Code

Of the

Town of Ulster

COUNTY OF ULSTER
STATE OF NEW YORK

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PREFACE

The Town of Ulster has, over the years, passed through a process of legislative change common to many American communities. While only a few simple laws were necessary at the time of the establishment of the town, subsequent growth of the community, together with the complexity of modern life, has created the need for new and more detailed legislation for the proper function and government of the town. The recording of local law is an aspect of municipal history and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever- continuing process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up-to- date. It was with thoughts such as these in mind that the Town Board ordered the following codification of the town's legislation.

Contents of Code

The various chapters of the Code contain all currently effective legislation (local laws, ordinances and certain resolutions) of a general and permanent nature enacted by the Town Board of the Town of Ulster, including revisions or amendments to existing legislation deemed necessary by the Town Board in the course of the codification.

Division of Code

The Code is divided into parts. Part I, Administrative Legislation, contains all town legislation of an administrative nature, namely, that dealing with the administration of government, that establishing or regulating municipal departments and that affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other town legislation of a regulatory nature. Items of legislation in this part generally impose penalties for violation of their provisions, whereas those in Part I do not.

Grouping of Legislation and Arrangement of Chapters

The various items of legislation are organized into chapters, their order being an alphabetical progression from one subject to another. Wherever there are two or more items of legislation dealing with the same subject, they are combined into a single chapter. Thus, for example, all legislation pertaining to the regulation of streets and sidewalks may be found in Part II, in the chapter entitled "Streets and Sidewalks." In such chapters, use of Article or Part designations has preserved the identity of the individual items of legislation.

Table of Contents

The Table of Contents details the alphabetical arrangement of material by chapter as a means of identifying specific areas of legislation. Wherever two or more items of legislation have been combined by the editor into a single chapter, titles of the several Articles or Parts are listed beneath the chapter title in order to facilitate location of the individual item of legislation.

Reserved Chapters

Space has been provided in the Code for the convenient insertion, alphabetically, of later enactments. In the Table of Contents such space appears as chapters entitled "(Reserved)." In the body of the Code, reserved space is provided by breaks in the page-numbering sequence between chapters.

Pagination

A unique page-numbering system has been used, in which each chapter forms an autonomous unit. One hundred pages have been allotted to each chapter, and the first page of each is the number of that chapter followed by the numerals "01." Thus, Chapter 6 begins on page 601, Chapter 53 on page 5301, etc. By use of this system, it is possible to add or to change pages in any chapter without affecting the sequence of subsequent pages in other chapters, and to insert new chapters without affecting the existing organization.

Numbering of Sections

A chapter-related section-numbering system is employed, in which each section of every item of legislation is assigned a number which indicates both the number of the chapter in which the legislation is located and the location of the section within that chapter. Thus, the first section of Chapter 6 is § 6-1, while the fourth section of Chapter 53 is § 53-4. New sections can then be added between existing sections using a decimal system. Thus, for example, if two sections were to be added between §§ 53-4 and 53-5, they would be numbered as §§ 53-4.1 and 53-4.2.

Scheme

The Scheme is the list of section titles which precedes the text of each chapter. These titles are carefully written so that, taken together, they may be considered as a summary of the content of the chapter. Taken separately, each describes the content of a particular section. For ease and precision of reference, the Scheme titles are repeated as section headings in the text.

Histories

At the end of the Scheme in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the enactment number (e.g., ordinance number, local law number, bylaw number, resolution number, etc.), if pertinent, and the date of adoption. In the case of chapters containing Parts or Articles derived from more than one item of legislation, the source of each Part or Article is indicated in the History. Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

Codification Amendments and Revisions

New chapters adopted or sections amended or revised during the process of codification are specifically enumerated in chapter Histories with reference to "Ch. 1, General Provisions," where they should not be renumbered. Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between §§ 45-5 and 45-6 should be designated § 45-5.1). New chapters should be added in the proper alphabetical sequence in the appropriate division or part (e.g., Part 1, Administrative Legislation, or Part 11, General Legislation), utilizing the reserved chapter numbers. New chapter titles should begin with the key word for the alphabetical listing (e.g., new legislation on abandoned vehicles should be titled "Vehicles, Abandoned" under "V" in the table of contents, and a new enactment on coin-operated amusement devices should be "Amusement Devices" or "Amusement Devices, Coin-Operated" under "A" in the table of contents). Where a reserved number is not available, an "A" chapter should be used (e.g., a new chapter to be included between Chapters 45 and 46 should be designated Chapter 45A). New Articles may be inserted between existing Articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" Articles (e.g., a new Article to be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends with § 45-30 and Article XVII begins with § 45-31, Article XVIA should contain §§ 45-30.1 through 45-30.6).

Supplementation

Supplementation of the Code will follow the adoption of new legislation. New legislation or amendments to existing legislation will be included and repeals will be indicated as soon as possible after passage. Supplemental pages should be inserted as soon as they are received and old pages removed, in accordance with the Instruction Page which accompanies each supplement.

Acknowledgment

The assistance of the town officials is gratefully acknowledged by the editor. The codification of the legislation of the Town of Ulster reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity and range in importance from everyday details to crucial areas of civic planning. As Samuel Johnson observed, "The law is the last result of human wisdom acting upon human experience for the benefit of the public."

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ARTICLE II
Legislation Enacted During Codification

[HISTORY: Adopted by the Town Board of the Town of Ulster. Art 1, 1-14-1991 as L.L. No. 1-1991. Amendments noted where applicable.]

ARTICLE I
Adoption of Code
[Adopted 1-14-1991 as L.L. No. 1-1991]

Be it enacted by the Town Board of the Town of Ulster as follows:

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Town of Ulster, as codified and consolidated into Chapters 1 through A194, shall be known collectively as the "Code of the Town of Ulster," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Town of Ulster" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, Article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-2. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of local laws, ordinances and resolutions in force immediately prior to the enactment Of the Code by this local law, are intended as a continuation of such local laws, ordinances and resolutions and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior local law, ordinance or resolution. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the Town Council of the Town of Ulster, and it is the intention of said Council that each such provision contained within the Code is hereby reaffirmed as it appears in said Code. Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

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

All local laws and ordinances of a general and permanent nature of the Town of Ulster in force on the date of the adoption of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law.

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

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

A. Any right or liability established, accrued or incurred under any legislative provision of the Town of Ulster prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.

B. An offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Town of Ulster 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 Ulster.

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

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

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

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

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

I. The dedication of property.

J. Any legislation relating to salaries.

K. Any legislation relating to vehicles and traffic.

L. Any legislation relating to zoning.

M. Any legislation adopted subsequent to February 26, 1990.

§ 1-5. Severability.

If any clause, sentence, paragraph, section, Article, chapter or part of this local law or of any local law, ordinance or resolution included in this Code now or through supplementation shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, Article, chapter or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§1-6. Copy of Code on file.

A copy of the Code, in loose-leaf form, has been filed in the office of the Town Clerk of the Town of Ulster 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 Ulster by impressing thereon the Seal of the Town of Ulster, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§1-7. Amendments to Code.

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the "Code of the Town of Ulster" or any new local laws, ordinances or resolutions, when enacted or adopted in such form as to indicate the intention of the Town Council 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 Council 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 Ulster 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 Council subsequent to the enactment of this local law in such form as to

indicate the intention of said Council to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of copies of such changes, local laws, ordinances or resolutions until such changes, local laws, ordinances or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-9. Sale of Code Book. Supplementation.

Copies of the Code may be purchased from the Town Clerk of the Town of Ulster upon the payment of a fee to be set by resolution of the Town Council, which Council 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 Ulster or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Town of Ulster to be misrepresented thereby or who violates any other provision of this local law shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than two hundred fifty dollars ($250.) or imprisonment for a term of not more than fifteen (15) days, or both.

§ 1-11. Changes in previously adopted legislation.

A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of Ulster, 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 non-substantive changes were made in one (1) or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.

B. In addition, the following changes, amendments or revisions are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.) (1)

§ 1-12. Incorporation of provisions into Code.

The provisions of this local law are hereby made Article I of Chapter 1 of the Code of the Town of Ulster, such local law to be entitled " General Provisions, Article I, Adoption of Code," and the sections of this local law shall be numbered §§ 1-1 to 1-13, inclusive.

§ 1-13. When effective.

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

ARTICLE II
Legislation Enacted During Codification

During the process of codification, certain complete new pieces of legislation were approved by the Town Board for inclusion in the Code of the Town of Ulster. Such new legislation is noted in the histories of the individual chapters as "Adopted ... during (1) Editor's Note: Pursuant to § 1-11B, the following sections were added or amended: §§ 22-5K, 29-1, 55-2, Art I of Ch. 75, §§ 75-4, 75-7, 75-8, 75-9A and B, 75-10, Ch. 81, §§ 87-16, 95-13, 101-6, Ch. 111, §§114-3,114-4,114-7B and D, 114-9,114-I3B, 123-1,123-6A, 123-8,131-1,131-9B, 135-4, 135-5, 135-6, 135-7, 141-2B. 141-14, 141-15, 141-17, 141-18, 141-20, 141-23, 141-25, 141-31, 141-32A and D, 141-33, 141-34, 141-40, 141-49, 145-4B (4), Art. II of Ch. 1 57, §§ 157-9, 165-2, 165-4, 177-5, 177-6, 177-7C, 177-9B and C, 177-22, 177-25, 177-26C and 177-28C and F. The following original sections were repealed in Ch. 114, original Sections 7.0, 8.0 and 9.0 of L.L. No. 1-1982. The following entirely new chapters and Articles were adopted: Arts.II and III of Ch. 101, Ch. 117, Art II of Ch. 123, Chs. 127, 149 and A194. The following sections were amended to provide for a standard penalty for violations of these Code provisions of "a fine of not more than two hundred fifty dollars ($250.) or imprisonment for a term of not more than fifteen (15) days, or both": §§ 55-6, 71-3, 95-16, 95-17, 101-19A, 114-10, 131-13, 141- 55, 157-15 and 177-36. The following sections were amended to delete the specific fee amounts and provide that fees be "as provided in Chapter A194, Fees": §§ 95-14, 101-5B and C, 101-11, 131-6, 135-3A (l) and B, 141-28, 145-15, 177-18A and C, 177-20, 177-31, 177-32 and 177-33. A complete description of each change is included in LL No. 1-1991, a copy of which is on file in the office of the Town Clerk. Codification; see Ch. 1, General Provisions, Art II." Also, certain resolutions were adopted amending existing legislation. The histories for such amendments reflect adoption "...during codification; see Ch. 1, General Provisions, Art. II." In accordance with recognized codification procedures, this legislation was adopted separately, and a complete enumeration of all chapters and Articles in the Code affected by such legislation is set forth below, along with specific dates of adoption.]

Adoption Chapter/Article/Section	**Legislation Number**	**Date**
Ch. 7, Appearance Tickets	L.L. No. 2-1991	1-14-1991
Ch. 37, Personnel Policies, Art. II, General Provisions	L.L. No. 3-1991	1-14-1991
Ch. 43, Town Board	L.L. No. 4-1991	1-14-1991
Ch. 61, Building Construction and Fire Prevention	L.L. No. 5-1991	1-14-1991
Ch. 91, Games of Chance, § 91-3A(5), 91-5A and 91-21 (amendments)	L.L. No. 6-1991	1-14-1991
Ch. 161, Subdivision of Land, §§ 161-7, 161-13A, 161-14A, 161-21A, 161-25B and 161-26A (amendments)	res.	1-14-1991

Chapter 7

APPEARANCE TICKETS

§ 7-1. Statutory authority; title.

§ 7-2. Purpose.

§ 7-3. Enumeration of public servants authorized to issue appearance tickets. [HISTORY:

Adopted by the Town Board of the Town of Ulster during codification; see Ch. 1, General Provisions, Art. II. Amendments noted where applicable.]

GENERAL REFERENCES
Alcoholic beverages - See Ch. 55.
Building construction and fire prevention - See Ch. 61.
Condominium and cooperative conversions - See Ch. 67.
Curfew - See Ch. 71.
Dogs and other animals - See Ch. 75.
Public entertainment - See Ch. 81.
Flood damage prevention - See Ch. 87.
Games of chance - See Ch. 91.
Garbage, rubbish and refuse - See Ch. 95.
Junkyards - See Ch. 101.
Mining - See Ch. 1 1 1.
Mobile homes and travel trailers - See Ch. 114.
Noise - See Ch. 117.
Prohibited parking - See Ch. 123.
Peddling and soliciting - See Ch. 131.
Sewers - See Ch. 141.
Site plan review - See Ch. 145.
Streets and sidewalks - See Ch. 157.
Water - See Ch. 177.
Zoning - See Ch. 190.

§ 7-1. Statutory authority; title.

This chapter is enacted pursuant to the authority of § 150.10 of the Criminal Procedure law and shall be known as the "Appearance Tickets Law of the Town of Ulster."

§ 7-2. Purpose.

The purpose of this chapter is to authorize public servants of the Town of Ulster to issue and serve appearance tickets in connection with violations of state statutes, including the Vehicle and Traffic law, local laws, ordinances or rules or regulations of the Town of Ulster.

§ 7-3. Enumeration of public servants authorized to issue appearance tickets.

The following public servants of the Town of Ulster are hereby authorized to issue and serve appearance tickets with respect to violations of state statutes, including the Vehicle and Traffic Law, local laws, ordinances, rules or regulations of the Town of Ulster that such public servants are, respectively, required or authorized to enforce:

A. Building Inspector or Assistant Building Inspector: Chapters 61, 67, 87, 95, 101, 111, 114, 117, 145 and 190 of this Code.

B. Fire Marshal: Chapter 123 of this Code and the fire prevention provisions of the New York State Uniform Fire Prevention and Building Code.

C. Superintendent of Water: Chapter 177.

D. Town police: Chapters 55, 61, 71, 75, 81, 91, 95, 101, 117, 123, 131 and 157 of this Code.

E. Animal Control Officer: Chapter 75 of this Code.

F. Company Fire Chiefs: Chapter 61.

G. Superintendent of Sewer Improvement: Chapter 141 of this Code.

H. Highway Superintendent: Chapter 157 of this Code.

Chapter 10

CANNABIS

Adopted by the Town Board of the Town of Ulster as Local Law 4 of 2021 on 12-9-2021

§ 10-1. Legislative Intent.

It is the intent of this local law to opt-out of allowing on-site cannabis consumption sites in the Town of Ulster that would otherwise be allowed to be licensed under New York Cannabis Law, Article 4.

§ 10-2. Authority.

This local law is adopted pursuant to Cannabis Law § 131, which expressly authorizes the Town Board to adopt a local law requesting the Cannabis Control Board to prohibit the establishment of on-site cannabis consumption licenses within the jurisdiction of the Town and is subject to permissive referendum, the procedure of which is governed by New York Municipal Home Rule Law § 24.

§ 10-3. Local Opt-Out.

The Town Board of the Town of Ulster hereby opts out of allowing on-site cannabis consumption sites from being established and operating within the Town of Ulster. The Town Board requests that the Cannabis Control Board prohibit the establishment of such on-site cannabis consumption licenses provided in New York Cannabis Law, Article 4 within the Town of Ulster.

§ 13-1. Presentation of claim.

§ 13-2. Consideration of claim.

[HISTORY: Adopted by the Town Board of the Town of Ulster 3-15-1978 by resolution. Amendments noted where applicable.]

GENERAL REFERENCES

Town Board - See Ch. 43.

§ 13-1. Presentation of claim.

Any and all claims from prior years, be they for money or for Town Board promises to act or not to act, against the Town of Ulster, or any subdivision thereof, must be submitted to the Town Board prior to the fourth regular monthly Town Board meeting of each calendar year with sufficient documentation in order for the Town Board to consider taking action.

§ 13-2. Consideration of claim.

Any claim submitted to the Town Board in a manner other than prescribed, shall require a Town Board resolution to consider such a claim. If a resolution to consider such a claim is not offered, or does not pass, such claim will be considered as nonexistent by the Town Board.

Adopted by the Town Board of the Town of Ulster as Local Law 3 of 2021 on 04-15-2021 AND Submitted to the People by Reason of a Mandatory Referendum, and Received the Affirmative Vote of a Majority of the Qualified Electors Voting Thereon at the General Election Held on Nov. 2, 2021

A Local Law Providing for the Creation of an Office of Town Comptroller Be it enacted by the Town Board of the Town of Ulster as follows:

§ 14-1. **Office established; powers and duties; salary**.

A. The Office of Town Comptroller of the Town of Ulster is hereby established.

B. The Comptroller of the Town of Ulster shall have all the powers and duties of a town comptroller set forth in Town Law§ 34, and such other powers and duties as may be conferred or authorized from time to time either by local law or resolution of the Town Board.

C. The salary of the Comptroller of the Town of Ulster shall be the amount established from time to time by the Town Board.

§ 14-2. Authority.

This local law is enacted by the Town Board of Town of Ulster pursuant to its authority to adopt local laws under Article IX of the New York State Constitution and Municipal Home Rule Law§ 10.

§ 14-3. Term of office.

A. The initial term of office of the Comptroller of the Town of Ulster shall commence with the appointment of an individual to such office, which shall take place no earlier than January 1, 2022, and shall continue until and shall expire on December 31, 2023.

B. Thereafter, and beginning with the term of office that begins January 1, 2024, and continuing for each and every such term thereafter, the term of office of the Comptroller of the Town of Ulster shall be two years.

§ 14-4. Residency requirement.

The Comptroller of the Town of Ulster shall be a resident of the County of Ulster.

§ 14-5. **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 Ulster at the election to be held on November 2, 2021. A proposition in the following form shall be included on the ballot at such election, and this Local Law shall not take effect unless such proposition is approved by a majority vote of the qualified voters voting thereon. "Shall Local Law No. 3 of 2021, entitled 'A Local Law Providing for the Creation of an Office of Town Comptroller,' be approved?"

§ 14-6. Severability.

If any clause, sentence, paragraph, section, article or part of this Local Law shall be adjudicated in 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, and such invalidity shall not be deemed to affect the remaining portions thereof.

§ 14-7. Effective Date.

This Local Law shall be effect when all applicable statutory requirements for its passage and adoption have been complied with fully including passage of a mandatory referendum under Municipal Home Rule Law Section 23 on the creation of the position and the local law has been duly filed as provided by the Municipal Home Rule Law, and shall become operative on January 1, 2022

DEFENSE AND INDEMNIFICATION

§ 17-1. Conferral of benefits; liability for costs.

§ 17-2. Legal defense to be provided in civil actions.

§ 17-3. Defense in cases involving criminal complaints.

[HISTORY: Adopted by the Town Board of the Town of Ulster 2-26-1990 as L.L. No. 1-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Code of Ethics - See Ch. 22.
Personnel policies - See Ch. 3

Code of Ethics - See Ch. 22. Personnel policies - See Ch. 3

§ 17-1. Conferral of benefits; liability for costs.

The Town Board hereby adopts § 18 of the Public Officers Law and confers the benefits thereof upon all town officers and employees and agrees to be held liable for the costs incurred under these provisions.

§ 17-2. Legal defense to be provided in civil actions.

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 provision 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.

§ 17-3. Defense in cases involving criminal complaints.

In addition to the benefits provided herein and by §18 of the Public Officers Law, the Town Board will provide and pay for a reasonable legal defense for any officer or employee against whom a criminal complaint is filed for activities engaged in by the officer or employee in the performance of job related duties, provided that the officer or employee is exonerated from such charge or charges.

ECONOMIC DEVELOPMENT ZONE

§ 19-1. Title.
§ 19-2. Purpose.
§ 19-3. Zone Coordinator; Zone Administrative Board; Zone Certification Officer.
§ 19-4. Applicable areas.
§ 19-5. Zone development plan.
§ 19-6. Authorization to sign application.
§ 19-7. Town Board zone incentives.
§ 19-8. Zone boundaries defined.

[HISTORY: Adopted by the Town Board of the Town of Ulster 2-24-1994 as L.L. No. 2- 1994. Amendments noted where applicable.]

Zoning - See Ch. 190.

§ 19-1. Title.

The title of this chapter shall be the "Economic Development Zone of the City of Kingston and the Town of Ulster."

§ 19-2. Purpose.

The purpose of this chapter is for the establishment of the Kingston / Town of Ulster Economic Development Zone, as authorized under Article 18-B of the New York State General Municipal Law, as well as other pertinent state legislation, including the Executive Law, the General Municipal Law, the New York State Urban Development Corporation Act, **(1)** the Public Authorities Law, the Real Property Tax Law, the Tax Law and the Public Service Law.

§ 19-3. Zone Coordinator; Zone Administrative Board; Zone Certification Officer.

A. Zone Coordinator.

(1) The Zone Coordinator shall be the Kingston Community Development Director. The functions of the Zone Coordinator shall be to supervise the daily activities of the zone.

(2) The Zone Coordinator shall not serve on the Zone Administrative Board.

B. Zone Administrative Board.

(1) The Zone Administrative Board shall be composed of thirteen (13) members. The Chairman of said Board shall be the Mayor of the City of Kingston. The remaining twelve (12) members shall be appointed by the Mayor of the City of Kingston and shall include the Town of Ulster Supervisor, a member of the local education field, a representative from the Ulster County government, two (2) Town of Ulster zone business representatives, a representative of the Town of Ulster, a representative of local business, labor, community organizations, human resources and financial institutions and a resident of the zone.

(2) The Zone Administrative Board shall give direction to the activities of the zone, and its duties and responsibilities shall include those set forth in New York General Municipal Law Article 18-B, § 963, Subdivision (b).

(3) The members of the Zone Administrative Board, other than the Mayor, shall be appointed for two-year terms, except that the initial Board shall include six (6) members appointed for one-year terms. No individual shall serve longer than three
(3) Successive two-year terms.

(4) The Zone Administrative Board will serve as the coordinator of all other organizations sponsoring programs within the economic development zone. The Board will be responsible for integrating the diverse activities of other agencies and to the zoned development plan. Individual members of the Board and the Board as a body shall serve as a liaison with federal, state and local government officials, voluntary organizations and business, financial and educational communities.

C. Zone Certification Officer.

(1) The Zone Certification Officer will be appointed by the Zone Administrative Board and shall not serve as a member of said Board.

(2) The Zone Certification Officer will compile information and file necessary documentation with the state for designations. Compilation of information and filings will be performed in conjunction with the Zone Coordinator. The Zone Certification Officer will perform functions and duties as set forth in New York General Municipal Law Article 18-B, § 963, Subdivision (a).

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(1) Editor's Note., See Unconsolidated Laws § 6251 et seq.

D. Program management.

The Zone Administrative Board will contract with the Kingston Community Development Office and its Director to manage the day-to-day activities of the economic development zone. These activities shall include daily administration, zone marketing, financial assistance, data collection, clerical support and similar activities. The department personnel of the Community Development Office, the City of Kingston Planner, the Town of Ulster Planner and the City of Kingston Corporation Counsel shall serve as support staff to the Zone Coordinator.

§ 19-4. Applicable areas.

The boundaries of the Kingston/Town of Ulster Economic Development Zone are delineated on a map which shall be filed in the offices of the Zone Coordinator and the City Engineer and are described more particularly in § 19-8 herein. The state and local zone incentives, as well as other activities associated with this chapter and the zone development plan, shall be effective only within this area, unless otherwise amended by the State of New York or the Town of Ulster, as provided by law.

§ 19-5. Zone development plan.

The Zone Administrative Board, through its policymaking function, will determine the general direction of zone development and establish the amount of resources to be allocated among zone programs.

§ 19-6. Authorization to sign application.

The Town Board of the Town of Ulster hereby authorizes the Mayor and the Town of Ulster Supervisor to sign the Kingston/Ulster Economic Development Zone application, to be submitted to the New York State Department of Economic Development, and any and all other economic development zone documents associated with this chapter or the program as a whole to the extent permitted by law.

§ 19-7. Town Board Zone incentives [Amended 3-16-1998 by L.L. No. 2-1998]

A. Waiver of permit fees. In order to offer a range of incentives to attract and retain business and industry within the economic development zone, it offers the following permits to be issued at no charge:

(1) Demolition permits.
(2) Highway excavation permits.
(3) Sewer taps.

