not include cooking facilities, but may include convenience-size small refrigerators, coffee maker, microwave, and similar convenience accessories.
- (2) Restaurants, cafes and similar dining facilities primarily oriented to guests.
- (3) Seasonal and year-round indoor and outdoor recreation and nature-oriented uses, such as water parks; pools; conservatories; climbing facilities; adventure facilities such as zip lines, ropes and similar activities; athletic and recreational facilities including court games; miniature golf; ice skating facilities; trails and tracks for runners; nonmotorized bicycles; pedestrian walking trails; bowling alleys, arcades, and similar indoor recreation facilities; and activities similar to the above.
- (4) Concierge services to connect resort guests with local recreation and tourist-oriented service providers.

B. Permitted additional uses include:

- (1) Spa services and facilities; including personal and group fitness/wellness/weight programs, yoga, meditation, relaxation, exercise or other similar wellness programming, sauna/pool facilities, and related spa programming and facilities.
- (2) Catering and banquet facilities.
- (3) Gathering spaces such as auditoriums, amphitheaters, meeting rooms and conference facilities, demonstration kitchens, exhibition space, or similar spaces developed for the purpose of accommodating groups of persons for exhibitions, festivals, and other tourism or recreational and educational events.
- (4) Nature center, botanical, horticultural and other greenhouse structures and facilities used for guest enjoyment and open year-round for tourist attraction.
- (5) Cultural facilities (library, art gallery, museum, etc.).

C. Permitted accessory/support uses are:

- (1) Uses and facilities accessory to any of the components of the permitted uses.
- (2) Public and private utility structures and facilities serving the planned resort. Utilities which additionally serve areas outside of the Planned Resort may be permitted by the Planning Board as an accessory use provided that they do not interfere with the use of the property as a Planned Resort or conflict with the objectives of the PRO District.

- (3) Residential accommodations for up to 10 employees performing supervisory work at the hotel.
- (4) Convenience services for guests, such as small gift/sundries; barber shops, newsstand services, travel service and car service to public transportation, and similar services.
- (5) On-premises laundry facilities serving on-site uses.
- (6) Animal exhibits, structures, and facilities, such as small mammals and reptiles.
- (7) Banking institutions.
- (8) Specialty retail or business.
- (9) Small agricultural retail (farmers market).
- (10) Transportation-oriented uses and accessory parking related thereto, such as facilities to interface with public and commercial transportation, charter tourism, bicycle and other nonmotorized transportation, walking trails, and similar tourism-related transportation.
- (11) Minor wireless communication facility.

D. Prohibited elements and uses:

- (1) Motorized vehicle racing, including but not limited to automobiles, motorcycles, dirt bikes, and four-wheelers.
- (2) Flashing lights.
- (3) Discharge of firearms.

**§ 140-165. Area and bulk regulations.**

The following area and bulk requirements apply in the Planned Resort Overlay District and supersede any requirements of the underlying zoning districts.

- A. Minimum lot area: 50 acres.
- B. Minimum lot width: 200 feet.
- C. Minimum lot depth: 500 feet.
- D. Minimum frontage on state highway: 200 feet.
- E. Front setback (all buildings): 50 feet.
- F. Front setback (parking): 40 feet.
- G. Front setback (outdoor recreation facilities such as tennis courts): 50 feet.



- H. Side and/or rear setbacks (all buildings and outdoor recreation facilities): 50 feet, except 100 feet when adjoining a residential zoning district. Side and rear setbacks may be reduced by the Planning Board to a minimum of 25 feet along any boundary adjoining an existing single-family residence or residential district, and to a minimum of five feet in all other cases, upon a finding that existing or proposed topography or vegetation provide suitable screening to soften views and suitable separation of uses. Side and rear setbacks (parking): 20 feet.
- I. Height:
- (1) Maximum height of principal buildings: four stories, not to exceed 48 feet, except that no more than 25% of the total footprint of all principal buildings may have a maximum height of five stories, not to exceed 60 feet.
  - (2) Maximum height of non-principal buildings: 2.5 stories, not to exceed 35 feet.
  - (3) Maximum height of recreational structures: 65 feet.
  - (4) District building height regulations shall not apply to recreational structures within the recreational facilities of the resort, such as stair towers for rides or climbing towers, provided that:
    - (a) The footprint of an outdoor recreational structure shall not exceed 1,000 square feet;
    - (b) Fully enclosed indoor recreational structures are permitted within a principal building;
    - (c) Indoor recreational structures shall not exceed a combined total area of 2,025 square feet, and shall occupy floor area equal to not more than 10% of the roof area of the principal building in which they are located;
    - (d) Recreational structures shall in no event contain signage, flashing lights, or up-lighting calling attention to the height; and
    - (e) The Planning Board must determine that any adverse visual impacts of the increased height have been suitably addressed and mitigated.
- J. Water storage tank: 60 feet, unless the applicant can demonstrate to the satisfaction of the Planning Board that a higher height is necessary for fire safety purposes, in which case the Planning Board may modify this standard to the minimum necessary for fire safety. In no case shall a water storage tank be used for advertisements.
- K. Maximum building coverage: 25%.