(4) Site plan subdivisions.
(5) Zoning application fees.

B. Real property tax.

(1) **[Amended 2-21-1995 by L.L. No. 2-1995]** Real property constructed, altered, Installed, or improved in the area designated as an economic development zone pursuant to Article 18-B of the New York General Municipal Law shall be exempt from taxation and special ad valorem levies by the Town of Ulster in accordance with the schedule set forth in New York Real Property Tax Law § 485-e:

(a) One hundred percent (100%) of the base amount in the first seven (7) years from the date on which the economic development zone is designated.

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(b) Seventy-five percent (75%) of the base amount in the eighth year from the date on which the economic development zone is designated.

(c) Fifty percent (50%) of the base amount in the ninth year from the date on which the economic development zone is designated.

(d) Twenty-five percent (25%) of the base amount in the 10th year from the date on which the economic development zone is designated.

(2) "Base amount," for purposes of this chapter, is as defined in New York Real Property Tax Law § 485-e, Subdivision 2.

C. Sales tax. Pursuant to New York Tax Law § 1119, refunds or credits shall be available for sales tax paid on tangible personal property purchased for use in constructing, expanding or rehabilitating industrial or commercial real property located in the designated economic development zone.

§ 19-8. Zone boundaries defined.

A description of the zone boundaries for sub-area No. 1 is on file and available for inspection in the office of the Town Clerk.

Chapter 20

EMERGENCY PREPAREDNESS

§ 20-1. Chief Executive.

§ 20-2. Declaration of state of emergency.

§ 20-3. Resource utilization.

§ 20-4. Sharing resources.

§ 20-5. Line of succession.

§ 20-6. Organization.

§ 20-7. Possible disaster sources.

[HISTORY: Adopted by the Town Board of the Town of Ulster 5-18-1992. Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention - See Ch. 87.

§ 20-1. Chief Executive.

Under New York State Executive Law Article 2B, Section 23, the Town of Ulster Supervisor (in his/her absence, the Deputy Supervisor) shall be the chief executive in all disasters that occur within the confines of the town.

§ 20-2. Declaration of state of emergency.

A. Whenever there is an apparent peril to public safety, the chief executive may declare a State of Emergency in all or any part of the Town of Ulster and may request and get assistance and advice from the Ulster County Emergency Management/Civil Defense Office.

B. He/she may issue local emergency orders to protect life and property in order to bring the emergency under control by whatever means are necessary.

C. Such declaration shall be for a period not to exceed five (5) days but may be renewed as many times as necessary.

§ 20-3. Resource utilization.

A. During a threat or occurrence of a disaster, the chief executive of the Town of Ulster is authorized to use any and all facilities, equipment, supplies, personnel and any other resources which he/she feels is necessary in order to cope with the disaster.

B. All department heads are to make their equipment, facilities and personnel available during the emergency and until the emergency is completely under control.

§ 20-4. Sharing resources.

The chief executive may offer assistance to another political subdivision during an emergency under the same conditions as above and may also request and accept assistance from another political subdivision during local disasters.

§ 20-5. Line of succession.

In the event that the Town of Ulster Supervisor or Deputy Supervisor are absent or otherwise unable to perform the duties of chief executive during an emergency, the remaining Town Board members shall, in alphabetical order, take over and handle the duties of the chief executive until such time that the Supervisor or Deputy return to duty.

§ 20-6. Organization.

Organization shall be as follows:

A. Evaluate the emergency as to type and extent.

B. Make the appropriate emergency declaration.

C. Alert proper departments and agencies for preparation.

D. Disseminate the emergency data to the media.

E. Establish an emergency operations center with staff.

F. Develop a shelter system as needed.

G. Declare suspension of laws where necessary (5 day rule).

H. Issue orders to protect life and property.

I. Coordinate outside assistance, including military.

J. Complete an assessment of the damage.

§ 20-7. Possible disaster sources.

Possible disaster sources include:

A. Aircraft: Ulster Airport on Route 32.

B. Combustibles: Berardi's on Route 32 and Heritage Energy on Sawkill Road.

C. Flooding: Esopus, Rondout and Sawkill Creeks and Hudson River.

D. Highways: Routes 9W, 32, 28, 209, 213 and New York Thruway.

E. Railroads: north, south and west from the City of Kingston.

F. Utilities (sewer): Ulster Town District and the Whittier Sewer District.

G. Utilities (water): Ulster, Halcyon Park, Whittier (private), Spring Lake, Hillside Acres, Rolling Meadows.

H. Miscellaneous: three (3) public schools, one (1) Catholic school, four (4) shopping malls, several banks, many churches, several office buildings, many stores, several motels, one (1) major employer (IBM).

Chapter 22

ETHICS, CODE OF

ARTICLE I
General Provisions

§ 22-1. Legislative intent.

§ 22-2. Construal of provisions.

ARTICLE II
Code of Ethics

§ 22-3. Definitions.

§ 22-4. Conflicts of interest.

§ 22-5. Standards of conduct.

§ 22-6. Penalties for offenses.

ARTICLE III
Board of Ethics

§ 22-7. Board established; membership.

§ 22-8. Rendering of advisory opinion.

§ 22-9. Promulgation of additional rules and regulations.

ARTICLE IV
Administration

§ 22-10. Distribution and posting of provisions.

§ 22-11. Filing with State Comptroller.

§ 22-12. Appropriation of funds by and for Board of Ethics.

[HISTORY: Adopted by the Town Board of the Town of Ulster 11-12-1970 as L.L. No. 3- 1970. Section 22-5K added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Defense and indemnification - See Ch. 17.
Personnel policies - See Ch. 37.

The Town Board of the Town of Ulster recognizes that there are state statutory provisions mandating towns to establish rules and standards of ethical conduct for the public officers and employees which, if observed, can enhance public confidence in local government. In the light of a tendency today, on the part of some people, to downgrade our local governments and to discredit our public servants and our free institutions generally, it appears necessary that every effort be made to assure the highest caliber of public administration of this town as part of our state's important system of local government. It is the purpose of this chapter to implement this objective through the establishment of standards of conduct, to provide for punishment of violation of such standards and to create a Board of Ethics to render advisory opinions to the town's officers and employees as provided for herein.

§ 22-2. Construal of provisions.

The standards, prohibited acts and procedures established herein are in addition to any prohibited acts, conflicts of interest, provisions or procedures prescribed by statutes of the state of New York and also in addition to common law rules and judicial decisions relating to the conduct of town officers to the extent that the same are more severe in their application than this chapter.

ARTICLE II

Code of Ethics

§ 22-3. Definitions

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

TOWN- Any board, commission, district, council or other agency, department or unit of the government of the Town of Ulster.
TOWN EMPLOYEE - Any officer or employee of the Town of Ulster, whether paid or unpaid, whether serving in a fulltime, part-time or advisory capacity.

§ 22-4. Conflicts of interest.

No town employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest.

§ 22-5. Standards of conduct.

A. No town employee shall accept other employment which will impair his independence of judgment in the exercise of his official duties.

B. No town employee shall accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority.

C. No town employee shall use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.

D. No town employee shall engage in any transaction as representative or agent of the town with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.

E. A town employee shall not by his conduct give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties or that he is affected by the kinship, rank, position or influence of any party or person.

F. Each town employee shall abstain from making personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.

G. Each town employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.

H. No town employee employed on a full-time basis nor any firm or association of which such employee is a member, nor corporation a substantial portion of the stock of which is owned or controlled directly or indirectly by such employee, shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the town in which such employee serves or is employed.

I. Each town employee shall, to the extent that he is cognizant thereof, disclose any interest he may have in legislation before the Town Board.

J. Each town employee shall, to the extent that he is cognizant thereof, disclose any interest he may have in legislation before the Town Board.

K. No town employee, within two (2) years after the termination his service or employment with the town, shall accept employment which will involve contracts with the town which can work to his advantage by virtue of his prior contact and relationship with the town.

L. No municipal officer or employee shall solicit, accept or receive any gift over twenty-five dollars ($25.) under circumstances in which it could be reasonably inferred that the gift was intended to influence him, or could reasonably be expected to influence him, in the performance of his duties or was intended as a reward for any official action on his part. **(1)**

§ 22-6. Penalties for offenses.

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

ARTICLE III
Board of Ethics

§ 22-7. Board established; membership.

There is hereby established a Board of Ethics consisting of three (3) members, to be appointed by the Town Board, all of whom reside in the Town of Ulster, and who shall serve without compensation and at the pleasure of the Town Board of the Town of Ulster. A majority of such members shall be persons other than town employees but shall include at least one (1) member who is an elected or appointed town employee of the Town of Ulster.

§ 22-8. Rendering of advisory opinion.

The Board of Ethics established hereunder shall render advisory opinions to town employees on written request and upon request of the Town Board, make recommendations to such Town Board, as to any amendments of this chapter. The opinions of the Board of Ethics shall be

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(1) Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

advisory and confidential and in no event shall the identity of the town employee be disclosed, except to authorized persons and agencies. Such opinions shall be on the advice of counsel employed by the Board of Ethics, or if none, of the Town Attorney.

§ 22-9. Promulgation of additional rules and regulations.

Such Board of Ethics, upon its information, shall promulgate its own rules and regulations as to its form and procedures and shall maintain appropriate records of its opinions and proceedings.

ARTICLE IV
Administration

§ 22-10. Distribution and posting of provisions.

Upon the adoption of this chapter, the Town Supervisor shall cause a copy thereof to be distributed to every town employee of this town. Failure to distribute any such copy or failure of any town employee to receive such copy shall have no effect on the duty of compliance with this code, nor the enforcement of provisions hereof. The Town Supervisor shall further cause a copy of this chapter to be kept posted conspicuously in each public building under the jurisdiction of the town. Failure to so post this chapter shall have no effect on the duty or compliance herewith, nor the enforcement of the provisions hereof.

§ 22-11. Filing with State Comptroller.

Within thirty (30) days of the adoption of this chapter the Town Clerk shall file a copy thereof in the office of the State Comptroller.

§ 22-12. Appropriation of funds by and for Board of Ethics.

The Town Board may appropriate moneys from the general funds for the maintenance of and for personnel services to the Board of Ethics established hereunder, but such Board of Ethics may not commit the expenditure of town moneys, except within the appropriations provided herein.

Chapter 25
INDUSTRIAL AND COMMERCIAL INCENTIVES BOARD

§ 25-1 Title; statutory authority

§ 25-2 Purpose

§ 25-3 Establishment; Membership; Terms; Records

§ 25-4 Powers and duties.

§ 25-5 Draft plan.

§ 25-6 Final plan.

§ 25-7 Implementation.

§ 25-8 Amendments.

[HISTORY: Adopted by the Town Board of the Town of Ulster 9-19-2019 as L.L. No. 2-2019. Amendments noted where applicable.]

§ 25-1 Title; statutory authority.

The colloquial name of this article, which is the establishment of the Industrial and Commercial Incentive Board pursuant to New York State Real Property Tax Law § 485-b, shall be "Industrial and Commercial Incentive Board."

§ 25-2 Purpose.

This article is enacted for the purpose of establishing an advisory board entitled the "Industrial and Commercial Incentive Board" pursuant to New York State Real Property Tax Law § 485-b, Subdivision 9. The Town Board has determined that the Industrial and Commercial Incentive Board should be established and directed to present to the Town Board a plan identifying the types of businesses that should be offered limited business exemption tax credits and geographical areas in the Town where the limited business exemption tax credits and geographical areas in the Town where the limited business incentive should be offered. The Industrial and Commercial Incentive Board shall consider the planning objectives of the Town and the areas thereof within which exemptions pursuant to Real Property Tax Law

§485-b, Subdivision 9, shall be offered, the necessity of the exemption to the attraction and retention of businesses, the creation and retention of permanent private sector jobs, the need to allow the exemption to provide employment opportunities and broaden the tax base and other fac l Incentive Board deems relevant.

§ 25-3 Establishment; Membership; Terms; Records

A. Membership. The Industrial and Commercial Incentive Board ("ICIB") shall consist of five members who shall be appointed by the Town Board: one of whom shall, at the time of appointment, be a member of the Town Board of the Town of Ulster, one of whom shall, at the time of appointment, be a member of the Town of Ulster Planning Board, one of whom shall, at the time of appointment, shall serve as the Town Assessor, 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 Ulster.

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.

§ 25-4 Powers and duties.

The Industrial and Commercial Incentive Board shall have all the powers and duties set forth in Real Property Tax Law § 485-b, Subdivisions 9, 10 and 12, and such other actions deemed desirable to improve the economic climate within the Town or other factors as the Town Board may direct.

§ 25-5 Draft plan.

The Industrial and Commercial Incentive Board shall present the Town Board with a draft plan containing the information required by Real Property Tax Law §485-b, Subdivision 9, including, but not limited to, recommendations as to the types of business that should be offered the limited business investment tax credit and recommendations as to the geographic area within the Town where the limited business investment tax credit should be offered. Such Draft Plan shall be presented within 60 days of the first meeting of the Industrial and Commercial Incentive Board.

§ 25-6 Final plan.

After consultation with the Town Board regarding the draft plan, the Industrial and Commercial Incentive Board shall make any revisions it deems appropriate to the draft plan before presenting the Town Board with a final plan complying with the provisions of Real Property Tax Law § 485-b, Subdivision 9, and this article. Such final plan shall be presented within 30 days of the completion of the consultation with the Town Board.

§ 25-7 Implementation.

Upon receipt of the final plan, the Town Board may, but shall not be required to, implement the recommendations contained in the final plan identifying the types of businesses that should be offered the limited business investment tax credit and the geographic areas within the Town where the business investment tax credit should be offered.

§ 25-8 Amendments.

The final plan shall be subject to periodic review as determined by the Town Board. Within 60 days of a request of the Town Board, the Industrial and Commercial Incentive Board shall present the Town Board with a draft amended plan complying with the provisions of Real Property Tax Law § 485-b, Subdivision 9, and this article. Such final amended plan shall be presented within 30 days of the completion of the consultation with the Town Board.

Chapter 29
LOCAL LAWS, ADOPTION OF

§ 29-1. Public hearing required; publication of notice.

§ 29-2. Posting of notice.

§ 29-3. Proofs of publication and posting to be filed.

§ 29-4. Numbering of local laws; filing.

[HISTORY: Adopted by the Town Board of the Town of Ulster 9-24-1969 as L.L. No. 1- 1969. Section 29-1 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1. Other amendments noted where applicable.]

§ 29-1. Public hearing required; publication of notice. (1)

Unless otherwise specified in general law or statute, no local law shall be adopted in its final form by the Town Board of the Town of Ulster until a public hearing has been held thereon before such Town Board, not less than three (3) days nor more than thirty (30) days, after 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.

§ 29-2. Posting of notice.

The Town Clerk shall, not later than the day such notice is published, post the notice of hearing on the signboard at her office, together with a brief explanatory statement of the proposed local law.

§ 29-3. Proofs of publication and posting to be filed.

Proof of publication of the notice of public hearing, required by § 29-1 hereof, and proof of posting, as required by § 29-2 hereof, shall be filed in the office of the Town Clerk.

§ 29-4. Numbering of local laws; filing.

Each local law shall be numbered consecutively beginning with number 1 for each calendar year. Each local law finally adopted shall be filed as required by the Municipal Home Rule Law.

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Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art

Chapter 33
MEMBER REQUIREMENTS FOR THE PLANNING BOARD AND ZONING BOARD OF APPEALS

§ 33-1. Title.

§ 33-2. Definitions.

§ 33-3. Findings and Purpose.

§ 33-4. Minimum Attendance at Meetings.

§ 33-5. Minimum Training Requirements.

§ 33-6. Approved Training Courses.

§ 33-7. Lack of Training Not to Affect Validity of Member's Actions.

§ 33-8. Procedure for Removal of Members.

§ 33-9. Removal for Cause.

§ 33-10. Applicability.

[History: Adopted by the Town Board of the Town of Ulster 12-19-2013 by L.L. No. 7- 2013.]

GENERAL REFERENCES

Code of Ethics – See Ch. 22.
Personnel Policies - See Ch. 37.
Town of Ulster Zoning Board of Appeals By-Laws - See Ch. 191.
Town of Ulster Planning Board By-Laws – See Ch. 195.

§ 33-1. Title.

This article shall be titled "A Local Law to Provide Minimum Requirements for Meeting Attendance and Training for Members of the Town of Ulster Planning Board and Town of Ulster Zoning Board of Appeals."

§ 33-2. Definitions.

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

PLANNING BOARD - Planning Board of the Town of Ulster.

TOWN - Town of Ulster.

TOWN BOARD - Town Board of the Town of Ulster.

TOWN CLERK- Town Clerk of the Town of Ulster.

ZONING BOARD OF APPEALS - Zoning Board of Appeals of the Town of Ulster.

§ 33-3. Findings and Purpose.

A. The Town Board finds that appropriate attendance at meetings and training of Zoning Board of Appeals and Planning Board members is essential.

B. The State of New York has recognized the importance of both meeting attendance and training in its recent amendments to the Planning Board and Zoning Board of Appeals statutes (§§ 271 and 267, respectively, of the Town Law).

C. It is the purpose of this article to encourage Zoning Board of Appeals and Planning Board members to attend their respective Board meetings and to obtain training to enhance their ability to carry out their duties under law. The Town Board is prepared to pay the costs associated with meeting attendance and such training as provided for in the town's budget.

D. It is also the purpose of this article to establish required minimum meeting attendance along with training and continuing education course requirements for such members.

E Town of Ulster Town Code Section 37-5(D), in addition to all resolutions, local laws, and parts thereof, which are inconsistent with this Local Law, are hereby repealed.

§ 33-4. Minimum Attendance at Meetings.

A. All members of the Zoning Board of Appeals and Planning Board shall be required to attend a minimum of 75% of their Board meetings scheduled within a calendar year.

B. Noncompliance with minimum requirements relating to attendance at meetings shall be deemed a proper cause for removal from office by the Town Board.

§ 33-5. Minimum Training Requirements.

A. All members of the Zoning Board of Appeals and Planning Board shall be required to attend a minimum of four (4) hours in relevant training courses within one year from the date of their initial appointment to such Board, attend training sessions of not less than four hours every one year thereafter and provide proof of attendance to the Town Clerk.

B. Noncompliance with minimum requirements relating to training shall be deemed a proper cause for removal from office.

C. The costs of such seminars, workshops or continuing education courses so designated shall be a town charge. Members shall also be reimbursed for travel and meal expenses according to town policies. Such training sessions shall be approved in advance by the Town Board.

§ 33-6. Approved Training Courses.

Training sessions which relate to the duties of members of the Zoning Board of Appeals and members of the Planning Board may include programs offered by the New York State Department of State, New York State Association of Towns, New York State Department of Environmental Conservation, the Ulster County Planning Department, the New York State Planning Federation, and other such entities, as well as in-house updates of seminars. The Town Board, after discussion with the Chairpersons of the Zoning Board of Appeals and Planning Board, shall annually designate such seminars, workshops, or continuing education courses which may be offered within a reasonable distance and which may be helpful to or of assistance to the Zoning Board of Appeals and/or Planning Board in carrying out its functions in a timely, fair, and lawful manner.

§ 33-7. Lack of Training Not to Affect Validity of Member's Actions.

Notwithstanding the foregoing, the failure of a member of the Planning Board or Zoning Board of Appeals to attend the required percentage of meetings or obtain such training shall not affect said person's appointment to serve on such Board, to entertain applications, and to vote on such applications, or the validity of such member's actions.

§ 33-8. Procedure for Removal of Members.

The Chairperson of the Zoning Board of Appeals and the Chairperson of the Planning Board shall notify the Town Board in writing on or about December 1 in any year of any member who fails to comply with the minimum requirements for meeting attendance and/or training in any calendar year. In the event a member of the Zoning Board of Appeals or Planning Board has failed to complete the minimum attendance and/or training requirements set forth in Sections IV and V, respectively, then the Town Board may remove such member for cause as herein provided.

A. Notice. Such member shall be mailed a written notice specifying the nature of the failure of such member to meet the minimum requirements of Sections IV and V, above.

B. Public hearing. Such notice shall specify a date, not less than 10 or more than 30 days from the date of mailing such notice, when the Town Board shall convene and hold a public hearing on whether or not such member should be removed from service on such Board. Such notice shall also specify the time and place of such hearing.

C. Public notice. Public notice of such hearing shall be published in a paper of general circulation within the town at least 10 days prior to the date of the public hearing.

D. Conduct of hearing. The public hearing on the charges shall be conducted before the Town Board. The member shall be given an opportunity to present evidence and to call witnesses to refute the charges. A record of such hearing shall be made. The decision of the Town Board shall be reduced to writing, together with specific findings of the Town Board with respect to each charge against such member.
Findings shall be filed in the Town Clerk's office and mailed to the member within Five business days of such filing by certified mail, return receipt.

E. Action by the Town Board. Following the hearing and upon a finding that such member has not met the minimum meeting attendance and/or training established by this article, the Town Board may:

(1) Remove such member from the Zoning Board of Appeals or Planning Board by majority vote of the entire Town Board;

(2) Issue a written reprimand to such member without removing such member from such Board; or

(3) If the Town Board shall find that the reasons for failing to meet the minimum meeting attendance and/or training requirements are excusable because of illness, injury or other good and sufficient cause, the Town Board may elect to take no action.

§ 33-9. Removal for Cause.

Nothing contained herein shall be deemed to limit or restrict the Town Board's authority to remove a member from the Zoning Board of Appeals or Planning Board for cause (i.e., for other than the reasons enumerated herein). The procedural provisions of Section VIII, Procedure for removal of members, shall govern any hearing to remove a member for cause.

§ 33-10. Applicability.

A. This article shall apply to all members of the Zoning Board of Appeals and Planning Board regardless of the date of their appointment to such Board.

B. Prospective members of the Zoning Board of Appeals and Planning Board shall be notified of the requirements of this article prior to their appointment to such Board.

Chapter 37
PERSONNEL POLICIES

ARTICLE I
Participation in County Workers' Compensation Self-Insurance Program

§ 37-1. Participation in program.

§ 37-2. Supervisor authorized to enter into agreements.

ARTICLE II
General Provisions

§ 37-3. General policies.

§ 37-4. Hiring procedure.

§ 37-5. Conditions of employment.

§ 37-6. Types and hours of employment.

§ 37-7. Discharge and discipline.

§ 37-8. Seniority.

§ 37-9. Layoff and recall.

§ 37-10. Employee benefits.

§ 37-11. Employee personnel records.

§ 37-12. Salaries.

§ 37-13. Grievance procedure.

§ 37-14. Disciplinary actions.

ARTICLE III
Drug and Alcohol Policy

§ 37-15. General policy

§ 37-16. Definitions

§ 37-17. Restrictions

§ 37-18. Disciplinary action

§ 37-19. Prescription drugs

§ 37-20. Employee disclosure; convictions; rehabilitation program

[History: Adopted by the Town Board of the Town of Ulster: Art. I, 2-21-1979 by resolution; Art. II, during codification 1-14-1991 as L.L. No. 3-1991 (see Ch. 1, General Provisions, Art. II); Art. III, 5-15-1995 by resolution. Amendments noted where applicable.]

GENERAL REFERENCES

Defense and indemnification – see Ch. 17.
Code of Ethics – See Ch. 22.

ARTICLE I
Participation in County Workers' Compensation Self-Insurance Program
[Adopted 2-21-1979 by resolution]

§ 37-1. Participation in program.

The Town of Ulster hereby elects to become a participant in said Ulster County Workers' Compensation Self-Insurance Program.

§ **37-2. Supervisor authorized to enter into agreements.**

The Supervisor of the Town of Ulster is hereby authorized to enter into the necessary agreements with the Administrator of the Ulster County Workers' Compensation Self-Insurance Program.

ARTICLE II
General Provisions
[Adopted 1-14-1991 as L.L. No.3-1991]

§ 37-3. General policies.

A. It is the general personnel policy of the Town of Ulster to render service to the people of the Town of Ulster to the best of your ability; to exercise diligence in the execution of your assigned duties; and to promote harmony among the various departments of the town and the townspeople.

B. We realize the importance of every employee to the successful operation of our own and because it is our desire that each employee be successful in his work, we declare the following policies:

(1) We will hire the best available person whenever a vacancy occurs that cannot be filled from within the organization.

(2) We will strive to develop each employee to become an effective and enthusiastic part of the organization.

(3) We will promote from within whenever practicable and will offer opportunities to qualify for promotion.

(4) We will strive to treat each employee with consideration and respect.

(5) We will try to avoid favoritism.

(6) We will provide a clean, healthy and safe work environment.

(7) We will compensate our employees based on job requirements, performance, and pay and salary levels of comparable work being performed in our community.

(8) We will attempt to provide steady employment as far as practicable.

(9) We will recognize seniority when other qualifications are relatively equal.

(10) We will offer employee benefits such as group health insurance that are consistent with those plans being offered by other municipalities in the area after the completion of the probationary period.

(11) We will provide other benefits such as paid holidays and vacations in line with current business practices and conditions.

(12) Physical will be necessary for employment.

(13) False information on employment application will be cause for immediate dismissal.

(14) No alcohol or nonprescription drugs will be permitted.

§ 37-4. Hiring procedure.

A. The Town Board, with the consultation of the department supervisor, has the sole discretion to hire qualified individuals for vacant and/or promotional positions.

B. The exception to this is personnel working directly for Supervisor, Town Clerk and Highway Superintendent as governed by Town Law.

§ 37-5. Conditions of employment.

A. Probationary term. There shall be a one-hundred-eighty day probationary term for all employees, commencing with the first day of employment. Employees so hired shall be eligible for health and hospitalization coverage upon completion of probation period. All other benefits shall begin at the successful completion of the probationary term retroactive to the first day of employment.

B. Evaluations.

(1) Observation and evaluation of the work performance of employees shall be a continuous ongoing process. The immediate supervisor and/or his designee shall render help and assistance where necessary in order to help individuals improve their performance in those areas evaluated as being weak. A yearly evaluation of each employee will be conducted by department heads and presented to the Town Board for their review.

(2) We are strongly committed to a wage program that relates wages to your performance on the job.

(3) Your performance on the job will be evaluated at least once a year.

(4) The purpose of the job performance evaluation is to let you know where you are doing your job satisfactorily or above average and where your work needs improvement.

(5) The evaluation will be based on items over which you have control.

(6) Your performance evaluation is the basis for any merit increases in pay or a denial of an increase of any type.

C. Employee protection:

(1) Safety and health:

(a) The town will continue to be in compliance with the Occupational Safety and Health Act (OSHA) and will provide a clean, safe and healthy place to work.

(b) Employees are required to work safely at all times, to wear required safety equipment, to observe all posted safety rules and regulations, and to practice good housekeeping.

(c) Any accident resulting in personal injury, no matter how slight, must be immediately reported to your supervisor. (If it is an emergency, report directly to the emergency room).

(d) A safety program to be effective, requires the total commitment of all employees. Our program requires that employees:

[1] Use care and judgment in performing their jobs.

[2] Use safety equipment required for the job.

[3] Operate only the machinery and equipment they have been trained to use.

[4] Report any unsafe acts and conditions they observe o to immediate supervisor.

[5] Practice safety, everywhere, all the time.

(2) Reporting work injuries:

(a) Employees who are injured on the job, or whose injuries are directly related to the performance of job duties, should report all injuries to their supervisors immediately, regardless of how minor the injury may be. If medical care is needed immediately, supervisors should assist their employees in getting the necessary medical attention promptly, after which the full details of the injury are to be reported to the Personnel Officer so that payment of medical and other benefits provided by law can be initiated in a timely fashion if circumstances warrant.

(b) Should an employee experience a disabling work injury, the nature of which necessitates an absence from work, the Personnel Office should provide the injured employee with information concerning his or her lawful benefit. Employees having questions concerning the payment of workers' compensation benefits are encouraged to contact the Personnel Office.

D. Any member of the Planning Board who fails to attend three (3) or more meetings of the board in any calendar year shall be subject to removal from the Planning Board by resolution of the Town Board as provided by Town Law § 271(9). **[Adopted 5-14-2007 as L.L. No. 1 of 2007; REPEALED BY LOCAL LAW 7 OF 2013 – SEE CHAPTER 191-10; 195-19; 195-20]**

§ 37-6. Types and hours of employment.

A. Types of employees:

(1) Probationary employees: New, rehired or promoted employees who serve a prescribed period of close supervision and evaluation in order to assess their ability and adaptation. Probationary employment may be terminated at the will and discretion of the town without advance notice, or by the employee.

(2) Regular full-time employees: Employees who regularly work a minimum of forty (40) hours per week on a continuous basis following satisfactory completion of a probationary period. Clerical employees who regularly work a minimum of thirty-five (35) hours will have an hour for lunch.

(3) Regular part-time employees: Employee will work up to twenty (20) hours. **[Amended 5-2-1994]**

(4) Temporary employees: Employees holding jobs of limited or specified duration arising out of special projects, position vacancy pending appointment, the absence of position incumbent, abnormal workloads, emergencies or other reasons established by the town. Temporary employees may work either full or part-time work schedules, but will not be eligible to receive town-sponsored benefits, accrue any form of service credit, or use the administrative review procedure to file formal grievances except in matters pertaining to alleged discrimination.

(5) Nonexempt employees: Employees covered by overtime pay and other distinctive provisions of the Fair Labor Standards Act or applicable state laws. Such employees are entitled to overtime pay for work required to be performed by the town over forty (40) hours per week.

(6) Exempt employees:

(a) Employees classified by the town as exempt are ineligible for overtime pay and other employment conditions as provided for in the Fair Labor Standard Act or applicable state laws. Generally, such employees are those occupying executive, administrative or professional positions.

(b) As all employees are hired conditionally on the basis of continuing fitness or need, these status categories or anything contained in these policies and procedures do not guarantee employment for any specified length of time. Rather, employment is at the mutual consent of the employee and town, and can be terminated at will by the employee or town.

[1] Workday: for full-time positions, shall be eight (8) hours, excepting unpaid meal periods; for full-time office personnel, is seven (7) hours, excepting unpaid meal periods. Office hours are 9:00 a.m. to 5:00 p.m.

[2] Workweek: for full-time positions, will consist of forty (40) hours between 12:01 a.m. (Monday) and 12:00 midnight (Sunday). For full-time office personnel is thirty-five (35) hours.

[3] Work schedules: will be established for each employee by supervisory personnel who may change such schedules based on the needs and requirements of work unit operations.

(7) Part-time/full-time intermediate: Employees will work from twenty-one (21) hours to thirty-four (34) hours. In this category, the employee will be offered an individual health plan. This category will receive no sick or personal time. The regular workweek schedule will be used to determine the amount of vacation for full-time and intermediate status employees. [Added 5-2-1994]

B. Alternative policy: general hours of work.

(1) For full-time nonexempt employees, the regular workweek will consist of eight (8) hours per day, five (5) days per week. Most employees will be assigned to a work schedule of 9:00 a.m. to 5:00 p.m., Monday through Friday, excluding the non-paid lunch period. However, the town can assign employees to other days and hours within the workweek that begins at 12:01 a.m. Monday and ends at 12:00 midnight the following Sunday.

(2) Other work shifts, days, hours and periods can be established and modified by the town within the limits prescribed by law, based on operating conditions and requirements of the town. With approval of the department head and the Supervisor and/or Board, supervisors may grant employees the opportunity to work flexible work schedules so long as such a schedule does not diminish operational effectiveness or create an overtime liability that would not otherwise occur.

C. Attendance.

(1) Consistent attendance and punctuality are considered imperative ingredients in the town's business operations, and therefore an integral part of each employee's performance standards based on objective measurements. Poor, uncertain, or irregular attendance produces disruptive results for town operations, lowers overall productivity and continuity of work and often is burdensome to other employees.

(2) Employees are expected and required to report to their designated work locations at the prescribed time and manner that work activity is to commence. Tardiness, unexcused absence, or failure to report as

required may result in disciplinary action. In the event that an employee cannot report to work as scheduled, the employee must so notify supervisory personnel at least one (1) hour prior to scheduled reporting time, or be prepared to provide evidence of extenuating circumstances. In all cases of an employee's absence or tardiness, the employee shall provide the supervisory personnel with a truthful reason for the absence and, if applicable, the probable duration of absence. If circumstances render the absence duration speculative or unknown, the absent employee will be required to call supervisory personnel daily to report the status of the absence.

(3) Excessive absenteeism, regardless of reason(s), which renders an employee insufficiently available for work will be evaluated on a case-by- case basis to determine the merits of correctional retention or termination.

D. Alternative policy: attendance. Employees are expected and required to be in attendance, prepared to commence work activities, at designated work locations, days and assigned hours. Employees are also expected to remain at work for the entire work period, excluding rest and meal period. Late arrival, early departure and other personal absences are disruptive and should be avoided. Where employees are found to abuse absence time from scheduled work, the town may find it necessary to attempt correction of the situation by counseling, disciplinary measures or termination. Any employee on an unauthorized absence for more than three (3) scheduled workdays without acceptable notification to the town will be deemed to have abandoned the position and will be automatically terminated. In such cases, the department head is to so notify the Supervisor, who will handle related personnel processing.

E. Unauthorized absence.

(1) An employee who is absent from his or her assigned work location or schedule without official leave approval from supervisory personnel for three (3) or more days shall be considered absent without authorized leave. In such cases, the town shall regard the job as abandoned and the employee automatically terminated, unless the employee can provide the town with acceptable and verifiable evidence of extenuating circumstances.

(2) Employees who are absent without notice or authorization for less than three (3) days, and who subsequently report to work, shall provide a detailed written reason for such absence and, regardless of stated reasons, may be subject to disciplinary action including termination.

(3) Unauthorized leave or unexcused absence will not be compensated in any form by the town, including towns-sponsored employment benefits.

F. Overtime, callback and emergency work hours. As business or specific operational needs of the town dictate, it may become periodically necessary for employees to be available for work beyond their daily or weekly work schedule, or to return to work after departing the town premises, following completion of their normal work schedule, prior to the next scheduled workday may be treated as overtime for the purpose of nonexempt employee pay calculations, depending on the number of actual hours worked during the applicable workweek.

G. Work schedule exchanges.

(1) The exchanging of workdays is generally discouraged because of its inherent disruptive effect on record keeping and the continuity of work progress. However, under circumstances where an employee can demonstrate a legitimate reason for exchanging a work schedule with another agreeable employee, and where affected supervisory personnel approve of the exchange, such exchanges may be authorized on a limited basis. Under no circumstances will exchange work schedules be authorized if the exchange is likely to result in a disruptive or interference of the work unit operations, or in either employee's working overtime.

(2) Employees wishing to have a work schedule exchange considered by supervisory personnel should submit a written request stating the dates and times of the exchange, the exchange employees involved, the reason(s) for the exchange, and the date and signature of both employees. Such a written request must be submitted to affected supervisory personnel not later than three (3) workdays before the requested exchange, whereupon supervisory personnel will respond with approval or disapproval in a timely manner. Should the request be disapproved, supervisors should note their reason(s) on the employee's written request and retain a file copy.

H. Meal and rest periods.

(1) In accordance with applicable law, nonexempt employees are entitled and encouraged to take meal and rest periods at times and under conditions prescribed by supervisory personnel. It is the intent of this policy to provide opportunities for employees to meet their dietary and health needs, as well as to rest and relax periodically from assigned work tasks.

(2) Non-compensable meal periods of at least thirty (30) minutes are provided for all full-time nonexempt employees and should be taken not more than five (5) hours after the start of the employee's workday. Employees are encouraged not to consume food at their work stations, except under special conditions approved by their supervisors, and therefore be relieved of duty entirely during the meal period to leave the town's premises if so desired. However, under certain circumstances where it is in the best interest of the town, employees may be required to consume a meal while actively engaged at work at their duty station, whereupon the employees shall be paid for the thirty-minute meal period. Employees are responsible for recording or reporting the beginning and the end of each meal period and should be prepared to resume work promptly after the conclusion to the meal period.

(3) Nonexempt employees will also be provided fifteen-minute rest periods during each continuous four-hour work period. Full-time employees may take two (2) such rest periods; one (1) during the first half of their work schedule, and the other during the second half of their work schedule. Part-time employees working on a schedule of three and one-half (3 1/2) hours or less per day are not required by law to be provided with a rest period. Rest periods may not be combined with or added to an employee's meal period unless special conditions warrant the supervisor's approval.

I. Alternative Policy: meal and rest periods. Nonexempt employees will have at least a thirty-minute unpaid meal period and two (2) fifteen-minute paid rest periods assigned by supervisory personnel. During meal and rest periods, employees are to be relieved of their job duties and permitted to leave their work locations.

§ 37-7. Discharge and discipline.

A. Discharge. Employees shall be subject to immediate dismissal for any of the following actions:

(1) Theft.

(2) The use of alcohol or any other debilitating substance during hours of employment.

(3) Insubordination.

(4) Having been found guilty of a felonious act in court of law.

B. Progressive discipline. The town shall adopt the following policy of progressive discipline for cases unrelated to the above-outlined incidents:

(1) The immediate department supervisor shall bring to the attention of any employee any act which, if uncorrected, may result in a disciplinary action or even discharge. The first warning shall be in writing. Advice and assistance shall be offered by the immediate supervisor or the Superintendent for the employee to correct such action.

(2) Should, after a reasonable time thereafter, such action be uncorrected or repeated by the employee, the employee shall be so advised, in writing, by the immediate supervisor.

(3) Following such written warning that such action if uncorrected could lead to discipline or even discharge, the employee may request a meeting. Advice and assistance may then be offered in order for the employee to correct such action.

(4) Should, after a reasonable time thereafter, such action be uncorrected or repeated by the employee, the Town Board or Superintendent of Highways shall take the appropriate action to discipline or discharge such employees. Employees shall be informed of such in writing.

§ 37-8. Seniority.

A. "Seniority" shall mean the full length of continuous employment with the town from the employee's last date of hire.

B. Seniority shall be used, with other criteria, in determining layoffs, promotions, and vacation schedules.

C. The seniority of an employee will be lost if he:

(1) Quits voluntarily.

(2) Is discharged for cause.

(3) Is absent from work for thirty (30) successive days without notice to the town or without providing a reason for absence satisfactory to the town unless failure to give notice is due to circumstances beyond the employee's control.

(4) Engages in other employment during a leave of absence without approval by the town.

§ 37-9. Layoff and recall.

A. When it becomes necessary to reduce the working force, seniority will be observed whenever and wherever practicable, and within grade.

B. When the force is again increased, the men are to be returned to work in the reverse order in which they were laid off.

C. In the event of a recall, the laid-off employees shall be given notice of recall by telegram or registered mail, sent to the last known address. Within three (3) calendar days after tender of delivery, or attempted delivery, employee must notify the employer by telegram, registered or certified mail of his intent to return to work and must actually report to work within seven (7) days after tender or attempted delivery of such notice, unless mutually agreed upon to extend the period. If the employee fails to comply with the above provisions, he or she shall be declared a voluntary quit and lose all seniority rights of employment.

§ 37-10. Employee benefits.

A. Health and hospitalization. Group insurance and pensions are offered to you as part of the town's benefit program for employees. A more complete explanation of the health and hospitalization plan will be provided for you when you get your insurance policy. Retirement benefits can be explained to you at the office of the Supervisor. The cost of insurance for you will be paid by the town.

B. Sick days.

(1) Twelve-month employees shall be granted a paid sick day per month as sick leave entitlement for personal illness. Employees who have not completed their first full year of service shall earn and accrue sick leave at the rate of one (1) day per month, after the first three (3) months of employment. **[Amended 12-2-1991; 5-18-1992]**

(2) All other employees shall be entitled to their full entitlement of days at the beginning of the fiscal year. Unused sick leave days shall accrue to a maximum of one hundred fifty (150) days. A doctor's excuse may be required for days used in excess of three (3) days for any given illness. All department supervisors are to notify the Supervisor's office when an employee has not reported to work due to illness.

(3) Reimbursing employees for sick days at retirement. At retirement, the town will buy back the sick days at seventy percent (70%) of the employee's daily salary up to one hundred (100) days. **[Amended 2-24-1994]**

C. Personal Days.

(1) Employees shall be granted two (2) days with pay for conducting personal business that cannot be conducted at any other time. Personal days shall not be granted for recreation, shopping trips or as a substitution for sick days. Personal leaves shall not be granted for days immediately prior or subsequent to a holiday or vacation period, except with the expressed approval of the department supervisor.

(2) Except in genuine emergencies, personal leave shall be granted only if the employee notifies the department supervisor, in writing, at

least three (3) working days in advance of the day requested. In a case of a genuine emergency, personal leave shall be granted only if the employee notifies their department supervisor as soon as possible after learning of the need for personal leave and specifies the nature of the emergency.

(3) It should be understood that employees who falsify information shall be subjected to disciplinary action and possible termination of employment.

D. Vacation.

(1) The number of working days of vacation earned shall be as follows:

AFTER FULL YEARS OF SERVICE	WORKING DAYS OF VACATION EARNED
1	5
2	10
8	15
15	20

Vacation lists will be posted by April 1 of any year.

[**NOTE**: The term "full years of service" as used above shall mean at the employee's anniversary date of hire.]

(2) Employees shall request the use of vacation days at least two (2) weeks in advance. Such requests shall be made to the department supervisor or a designee. The use of such days shall be determined by seniority, where more than one (1) request has been made for the same time period, and the needs of the department at the time such vacation is requested.

(3) Employees may accumulate vacation and carry over from year to year vacation days up to a maximum of thirty (30) days.

E. Holidays.

(1) The following holidays are observed by all town employees.

New Year's Day	Martin Luther King Day
Presidents Day	Good Friday
Memorial Day	Independence Day
Labor Day	Columbus Day
Election Day	Veteran's Day
Thanksgiving Day	Friday after Thanksgiving
Christmas Day	Day

(2) Should a holiday occur during an employee's scheduled vacation, the employee may either receive a paid holiday absence for the day or extend the vacation period by the number of holidays occurring during the scheduled vacation period.

(3) To be eligible for holiday pay, an employee must work the last regularly scheduled workday preceding the holiday and the first regularly scheduled work day following the holiday, unless the absence is approved by the supervisor, or the employee is on a paid-time-off status.

F. Bereavement leave.

(1) Employees shall be granted three (3) days of bereavement leave (noncumulative) for death in the employee's immediate family and one (1) day (noncumulative) for death in the employee's non-immediate family, provided that such days are taken on the date of death and/or three (3) days immediately following the date of death. As used herein, "immediate family" refers to brother, sister, spouse, parent, grandparent, child or any member of the employee's household for whom the employee is responsible. **[Amended 5-2-1994]**

(2) The employer may request the employee to submit proof of death for the purpose of payment under this provision.

G. Jury duty. An employee required to serve on a jury shall be paid his or her regular Rate of pay for the period required less compensation received for such jury duty. However, in order to be eligible for such payment, the employee shall promptly notify the department supervisor of his or her call to jury service.

§ 37-11. Employee personnel records.

A. Employee files shall contain routine financial information and matters which relate to the job performance of the employee.

B. Employees shall have the right to review the contents of their files upon reasonable notice [normally three (3) working days] as written request to the department supervisor.

C. Upon written request, employees will be furnished with a copy of materials contained in their folders, excluding confidential materials pertaining to hiring and promotion.

§ 37-12. Salaries.

A. Payment. Employees shall normally be paid on a biweekly basis. **[Amended 1-1- 1994]**

B. Increases.

(1) The maximum percentage to be allowed for employees' increases shall be determined by the Town Board at the annual meeting.

(2) Increases over and above the guaranteed minimum, as specified above, shall be based on merit. Merit shall be determined by a yearly evaluation of the employee's total performance , including but not limited to the work record, absentee record, periodic evaluations as may be performed by the department supervisor or a designee.

C. Overtime.

(1) Employees shall be paid at the rate of time-and-one-half his or her normal hourly rate for services performed in excess of forty (40) hours.

(2) For employees who work a thirty-five-hour week, compensatory time off shall be given for hours worked in excess of thirty-five (35) hours up to forty (40) hours. Time-and-one-half pay shall be given in excess of forty (40) hours.

(3) Holidays. Work performed on any holiday designated by the Town Board shall be paid at the rate of time-and-one-half the employee's normal hourly rate for all time worked.

(4) Exempt employees are excluded from compensation for overtime hours worked.

§ 37-13. Grievance Procedure.

A. It is the policy of the Town of Ulster to treat employees in a fair and impartial manner. The town is firmly committed to the belief that undisclosed problems will remain unresolved and eventually lead to a decay of work relationships, dissatisfaction in working conditions and a decline in operational efficiency. The town has therefore established the administrative review system that follows, the intent of which is to solve problems as quickly, fairly and informally as possible, and it should not be interpreted by any person as anything more than a method of solving problems before they reach damaging proportions.

B. This policy will be applicable only to regular non-supervisory/non-management employees, as management and supervisory personnel have a more direct means of resolving matters related to their employment.

C. Employees who seek resolution of employment situations by using established procedures are assured that they will not be subjected to discrimination or retaliation, or be penalized in any way for their use of these procedures.

D. Any employees who feel they have a grievance should try to resolve it first through their supervisor. If you get what you consider an unsatisfactory adjustment or answer from your supervisor, you are urged to go to your department supervisor and again try to resolve the grievance.

E. If after speaking to the department supervisor you are still not satisfied, you are urged to speak to the Town Supervisor about the matter. Your supervisors are aware of this procedure and support it.

§ 37-14. Disciplinary actions

It is important that employees treat one another with consideration and respect. We want this to be a good place to work. To avoid any misunderstanding about satisfactory conduct, we have adopted the following rules and disciplinary procedures:

	OCCURENCE				
Employees will be subject to disciplinary action for any of the following offenses:	**First**	**Second**	**Third**	**Fourth**	**Fifth**
Engaging in horseplay, running, scuffling or throwing things	Written warning	Written warning	Day layoff	Week layoff	Discharge
Failure to observe parking and traffic regulations on company property	Written warning	Written warning	Day layoff	Week layoff	
Being tardy or absent without written authorization warning	Written warning	Day layoff	Week layoff	Discharge	
Contributing to unsanitary conditions or poor housekeeping	Written warning	Written warning	Week layoff	Discharge	
Operating or using machines, tools, or equipment to which the employee has not been assigned, or performing other than assigned work	Written warning	Written warning	Week layoff	Discharge	
Posting, altering, or removing any matter on bulletin boards or town property unless specifically authorized	Written warning	Day layoff	Week layoff	Discharge	
Gambling on town premises	Written warning	Written warning	Week layoff	Discharge	
Violating a safety rule or safety practice warning	Written warning	Written warning	Week layoff	Discharge	
Use of elevator, fire escapes or lunchroom during working hours without specific permission	Written warning	Written warning	Week layoff	Discharge	
Use or possession of another employee's tools without his consent	Written warning	Week layoff	Discharge		
Carelessness affecting personal safety	Written warning	Week layoff	Discharge		
Threatening, intimidating, coercing or interfering with fellow employees	Written warning	Day layoff	Discharge		

	OCCURENCE				
Employees will be subject to disciplinary action for any of the following offenses:	**First**	**Second**	**Third**	**Fourth**	**Fifth**
Vending, soliciting or collecting contributions for any purpose unless authorized by management	Written warning	Week layoff	Discharge		
Distributing written or printed matter of any description during working time	Written warning	Week layoff	Discharge		
Making false, vicious, or malicious statements about any employee, the town or its products	Written warning	Day layoff	Discharge		
Leaving during the work shift without permission	Day layoff	Week layoff	Discharge		
Failure to punch out when leaving the plant for personal reasons during the workday	Written warning	Week layoff	Discharge		
Failure to follow town job instructions, verbal or written	Written warning	Day layoff	Discharge		
Misusing, destroying or damaging any town property	Written warning	Discharge			
Deliberately restricting output	Written warning	Discharge			
Provoking or instigating a fight or fighting during working hours or on town property	Week layoff	Discharge			
Reporting for work under the influence of alcohol	Discharge				
Sleeping during working hours	Week layoff				
Insubordination	Week layoff	Discharge			
Deliberately falsifying town records	Discharge				
Theft of any town, government or other employee property	Discharge				
Knowingly punching another employee's timecard, having one's own charge time card punched by another or altering a time card for any reason whatsoever	Discharge				

	OCCURENCE				
Employees will be subject to disciplinary action for any of the following offenses:	**First**	**Second**	**Third**	**Fourth**	**Fifth**
Possessing firearms or explosives on Town Property without authorization	Discharge				
Engaging in sabotage or espionage	Discharge				
Immoral or indecent conduct	Discharge				
Making any preparation whatsoever for leaving the plant prior to the allowed cleanup time at the end of a shift unless authorized by the shift supervisor	Verbal warning	Written warning	Day layoff	Week layoff	Discharge

[NOTE: The accumulation by any employee of any five (5) written notices or disciplinary penalties during any twelve-month period is cause for discharge]

ARTICLE III
Drug and Alcohol Policy
[Adopted 5-15-1995 by resolution]

§ 37-15. General policy.