- L. Minimum required open space: 35%.
- M. Maximum impervious coverage: 65%.
- N. Minimum distance between principal buildings: zero feet.

**§ 140-166. Development standards and objectives.**

- A. The massing of the buildings and the architectural design shall be appropriate for the site, considering views from off-site viewing points, including the surrounding residential properties, viewing points overlooking scenic viewsheds, and any views from the Thruway. Views into the site from adjoining residentially zoned properties should be softened by well-planned architectural and landscape materials. On any facade that exceeds 75 linear feet in length, building offsets of at least four feet are required every 25 feet.
- B. Building styles and materials shall consist of those traditionally found in the New Paltz area. Wood siding and/or earth-based materials such as brick, stone, bluestone, cement reinforced clapboard siding and/or stucco are acceptable materials. Fiber-cement siding is an acceptable material for new construction when it holds a similar texture, appearance and reveal to wood siding. Vinyl, plastic and metal siding are prohibited.
- C. The project shall incorporate architectural design and site layout features that minimize glare, noise, and other inappropriate impacts from the development. Where possible, architecture shall draw from New Paltz and the surrounding region.
- D. The development shall provide appropriate access to the surrounding state highway network and Thruway interchange without undue interference with local traffic, and appropriate access for fire and other emergency service providers.
- E. The development shall provide for bicycle and pedestrian travel and amenities within the site and provide connection points to existing adjacent public trails. The owners shall work with the Town and other public agencies to plan for and facilitate connection to the adjacent Empire State Trail and western extension of the Hudson Valley Rail Trail systems.
- F. The site plan design shall be sensitive to areas of environmental constraints and incorporate protection of environmental resources.
- G. A planned resort may consist of more than one parcel. However, the entire project site shall collectively be deemed a single project site approved for a planned resort use. Such zoning lot shall be planned, designed, developed, and operated as an integrated unit under a unified plan of operation, even if separate elements are owned or operated by separate legal entities.

- H. The plan shall provide suitable building setbacks, open space, and, if the Planning Board deems it appropriate, landscaping, along any residential zoning district boundary lines to soften views into the site. Open space (pervious areas) provided along residential district boundaries may be either landscaped or open, and such open space may contain pedestrian or bicycle recreation trails. Where the Planning Board determines that landscaping is required along residential boundaries, it should generally include a total of at least 20 feet of vegetated landscaping, whether contiguous or separated by a trail or walkway, to soften views of the site from adjacent residential homes. The site plan shall incorporate appropriate mitigation measures identified by a visual impact analysis of the proposed development. Such visual impact analysis shall consider landscaping throughout the proposed site.
- I. Off-street parking areas shall be suitably landscaped with plantings as determined by the Planning Board. Interior parking area landscaping shall be provided to break up continuous areas of pavement. Landscaped island equal to one parking space for every 10 spaces is the minimum requirement for all parking lots with 10 or more spaces. Landscaped islands must equal two spaces if adjacent to two perpendicular spaces. Minimum of one shade tree, at least three inches DBH at planting, for every 12 parking spaces required. Parking areas shall be suitably separated from surrounding properties by vegetative landscaping materials meeting the standards of § 140-34I at least 20 feet deep and deemed satisfactory to the Planning Board to provide reasonable screening of parking areas.
- J. At least one point of access to a planned resort must be provided from a state or county highway. All roads providing access to the project must be suitably improved, at the time of project implementation, to handle the anticipated traffic volumes created by the proposed development. Privately owned vehicular and pedestrian circulation routes, including internal sidewalks, internal pedestrian and bike circulation, pedestrian and bike access from the public road network or community trail facility, such as connections to the Empire State Trail and the Ohioville Hamlet, shall be suitably designed to carry the intended traffic and provide support facilities for such circulation, including bike racks for guests and employees. Access management shall be coordinated with the state and county for Route 299 and Ohioville Road.
- K. Any streets on the site plan providing access to the proposed planned resort and proposed to be offered for dedication as public streets shall meet the applicable municipal or state specification for such public street or highway.
- L. Water supply and sewerage. The project shall be served by public or private central water supply facilities and wastewater treatment facilities as approved by the appropriate state and municipal agencies and the County Health Department.