It is the policy of the Town of Ulster in compliance with 41 U.S.C. § 702 et seq., to maintain a drug and alcohol free workplace. The Town of Ulster regards the unlawful manufacture, distribution, possession or use of a controlled dangerous substance by an employee as a breach of good conduct, and as such, it is expressly prohibited in the town workplace. In addition, the Town of Ulster considers the consumption of alcohol or being under the influence of alcohol in the town workplace by an employee to be a breach of good conduct and likewise prohibited. Employees found to be in violation of the provisions of the policy shall be subject to disciplinary action.

§ 37-16. Definitions.

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

ALCOHOL - Any fluid having an alcohol content of more than five-tenths percent.(0.5%), including but not limited to a beer, ale, wine and distilled liquors.

DRUGS - Mind and behavior substances as defined by the Controlled Dangerous Substances Act, 21 U.S.C. § 81 (Schedules I-V).

SUPERVISOR - In the case of department heads, it shall be the Town Supervisor; in the case of all other town employees, it shall be the department head or his/her designee.

UNDER THE INFLUENCE - An employee shall be deemed to be "under the influence" if that employee demonstrates a material deterioration or diminution of mental faculties or physical capabilities, whether due to the consumption or use of alcohol, intoxicating liquor, narcotic, hallucinogenic or habit-producing drugs. In addition, any employee whose blood alcohol concentration is found to be five-tenths percent (0.5%) or more by weight of alcohol in the employee's blood shall be deemed to be “under the influence.”

WORKPLACE - Any site for the performance of work by an employee on behalf of the Town of Ulster, including but not limited to town facilities, the employee's job site or any location at which the employee is on duty in his or capacity as a town employee or representative.

§ 37-17. Restrictions.

It shall be against town policy for an employee to:

A. Possess or consume alcohol or drugs as defined above at any workplace. This shall not preclude moderate consumption of alcoholic beverages at an authorized town function so long as that consumption does not affect the employee's performance nor raise the employee's blood level to five-tenths percent (0.5%) or more by weight.

B. Consume alcohol or drugs during the employee's regular or special workday at any location, whether or not the employee is on an authorized break.

C. Be under the influence of either alcohol or drugs as defined in § 37-16 above during working hours.

D. Drive or operate a town motor vehicle/equipment or any vehicle/equipment while under the influence of either alcohol or drugs as defined in § 37-16 above.

§ 37-18. Disciplinary action.

Employees who do not comply with this policy are subject to severe disciplinary action which may include suspension, demotion, fine or dismissal.

§ 37-19. Prescription drugs.

A. Nothing set forth in this policy shall prohibit the possession or consumption of drugs prescribed by a licensed physician or other professional in the health field, when such use does not interfere with the employee's job performance, and when the possession or consumption is in accordance with the prescription and physician's instructions.

B. If the employee's supervisor has a reasonable suspicion based upon observed deterioration or diminution of an employee's mental or physical capabilities that the use or abuse of prescription drugs interferes with the employee's performance of his other normal job duties and responsibilities, then the supervisor is authorized to take appropriate measures to protect the employee and any other persons with whom the employee may likely come into contact.

These measures may include a temporary suspension of the employee pending a further investigation into the employee's ability to perform his or her regular duties.

§ 37-20. Employee disclosure; convictions; rehabilitation program.

A. Prospective employees. Every prospective new employee shall be required to disclose his or her criminal arrest history and his or her driving record to the extent that said record may include a conviction or arrest for driving under the influence of alcohol or a controlled dangerous substance. Each prospective employee shall provide an appropriate release authorizing the Town of Ulster to conduct such investigation as the town may deem necessary to verify the employee's criminal and driving history.

B. Subsequent convictions.

(1) As a condition of employment, all employees are required to notify their supervisor, and all supervisors are required to notify the appropriate department chairman of any conviction of a controlled dangerous substance. This notice shall be provided within five (5) days of the date of the conviction.

(2) In the event that the employee providing notice is working on a program which is funded by grant moneys, then the Town Administrator or the Town of Ulster shall immediately notify the appropriate funding agency within ten (10) days of receiving notice of an employee's conviction of the nature of said conviction and the employee's name.

(3) Within thirty (30) days of receiving a notice of conviction from an employee, appropriate personnel action against the employee may be implemented. The Town of Ulster may require the employee, at his or her own expense or at the expense of his or her insurance carrier, to participate and satisfactorily complete a drug and alcohol abuse assistance or rehabilitation program approved for such purpose by a federal, state or local health, law enforcement or other appropriate agency. This shall not restrict the Town of Ulster from administering discipline.

POLICE DEPARTMENT DISCIPLINARY PROCEDURES, TOWN OF ULSTER

Chapter 39

§ 39-1. Title.

§ 39-2. Legislative Intent and Purpose.

§ 39-3. Investigatory Procedures.

§ 39-4. Substantiated Complaints.

§ 39-5. Disciplinary Interview. [Repealed 7-6-2015]

§ 39-6. Hearing; determination of substantiated complaints.

§ 39-7. Recommended Decision and Final Determination.

§ 39-8. Appeal.

§ 39-9. Due process; representation.

§ 39-10. Severability.

§ 39-11. Effective date.

[History: Adopted by the Town Board of the Town of Ulster 05-16-2013 by L.L. No. 2-2013. Section 39-5 repealed and §39-6 adopted by the Town Board of the Town of Ulster 6-18-2015 as L.L. No. 1-2015.]

GENERAL REFERENCES

Defense and indemnification – see Ch. 17.
Code of Ethics – See Ch. 22.
Personnel Policies - See Ch. 37.

§ 39-1. Title.

This chapter shall be known and cited as the "Town of Ulster Police Department Disciplinary Procedures".

§ 39-2. Legislative Intent and Purpose.

Pursuant to New York State Town Law §§ 154 and 155, the Town Board of the Town Ulster is empowered to make, adopt and enforce rules, orders and regulations for the examination, hearing, investigation and determination of charges made or preferred against any member or members of the Town of Ulster Police Department and of the members thereof. This Local Law is enacted in order to comply with and conform to the provisions of Sections 154 and 155 of the Town Law, the public policy of the State of New York, and in accordance with such as interpreted by the New York State Court of Appeals. The Town Board of the Town of Ulster hereby recognizes that having a local law in accordance with these controlling legal authorities, as detailed herein, promotes understanding, efficiency, and cost-effectiveness in the administration of police disciplinary matters.

§ 39-3. Investigatory Procedures.

The investigation of allegations of misconduct or incompetence against any member of the Town of Ulster Police Department shall be investigated in accordance with the then-current procedures in effect as detailed in the Town of Ulster Police Department Rules and Regulations.

§ 39-4. Substantiated Complaints.

The Chief of Police, or the Chief's designee shall, upon a determination that allegations of misconduct or incompetence against a member of the Town of Ulster Police Department are substantiated, prepare and serve a notice of discipline in accordance with the then-current Town of Ulster Police Department Rules and Regulations and the applicable provisions of New York State Town Law.

§ 39-5. Disciplinary Interview. [7-6-2015 Repealed]

Within 14 days of the service of a notice of discipline upon a member of the Town of Ulster Police Department, the Chief of Police, or the Chief's designee shall conduct a meeting with the member to discuss the charges alleged in the notice, along with a proposed resolution of such charges. Following the disciplinary interview, should the Chief determine that the imposition of a disciplinary penalty is required, the Chief shall issue and serve a written Chief's decision upon the member informing such member of the applicable determination of discipline. The Chief

shall provide a copy of the Chief's decision to the Town Board. Upon the issuance of the Chief's decision, the Chief shall refer the notice of discipline to the Town Board for a determination of the charges.

§ 39-6. Hearing; determination of substantiated complaints.

Within 8 days of the issuance of a Notice of Discipline that the imposition of a disciplinary penalty is required to the Town of Ulster Police Department member, the member may submit an answer to the disciplinary charges by serving a written answer on the Town Supervisor. Within 30 days of the Town Supervisor's receipt of such written answer, the Town Board shall do one of the following: (a) Designate a member of the Town of Ulster Town Board to sit as a trier of fact to determine the charges filed against the member of the Town of Ulster Police Department; or (b) Select a hearing officer to sit as a trier of fact to determine the charge filed against the member of the Town of Ulster Police Department. Such designation shall be confirmed in writing by the Town Supervisor or designee. [7-6-2015, Replaced by LL #1 of 2015]

§ 39-7. Recommended Decision and Final Determination.

The Town Board member or hearing officer selected to hear and determine the charges shall conduct a hearing and shall issue a written report containing recommended findings of fact, along with a recommended disciplinary penalty to the Town Board. Such decision shall be reviewed by the Town Board. Following such review, the Town Board may accept or reject, in whole or in part, the recommended findings of fact and/or the recommended disciplinary penalty, if applicable. The Town Board shall make a final determination of the charges alleged in the notice of discipline and, where applicable, shall impose any penalty consistent with the provisions of the New York State Town Law, up to and including termination.

§ 39-8. Appeal.

In accordance with New York State Town Law § 155, the determination of the Town Board shall be subject to review by the Supreme Court in the judicial district in which the Town is located in the manner provided for by Article 78 of the New York State Civil Practice Law and Rules, provided that such proceeding shall be commenced within thirty (30) days of the date of the Town Board's determination.

§ 39-9. Due process; representation.

Any member of the Town of Ulster Police Department having been served with a notice of discipline may have a representative or legal counsel represent him/her at any or all stages of the proceedings provided for herein. A hearing of the charges alleged in the notice of discipline shall be held in accordance with the

provisions of New York State Town Law § 155, and shall be transcribed by a stenographer. A copy of the stenographic minutes of such proceedings shall be provided to the respondent Town of Ulster Police Department member free of charge.

§ 39-10. Severability.

In the event that any article, paragraph, sentence, clause or phrase of this chapter is held invalid or unconstitutional by any court of competent jurisdiction, the invalid or unconstitutional portions of the chapter shall be deemed severable from the chapter and shall in no way affect the validity of the rest of the chapter. The remainder of the Town of Ulster Code shall remain unchanged.

§ 39-11. Effective date.

This Law shall take effect in the manner provided for in the New York State Municipal Home Rule Law.

Chapter 41

§ 41-1. Authority and Purpose.

§ 41-2. Award Based on Best Value.

§ 41-3. Applicability.

§ 41-4. Standards for Best Value.

§ 41-5. Documentation.

§ 41-6. Procurement policy superseded where inconsistent.

§ 41-7. Severability.

§ 41-8. Effective Date.

[HISTORY: Adopted by the Town Board of the Town of Ulster 6-20-2013.]

§ 41-1. Authority and Purpose.

New York General Municipal Law § 103(1) allows the Town to authorize, by local law, the award of certain purchase contracts (including contracts for services) subject to competitive bidding under General Municipal Law § 103 on the basis of "best value" as defined in § 163 of the New York State Finance Law. The "best value" option may be used, for example, if it is more cost efficient over time to award the good or service to other than the lowest responsible bidder or offerer if factors such as lower cost of maintenance, durability, higher quality and longer product life can be documented.

§ 41-2. Award Based on Best Value.

The Town Board may award purchase contracts, including contracts for services, on the basis of "best value," as that term is defined in New York State Finance Law § 163. All awards based on best value shall require Town Board approval.

§ 41-3. Applicability.

The provisions of this chapter apply to Town purchase contracts, including contracts for services, involving an expenditure of more than $20,000, but excluding purchase contracts

necessary for the completion of a public works contract pursuant to Article 8 of the New York Labor Law and any other contract that may in the future be excluded under state law from the best value option. If the dollar thresholds of New York General Municipal Law § 103 are increased or decreased in the future by the State Legislature, the dollar thresholds set forth herein shall be deemed simultaneously amended to match the new General Municipal Law thresholds.

§ 41-4. Standards for Best Value.

Goods and services procured and awarded on the basis of best value are those that the Town Board determines optimize quality, cost and efficiency, among responsive and responsible bidder or offerers. Where possible, the determination shall be based on an objective and quantifiable analysis of clearly described and documented criteria as they apply to the rating of bids or offers. The criteria may include, but shall not be limited to, any or all of the following: cost of maintenance; proximity to the end user if distance or response time is a significant term; durability; availability of replacement parts or maintenance contractors; longer product life; product performance criteria; and quality of craftsmanship.

§ 41-5. Documentation.

Whenever any contract is awarded on the basis of best value instead of lowest responsible bidder, the basis for determining best value shall be thoroughly and accurately documented.

§ 41-6. Procurement policy superseded where inconsistent.

Any inconsistent provision of the Town's procurement policy, as adopted prior to the effective date of this chapter by resolution of the Town Board, or as amended thereafter, shall be deemed superseded by the provisions of this chapter.

§ 41-7. Severability.

If any clause, sentence, paragraph, section, article or part of this Local Law shall be adjudicated in 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, and such invalidity shall not be deemed to affect the remaining portions thereof.

§ 41-8. Effective Date.

This Local Law shall be effective as provided by law, upon filing and acceptance by the New York State Secretary of State.

Chapter 43 TOWN

BOARD

§ 43-1. Membership; terms of office.

[HISTORY: Adopted by the Town Board of the Town of Ulster during codification; see Ch. 1, General Provisions, Art. II. The Term of the Supervisor amended by the Town Board of the Town of Ulster on 07-06-2017 as L.L. No.1-2017 and by the Ulster County Board of Elections, as canvassers of the County of Ulster, having duly determined the votes cast at the General Election held in such County on 11-07-2017 pursuant to the provisions of Article 9 of the New York State Election Law.]

§ 43-1. Membership; terms of office.

The Town Board consists of the Supervisor and four (4) Town Councilmen. The term of office of each Councilman shall be four (4) years, and the Supervisor four (4) years. (This Section derives from the Town Board resolution adopted 5-29-1975, pursuant to § 60-a of the Town Law; and amendment made 07-06-2017 by the enactment of the Town Board of the Town of Ulster and 11-07-2017 with approval of electors of the Town of Ulster – approved at the General Election held within the Town of Ulster by the affirmative vote of a majority of the qualified electors of the Town of Ulster voting upon the proposition -- extending the term of the office for the Town Supervisor from two years to four years, commencing on January 1, 2018].

PART II

GENERAL LEGISLATION

Chapter 53

§ 53-1. Authorization to appoint administrator.

§ 53-2. Town use of abandoned vehicles; redemption by owner.

§ 53-3. Removal of vehicles during emergencies.

§ 53-4. Penalties for offenses.

[HISTORY. Adopted by the Town Board of the Town of Ulster 9-19-2001 as L.L. No. 2-2001. Law was replaced by L.L. No. 6 -2013 on 10-17-2013.]

§ 53-1. Authorization to appoint administrator.

The Town Board hereby appoints the Chief of the Town of Ulster Police Department to administer § 1224 of the New York State Vehicle and Traffic Law, as amended, with respect to the collection, storage and disposition of abandoned vehicles.

§ 53-2. Town use of abandoned vehicles; redemption by owner.

A. Pursuant to § 1224, Subdivision 6(a), of the Vehicle and Traffic Law, as such section may be from time to time be amended, the Town Board may convert to Town use, in any calendar year, up to 1% of its unclaimed vehicles having a wholesale value in excess of $750 or two such vehicles, whichever is greater.

B. The owner or person in charge of an abandoned vehicle may redeem the same upon payment of all removal and storage fees, as such fees may be set from time to time by Town Board local law to cover the costs of the Town.

§ 53-3. Removal of vehicles during emergencies.

A. When any vehicle is parked or abandoned on any highway within the limits of the Town during a snowstorm, flood, fire or other public emergency which affects that portion of the public highway upon which said vehicle is parked or abandoned, said vehicle may be removed by the Chief of the Town of Ulster Police Department or his designee.

B. When any vehicle is found unattended on any highway within the limits of this Town where said vehicle constitutes an obstruction to traffic, said vehicle may be removed by the Chief of the Town of Ulster Police Department or his designee.

C. After removal of any vehicle as provided in this section, the Chief of the Town of Ulster Police Department or his designee may store such vehicle in a suitable place at the expense of the owner. Such owner or person in charge of the vehicle may redeem the same upon payment of all removal and storage fees, as may be set from time to time by the Town of Ulster Town Board to cover costs of the Town.

D. The Chief of the Town of Ulster Police Department or his designee, shall report the removal and the disposition of any vehicle removed as provided in this section to the Town of Ulster Police Department and request that the Police Department ascertain the owner of the vehicle or person having custody of the same and to notify him of the removal and disposition of such vehicle and of the amount which shall be required to redeem the same.

§ 53-4. Penalties for offenses.

A violation of the foregoing Chapter shall be a violation punishable by a fine of not less than $100 nor more than $500.

Burglar Alarm and Fire Alarm

Chapter 54

§ 54-1. Title.
§ 54-2. Administrative Officials.

Article I - Burglar Alarms

§ 54-3. Legislative Intent and Purpose.
§ 54-4. Definitions.
§ 54-5. Permit Required.
§ 54-6. Application for Permit.
§ 54-7. Denial, Suspension, or Revocation of Permit.
§ 54-8. Existing Systems.
§54- 9. Change of Location.

ARTICLE II - FIRE ALARMS

§ 54-10. Definitions.
§ 54-11. General Provisions.
§ 54-12. Registration of Fire Alarm Systems.
§ 54-13. System Certification.
§ 54-14. Inspection, Testing and Maintenance.
§ 54-15. Denial, Suspension, or Revocation of Permit.
§ 54-16. Existing Systems.

Article III - Enforcement

§ 54-17. Enforcement Procedure.
§ 54-18. Fees.
§ 54-19. Records.

Article IV - Building Construction

§ 54-20. Fire Alarm Systems in Building Construction.
§ 54-21. Severability.
§ 54-22. When Effective.

[Adopted by the Ulster Town Board 5-19-2011 as L.L. No. 3-2011]

§ 54-1. Title.

This chapter shall be known as the "Burglar Alarm and Fire Alarm Local Law of the Town of Ulster."

§ 54-2. Administrative officials.

The Town of Ulster Building Department shall administer this chapter.

ARTICLE I - BURGLAR ALARMS

54-3. Legislative Intent and Purpose.

The Town of Ulster Police Department has recorded many false burglar, hold-up, or emergency alarms emanating from automated devices. These signals require that police and other emergency services respond to the false alarm, exposing them to unnecessary hazards and risks, wasting taxpayer funds and depriving other citizens of needed emergency service. This law is intended to regulate alarm systems, thereby reducing the number of false alarms and saving taxpayer funds and protecting other citizens.

§ 54-4. **Definitions.**

The following definitions pertain to this article:

ALARM SYSTEM - Any device which when activated, calls for a police or fire response and (1) transmits a signal to police or fire headquarters, (2) transmits a signal to a person who relays information to police or the fire department or (3) produces an audible or visible signal to which the police or fire department are expected to respond. Excluded from this definition and the scope of this article are devices which are designated to alert or signal only persons within the premises in which the device is installed and devices which are activated by the release of water from a sprinkler system.

PERSON - A natural person, firm, partnership, association or corporation or representative or agent of said entities who is the owner or lessee of an alarm system.

POLICE CHIEF - The Chief of the Police Department of the Town of Ulster, or his designee. **POLICE**

DEPARTMENT OR POLICE - The Police Department of the Town of Ulster

TOWN - The Town of Ulster.

§ 54-5. Permit Required.

No person in the Town of Ulster shall operate, maintain or install an alarm system without first obtaining a permit under this local law. Excluded from the provisions of this local law are any alarm systems installed in a motor vehicle or any device designed to alert the occupants of a building of an emergency condition therein and which does not transmit, directly or indirectly, a signal to police headquarters or to a private central alarm station or produce any audible or visual or telephone signal to which the Police Department, Fire Department and or Ambulance/Medical service is expected to respond.

§ 54-6. Application for Permit.

A. An application for a permit under this law shall be filed with the Town of Ulster Building Department on forms supplied by the Town, together with an application fee of One Hundred ($100.00) dollars made payable to the Town Clerk. Said application shall set forth the following:

(1) Name, address and telephone number of both the installer of the system and the person or business on whose premises the system will be operated, maintained, monitored or installed.

(2) The location of and where on the premises the alarm system is proposed to be installed or has already been installed, prior to the effective date of this law, including postal or street address and directions from main road.

(3) The type of emergency the alarm system is designed to detect.

(4) The name, address and telephone number of at least two (2) persons who can be updated no less than yearly or when a key holder is changed.

(5) The applicant shall agree that if the person to be notified either refuses to come to the premises upon request of the Town Police Department or a local fire department or cannot be reached within a reasonable time by telephone or otherwise, the Town Police Department or a local fire department may, without any liability for any charges as a result of disconnection, or any liability as a result of responding to alarms, do the following: contact the installer to disconnect the system.

B. The Town of Ulster Building Department shall approve such application if it finds that:

(1) The use of the alarm system to transmit a signal, message or warning to the Town Police Department will not interfere with the orderly

transaction of Town business.

(2) The installer of the system maintains an adequate service organization to repair, maintain or otherwise service alarm systems sold or leased by him.

(3) The alarm system meets the following minimum requirements:

(a) The alarm system shall be equipped with an automatic audible signal cut-off device so that the maximum time any alarm shall cause an externally audible signal to be emanated does not exceed fifteen (15) minutes per activation.

(b) The alarm system shall be equipped with a standby power source sufficient to maintain the system in a state of readiness for at least twenty-four (24) hours in the event of a power failure, or comply with NFPA 72 standards, whichever is the longer time period.

C. The Town of Ulster Building Department may impose such other and further reasonable conditions on the granting of said permit as he may deem necessary or proper in carrying out the provisions, legislative intent and purpose of this local law. The Town of Ulster Building Department shall coordinate with the Town of Ulster Police Department in reviewing burglar alarm applications on a regular basis.

D. Permits shall not be transferable from one premise to another or from one applicant to another.

§ 54-7 Denial, Suspension, or Revocation of Permit.

A. The Town of Ulster Building Department may suspend or revoke an alarm permit where six (6) false or nuisance alarms have occurred within a one year period and/or where an applicant does not reasonably comply with any provision of this local law.

B. Any applicant whose application for a permit has been denied, and any person whose permit has been suspended or revoked, may appeal such denial, suspension or revocation in writing to the Town Board of the Town of Ulster within thirty (30) days after such denial, suspension or revocation and may appear before such Town Board in at a time and place to be determined by the Town Board in support of his or its contention that the permit should not have been denied, suspended or revoked. The decision of the Town Board shall be final.

C. Any reactivation of a revoked or suspended alarm permit will be subject to an administrative fee due to the Town of Ulster in the amount of $100.00.

§ 54-8. Existing Systems.