- M. Infrastructure facilities, such as roadways, parking areas, utilities, drainage, screening and other landscaping, and other facilities, such as storm drainage facilities, curbs, gutters, solid waste disposal facilities, lighting, signs shall be appropriately planned, designed and operated to serve all uses on the lot. Stormwater management shall incorporate green infrastructure techniques. Impervious surfaces shall be limited as much as reasonably possible.
- N. Lighting. All outdoor lighting shall be glare-free and shielded from the sky and adjacent properties using cut-off technology that controls light spread to a maximum of 0.1 footcandle at the property line.
- O. Signs. Only signs affecting outside vehicle and pedestrian traffic will be illuminated from a structure and avoid ground up lighting when feasible. There shall be no internally illuminated monument signage.
- P. Project phasing. If the project is to be phased, then a phasing plan shall be submitted and approved as part of the site plan application.
- Q. Conditions. The Planning Board, upon review of the proposed development, may prescribe such additional conditions as are, in its opinion, necessary to secure the objectives of this chapter.
- R. Modification of development standards. The Planning Board is authorized to modify the development standards set forth in this § 140-166. In all cases, the applicant shall be required to submit to the Planning Board a list of any design standards herein that it cannot meet, supporting reasons and documentation as to why the standards cannot be met, how the public health, safety and welfare will be preserved, how the deviation will not detract from the intent and spirit of these design standards, and a description of how it proposes to satisfy the purpose of the Planned Resort Overlay District short of adhering to the design standards in their entirety. The Planning Board may modify or waive individual requirements if it finds, based on the applicant's explanation, that adherence would be impractical and if it is satisfied with the applicant's proposed alternative for satisfying the purpose of the Planned Resort Overlay District.

**Disposition List****Chapter DL****DISPOSITION LIST****§ DL-1. Disposition of legislation.**

<b>Local</b>	<b>Adoption</b>		
<b>Law No.</b>	<b>Date</b>	<b>Subject</b>	<b>Disposition</b>
3-2002	5-23-2002	Zoning amendment (clearing and grading)	Ch. 140
4-2002	7-25-2002	Intermunicipal agreements: police assistance	Ch. 18, Art. I
5-2002		Term of office: Superintendent of Public Works	Defeated at referendum
6-2002	11-26-2002	Subdivision of land amendment	Ch. 121
7-2002	12-19-2002	Towing list	Ch. 41
8-2002	12-19-2002	Zoning amendment	Ch. 140
1-2003	1-16-2003	Zoning amendment	Ch. 140
2-2003	1-23-2003	Senior citizens tax exemption amendment	Ch. 127, Art. III
3-2003	4-24-2003	Peddling and soliciting amendment	Ch. 105
4-2003	5-22-2003	Taxation: veterans exemptions	Ch. 127, Art. IV
5-2003	9-10-2003	Subdivision of land amendment; zoning amendment	Chs. 121 and 140
6-2003	9-10-2003	Zoning amendment	Ch. 140
7-2003	10-16-2003	Sewers amendment	Ch. 113
8-2003	2-10-2003	Board of Police Commissioners	Ch. 34
1-2004	3-25-2004	Zoning amendment (steep slope protection)	Ch. 140
2-2004	3-25-2004	Zoning amendment	Ch. 140
3-2004	4-15-2004	Industrial and Commercial Incentive Board	Ch. 17
4-2004	4-15-2004	Zoning amendment	Ch. 140