All persons operating, maintaining or monitoring a presently existing alarm system must comply with all provisions of this local law within ninety (90) days after the effective date of this local law. Upon the expiration of this period, said persons shall be in violation of this local law and subject to disconnection and other penalties under this local law. If a person operating, maintaining or monitoring an alarm system on or before the effective date of this local law applies for a permit pursuant to Section 54-6 within ninety (90) days of the effective date then there shall be no application fee due. If a person operating or maintaining an alarm system on or before the effective date applies for a permit after ninety (90) days from the effective date, he or she shall be subject to the application fee.

§54-9. Change of Location.

If the location of Police Headquarters should be changed at any time, the Town shall not be responsible for any expense incurred by the owner or lessee or business licensee or alarm agent for moving alarm systems or re-connecting such systems to the relocated Police Headquarters.

ARTICLE II - FIRE ALARMS

§ 54-10. Definitions.

Refer to National Fire Alarm Code (NFPA 72) Chapters 1-4.

§ 54-11. General Provisions.

A. All fire alarm system installations, modifications, maintenance and/or testing shall comply with the New York State Uniform Fire Prevention and Building Code, most current edition.

B. All fire alarm systems shall be installed to the edition of the National Fire Alarm Code (NFPA 72) that is in effect.

C. All fire alarm system work shall be done by a licensed New York State fire alarm company.

D. All companies proposing to do fire alarm system work shall have a copy of their current New York State fire alarm license on file with the Town Clerk and the Town of Ulster Building Department prior to conducting any alarm work in the Town of Ulster.

E. All companies shall submit, in writing, to the Town of Ulster Building Department, all proposals, including the scope of the work to be performed and all equipment to be used

for review and approval before any work is started. Upon completion of said work the company shall demonstrate and test the system with a representative of the Town of Ulster Building Department present for final approval.

F. All fire controls and peripheral devices shall be of applicable grade and quality in accordance with UL/864 requirements. All initiating devices shall be zoned to a remote annunciator panel for viewing by the occupants and the applicable local fire company. The alarm panel, and an as-built construction document box, shall be easily accessible to the applicable local fire company.

G. All fire suppression and/or sprinkler systems shall report to the new fire controls on separate points. All smoke, heat-detecting and pull stations shall report on separate points. All sprinkler systems shall be monitored by the UL Central Station. All commercial fire alarm systems shall be UL listed, and shall be issued a certificate or other document issued by an organization which has listed the alarm service company that is maintaining the system. This document shall be filed with the Town of Ulster Building Department and shall be renewed annually.

H. Depending on building size, layout, and/or occupancy, the building owner/occupant may opt to install a minimum of one interior fire alarm pull station where not required by the Code.

I. Upon final approval, the company shall prepare and submit a written record of completion as per the National Fire Alarm Code, along with all documents required by Section 907 of the New York State Building Code.

J. Every system shall have a minimum of one interior and one exterior ADA approved horn/strobe alerting device and installed per NFPA 72.

K. All fire alarm systems shall report to a central station that has been listed or approved by an organization through an initial qualifying evaluation and conducts systematic follow- up examinations. The central station must be located in New York State.

L. All fire alarm companies shall supply proof of a twenty-four-hour emergency service department capable of responding to a trouble or alarm within one hour of the reported condition.

M. All fire alarm companies shall maintain a current listing of the building owner, tenant and point of contact. This list shall include the names and phone numbers of key holders who are capable of responding on a seven-day, twenty-four-hour emergency notification. This list shall be updated at least annually and submitted in duplicate for the Town Clerk and the Town of Ulster Building Department.

N. All fire alarm activations shall be treated as an actual alarm, which shall require the central station to immediately notify the applicable local fire company.

O. All fire alarm systems shall be registered with Town Clerk and the Town of Ulster Building Department. All commercial building owners having fire alarm systems shall also install a Knox Box secure key entry system. The applicable local fire company shall have the only keys to this system. The owner shall be responsible for updating the correct keys for storage.

P. Each fire alarm system shall have annual test and maintenance certificate by a New York State licensed fire alarm company. Said certificate shall be filed annually with the Town of Ulster Building Department by the building owner.

§ 54-12. Registration of Fire Alarm Systems.

(A) A one-time Registration shall be required for Fire Alarm Systems and whenever a Record of Completion is prepared, in accordance with NFPA 72.

(B) The Owner shall be required to re-register whenever there is a change in the Fire Alarm Business responsible for maintaining, servicing, and/or monitoring the Fire Alarm System.

(C) Registrations shall not be transferable from one Premise to another or from one Owner to another.

(D) Every Fire Alarm Business shall notify the Enforcement Official of the existence of a Fire Alarm System prior to the Fire Alarm System being put into operation. It shall be the responsibility of the installing Fire Alarm Business to provide the Owner with notice of the existence of this ordinance, a Registration form and a copy of the Fire Alarm System operation instructions in accordance with NFPA 72, and the manufacturer's instructions.

(E) The Registration form shall include the following information:

(1) The name(s), address of the Premises, mailing address (if different from the address of the Premises), business and home telephone number of the Owner, lessee, operator, manager or person in possession of the Premises wherein the Fire Alarm System is installed.

(2) The name, address and telephone number of a minimum of two (2) persons who can be notified by the Town of Ulster Building Department, in the event of the activation of the Fire Alarm System, who shall be capable of responding to the Premises within one (1) hour, and who are authorized to enter the Premises to ascertain the status thereof.

(3) The name, address and telephone number of the Fire Alarm Business which has contracted to service the Fire Alarm System and proof of proper state licensing/registration with the Town of Ulster Building Department, if required. Proof of proper state licensing may be a valid state licensing number.

(4) The date the Registration is signed or the Fire Alarm System is placed in operation for any reason.

(5) Any other documentation that is required by NFPA 72.

(F) When any of the information required in Section 54-13(E) has changed, it shall be reported to the Town of Ulster Building Department by the Owner within fifteen (15) days of the Owner becoming aware of such change;

(G) The Owner shall complete and deliver the Fire Alarm System Registration in the required format to the Town of Ulster Building Department before the Fire Alarm System is activated or placed into service. The Fire Alarm Business, when authorized by the Owner, may assist the Owner in accomplishing this submission of the Fire Alarm Registration to the Town of Ulster Building Department.

§ 54-13. System Certification.

All newly installed or re-certified commercial Fire Alarm Systems shall be approved by the Town of Ulster Building Department. The certification shall indicate that the Fire Alarm System is in compliance with NFPA 72.

§ 54-14. Inspection, Testing and Maintenance.

(A) The Owner shall ensure that all Fire Alarm Systems are inspected and tested at least once per year in accordance with NFPA 72.

(B) The Owner shall ensure that all Fire Alarm Systems are periodically maintained per manufacturer specifications and NFPA 72.

§ 54-15 Denial, Suspension, or Revocation of Permit.

A. The Town of Ulster Building Department may suspend or revoke a Registration for a Fire Alarm System where an undue number of false alarms have occurred and/or where an applicant does not reasonably comply with any provision of this local law.

B. Any applicant whose Registration has been denied, and any person whose Registration has been suspended or revoked, may appeal such denial, suspension or revocation in writing to the Town Board of the Town of Ulster within thirty (30) days after such denial, suspension or revocation and may appear before such Town Board in at a time and place to be determined by the Town Board in support of his or its contention that the permit should not have been denied, suspended or revoked. The decision of the Town Board shall be final.

C. Any reactivation of a revoked or suspended Registration will be subject to an administrative fee due to the Town of Ulster in the amount of $100.00.

§ 54-16. Existing Systems.

All persons operating, maintaining or monitoring a presently existing Fire Alarm System must comply with all provisions of this local law within ninety (90) days after the effective date of this local law. Upon the expiration of this period, said persons shall be in violation of this local law and subject to disconnection and other penalties under this local law. If a person operating, maintaining or monitoring a Fire Alarm System on or before the effective date of this local law applies for a permit pursuant to Section 54-13 within ninety (90) days of the effective date then there shall be no application fee due. If a person operating or maintaining an alarm system on or before the effective date applies for a permit after ninety (90) days from the effective date, he or she shall be subject to the application fee.

ARTICLE III - ENFORCEMENT

§ 54-17. Enforcement procedure.

A. This article shall apply to both burglar alarms and fire alarms. After responding to a burglar alarm or a fire alarm that is determined to be a false alarm or nuisance alarm, the applicable local fire company, the Town of Ulster Police Department, and/or Ulster County 911, shall file a report of the same with the Town of Ulster Building Department.

B. False alarms and/or nuisance calls.

(1) A “false alarm” or "nuisance alarm" shall be defined as follows:

(a) The activation of a burglar and/or a robbery alarm for the purposes of summoning the police at a time when no burglary or robbery is being committed or attempted on the premises; or

(b) The activation of a fire alarm caused by defective or improperly maintained equipment for the purpose of summoning the fire department at a time when no fire or emergency is occurring.

(2) The “Alarm Appeal Board” shall be defined as follows:

(a) There shall be in the Town of Ulster an Alarm Appeal Board which shall have the powers and duties granted to it under this article. The Alarm Appeal Board shall consist of the Town of Ulster Town Board.

(3) Each owner of an alarm system shall report any unresolved and/or unrepaired “Trouble” signals to the Town of Ulster Building Department within eight (8) hours.

(4) All alarm systems which employ an audible signal or flashing light beacon designed to signal persons outside the premises must be deactivated and silenced automatically within fifteen (15) minutes.

(5) Emergency officials are hereby authorized to disable an audible alarm signal that has not been silenced within fifteen (15) minutes and neither the Town of Ulster, its officers and employees, or police and fire officials, shall be liable for any damage which may result from disabling an audible alarm signal as herein provided.

C. Civil Penalties

(1) An owner of an alarm system shall be liable for the following civil penalties for prohibited false alarms during the calendar year:

First and Second false alarm	Warning Letter Only
Third False Alarm	$250.00
Fourth False Alarm	$400.00
Fifth false alarm	$600.00
Sixth or more false alarms	$800.00

(2) Any person who fails to register his or her alarm system or whose alarm system violates the standards set forth in this chapter hereof, shall be liable for a civil penalty of $250.00.

D. Hearing Provisions

(1) Whenever the Town of Ulster intends to impose a civil penalty for a violation of this Law, the Town of Ulster Building Department shall give at least twenty (20) days advance written notice to the alleged violator by first class mail. The notice shall state the basis for the civil penalty and advise the alleged violator of the right to request in writing a hearing by the Alarm Appeal Board within such twenty (20) day period. The request shall specify the reasons why a civil penalty should not be imposed.

(2) Written notice of the time and place of the Alarm Appeal Board hearing shall be sent to the alleged violator by first class mail at least twenty (20) days prior to the date set for the hearing. An Alarm Appeal Board hearing shall be scheduled within at least sixty (60) days of a request for such hearing.

(3) At the Alarm Appeal Board hearing, the alleged violator shall have the right to confront and examine witnesses and present evidence on his own behalf. After the hearing, the Alarm Appeal Board shall issue a written decision setting forth its findings and determinations.

(4) The decision of the Alarm Appeal Board shall be reviewable pursuant to Article 78 of the Civil Practice Law and Rules.

(5) The Alarm Appeals Board, subsequent to any appeal having been finally determined, may bring an action to recover the civil penalty provided in this article.

(6) In the event the alleged violator fails to request a hearing, the Town of Ulster shall have the right to impose the civil penalty prescribed for the violation.

(7) The Town of Ulster shall not impose a civil penalty more than two (2) years after the occurrence of the acts forming the basis of the violation.

E. Civil penalties and/or injunctive relief may also be recovered in any action or proceeding brought by the Town Attorney, working with the Town of Ulster Building Department, in any court of competent jurisdiction.

§ 54-18. Fees.

All installation, connection, maintenance and monitoring fees shall be at the expense of the owner/occupant.

§ 54-19. Records.

A. All information on applications pertaining to false alarms shall not be deemed confidential insofar as it is necessary to conduct any litigation under this chapter or to be provided to appropriate officials for fire protection purposes.

B. The Town of Ulster Building Department shall retain all records regarding applications, false alarm reports, investigations and other data necessary for compliance with this chapter.

ARTICLE IV - BUILDING CONSTRUCTION

§ 54-20. Fire Alarm Systems in Building Construction.

A. All commercial buildings shall contain smoke and heat detection devices in accordance with the Fire Code of New York State.

B. Prior to issuance of a building permit, each builder shall submit three sets of proposed plans to the Town of Ulster Building Department depicting the fire alarm system prepared by a New York State licensed design professional (engineer, architect, NICET III or higher, or fire protection engineer).

C. All multiple-family dwellings shall have smoke detectors as follows:

(1) Smoke detectors shall be intelligent, addressable, and be part of the primary system.

(2) One smoke detector for each common hallways and/or corridors, spacing to meet or exceed NFPA 72.

(3) In storage areas exceeding 50 square feet, a minimum of one smoke detector and as many as may be necessary consistent with the manufacturer's specifications and recommended area of coverage.

(4) Smoke detectors shall be connected to a central station monitoring facility that is "listed" by Underwriters Laboratory (UL), or any other nationally recognized testing agency, and approved by the Town of Ulster Building Department.

(5) Heat detectors shall be installed in boiler rooms, based on spacing requirements of NFPA 72.

D. All buildings used for commercial purposes with occupancy of fifty (50) or more shall have smoke detectors connected to a central station monitoring facility as defined by NFPA 72 and approved by the Town of Ulster Building Department. An automatic fire alarm system is required. This system shall consist of, but not be limited to, pull stations, smoke or heat detectors, elevator recalls, notification devices (horn/strobe).

E. Plans shall be submitted and a fire alarm system shall be installed for any existing building, structure or occupancy, except a one- or two-family residence, which does not contain a fire alarm system conforming to NFPA 72, and the Fire Code of New York State standards where the total floor area is increased by 50% or more or for which the cost of any alterations, additions or repairs made within a six-month period exceeds 50% of the cost of replacement of the building at the beginning of that six-month period or where the use is converted to an A occupancy, as defined by the Building Code of New York State and the Fire Code of New York State.

F. No certificate of occupancy shall be issued for occupancy or the use of any building, structure or portion thereof required to have a fire alarm system unless such system is installed, inspected, tested and approved in accordance with the Fire Code of New York State, NFPA the Ulster Town Code standards, and submitted and approved plans.

§ 54-21. Severability.

In any section, subsection, sentence, clause, phrase, or work of this Local Law is for any reason held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance.

§ 54-22. When effective.

This Local Law shall take effect upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law and become operative on July 1, 2011.

Chapter 55
ALCOHOLIC BEVERAGES

§ 55-1. Findings.
§ 55-2. Possession or transportation in open containers restricted.
§ 55-3. Consumption in public restricted.
§ 55-4. Use of container as presumptive evidence.
§ 55-5. Exceptions.
§ 55-6. Penalties for offenses.

[HISTORY. Adopted by the Town Board of the Town of Ulster 5-31-1978 as L.L. No. 2- 1978. Sections 55-2 and 55-6 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1. Other amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets – See Ch. 7. Parks – See Ch. 127.

§ 55-1. Findings.

The Town Board of the Town of Ulster finds that the transporting or consumption of alcoholic beverages in open containers on any public highway, in public parking lots or lands owned by the Town of Ulster, except under certain conditions set forth in this chapter, is detrimental to the health, safety and welfare of the citizens of the Town of Ulster, causes unsightly and unsanitary conditions and creates a nuisance.

§ 55-2. Possession or transportation in open containers restricted. (1)

No person shall have, possess, carry or transport liquor, wine, beer or other alcoholic beverages in open containers, under circumstances evincing an intent to consume, while such person is on any public highway, in any public parking lot, or on any lands owned by the Town of Ulster, or in any vehicle on any public highway, in any public parking lot or on any lands owned by the Town of Ulster. As used in this chapter, a "public parking lot" is a parking area for one (1) or more vehicles designed to be used by patrons of any commercial, industrial, professional or eleemosynary place of business, including but not limited to such enterprise as may be duly licensed for the sale and consumption of alcoholic beverages on the premises.

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(1) **Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.**

§ 55-3. Consumption in public restricted.

No person shall consume liquor, beer, wine or other alcoholic beverages while such person is on any public highway, public street, public parking area or in any vehicle or public place, excepting those premises duly licensed for sale and consumption of alcoholic beverages on the premises whatsoever in said town, except as hereinafter provided.

§ 55-4. Use of container as presumptive evidence.

Any open bottle, can or container containing liquor, beer, wine or other alcoholic beverage found in any vehicle shall be presumptive evidence that the same is in the possession of all the occupants thereof and in violation of this chapter.

§ 55-5. Exceptions. [Amended 3-13-1986 by L.L. No. 2-1986; 38-1988 by L.L. No. 1-1988]

This chapter shall not apply to any fair, picnic or public gathering at a town park, provided that such group has procured insurance coverage listing the Town of Ulster as an additional insured in an amount of not less than one million dollars ($1,000,000.) and filed same with the Town Clerk no later than the last business date preceding such event.

§ 55-6. Penalties for offenses. (2)

A violation of this chapter shall constitute an offense punishable by a fine not exceeding two hundred fifty dollars ($250.) and/or imprisonment for up to fifteen (15) days, for each violation.

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(2) **Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art 1.**

CHAPTER 61
BUILDING CONSTRUCTION & FIRE PREVENTION

§ 61-1. Purpose and Intent.

§ 61-2. Definitions.

§ 61-3. Code Enforcement Officer and Inspectors.

§ 61-4. Building Permits.

§ 61-5. Construction Inspections.

§ 61-6. Stop Work Orders.

§ 61-7. Certificates of Occupancy and Certificates of Compliance.

§ 61-8. Notification Regarding Fire or Explosion.

§ 61-9. Unsafe Building and Structures.

§ 61-10. Operating Permits.

§ 61-11. Fire Safety and Property Maintenance Inspections.

§ 61-12. Complaints.

§ 61-13. Record Keeping.

§ 61-14. Program Review and Reporting.

§ 61-15. Violations.

§ 61-16. Fees.

§ 61-17. Intermunicipal Agreements.

§ 61-18. Bonds and Surety.

§ 61-19. Partial Invalidity.

[HISTORY: Adopted by the Town Board of the Town of Ulster during codification; repeal and replaced by the Town Board, 03-17-2011, with L.L. No. 1-2011]

GENERAL REFERENCES

Appearance tickets - See Ch. 7.
Flood damage prevention - See Ch. 87.
Mobile homes and travel trailers - See Ch. 114.
Site plan review - See Ch. 145.
Subdivision of land - See Ch. 161.
Zoning - See Ch. 190.

§ 61-1. Purpose and Intent.

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

§ 61-2. Definitions.

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

BUILDING PERMIT - shall mean a permit issued pursuant to § 61-4. The term "Building Permit" shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this local law.

CERTIFICATE OF COMPLIANCE -A certificate issued pursuant to subdivision (b) of §61-7.

CERTIFICATE OF OCCUPANCY - A certificate issued pursuant to subdivision (b) of § 61-7.

CODE ENFORCEMENT OFFICER - The Code Enforcement Officer appointed pursuant to subdivision (b) of § 61-3. The term "Code Enforcement Officer" may be used interchangeably with "Building Inspector" in this chapter and all other chapters of the Ulster Town Code.

CODE ENFORCEMENT PERSONNEL - The Code Enforcement Officer and all Inspectors.

COMPLIANCE ORDER - An order issued by the Code Enforcement Officer pursuant to subdivision (a) of § 61-15.

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

INSPECTOR - An inspector appointed pursuant to subdivision (d) of § 61-3.

OPERATING PERMIT - A permit issued pursuant to § 61-10. The term "Operating Permit" shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this local law.

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 § 61-6 of this local law. **Temporary**

Certificate – A certificate issued pursuant to subdivision (d) of § 61-7.

Town - The Town of Ulster.

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

§ 61-3. Code Enforcement Officer and 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 the Ulster Town Code. The Code Enforcement Officer may report to the head of Town of Ulster Building Department, for administrative purposes, in the discretion of the Town of Ulster Town Board. 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, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this local law;

(4) to issue Stop Work Orders;

(5) to review and investigate complaints;

(6) to issue orders pursuant to subdivision (a) of § 61-15 (Violations);

(7) to maintain records;

(8) to pursue administrative enforcement actions and proceedings;

(9) in consultation with the Town Attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code, and the Ulster Town Code, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code and the Ulster Town Code;

(10) review and inspect site plans during the installation of improvements to ensure conformity with the approved plans and specifications as contained in the contract and this law.

(a) An owner wishing to make any changes in an approved site plan shall submit a revised site plan to the Town of Ulster Planning Board and/or Town of Ulster Town Board for review and approval before making application for a building permit or revised building permit.

(11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by the Town of Ulster Town Code.

B. 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 of Ulster 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 the Ulster Town Code.

D. One or more Inspectors may be appointed by the Town of Ulster 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 of the Ulster Town Code. Each Inspector shall, within the time prescribed by law, obtain such basic training, in- service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

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

§ 61-4. Building Permits.

A. Building Permits Required. Except as otherwise provided in subdivision (b) of this section, 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, or install a solid fuel burning heating appliance, chimney or flue in any dwelling unit, 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. [7-18-2013 - Replaced by LL #4 of 2013]

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

(1) construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet;

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

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

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

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

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

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

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

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

(10) 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

(11) repairs, provided that such repairs do not involve (i) the removal or cutting away of a loadbearing wall, partition, or portion thereof, or of any structural beam or load bearing

component; (ii) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress; (iii) the enlargement, alteration, replacement or relocation of any building system; or (iv) 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 non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (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 an authorized agent of the owner who also provides evidence to the Town of the agency relationship (e.g., power of attorney). 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 four sets of construction documents (drawings and/or specifications) which (i) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

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 paragraph (5) of subdivision (d) 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, Energy Code, and any approved site plan, as well as whether the proposed work needs to be reviewed by the Town of Ulster Planning Board. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code, Energy Code, and any approved site plan.

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 two years after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed for a one year period upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

J. Revocation or suspension of Building Permits. If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (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. The fee specified in or determined in accordance with the provisions set forth in Section 61-16 (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. An additional fee in the amount of $250.00 for residential construction work or $500.00 for commercial construction shall accompany an application for a building permit which is submitted to the Town of Ulster Building Department after the work contemplated by the applicant has commenced. [LL# 1 of 2014 - Adopted on 2-6-2014]

L. No building permit will be issued except in full compliance with Town Law § 280-a. Evidence of frontage on a public road, or private road approved by the Town Board is required. No building permit shall be issued for any lot created after July 3, 1957, unless such lot is shown on a map approved by the Town Planning Board and filed in the office of the County Clerk.

§ 61-5. 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 subdivision (b) of this section is ready for

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

(1) work site prior to the issuance of a Building Permit;

(2) footing and foundation;

(3) preparation for concrete slab;

(4) framing;

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

(6) fire resistant construction;

(7) fire resistant penetrations;

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

(9) Energy Code compliance; and

(10) a final inspection after all work authorized by the Building Permit has been completed.

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

D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 61-16 (Fees) must be paid prior to or at the time of each inspection performed pursuant to this section

§ 61-6. 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 Site Plan Approval, 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) either (1) personally or (2) by certified mail and regular 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; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

D. Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.

E. Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under section 61-15 (Violations) 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.

§ 61-7. Certificates of Occupancy and Certificates of Compliance.

A. Certificates of Occupancy and Certificates of Compliance required. A Certificate of Occupancy or Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy or Certificate of Compliance.

B. Issuance of Certificates of Occupancy and Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy or Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy or Certificate of Compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy or Certificate of Compliance:

(1) a written statement of structural observations and/or a final report of special inspections, and
(2) flood hazard certifications
(3) a fully completed American Institute of Architects Document G702–1992, signed by the applicant's contractor (upon request of the Code Enforcement Officer or his designee).

C. Contents of Certificates of Occupancy and Certificates of Compliance. A Certificate of Occupancy or Certificate of Compliance shall contain the following information:

(1) the Building Permit number, if any;

(2) the date of issuance of the Building Permit, if any;

(3) the name, address and tax map number of the property;

(4) if the Certificate of Occupancy or Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy or Certificate of Compliance is issued

(5) the use and occupancy classification of the structure;

(6) the type of construction of the structure;

(7) the assembly occupant load of the structure, if any;

(8) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;

(9) any special conditions imposed in connection with the issuance of the Building Permit; and

(10) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy or Certificate of Compliance and the date of issuance.

D. Temporary Certificate. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit.

(1) However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely, (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, (3) that all required means of egress from the building or structure have been provided, and (4) that any approved site plan has been completed to such a degree that the building may be operated safely.

(2) 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.

(3) A Temporary Certificate shall be effective for a period of time, not to exceed ninety (90) days, 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, Energy Code, and any approved site plan. A bond guaranteeing completion of associated work may be required to be posted prior to issuing a temporary certificate of occupancy.

E. Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy or Certificate of Compliance or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the 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 section 61-16 (Fees) must be paid at the time of submission of an application for a Certificate of Occupancy or Certificate of Compliance or for a Temporary Certificate.

§ 61-8. Notification Regarding Fire or Explosion.

The chief of any fire department providing firefighting 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.

§ 61-9. Unsafe Building and Structures.

A. All buildings or structures which are structurally unsafe, unsanitary or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use are a hazard to safety or health by reason of severally, for the purpose of the section, unsafe building or premises, all such unsafe buildings or premises are hereby declared illegal and shall be abated by repair and rehabilitation, or clearance, or by demolition in accordance with the procedure of this section.

B. The Code Enforcement Officer shall examine or cause to be examined every building or premises reported as unsafe or damaged and shall make a written record of such examination.

C. Whenever the Code Enforcement Officer shall find any building, or structure, or premises, or portion thereof to be an unsafe building or premise as defined in this section, a written notice of violation shall be given, in the same manner as provided for the service of stop orders in § 61-6 of this chapter, served upon the owner, agent or person in control of such building or structure or premises stating the defects thereof.

D. If the Code Enforcement Officer finds that there is actual and immediate danger of fire, or collapse, or public hazard so as to endanger life, such notice shall also require the building, structure or portion thereof to be vacated forthwith and not reoccupied until the specified repairs and improvements are completed, inspected and approved by the Code Enforcement Officer.

(1) The Code Enforcement Officer shall cause to be posted at each entrance to such a building or premises a notice:

"THIS BUILDING/PREMISES IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE BUILDING INSPECTOR."

(2) Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person, firm or corporation, or their agents or other servants to remove such notice without written permission of the Code Enforcement Officer, or for any person to enter the building or premises, except for the purpose of making the required repairs or demolishing same.

E. In case the owner, agent or person in control can't be found within the stated time limit, or if such owner, agent or persons in control with notice to repair, rehabilitate or to demolish and remove said building, or premises, or portion thereof, the Town Board shall be advised of all the facts in the case, and shall institute an appropriate action in the courts to compel compliance.

F. In cases of emergency which, in the opinion of the Code Enforcement Officer, involve imminent danger to human life or health, he shall promptly cause such building, structure or portion thereof to be made safe or removed. For this purpose he may at once enter such structure or land on which it stands, or abutting land or structure, with such assistance and at such cost as may be necessary. He may vacate adjacent structures and protect the public by appropriate barricades or such other means as may be necessary, and for this purpose may close a public or private way.

G. Costs incurred under Subsections E and F of this section shall be paid out of the municipal treasury on certificate of the Code Enforcement Officer. Such costs shall be charged to the owner of the premises involved and shall be collected in the manner provided by law.

§ 61-10. Operating Permits.

A. Operation Permits required. Operating Permits shall be required for conducting the activities or using the categories of buildings listed below:

(1) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR section 1225.1;

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

(3) use of pyrotechnic devices in assembly occupancies;

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

(5) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of the Town of Ulster.

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (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 subdivision (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 section 61-16 (Fees) must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

§ 61-11. Fire Safety and Property Maintenance Inspections.

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

(1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every twelve (12) months.

(2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.

(3) Fire safety and property maintenance inspections of all multiple dwellings not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision, shall be performed at least once every twenty-four (24) months.

B. Inspections permitted. In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at any time upon:

(1) the request of the owner of the property to be inspected or an authorized agent of such owner;

(2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code, Energy Code, Ulster Town Code, or any approved site plan exist; or

(3) 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, Energy Code, Ulster Town Code, or any approved site plan 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 the Ulster Town Code 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 section 156-e and Education Law section 807-b. Notwithstanding any other provision of this section to the contrary:

(1) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure which contains an area of public assembly if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;

(2) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure occupied as a dormitory if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;

(3) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a multiple dwelling not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section; and

(4) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a non-residential building, structure, use or occupancy not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such non-residential building, structure, use or occupancy at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section.]

D. Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

§ 61-12. 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 local law, or any other local law, ordinance, or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

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 section 15 (Violations) of this local law;

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.

§ 61-13. Record Keeping.

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 sections 4 through 12, inclusive, of this local law, including; and

(9) all fees charged and collected.

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

§ 61-14. Program Review and Reporting.

A. The Code Enforcement Officer shall annually submit to the Town Board of the Town of Ulster 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 § 61-13 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.

B. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of the Town of Ulster, on a form prescribed by the Secretary of State, a report of the activities of the Town of Ulster relative to administration and enforcement of the Uniform Code.

C. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials the Town of Ulster is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of the Town of Ulster in connection with administration and enforcement of the Uniform Code.

§61-15. Violations.

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 local law. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a Compliance Order. The Compliance Order shall (1) be in writing; (2) be dated and signed by the Code Enforcement Officer; (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or the Ulster Town Code; (4) specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; (5) specify the period of time which the Code Enforcement Officer 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. The Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property either (1) personally or (2) by certified mail and regular 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; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

B. Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

C. Civil Penalties. In addition to those penalties proscribed by State law, any Person who violates any provision of the Uniform Code, the Energy Code or this local law, 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 local law, shall be liable to a civil penalty of not more than $250.00 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 the Town of Ulster.

D. Injunctive Relief. An action or proceeding may be instituted in the name of the Town of Ulster, 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, the Ulster Town Code, 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 local law. 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, the Ulster Town Code, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code or the Ulster Town Code, an action or proceeding may be commenced in the name of the Town of Ulster 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 of the Town of Ulster or the Town Attorney.

E. Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in §61-6 (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 § 61-6 (Stop Work Orders), in any other section of this chapter, or in any other 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.

§ 61-16. Fees.

A fee schedule shall be established by resolution of the Town Board of the Town of Ulster. 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, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this local law.

§ 61-17. Intermunicipal Agreements.

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

§ 61-18. Bonds and Surety.

The Code Enforcement Officer shall receive and maintain all bonds, surety or other instruments submitted in connection with site plans or permit approvals. The Code Enforcement Officer shall notify the Town Board in the event of default against any bonds in his possession, and shall have the authority, upon resolution of the Town Board to redeem such bonds or surety and order remediation of the work covered thereby.

§ 61-19. Partial Invalidity.

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

CHAPTER 64

BUILDINGS, UNSAFE

§ 64-1. Purpose

§ 64-2. Definitions

§ 64-3. Investigation; Report

§ 64-4. Order to Repair by Town Board

§ 64-5. Contents of Notice Filing

§ 64-6. Service of Notice

§ 64-7. 2nd Inspection and Report

§ 64-8. Declaration of Public Nuisance and Remediation

§ 64-9. Refusal to Comply with Order

§ 64-10. Assessment of Expenses

§ 64-11. Power of Building Inspector in Emergency Cases

§ 64-12. Compensation of Surveyor

[HISTORY. Adopted by the Town Board of the Town of Ulster 08-19-2002 as L.L. No. 2-2002]

§ 64-1. Purpose.

Unsafe buildings pose a threat to life and property in the Town of Ulster. Buildings and structures may become unsafe by reason of damage by fire, the elements, age or general deterioration. Vacant buildings not properly secured at doorways and windows also serve as an attractive nuisance for young children who may be injured therein. It is the purpose of this chapter to provide for the safety, health, protection and general welfare of persons and property in the Town of Ulster by requiring such unsafe buildings to be repaired or demolished and removed.

§ 64-2. Definitions.

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

BUILDING --Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattels.

BUILDING INSPECTOR --The Building Inspector of the Town of Ulster, his, deputy, assistant or such other person appointed by the Town Board are hereby authorized to write, issue and prosecute appearance tickets in connection with violations of this local law and to enforce the provisions of this chapter.

§ 64-3. Investigation; Report.

When in his own opinion or upon receipt of information that a building is or may become dangerous or unsafe to the general public; is open at the doorways and windows, making it accessible and an object of attraction to minors under eighteen (18) years of age, as well as to vagrants and other trespassers; is or may become a place of rodent infestation; presents any other danger to the health, safety, morals and general welfare of the public; or is unfit for the purposes for which it may lawfully be used, the Building Inspector shall cause or make an inspection thereof and report, in writing, to the Town Board his findings and recommendations in regard to its repair or demolition and removal.

§ 64-4. Order to Repair by Town Board.

The Town Board shall thereafter consider such report and by resolution determine, if in its opinion the report so warrants, that such building is unsafe and dangerous and order its repair, if the same can be safely repaired, or its demolition and removal and further order that a notice be served upon the persons and in the manner provided herein.

§ 64-5. Contents of Notice; Filing.

A. The notice shall contain the following:

(1) A description of the premises.

(2) A statement of the particulars in which the building or structure is unsafe or dangerous.

(3) An order outlining the manner in which the building is to be made safe and secure or demolished and removed.

(4) A statement that the securing or removal of such building shall commence within thirty (30) days of service of the notice and shall be completed within sixty (60) days thereafter, unless for good cause shown such time shall be extended.

(5) A date, time and place for a hearing before the Town Board in relation to such dangerous or unsafe building, which hearing shall be scheduled not less than five (5) business days from the date of service of the notice.

(6) A statement that in the event of neglect or refusal to comply with the order to secure or demolish and remove the building, the Town Board is authorized to provide for its demolition and removal, to assess all expenses thereof against the land on which it is located and to institute a special proceeding to collect the costs of demolition, including legal expenses.

B. The notice shall be filed in the office of the County Clerk of the County of Ulster in the same manner as a notice of pendency pursuant to the Civil Practice Law and Rules, Article 65, and the aforementioned notice shall be effective for a period of one (1) year from the date of filing.
The aforesaid filing may be vacated upon an order of a Judge or Justice of a court of record or upon the consent of the Town Attorney.

§ 64-6. Service of Notice.

The notice shall be served by personal service of a copy thereof upon the owner, executor administrator, agent, lessee or any person having a vested or contingent interest in such unsafe building, as shown by the records of the receiver of taxes or of the County Clerk or, if no such person can be reasonably found, by mailing to such owner by registered mail a copy of such notice directed to his last known address as shown by the above records; and by personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found; and by securely affixing a copy of such notice upon the unsafe building.

§ 64-7. 2nd Inspection and Report.

On or before the date of the public hearing and prior to the commencement of the public hearing the Building Inspector of the Town of Ulster, his deputy or assistant or other duly authorized officer or employee shall conduct a second inspection of the property and file a written report of the conditions deemed in violation of this chapter found thereon with the Town Board. Such inspection shall be conducted as close to the date of the public hearing as practicable.

§ 64-8. Declaration of Public Nuisance and Remediation.

At the close of the public hearing, the Town Board may determine that the conditions upon the subject property which violate this chapter constitute a public nuisance. Upon a determination by the Town Board that conditions upon the property constitute a public nuisance, the Town Board is empowered to authorize officers, agents or employees of the Town to enter the property to remove any vehicle, solid waste, rubbish or debris stored, deposited, placed or maintained in violation of this chapter and dispose of or otherwise destroy same or to contract for these services. Any costs and expenses incurred by the town when acting pursuant to this chapter to abate a public nuisance shall be assessed against the property involved and shall constitute a lien thereon to be collected as provided by law.

§ 64-9. Refusal to Comply with Order.

In the event of the refusal or neglect of the person so notified to comply with said order of the Town Board and after the hearing, the Town Board shall provide for the demolition and removal of such building or structure either by town employees or by contract. Except in emergency as provided in § 111-9 hereof, any contract for demolition and removal of a building in excess of five thousand dollars ($5,000.) shall be awarded through competitive bidding.

§ 64-10. Assessment of Expenses.

All expenses incurred by the town in connection with the proceedings to repair and secure or demolish and remove the unsafe building, including the cost of actually removing such building, shall be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided in Article 15 of the Town Law for the levy and collection of a special ad valorem levy.

§ 64-11. Power of Building Inspector in Emergency Cases.

If the Building Inspector or his deputy or assistant finds that there is actual and immediate danger of failure or collapse as to endanger life, the notice given pursuant to § 133-4, 5 and 6 shall also require the building, structure or portion thereof to be vacated forthwith and not reoccupied until the specified repairs and improvements are completed, inspected and approved by the Building Inspector or his deputy or assistant. The Building Inspector, his deputy or assistant shall cause to be posted at each entrance to such building a notice, as follows: “THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE BUILDING DEPARTMENT".

The notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person or his agents or servants to remove such notice without written permission of the Building Inspector, his deputy or assistant or for any person to enter the building except for the purpose of making the required repairs or demolishing it.

In cases of an emergency which, in the opinion of the Building Inspector, his deputy or assistant involves imminent danger to human life or health, he shall promptly cause a dangerous building, structure or portion thereof to be made safe or be removed. For this purpose, he may at once enter the structure or land on which it stands, or abutting land or structure, with such assistance and at such cost as may be necessary; he may vacate adjacent structures located on the same or adjacent property of the person where the violation exists, and protect the public by appropriate barricades or such other means as may be necessary and, for this purpose, may close a public or private way.

§ 64-12. Compensation of Surveyor.

The surveyor appointed as provided herein shall be paid reasonable compensation as shall be fixed by the Town Board.

Chapter 65

BURNING ORDINANCE

ARTICLE I

General Provisions

§ 65-1. OPEN BURNING PROHIBITED.

§ 65-2. EXEMPTION.

§ 65-3. BURNING BY THE SUPERINTENDENT OF HIGHWAYS OR FIRE DISTRICT

§ 65-4. DEFINITIONS

§ 65-5. RESTRICTED RESIDENTIAL BURNING.

§ 65-6. PENALTIES FOR OFFENSES.

[HISTORY: Adopted by the Town Board of the Town of Ulster 11-1-2004 as L.L. No. 4-2004. Amendments noted where applicable.]

GENERAL REFERENCES

Appearance Tickets – See Chapter 7

§ 65-1. OPEN BURNING PROHIBITED.

Open burning of grass, brush, leaves, rubbish, building materials and/or other combustible or flammable materials is prohibited except where written permission from the Fire Chief of the Fire Company in the fire district where the burning is to be conducted, has been obtained.

§ 65-2. EXEMPTION.

A. Fires used for the sole purpose of preparing food using outdoor grills or fireplaces shall be exempt from the open burning regulation.

B. Paper, cardboard, or untreated wood nay be burned in a barrel covered by a suitable screen, without a permit.

§ 65-3. BURNING BY THE SUPERINTENDENT OF HIGHWAYS OR FIRE DISTRICT.

The Town Board hereby authorizes the Superintendent of Highways or any fire district within the Town to burn structures, provided that all permits required by the Health Department or New York State Department of Environmental Conservation, are obtained and complied with.

§ 65-4. DEFINITIONS.

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

BRUSH - Trees or leaves and needles and branches there from; vines; lawn and garden debris. OPEN

BURNING - Any fire from which air contaminates are exposed directly to the outdoor atmosphere.

RUBBISH - Solid or liquid waste material, including but not limited to paper and paper products; rags, furniture; cans; crockery; plastics; cartons; chemicals; paint; grease; sludges; oils and other petroleum products, wood; sawdust and demolition materials; tires; and automobiles and other vehicles and parts for junk, salvage or disposal.

OPEN FIRE - Any outdoor fire or outdoor smoke-producing process from which air contaminates are emitted directly into the outdoor atmosphere.

§ 65-5. RESTRICTED RESIDENTIAL BURNING.

Burning in an open fire, provided that it is not contrary to any other law, will be allowed as follows:

A. Land clearing / cleanup and/or demolition material consisting of clean wood, trees, tree trimmings, leaves or brush, with a permit. Such burning shall be done only on the site where the materials are generated, provided, however, that the Town of Ulster is exempt from the requirements of this sentence.

B. Campfires for recreational purposes with a flame height not to exceed three feet, with a permit.

C. Prior to any open burning under items A and B above, the proper fire company shall be notified. Such notification shall include the location and time of the burn. The Fire Company shall also be notified when the burn is completed.

D. Open fires allowed under this section shall be attended at all times by a responsible adult.

E. Appropriate fire-extinguishing equipment, as designated by the Fire Marshal, shall be available at all times during the burn.

§ 65-6. PENALTIES FOR OFFENSES.

Vio1ation of this article shall constitute a violation and shall be punishable by a fine to be levied by the Court not exceeding $250. For the purpose of conferring jurisdiction upon courts and judicial offices generally, all peace officers and police officers appointed by the Town of Ulster are authorized to issue and prosecute appearance tickets.

Chapter 67

CONDOMINIUM AND COOPERATIVE CONVERSIONS

§ 67-1. Adoption of standards.

[HISTORY: Adopted by the Town Board of the Town of Ulster 9-10-1987 by resolution.(1) Amendments noted where applicable.]

GENERAL REFERENCES

Zoning - See Ch. 190

§ 67-1. Adoption Of standards.

Chapter 771 of the Laws of 1983, more fully set in the General Business Law § 352 (e) (2a) (c), is hereby adopted and declared to be binding on all cooperative and condominium residential conversion projects during conversion and thereafter, within the Town of Ulster, to the extent that said law may be applicable to the Town of Ulster.

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(1) Editor's Note: A copy of this resolution was duly filed with the Office of the Attorney General.

Chapter 71

CURFEW

§ 71-1. Curfew established; exceptions.

§ 71-2. Detention of offenders.

§ 71-3. Penalties for offenses.

§ 71-4. Parental Responsibility.

[HISTORY: Adopted by the Town Board of the Town of Ulster 2-20-1980 as L.L. No. 1- 1980. Section 71-3 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable. Section 71-1 amended and Section 71-4 added by the Town Board 9-5-2001 as L.L. 1-2001]

GENERAL REFERENCES

Appearance tickets - See Ch. 7.

§ 71-1. Curfew established; exceptions.

It shall be unlawful and a violation of this chapter for any person under the age of seventeen (17) years of age to be or remain upon any street, alley or public place within the town limits of the Town of Ulster after 10:00 p.m. at night and prior to 5:30 a.m. in the morning unaccompanied by a parent or guardian responsible for his acts. The above does not apply to persons under seventeen (17) who are going to or returning from gainful employment or returning from a social or school function in a quiet, peaceful manner via a direct route.

§ 71-2. Detention of offenders.

Every police officer, while on duty, is hereby authorized to detain any minor willfully violating the provisions of this chapter until the parent or guardian of each child shall take him or her into custody; but each officer shall immediately, upon taking custody of the child, communicate with the parent or guardian unless it shall reasonably appear, under due inquiry, that such child has not available such parent or guardian to assert custody, in which latter case, the Town Police shall detain said minor at police headquarters until he or she may be turned over to a parent, guardian or other responsible adult.

§ 71-3. Penalties for offenses. (1)

Any violation of this chapter shall constitute disorderly conduct, and any person guilty of violating this chapter shall be subject to arrest and detention with or without process by any town police officer in whose presence such violation was committed, and such violations shall be punishable by a fine not to exceed two hundred fifty dollars ($250.) or up to fifteen (15) days imprisonment, or both, for each and every offense.

§ 71-4. Parental Responsibility.

It shall be unlawful for any parent, guardian or person having the legal care and custody of any person under the age of seventeen (17) to allow or permit any such person to go or remain upon any private or public place at the times and under the circumstances set forth in paragraph I above. Upon conviction's said person be punishable by a fine not to exceed two hundred fifty dollars ($250.00) or up to fifteen days imprisonment, or both, for each offense.

(1)Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

Chapter 75
DOGS AND OTHER ANIMALS

ARTICLE I
Dog Licensing

§ 75-1. Purpose.
§ 75-2. Definitions.
§ 75-3. Dog Licensing Requirements/Procedures.
§ 75-4. License fees.
§ 75-5. Identification of Dogs.
§ 75-6. Change of Ownership, Lost or Stolen Dogs.
§ 75-7. Violations.
§ 75-8. Separability of Provisions.
§ 75-9. Effective Date

ARTICLE II
Dog Control

§ 75-10. Title.
§ 75-11. Legislative intent.
§ 75-12. Authority.
§ 75-13. Definitions and word use.
§ 75-14. Limitations on dog barking.
§ 75-15. Warning procedures.
§ 75-16. Penalties for dog barking offenses.
§ 75-17. Restrictions.
§ 75-18. Penalties for at large offenses.
§ 75-19. Enforcement.
§ 75-20. Seizure, impoundment and redemption.
§ 75-21. Forfeiture of ownership

[HISTORY: Adopted by the Town Board of the Town of Ulster 12-16-2010 by L.L. No. 9- 2010, prior chapter 75 repealed.]

GENERALREFERENCES
Appearance tickets - See Ch. 7.

ARTICLE I
Dog Licensing

§ 75-1. Purpose.

The Town Board of the Town of Ulster finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs have caused physical harm to person and damage to property and have created nuisances within the Town. The purpose of this article is to protect the health, safety and well-being of persons and property by establishing for the licensing and identification of dogs and imposing restrictions on the keeping and running at large of dogs within the Town.
The Town also recognizes effective January 1, 2011, the State of New York has relinquished the responsibility of dog licensing function to local municipalities and eliminated the Animal Population Control Fund. Local municipalities will now be required to adopt legislation relating to this issue.

§ 75-2. Definitions.

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

ADOPT – means the delivery to any natural person eighteen years of age or older, for the purpose of harboring a dog, seized or surrendered, or any cat from the Town's animal shelter.

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

ANIMAL/DOG CONTROL OFFICER – means any individual appointed by the Town Board to assist in the enforcement of this Chapter.

CLERK – means the Town Clerk of the Town of Ulster, where licenses are to be validated or issued.

CONFINED – that such animal is securely confined or restrained or kept on the owner's premises, either within a building, kennel or other suitable enclosure or securely fastened on a

chain, wire or other effective tether of such length and so arranged that the animal cannot reach or endanger any person on any adjacent premises or on any public street, way or place, or, if the animal is being transported by the owner, that it is securely confined in a crate or other container, or so restrained in a vehicle that it cannot be expected to escape therefrom.

DETECTION DOG – means any dog that is trained and is actually used for such purposes or is undergoing training to be used for the purpose of detecting controlled substances, explosives, ignitable liquids, firearms, cadavers, or school or correctional facility contraband.

DOG – means any member of the species canis familiaris.

DOG CONTROL OFFICER – any person authorized from time to time to enforce the provisions of the Agriculture and Markets Law of the State of New York and provisions set forth in this article.

GEESE DOG – means any dog that is trained to aid the Animal/Dog Control Officer in the control of geese within the boundaries of the Town.

GUIDE DOG – means any dog that is trained to aid a person who is blind and is actually used for such purpose, or any dog owned by a recognized guide dog training center located within the State of New York during the period such dog is being trained or bred.

HARBOR – means to provide food or shelter to any dog or cat.

HEARING DOG – means any dog that is trained to aid a person with a hearing impairment and is actually used for such purpose, or any dog owned by a recognized training center located within the State of New York during the period such dog is being trained or bred for such training.

IDENTIFICATION TAG – means a tag which sets forth an identification number, as required by the provisions set forth in this article.

OWNER – means any person who harbors or keeps any dog, cat or other animal.

PERSON WITH DISABILITY – means any person with a disability as that term is defined in Subdivision 22 of Section 292 of the New York State Executive Law.

POLICE WORK DOG – means any dog owned or harbored by any 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.

RECREATIONAL AREAS – any real property owned by the Town of Ulster which is used for recreational purposes by the public, including but not limited to parks or playgrounds.