<b>Local</b>	<b>Adoption</b>		
<b>Law No.</b>	<b>Date</b>	<b>Subject</b>	<b>Disposition</b>
5-2004	8-19-2004	Sewer charges for Ohioville Sewer District No. 6 amendment	Ch. 113
6-2004		Surcharge for convictions for traffic violations	Repealed by statute
1-2005	3-24-2005	Zoning amendment	Ch. 140
2-2005	5-26-2005	Vehicles and traffic regulations	New legislation pending; see Ch. 133
3-2005	6-15-2005	Zoning amendment	Ch. 140
4-2005	6-23-2005	Zoning amendment	Ch. 140
5-2005	9-15-2005	Wetlands and watercourses	Ch. 139
1-2006	2-16-2006	Zoning amendment	Ch. 140
2-2006	2-16-2006	Official Map	Ch. 101
3-2006	4-20-2006	Zoning amendment	Ch. 140
4-2006	6-15-2006	Zoning amendment	Ch. 140
5-2006	8-24-2006	Terms of office: Town Clerk	Ch. 38, Art. I
6-2006	12-14-2006	Zoning amendment	Ch. 140
7-2006	12-14-2006	Building construction and fire prevention	Ch. 78
1-2007	2-15-2007	Zoning Map amendment	NCM
2-2007	5-24-2007	Subdivision of land amendment; zoning amendment	Chs. 121; 140
3-2007	7-26-2007	Zoning amendment	Ch. 140
4-2007	8-23-2007	Agriculture and open space preservation and acquisition	Ch. 44
5-2007	12-6-2007	Zoning amendment	Ch. 140
6-2007	12-27-2007	Zoning amendment	Ch. 140
1-2008	1-17-2008	Zoning amendment	Ch. 140
2-2008	8-21-2008	Zoning amendment	Ch. 140
3-2008	9-18-2008	Zoning amendment	Ch. 140
4-2008	9-25-2008	Environmental Conservation Board	Ch. 12

<b>Local</b>	<b>Adoption</b>		
<b>Law No.</b>	<b>Date</b>	<b>Subject</b>	<b>Disposition</b>
5-2008	12-18-2008	Building construction and fire prevention: administration and enforcement amendment; New York Energy Star® labeled homes	Ch. 78, Arts I and II
1-2009	3-23-2009	Grievance day for real property assessment review	Ch. 127, Art. VII
2-2009	5-21-2009	Planning Board amendment	Ch. 31
3-2009	6-18-2009	Zoning amendment	Ch. 140
4-2009	8-20-2009	Flood damage prevention	Repealed by L.L. No. 1-2010
5-2009	8-20-2009	Temporary moratorium on development in areas of special flood hazard	NCM
6-2009	11-19-2009	Zoning amendment	Ch. 140
7-2009	12-3-2009	Zoning amendment	Ch. 140
8-2009	12-30-2009	Temporary moratorium on development in areas of special flood hazard	Repealed by L.L. No. 4-2010
1-2010	5-20-2010	Flood damage prevention	Ch. 82
2-2010	5-20-2010	Subdivision of land amendment	Ch. 121
3-2010	5-20-2010	Zoning amendment	Ch. 140
4-2010	6-24-2010	Temporary moratorium on development in areas of special flood hazard repealer	Repealer only
5-2010	6-24-2010	Zoning amendment	Ch. 140
6-2010	8-19-2010	Zoning amendment	Ch. 140
7-2010	8-19-2010	Zoning amendment	Ch. 140
8-2010	12-16-2010	Dog licensing	Ch. 63
1-2011	6-16-2011	Garbage, rubbish and refuse amendment	Ch. 89
2-2011	6-16-2011	Zoning amendment	Ch. 140
3-2011	7-28-2011	Building construction and fire prevention: New York Energy Star labeled homes amendment	Ch. 78, Art. II
4-2011	10-20-2011	Town employees: residency requirements	Ch. 39, Art. I