RUN AT LARGE – to be in a public place or on private lands without the knowledge, consent and approval of the owner of such lands

SENIOR RESIDENT – means any resident of the Town age 65 or older.

SERVICE DOG – means any dog that has been or is being individually trained to do work or perform tasks for the benefit of a person with a disability, provided that the dog is or will be owned by such person or that person's parent, guardian or other legal representative.
SERVICE DOG shall also refer to dogs defined herein as a DETECTION DOG, GEESE DOG, GUIDE DOG, HEARING DOG, POLICE WORK DOG, THERAPY DOG, and WORKING SEARCH DOG.

THERAPY DOG – means any dog that is trained to aid the emotional and physical health of patients in hospitals, nursing home, retirement homes and other settings and is actually used for such purpose, or any dog owned by a recognized training center located within the State of New York during the period such dog is being trained or bred for such purpose.

TOWN – the area within the corporate limits of the Town of Ulster.

WAR DOG – means any dog which has been honorably discharged from the United States armed services.

WORKING SEARCH DOG – means any dog that is trained to aid in the search for missing persons and is actually used for such purposes; provided, however, that such services provided by said dog shall be performed without charge or fee.

§ 75-3. Dog Licensing Requirements/Procedures.

A. Licensing of Dogs.

(1) The owner of any dog reaching the age of four months shall immediately make application for a dog license. No license shall be required for any dog under the age of four months that is not at large. A license shall be renewed after a period of one year beginning with the first date of the month following the date of issuance. Renewal shall be for a minimum of one year and shall not exceed three years, based on the validation term of the rabies vaccination.

(2) Application for a dog license shall be made to the Clerk.

(3) The application shall state the sex, actual or approximate year of birth, breed color(s), and official identification number of the dog, and other identification marks, if any, and the name, address, telephone number, county and town of residence of owner.

(4) The application shall be accompanied by a license fee as listed below and a valid certificate of rabies vaccination or statement in lieu thereof. In the case of a spayed or neutered dog, every application shall also be accompanied by a certificate signed by a licensed veterinarian showing that the dog has been Spayed or neutered, provided such certificate shall not be required if the same is already on file with the clerk.

(5) Upon validation by the Clerk, the application shall become a license for the dog described therein. Once an application has been validated, no refund shall be made.

(6) The Clerk shall provide a copy of the license to the owner and retain a record of the license in either paper or electronic format.

(7) No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog.

B. Purebred Licenses. There will not be distinct purebred licenses as previously provided for by the State. Any and all existing purebred licenses will now be required to comply with Section 3 of this Chapter.

C. Rabies Vaccination. The Clerk, at the time of issuing any license pursuant to this Article, shall require the applicant to present a statement certified by a licensed veterinarian showing that the dog or dogs have been vaccinated to prevent rabies, or, in lieu thereof, a statement certified by a licensed veterinarian stating that because of age or other reason, the life of the dog or dogs would be endangered by the administration of vaccine. The Clerk shall make or cause to be made from such statement a record of such information and file such record with a copy of the license.

D. Enumeration. In addition to other applicable fees, any person applying for a dog license for a dog identified as unlicensed during an enumeration shall pay a fee of $5.00. Such additional fee shall be used to pay the expenses incurred by the Town in conducting the enumeration. In the event the additional fees collected exceed the expenses incurred by the Town in conducting an enumeration in any year, such excess fees may be used by the Town for any other lawful purpose.

§ 75-4. License fees.

A. For each spayed or neutered dog: $6.

B. For each unspayed or unneutered dog: $16, per dog.

C. There shall be no fee for any license issued for any guide dog, hearing dog, service dog, war dog, working search dog or police work dog. Each copy of any license for such dogs shall be conspicuously marked guide dog, hearing dog, service dog, war dog, working search dog or police work dog, as may be appropriate, by the Town Clerk.

D. Fees may be changed from time to time pursuant to the Town Code and existing local law. License fees may also change based upon state surcharge payments.

§ 75-5. Identification of Dogs.

A. Each dog licensed shall be assigned, at the time the dog is licensed for the first time, a permanent official identification number. Such identification number shall be carried by the dog on an identification tag which shall be affixed to a collar on the dogs at all times.

B. The official 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.

C. At the time a dog is first licensed, one identification tag shall be furnished to the owner at no charge. Any replacement tag shall be obtained by the owner.

D. No tag carrying an official identification number shall be affixed to the collar of any dog other than the one to which that number has been assigned.

E. The identification tag shall be imprinted with the "Town of Ulster", a unique identification number and the telephone number of the Town Clerk's office.

§ 75-6. Change of Ownership, Lost or Stolen Dogs.

A. In the event of a change in ownership of any dog which has been assigned an official identification number or in the address of the owner of record of any such dog, the owner of record shall, within ten days of such change, notify the Clerk.

B. If any dog which has been assigned an official identification number is lost or stolen, the owner of record shall, within ten days of the discovery of such loss or theft, notify the Clerk.

C. In the case of a dog's death, the owner of record shall so notify the Clerk either prior to renewal of license or upon the time of such renewal.

§ 75-7. Violations.

A. It shall be a violation, punishable as provided in subdivision two of this section, for:

(1) any owner to fail to license a dog.
(2) any owner to have any dog identified as required by this Article.
(3) any person to knowingly affix to any dog any false or improper identification tag, special identification tag for identifying guide, service or hearing dogs.

B. It shall be the duty of the Dog Control Officer of the Town to bring an action against any person who has committed within the Town any violation set forth in §75-7, Subsection A, of this article. A violation of this section shall be punishable as follows:

(1) A fine of not more than $100, except that:
   a. Where the person was found to have previously violated this section once within the preceding five years, the fine shall be not be more than $200; and
   b. Where the person was found to have committed two or more such violations within the preceding five years, it shall be punishable by a fine of not more than $300.

§ 75-8. Separability of Provisions.

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall be confined in its operation to the clause, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 75-9. Effective Date.

This article shall take effect on January 1, 2011.

ARTICLE II
Dog Control

§ 75-10. Title.

This article shall be entitled "Dog Control Law of the Town of Ulster, Ulster County, New York."

§ 75-11. Legislative intent.

The Town of Ulster Town Board finds that the running at large and other uncontrolled behavior of dogs has caused physical harm and mental disturbance to persons, damage to property and created nuisances within the Town. The purpose of this article is to protect the health, safety and well-being of persons and property by imposing restrictions on the keeping and running at large by dogs within the Town.

§ 75-12. Authority.

This article is enacted pursuant to the provisions of § 124 of Article 7 of the Agriculture and Markets Law of the State of New York.

§ 75-13. Definitions and word use.

A. As used in this article, the following words shall have the following respective meanings:
   (1) ADOPTION - The delivery to any natural person 18 years of age or older, for the limited purpose of harboring a pet, of any dog, seized or surrendered.
   (2) AGRICULTURE AND MARKETS LAW - The Agriculture and Markets Law of the State of New York, in effect as of the effective date of this article and as amended thereafter.
   (3) CLERK - The Town Clerk of the Town of Ulster where licenses are issued or validated.
   (4) COMMISSIONER - The State Commissioner of Agriculture and Markets.
   (5) DOG - Any member of the species canis familiaris.

(6) DOG CONTROL OFFICER - Any person authorized by the Town Board to enforce the provisions of this article or the provisions of the Agriculture and Markets Law, including but not limited to Dog Control Officer, Police Officer and Building Inspector.

(7) EUTHANIZE - To bring about death by a humane method.

(8) GUIDE DOG - Any dog that is trained to aid a person who is blind and is actually used for such purpose, or any dog owned by a recognized guide dog training center located within the state during the period such dog is being trained or bred for such purpose.

(9) HARBOR - To provide food or shelter to any dog.

(10) HEARING DOG - Any dog that is trained to aid a person with a hearing impairment and is actually used for such purpose or any dog owned by a recognized training center located within the state during the period such dog is being trained or bred for such purposes.

(11) IDENTIFICATION TAG - Any tag which sets forth an official identification number as required by the Agriculture and Markets Law.

(12) IDENTIFIED DOG - Any dog carrying an identification tag as provided in the Agriculture and Markets Law.

(13) OFFICIAL IDENTIFICATION NUMBER - A series or combination of letters, numbers or symbols approved and furnished by the Commissioner.

(14) OWNER - Any person who harbors or keeps any dog.

(15) OWNER OF RECORD - The person in whose name any dog was last licensed pursuant to the Agriculture and Markets Law, except that if any license is issued on application of a person under 18 years of age, the owner of record shall be deemed to be the parent or guardian of such person. If it cannot be determined in whose name any dog was last licensed or if the owner of record has filed a statement pursuant to the provisions of § 113 of the Agriculture and Markets Law, the owner shall be deemed to be the owner of record of such dog, except that if the owner is under 18 years of age, the owner shall be deemed to be the parent or guardian of such person.

(16) PERSON - Any individual, corporation, partnership, association or other organized group of persons, municipality or other legal entity.

(17) PERSON WITH A DISABILITY - Any person with a physical impairment which is permanent and severely limits such person's mobility or a person who is unable to ambulate without the aid of a wheelchair or other prosthetic device.

(18) 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.

(19) SERVICE DOG - Any dog that is trained to aid a person with a disability and is actually used for such purpose, or any dog owned by a recognized training center located within the state during the period such dog is being trained or bred for such purpose.

(20) TOWN - Town of Ulster, a municipal subdivision of the State of New York, Ulster County.

(21) WAR DOG - Any dog which has been honorably discharged from the United States Armed Services.

(22) WORKING SEARCH DOG - Any dog that is trained to aid in the search for missing persons and is actually used for such purpose.

B. "Shall" is mandatory; "may" is permissive.

§ 75-14. Limitations on dog barking.

It shall be unlawful for any person to own or harbor a dog which habitually barks between the hours of 7:00 a.m. and 9:00 p.m. for more than one hour or for a period of less than one hour, but more than 1/2 hour, when said period occurs on two consecutive days. Between 9:00 p.m. and 7:00 a.m. barking for more than 1/2 hour or for a period of less than 1/2 hour but more than ¼ hour when said period occurs on two consecutive days is unlawful. Such behavior shall be deemed to cause the annoyance and discomfort of persons in the Town of Ulster. (See warning and complaint procedure below.)

§ 75-15. Warning procedures.

A. Any resident of the Town may request, in writing, that the Dog Control Officer warn any person who shall own or harbor any dog which habitually barks in violation of § 75-14 of this article. Any such request shall identify the owner of the premises, the owner or harborer of the dog and the name and address of the person making the request. Upon receipt of such request the Dog Control Officer shall investigate the complaint and upon a determination that there is probable cause that such complaint is valid, shall give
the owner or harborer of the dog a warning.

B. The warning shall consist of personal delivery of a copy of these provisions to such owner or harborer or to someone in their household, or by mailing a copy of these written provisions if the violator resides outside the Town of Ulster, together with a written notice that no further warning shall be given and that any future violations shall be prosecuted according to law.

§ 75-16. Penalties for dog barking offenses.

Any person found to be in violation of § 75-14 of this article shall be deemed guilty of a violation and shall be liable for a fine of not less than $100 nor more than $200 or imprisonment for not more than 15 days, or both such fine and imprisonment.

§ 75-17. Restrictions.

It shall be unlawful within the Town of Ulster for any owner of any dog to permit or allow said dog:

A. To run at large off the owner's property unless the dog is accompanied by its owner or a responsible person, either of whom must be able to control such dog by command and with knowledge, consent, and approval of the owner of such private premises.

(1) A dog present in a public place or on private lands without the knowledge, consent and approval of the owner of such private lands shall be considered running at large, unless restrained by an adequate leash.

(2) Dogs used for hunting, trailing, training, tracking, police work dog, service dog, or working search dog when actually used for these purposes and not restrained by a leash shall not be considered running at large.

B. To habitually chase, run alongside, or bark at moving motor vehicles.

C. To uproot, dig, or otherwise damage vegetables, lawns, flowers, gardens or other property not belonging to the owner of such dog.

D. To chase, jump upon or at, or otherwise harass any person (other than the owner) in such a manner as to reasonably cause intimidation or fear, or put such person in a position of reasonable apprehension of bodily harm or injury, while off the owner's premises.

E. To create a nuisance by defecation, urination, or digging on property not belonging to the owner of such dog.

(1) Removal of feces required. Any person owning or in charge of any dog which soils, defiles on or commits any nuisance on any property, without the permission of the owner of the property, shall immediately remove all feces by such dog in a sanitary manner.
(2) Disposal of feces. The feces removed from the aforementioned areas shall be disposed of by the person owning or in charge of any such dog, in a sealed, nonabsorbent, leakproof container.
(3) Exception to guide dogs. The provisions of this subsection shall not apply to blind persons who may use dogs as guides.

F. To allow excess feces to accumulate on the owner’s property.

G. To allow a female dog to be off the owner's premises when in heat.

§ 75-18. Penalties for at large offenses.

Any person found to be in violation of § 75-17 of this article shall, upon conviction, be deemed guilty of a violation and shall be liable for a fine of not less than $100 nor more than $200 or imprisonment for not more than 15 days, or both such fine and imprisonment, except violations of § 75-17(E)(1) shall be subject to a fine of not less than $50 nor more than $100.

§ 75-19. Enforcement.

This article shall be enforced by the Dog Control Officer of the Town of Ulster, as defined in §75-2 of this article, or any Town of Ulster Police Officer.

§ 75-20. Seizure, impoundment and redemption.

A. Any dog found in violation of the provisions of § 75-7 of this article 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 period 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 Article 7 of the Agriculture and Markets Law and by paying the impoundment fee set forth in § 118 of the Agriculture and Markets Law.

D. If the dog is to be redeemed, the owner, upon redemption, shall pay the Town Clerk a fee as follows:

(1) Impoundment: $100 flat fee plus $10 per day.
(2) When an owner is identifiable, if a dog is captured while running at large and returned to the dog owner: $50 civil penalty.
(3) Dogs turned over to the Ulster County SPCA for euthanasia and adoption or unclaimed must be neutered or spayed when adopted from the Ulster County SPCA , at the expense of those adopting the animal.

E. Any dog unredeemed at the expiration of the redemption period shall be made available for adoption or euthanized pursuant to the provisions of § 118 of the Agriculture and Markets Law.

F. No action shall be maintained against the Town, Dog Control Officer, peace officer, when acting pursuant to his special duties, or any other agent of the Town, or any persons under contract to the Town, to recover the possession of, or value of any dog seized or destroyed pursuant to the provisions of this article or the Agriculture and Markets Law.

G. Any Dog Control Officer or peace officer, when acting pursuant to his special duties, observing a violation of this article in his presence may issue and serve an appearance ticket for such violation.

H. In the event that the dog seized bears a license tag, the person seizing the dog shall, within three days thereafter, ascertain the name of the owner and give the owner immediate notice by serving upon the owner a written notice stating that the dog was seized and stating that the dog will be destroyed or otherwise provided for, unless redeemed or a trial is demanded within 12 days of the impoundment of the dog.

I. In the event that the dog seized does not bear a license tag and the owner is unknown, the Ulster County SPCA, or another suitable organization or individual appointed by the Dog Control Officer, shall be authorized to destroy the dog seven days after the impounding or to dispose of the dog by sale or other means, unless the owner redeems the dog, if permitted, or unless a trial is demanded by the owner, within seven days of seizure.

§ 75-21. Forfeiture of ownership.

If any impounded dog is not redeemed or a trial demanded within the time herein as set forth, the owner shall forfeit ownership of the dog, and it may thereafter be destroyed or otherwise provided for by the appropriate official as hereinafter provided.

A. In the event that it becomes necessary to destroy a dog, the Dog Control Officer or any law enforcement officer shall arrange, through the Ulster County SPCA, or another suitable organization or individual appointed by the Dog Control Officer, to humanely destroy and dispose of the carcass. Any Dog Control Officer who destroys a dog must make a report in writing to the Town Clerk and such report shall be filed for one year.

B. The owner, possessor or harborer of any dog destroyed under the provisions of this article shall not be entitled to any compensation and no action shall be maintainable thereafter to recover the value of the animal or any other type of damage whatsoever.

Chapter 81
ENTERTAINMENT, PUBLIC

§ 81-1. Purpose.

§ 81-2. Legislative Authority.

§ 81-3. License Required.

§ 81-4. License Fees.

§ 81-5. Application Fee; Insurance Requirements.

§ 81-6. Organizations Exempt from Fees.

§ 81-7. Denial of Licenses; Appeals.

§ 81-8. Penalties for Offenses.

[HISTORY: Adopted by the Town Board of the Town of Ulster 2-18-1947; amended in its entirety by Local Law #3 of 2003, July 21, 2003.]

GENERAL REFERENCES

Appearance tickets - See Ch. 7.
Building construction and fire prevention - see Ch. 61.
Games of chance - See Ch. 91.
Noise - See Ch. 117.
Fees - See Ch. A194.

§ 81-1. Purpose.

The purpose of this chapter is to establish licensing provisions for any person, firm, corporation or association conducting any outdoor circuses, carnivals, flea markets, menageries or exhibitions of natural or artificial curiosities in the Town of Ulster and to delegate the authority to issue a license therefore to the Town Clerk of the Town of Ulster.

§ 81-2. Legislative Authority.

The authority for such provision is set forth in the Municipal Home Rule of the State of New York, specifically Municipal Home Rule Law § 10, Subdivision 1(ii)(a)(12).

81-3. License Required.

No person, firm, corporation or association shall give an exhibition or performance for money or any other valuables or shall conduct any outdoor circus, carnival, flea market, menagerie or exhibition of natural or artificial curiosities in the Town of Ulster until they shall have obtained a license therefore from the Town Clerk of the Town of Ulster and shall have paid the fee provided herein for such license. In addition, written permission from the property owner is required.

§ 81-4. License Fees.

The fees for such licenses are hereby as provided in Chapter A 194, Fees

§ 81-5. Application Fee; Insurance Requirements.

The applicant shall submit to the Town Clerk an application on a form provided by the Town Clerk for such license and shall, in addition to the above cited fee, pay an application fee as provided in Chapter A 194, Fees, with said application. The application shall contain a certificate of liability naming the Town of Ulster, insuring it against any claim for liability, in the sum of one million dollars ($1,000,000.) per occurrence.

§ 81-6. Organizations Exempt from Fees.

The Town Clerk of the Town of Ulster may grant such licenses free of charge to any association, society, membership corporation of a charitable or educational nature or to any veterans, firematic or religious organization or to any other worthy association or society having headquarters within the Town of Ulster or any city or town adjacent thereto when such Clerk is provided with adequate proof by an affidavit filed with the Town Clerk with the application for such license that said society, association or organization is to receive the proceeds from such benefit showing

§ 81-7. Denial of Licenses; Appeals.

A denial of the license by the Town Clerk of the Town of Ulster may be appealed to the Town Board of the Town of Ulster, and it shall require a two-thirds (2/3) vote of the Town Board of the Town of Ulster in a regular or special meeting to grant any license provided for herein.

§ 81-8. Penalties for Offenses.

The violation of this chapter or any part thereof shall be punishable by a fine of not to exceed two hundred fifty dollars ($250.00) or by imprisonment for not to exceed fifteen (15) months, or both.

Chapter 84
FEES

§ 84-1. Schedule of fees and charges enacted.

§ 84-2. Purpose.

§ 84-3. Applicability.

§ 84-4. Adoption of resolution and amendments authorized.

§ 84-5. Addition, deletion or changing of fees.

[HISTORY: Adopted by the Town Board of the Town of Ulster 10-11-1988 as L.L. No. 5- 1988. Amendments noted where applicable.]

GENERAL REFERNCES

Fees - See Ch. A194.

§ 84-1. Schedule of fees and charged enacted.

Pursuant to § 10 of the Municipal Home Rule Law and this chapter, the Town Board hereby enacts a standard schedule of fees and charges associated with the administration and operation of the Town of Ulster, including all boards and commissions.

§ 84-2. Purpose.

The purpose of this chapter is to provide for a single comprehensive schedule of fees and charges to be levied in the administration of town laws, ordinances, regulations and resolutions, exclusive of sewer connection impact fees. The schedule will be set forth in a resolution to be adopted by the Town Board after passage of this chapter(1) It will permit the annual review and updating of fees consistent with annual budgeting process, based on the actual costs to the town of providing those services, by the simple process of adopting and amending, from time to time, a resolution containing such fees.

§ 84-3. Applicability.

The fees set forth in the resolution referred to in § 84-2 above shall apply to the provisions of all local laws, ordinances, regulations and resolutions of the Town of Ulster adopted prior to the date of this chapter and shall supersede any specific fee contained or referred to therein. To the extent that fees or

(1) Editor's Note: See Ch. A194, Fee

charges levied in such other regulation are not included in this standard schedule, such fee shall remain effective pending incorporation in this standard schedule.

§ 84-4. Adoption of resolution and amendments authorized.

The Town Board of the Town of Ulster is hereby authorized to adopt a resolution and, from time to time, amend such resolution as in the opinion of the Town Board is necessary, which resolution shall enact and adopt a standard schedule of fees and charges associated with the administration and operation of the Town of Ulster, including all Boards and Commissions thereof.

§ 84-5. Addition, deletion or changing of fees.

Such resolution and any amendments thereto may add to or delete, from time to time, as in the judgment of the Town Board is necessary, to eliminate fees or provide for additional fees or change the amounts of said fees as set forth in the resolution.

Chapter 87

FLOOD DAMAGE PREVENTION

ARTICLE I
STATUTORY AUTHORIZATION AND PURPOSE

§ 87-1. Findings.
§ 87-2. Purpose.
§ 87-3. Objectives.

ARTICLE II
DEFINITIONS

§ 87-4. Definitions and word usage.

ARTICLE III
GENERAL PROVISIONS

§ 87-5. Applicability.
§ 87-6. Basis for establishing areas of special flood hazard.
§ 87-7. Interpretation and conflict with other laws.
§ 87-8. Severability.
§ 87-9. Penalties for non-compliance.
§ 87-10. Warning and disclaimer of liability.

ARTICLE IV
ADMINISTRATION

§ 87-11. Local administrator designated.
§ 87-12. The floodplain development permit.
§ 87-13. Application for a permit.
§ 87-14. Duties and responsibilities of the local administrator
§ 87-15. General standards.
§ 87-16. Standards for all structures.
§ 87-17. Residential structures.
§ 87-18. Non-residential structures.
§ 87-19. Manufactured homes and recreational vehicles.

ARTICLE VI
VARIANCE PROCEDURE

§ 87-20. Appeals board.
§ 87-21. Condition for variances

[HISTORY: Adopted by the Town Board of the Town of Ulster on 8-6-2009 as LL. No. 6-2009 to repeal and replace the previous provisions of chapter 87; amended with addition of Chapter 87-6 (C) by the Town Board of the Town of Ulster on 4-05-2018 as Local Law 1 of 2018]

The Town Board of the Town of Ulster finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Ulster 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 local law is adopted.

§ 87-2. Purpose.

It is the purpose of this local law 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 flood waters;

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 flood waters or which may increase flood hazards to other lands, and;

F. qualify and maintain for participation in the National Flood Insurance Program.

§ 87-3. Objectives.

The objectives of this local law 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; to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;

E. 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

§ 87-4. Definitions and word usage.

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

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredict- able and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or l00-year floodplain. For purposes of this Local Law, the term “special flood hazard area (SFHA)” is synonymous in meaning with the phrase “area of special flood hazard.”

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

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

"Building" see "Structure"

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

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

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

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building other- wise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

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

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

(l) the overflow of inland or tidal waters;

(2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding an-

ticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood- related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

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

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

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

"Floodproofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

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

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

(1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a. by an approved state program as determined by the Secretary of the Interior or
b. directly by the Secretary of the Interior in states without approved programs

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

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

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

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

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of l929, the North American Vertical Datum of 1988 (NAVD 88), or other da- tum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

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

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any sub- sequent improvements to such structure.