<b>Local</b>	<b>Adoption</b>		
<b>Law No.</b>	<b>Date</b>	<b>Subject</b>	<b>Disposition</b>
5-2011	12-15-2011	Wetlands and watercourse protection	Ch. 139
6-2011	12-15-2011	Subdivision of land amendment; zoning amendment	Chs. 121; 140
1-2012	12-29-2011	Tree conservation	Ch. 130
2-2012	11-15-2012	Zoning amendment	Ch. 140
3-2012	11-15-2012	Sewers amendment	Ch. 113
4-2012	11-15-2012	Gas and oil by-products: brine prohibition	Ch. 90, Art. I
5-2012	12-20-2012	Vehicles and traffic amendment	New legislation pending; see Ch. 133
1-2013	7-25-2013	Towing list amendment	Ch. 41
2-2013	11-21-2013	Vehicles and Traffic: Vehicle Weight Limits	Ch. 133, Art. II
3-2013	12-19-2013	Zoning amendment	Ch. 140
1-2014	2-27-2014	Zoning amendment	Ch. 140
2-2014	7-17-2014	Ethics	Ch. 15
3-2014	8-28-2014	Zoning amendment	Ch. 140
1-2015	5-28-2015	Moratorium on dormitory projects	NCM
2-2015	12-8-2015	Flood damage prevention amendment	Ch. 82
3-2015	12-8-2015	Zoning amendment	Ch. 140
4-2015	12-8-2015	Subdivision of land amendment	Ch. 121
1-2016	4-28-2016	Taxation: grievance day for real property assessment review repealer	Ch. 127, Art. VII, reference only
2-2016	8-18-2016	Municipal purchases	Ch. 36
3-2016	10-20-2016	Taxation: override of tax levy limit	Ch. 127, Art. VII
4-2016	8-18-2016	Terms of office: Town Highway Superintendent	Ch. 38, Art. II
5-2016	9-15-2016	Terms of office: Town Supervisor	Ch. 38, Art. III



<b>Local Adoption</b>			
<b>Law No.</b>	<b>Date</b>	<b>Subject</b>	<b>Disposition</b>
1-2017	12-22-2016	Stormwater management and erosion and sediment control	Ch. 116
2-2017	12-22-2016	Storm sewers: illicit discharges, activities and connections	Ch. 115, Art. I
3-2017	12-22-2016	Subdivision of land amendment; zoning amendment	Ch. 121; Ch. 140
4-2017	4-20-2017	Immigration and detention	Ch. 16
5-2017	4-20-2017	Taxation: assessments for collection of fees and costs	Ch. 127, Art. VIII
6-2017	5-4-2017	Moratorium on applications and permits in Exit 18 Gateway Area	NCM
7-2017	10-19-2017	Taxation: override of the tax levy limit	Ch. 127, Art. VII
1-2018	2-15-2018	Zoning amendment	Ch. 140
2-2018	3-1-2018	Moratorium on applications and permits in Exit 18 Gateway Area	NCM
3-2018	5-17-2018	Solid Waste: Residential Collection	Ch. 114, Art. I
4-2018	6-21-2018	Planning Board Amendment	Ch. 31
5-2018	8-16-2018	Taxation: Business, Commercial and Industrial Exemptions	Ch. 127, Art. IX
6-2018	10-4-2018	Taxation: Override of Tax Levy Limit Amendment	Ch. 127, Art. VII
1-2019	3-7-2019	Vehicles and Traffic: Parking, Stopping and Standing	Ch. 133, Art. III
2-2019	3-7-2019	Streets and Sidewalks: Snow and Ice Removal Amendment	Ch. 118, Art. II
3-2019	4-4-2019	Landlord and Tenant	Ch. 94
4-2019	4-18-2019	Agriculture and Open Space Preservation and Acquisition Amendment	Ch. 44
5-2019	5-16-2019	Community Choice Aggregation (Energy) Program	Ch. 57

**Local Adoption**

<b>Law No.</b>	<b>Date</b>	<b>Subject</b>	<b>Disposition</b>
6-2019	5-16-2019	Vehicles and Traffic: Parking, Stopping and Standing on Designated Highways	Ch. 133, Art. IV

Local Law No.	Adoption Date	Subject	Disposition	Supp. No.
7-2019	10-3-2019	Zoning Amendment	Ch. 140	50
8-2019	10-17-2019	Taxation: Override of Tax Levy Limit Amendment	Ch. 127, Art. VII	50