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

"Principally above ground" means that at least 5l percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

(1) built on a single chassis;

(2) 400 square feet or less when measured at the largest horizontal projections;

(3) designed to be self-propelled or permanently towable by a light duty truck; and

(4) not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water sur face 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 section § 87-14 (B) of this Law.

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

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

ARTICLE III
GENERAL PROVISIONS

§ 87-5. Applicability.

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Ulster, Ulster County**.**

§ 87-6. Basis for establishing areas of special flood hazard.

The areas of special flood hazard for the Town of Ulster, Community Number 360866, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

A. Flood Insurance Rate Map Panel Numbers
36111C0295E, 36111C0315E, 36111C0320E, 36111C0455E,
36111C0460E, 36111C0470E, 36111C0480E

whose effective date is September 25, 2009 , and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.

B. A scientific and engineering report entitled "Flood Insurance Study, Ulster County, New York, All Jurisdictions - dated September 25, 2009".

C. Letter of map revision, Case Number 16-02-1921P, effective April 17, 2017 revising FIRM Panel 36111C0455F.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at the office of the Building Department of the Town of Ulster located at 584 East Chester Street Bypass, Kingston, New York and the office of the Town Clerk of the Town of Ulster located at 1 Town Hall Drive, Lake Katrine, New York.

§ 87-7. Interpretation and conflict with other laws.

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

§ 87-8. Severability.

The invalidity of any section or provision of this local law shall not invalidate any other section or provision thereof.

§ 87-9. Penalties for non-compliance.

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 local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than $250 or imprisoned for not more than l5 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Ulster from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not com- pliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Article 6 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

§ 87-10. Warning and disclaimer of liability.

The degree of flood protection required by this local law 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 local law 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 local law shall not create liability on the part of the Town of Ulster any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made there under.

ARTICLE IV ADMINISTRATION

§ 87-11. Local administrator designated.

The Town of Ulster Building Inspector is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

§ 87-12. The floodplain development permit.

A. Purpose.

A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and ensuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in section §87-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.

B. Fees.

All applications for a floodplain development permit shall be accompanied by an application fee in an amount as set by resolution of the Town Board of the Town of Ulster. In addition, the applicant shall be responsible for reimbursing the Town of Ulster for any additional costs necessary for review, inspection and approval of this project. The Local Administrator may require a deposit of no more than $500.00 to cover these additional costs.

§ 87-13. Application for a 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 A1- A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permitee 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, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permitee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

C. The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permitee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

D. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in section §87-16 (C), Utilities.

E. A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in section §87-18, Non-residential structures.

F. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in section §87-6, 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.

G. 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.

H. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.

§ 87-14. Duties and responsibilities of the 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 subsection § 87-13, Application for a permit, and for compliance with the provisions and standards of this law.

(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 5, Construction standards and, in particular, section §87-15 (A), Subdivision proposals.

(3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination.

If the proposed development may result in physical damage to any other property or fails to meet the requirements of Article 5, Construction standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.

(4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

B. Use of other flood data.

(1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review

(2) and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to section §87-13 (E), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.

(3) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.

C. Alteration of watercourses.

(1) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the 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 A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by 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 submit- ted 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 section §87-9 of this local law.

(2) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in section §87-9 of this local law.

G. Certificate of compliance.

(1) In areas of special flood hazard, as determined by documents enumerated in section §87-6, 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 local law.

(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 section §87-13 (C). 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 sections §87-14 (D)(1) and § 87-14 (D)(2), and whether or not the structures contain a basement;

(3) Floodproofing certificates required pursuant to section §87-14 (D)(1), and whether or not the structures contain a basement;

(4) Variances issued pursuant to Article 6, Variance procedures; and,

(5) Notices required under section §87-14 (C), Alteration of watercourses.

ARTICLE V
CONSTRUCTION STANDARDS

§ 87-15. 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 section §87-6.

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

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

b. the Town of Ulster 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 Ulster 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 Ulster 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 section §87-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

c. 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, or,

d. the Town of Ulster 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 Ulster 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 Ulster for all costs related to the final map revisions.

§ 87-16. Standards for all structures.

A. Anchoring.

New structures and substantial improvement to structures in areas of special flood hazard

shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

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

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

3. For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

a. 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

b. the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

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

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 be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic

loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated to or above the base flood elevation unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;

(2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the 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; and,

(4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§ 87-17. Residential structures.

A. Elevation.

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sections §87-15 (A), Subdivision proposals, §87-15 (B), Encroachments, and section §87-16, Standards for all structures.

(1) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.

(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.

(3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in section §87-6 (at least two feet if no depth number is specified).

(4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

§ 87-18. Non-residential structures.

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sections §87-15 (A), Subdivision proposals, §87-15 (B), Encroachments, and section §87-16, Standards for all structures.

A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential 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 hydro static and hydrodynamic loads and the effects of buoyancy.

B. Within Zone AO, new construction and substantial improvements of non-residential structures shall:

1. have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or

2. together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in section §87-18 (A) (2).

C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of section §87-18 (A) (2)**,** including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

D. Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

§ 87-19. Manufactured homes and recreational vehicles.

The following standards in addition to the standards in section §87-15, General standards, and section §87-16, 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 placed on sites within Zones A1-A30, AE and AH shall either:

1. be on site fewer than 180 consecutive days,

2. be fully licensed and ready for highway use, or

3. meet the requirements for manufactured homes in section §87-19 (B), (C) and (D).

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH 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.

D. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in section §87-6 (at least two feet if no depth number is specified).

§ 87-20. Appeals board.

A. The Town of Ulster Zoning Board of Appeals as established by the Town Board of the Town of Ulster shall hear and decide appeals and requests for variances from the requirements of this local law.

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 local law.

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 local law 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 flood waters 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, 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 section §87-20 (D) and the purposes of this local law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.

F. The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

§ 87-21. Conditions for variances.

A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (1-12) in section §87-20 (D) have been fully considered. As the lot size increases beyond the one- half 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 design nation as a "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 subparagraphs (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 hard ship 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, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:

1. 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

2. such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required in section §87-14 (H) of this Local Law.

Attachment A

FLOODPLAIN DEVELOPMENT APPLICATION FORM

APPLICATION #_____

FLOODPLAIN DEVELOPMENT PERMIT APPLICATION

This form is to be filled out in duplicate.

SECTION 1: GENERAL PROVISIONS (APPLICANT to read and sign):_____

1. No work may start until a permit is issued.
2. The permit may be revoked if any false statements are made herein.
3. If revoked, all work must cease until permit is re-issued.
4. Development shall not be used or occupied until a Certificate of Compliance is issued.
5. The permit is invalid if no work is commenced within six months of issuance, and expires 2 years from date of issuance.
6. Applicant is hereby informed that other permits may be required to fulfill local, state and federal regulatory requirements.
7. Applicant hereby gives consent to the Local Administrator or his/her representative to make reasonable inspections required to verify compliance.
8. I, THE APPLICANT, CERTIFY THAT ALL STATEMENTS HEREIN AND IN ATTACHMENTS TO THIS APPLICATION ARE, TO THE BEST OF MY KNOWLEDGE, TRUE AND ACCURATE.

(APPLICANT'S SIGNATURE)_____DATE

SECTION 2: PROPOSED DEVELOPMENT (To be completed by **APPLICANT)**

	NAME	ADDRESS	TELEPHONE
APPLICANT			
BUILDER			
ENGINEER			

PROJECT LOCATION:

To avoid delay in processing the application, please provide enough information to easily identify the project location. Pro- vide the street address, lot number or legal description (attach) and, outside urban areas, the distance to the nearest intersecting road or well-known landmark. A map attached to this application, and a sketch showing the project layout would be helpful.

APPLICATION #_____

DESCRIPTION OF WORK (Check all applicable boxes):

A. STRUCTURAL DEVELOPMENT

ACTIVITY	STRUCTURE TYPE
Γ New Structure	Γ Residential (1-4 Family)
Γ Addition	Γ Residential (More than 4 Family)
Γ Alteration	Γ Non-residential (Floodproofing? Γ Yes)
Γ Relocation	Γ Combined Use (Residential & Commercial)
Γ Demolition	Γ Manufactured (Mobile) Home
Γ Replacement	(In Manufactured Home Park? Γ Yes Γ No)

ESTIMATED COST OF PROJECT $_____

B. OTHER DEVELOPMENT ACTIVITIES:

Γ Fill Γ Mining Γ Drilling Γ Grading
Γ Excavation (Except for Structural Development Checked Above)
Γ Watercourse Alteration (Including Dredging and Channel Modifications)
Γ Drainage Improvements (Including Culvert Work), Stormwater Control Structures or Ponds
Γ Road, Street or Bridge Construction
Γ Subdivision (New or Expansion)
Γ Individual Water or Sewer System
Γ Other (Please Specify)_____

After completing SECTION 2, APPLICANT should submit form to Local Administrator for review.

SECTION 3: FLOODPLAIN DETERMINATION (To be completed by **LOCAL ADMINISTRATOR)**

The proposed development is located on FIRM Panel No._____, Dated_____. The Proposed

Development:

Γ The proposed development is reasonably safe from flooding. Entire property is in Zone B, C or X.

Γ The proposed development is in adjacent to a flood prone area.
100-Year flood elevation at the site is: _____Ft. Γ NGVD 1929/ Γ NAVD 1988 (MSL)
Γ Unavailable

Γ See Section 4 for additional instructions for development that is or may be in a flood prone area.

SIGNED_____DATE

APPLICATION #_____

SECTION 4: ADDITIONAL INFORMATION REQUIRED (To be completed by **LOCAL ADMINISTRATOR**)

The applicant must submit the documents checked below before the application can be processed:

Γ A site plan showing the location of all existing structures, water bodies, adjacent roads, lot dimensions and proposed development.

Γ Development plans and specifications, drawn to scale, including where applicable: details for anchoring structures, proposed elevation of lowest floor (including basement), types of water resistant materials used below the first floor, details of floodproofing of utilities located below the first floor, details of enclosures below the first floor,openings in foundation for entry and exit of floodwaters.
Other_____

Γ Elevation Certificate

Γ Subdivision or other development plans (If the subdivision or other development exceeds 50 lots or 5 acres, whichever is the lesser, the applicant must provide 100-year flood elevations if they are not otherwise available).

Γ Plans showing the watercourse location, proposed relocations, Floodway location.

Γ Topographic information showing existing and proposed grades, location of all proposed fill.

Γ Top of new fill elevation_____Ft. Γ NGVD 1929/ Γ NAVD 1988 (MSL)

Γ PE Certification of Soil Compaction

Γ Floodproofing protection level (non-residential only)_____Γ NGVD 1929/ Γ NAVD 1988 (MSL)
For floodproofed structures, applicant must attach certification from registered engineer or architect.

Γ Other: _____

SECTION 5: PERMIT DETERMINATION (To be completed by **LOCAL ADMINISTRATOR**)

I have determined that the proposed activity: A. Γ Is
B. Γ Is not

in conformance with provisions of Local Law #_____, (yr)_____. This permit is hereby issued subject to the conditions attached to and made part of this permit.

SIGNED_____, DATE_____

If BOX A is checked, the Local Administrator may issue a Development Permit upon payment of designated fee.

If BOX B is checked, the Local Administrator will provide a written summary of deficiencies. Applicant may revise and resubmit an application to the Local Administrator or may request a hearing from the Board of Appeals.

Expiration Date: _____

APPEALS: Appealed to Board of Appeals? Γ Yes Γ No
Hearing date:_____
Appeals Board Decision --- Approved? Γ Yes Γ No

Conditions: _____

_____

_____

SECTION 6: AS-BUILT ELEVATIONS (To be submitted by **APPLICANT** before Certificate of Compliance is issued)

The following information must be provided for project structures. This section must be completed by a registered profes- signal engineer or a licensed land surveyor (or attach a certification to this application). Complete 1 or 2 below.

1. Actual (As-Built) Elevation of the top of the lowest floor, including basement (in Coastal High Hazard Areas, bot- tom of lowest structural member of the lowest floor, excluding piling and columns) is:_____FT. Γ NGVD 1929/
Γ NAVD 1988 (MSL).
Attach Elevation Certificate FEMA Form 81-31

2. Actual (As-Built) Elevation of floodproofing protection is_____FT. Γ NGVD 1929/ Γ NAVD 1988 (MSL).
Attach Floodproofing Certificate FEMA Form 81-65

NOTE: Any work performed prior to submittal of the above information is at the risk of the Applicant.

SECTION 7: COMPLIANCE ACTION (To be completed by **LOCAL ADMINISTRATOR**)

The **LOCAL ADMINISTRATOR** will complete this section as applicable based on inspection of the project to ensure com- pliance with the community's local law for flood damage prevention.

INSPECTIONS: DATE_____BY_____DEFICIENCIES? Γ YES Γ NO
DATE_____BY_____DEFICIENCIES? Γ YES Γ NO
DATE_____BY_____DEFICIENCIES? Γ YES Γ NO

SECTION 8: CERTIFICATE OF COMPLIANCE(To be completed by **LOCAL ADMINISTRATOR**)

Certificate of Compliance issued: DATE:_____

BY: _____

Attachment B

CERTIFICATE OF COMPLIANCE
for
Development in a Special Flood Hazard Area

CERTIFICATE OF COMPLIANCE
FOR DEVELOPMENT IN A SPECIAL FLOOD HAZARD AREA

(Owner Must Retain This Certificate)

Premises located at: _____

_____

_____

_____

Owner: _____

Owner's Address: _____

_____

_____

Permit No. _____ Permit Date: _____

Check One:

__New Building
__Existing Building
__Fill
__Other:

The Local Floodplain Administrator is to complete a. or b. below:

a. Compliance is hereby certified with the requirements of Local Law No.____, (yr)____.

Signed:_____ Dated:

b. Compliance is hereby certified with the requirements of Local Law No.____, (yr)____, as modified by variance no _____ dated_____.

Signed:_____ Dated:_____

Chapter 88

STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

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[HISTORY. Adopted by the Town Board of the Town of Ulster 4-02-2009 as L.L. No. 3-2009.]

ARTICLE I. General Provisions

§ 88-1. 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 water-borne pollutants, including siltation of aquatic habitat for fish and other desirable species.

C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat.

D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff thereby increasing stream bank erosion and sedimentation.

E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow.

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

G. Stormwater runoff, soil erosion and non-point source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities.

H. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and non-point source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety.

I. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

§ 88-2. 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 this jurisdiction and to address the findings of fact in Section 88-1 hereof. This chapter seeks to meet those purposes by achieving the following objectives:

A. Meet the minimum requirements for control of construction site and post construction runoff of the New York State Department of Environmental Conservation (NYSDEC) State Pollutant Discharge Elimination System (SPDES) general permit for stormwater discharges from municipal separate stormwater sewer systems (MS4s), Permit No. GP-02-02 or as amended or revised.

B. Require land development activities to conform to the substantive requirements of the NYSDEC SPDES general permit for construction activities GP-02-01 or as amended or revised.

C. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and stream bank erosion and to maintain the integrity of stream channels.

D. Minimize increases in pollution caused by stormwater runoff from land development activities, which would otherwise degrade local water quality.

E. Minimize the total annual volume of stormwater runoff that flows from any specific site during and following development to the maximum extent practicable.

F. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

§ 88-3. Statutory authority.

In accordance with Article 10 of the Municipal Home Rule Law of the State of New York, the Town Board of the Town of Ulster has the authority to enact local laws and amend local laws and for the purpose of promoting the health, safety or general welfare of the Town of Ulster and for the protection and enhancement of its physical environment. The Town Board of Ulster may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

§ 88-4. Applicability.

A. This Chapter shall be applicable to all land development activities as defined in §88-6 of this Chapter.

B. The Town Board shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the Town Planning Board and/or Town Board as provided herein The Stormwater Management Officer may:

(1) Review the plans;

(2) Upon approval by the Town Board of the Town of Ulster, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board;

(3) Accept the certification of a licensed professional that the plans conform to the requirements of this law.

C. All land development activities subject to review and approval by the Planning Board and/or Town Board of the Town of Ulster under subdivision, site plan, and/or special permit regulations shall be reviewed subject to the standards contained in this chapter and other applicable laws and regulations.

D. A stormwater pollution prevention plan (SWPPP) consistent with the requirements of Articles I and II of this chapter shall be required for preliminary subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards in Article II of this chapter. The approved preliminary subdivision plat shall be consistent with the provisions of this chapter.

E. An SWPPP consistent with the requirements of Articles I and II of this chapter and with the terms of preliminary plat approval shall be required for final subdivision plat approval. The SWPPP shall meet the performance and design criteria and standards in Article II of this chapter. The approved final subdivision plat shall be consistent with the provisions of this chapter.

F. An SWPPP consistent with the requirements of Articles I and II of this chapter shall be required for site plan approval. The SWPPP shall meet the performance and design criteria and standards in Article II of this chapter. The approved site plan shall be consistent with the provisions of this chapter.

G. No land development activity not subject to review as stated in §88-4C above shall be commenced unless and until the Town Planning Board and/or Town Board as provided herein has approved an SWPPP submitted to the Board.

§ 88-5. Exemptions.

The following activities may be exempt from review under this law.

A. Agricultural activity as defined in this chapter.

B. Silvicultural activity except that landing areas and log haul roads are subject to this law.

C. Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.

D. Alteration or maintenance of an existing structure that will not have an impact on the quantity or quality of the surface water discharge from a site.

E. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.

F. Land development activities that received prior approval from the Town Planning Board prior to the effective date of this chapter; however, said activities shall not be exempt from

compliance with applicable state laws or regulations governing stormwater management and control.

G. Land development activities for which a building permit has been approved on or before the effective date of this chapter; however, said activities shall not be exempt from compliance with applicable state laws or regulations governing stormwater management and control.

H. Cemetery graves.

I. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.

J. Emergency activity immediately necessary to protect life, property or natural resources.

K. 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.

L. Landscaping and horticultural activities in connection with an existing structure.

ARTICLE II.
Stormwater Control

§ 88-6. 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.

AGRICULTURAL ACTIVITY - The activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

APPLICANT - A property owner or agent of a property owner who has filed an application for a land development activity.

BUILDING - Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

CHANNEL - A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING - Any activity that removes the vegetative surface cover.

DEDICATION - The deliberate appropriation of property by its owner for general public use.

DEPARTMENT - The New York State Department of Environmental Conservation

DESIGN MANUAL - The New York State Stormwater Management Design Manual, most recent version including applicable updates that serves as the official guide for stormwater management principles, methods and practices.

DEVELOPER - A person who undertakes land development activities.

EROSION CONTROL MANUAL - The most recent version of the “New York Standards and Specifications for Erosion and Sediment Control” manual, commonly known as the “Blue Book”.

GEOGRAPHICAL INFORMATION SYSTEM (GIS) — A satellite-based navigation system made up of a network of satellites placed into orbit by the U.S. Department of Defense and available for civilian use.

GIS COORDINATOR — A person designated by the Town Board to accept and review all GIS/GPS recordkeeping data as it relates to stormwater outfalls and permanent stormwater facilities.

GLOBAL POSITIONING SYSTEM (GPS) — A collection of computer hardware, software, and geographic data for capturing, managing, analyzing, and displaying all forms of geographically referenced information.

GRADING – Excavation, fill, or movement of material, including the resulting conditions thereof.

IMPERVIOUS COVER- Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

INDUSTRIAL STORMWATER PERMIT - A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries that regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION - The process of percolating stormwater into the subsoil.

JURISDICTIONAL WETLAND - An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

LAND DEVELOPMENT ACTIVITY - Construction activity, including clearing, grading, excavating, soil disturbance or placement of fill, that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

LANDOWNER - The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

MAINTENANCE AGREEMENT - A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

NON-POINT SOURCE POLLUTION - Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

PHASING - Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

POLLUTANT OF CONCERN - Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

PROJECT - Land development activity.

RECHARGE - The replenishment of underground water reserves.

SEDIMENT CONTROL - Measures that prevent eroded sediment from leaving the site. SENSITIVE

AREAS - Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01 — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02 — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards.

STABILIZATION - The use of practices that prevent exposed soil from eroding.

STOP WORK ORDER - An order issued that requires that all construction activity on a site be stopped.

STORMWATER - Rainwater, surface runoff, snowmelt and drainage.

STORMWATER HOTSPOT - A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

STORMWATER MANAGEMENT - The use of structural or non-structural 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 Town Board to accept and review stormwater pollution prevention plans, forward the plans to the Town Planning Board and/or Town Board and, if required, inspect stormwater management practices and maintain records of such plans and inspection reports.

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 non-point source pollution inputs to stormwater runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) - A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF - Flow on the surface of the ground, resulting from precipitation.

SURFACE WATERS OF THE STATE OF NEW YORK

A. Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction.
B. Storm sewers and waste treatment systems including treatment ponds or lagoons that also meet the criteria of this definition are not waters of the state. This exclusion applies only to man-made bodies of water that 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.

to man-made bodies of water that 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.

TOTAL MAXIMUM DAILY LOAD (TMDL) – Is a calculation of the maximum amount of a pollutant that a waterbody can receive &still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL specifies the allowable pollutant loading from all contributing sources (e.g., point sources, non-point sources, & natural background) at a level necessary to attain the applicable water quality standards with seasonal variations and a margin of safety that takes into account any lack of knowledge concerning the relationship between the sources of the pollutant & water quality. In essence, a TMDL defines the assimilative capacity of the waterbody to absorb a pollutant and still meet water quality standards.

WATERCOURSE - A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATERWAY - A channel that directs surface runoff to a watercourse or to the public storm drain.

§ 88-7. Stormwater pollution prevention plans.

A. Stormwater pollution prevention plan requirements.

(1) No application for approval of a land development activity shall be reviewed until the appropriate board of the Town has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications in this chapter.

(2) In general, the erosion and sediment control plan is the SWPPP for disturbances less than one (1) acre and for the construction of single-family residences where the total disturbance of the project is less than five (5) acres.

(3) In the case of projects having a total disturbance area of less than five (5) acres, and for which no SWPPP is required, the applicant will provide to the Town's GIS Coordinator on the submitted plans and as-built plans any and all GPS reference data for stormwater outfalls and permanent structures built in accordance with the New York State Stormwater Management Design Manual.

B. Contents of stormwater pollution prevention plans. All SWPPPs, except as noted above, shall provide the following background information and erosion and sediment controls:

(1) Background information about the scope of the project, including the location, type and size of the project.

(2) Site map (no smaller than 1" = 100')/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all proposed improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);

(3) A map and description of the soil(s) present at the site;

(4) A construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control
(Erosion Control Manual), not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP.

(5) A description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff.

(6) A description of construction and waste materials expected to be stored on site with updates as appropriate, and a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response.

(7) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close out.

(8) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice.

(9) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the sighting and sizing of any temporary sediment basins.

(10) Temporary practices that will be converted to permanent control measures.

(11) An implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and the duration that each practice should remain in place.

(12) A maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice.

(13) Name(s) of the receiving water(s).

(14) Delineation of SWPPP implementation responsibilities for each part of the site.

(15) A description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable.

(16) Any existing data that describes the stormwater runoff at the site.

(17) Any additional information shall be provided if requested by the Stormwater Management Officer.

(18) The Town's GIS Coordinator for all stormwater outfalls and permanent structures built in accordance with New York State Stormwater Management Design Manual.

C. Land development activities as defined herein and meeting Condition "A", "B" or "C" below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Subsection D below as applicable:

(1) Condition A: Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.

(2) Condition B: Stormwater runoff from land development activities disturbing five (5) or more acres.

(3) Condition C: Stormwater runoff from land development activity disturbing between one (1) and five (5) acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.

D. SWPPP requirements for Condition A, B and C:

(1) All information in Section 88-7B of this chapter.

(2) A description of each post-construction stormwater management practice.

(3) A site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice.

(4) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms.

(5) Comparison of post-development stormwater runoff conditions with pre-development conditions.

(6) Dimensions, material specifications and installation details for each post-construction stormwater management practice.

(7) A maintenance schedule to ensure continuous and effective operation of each post- construction stormwater management practice.

(8) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.

(9) An inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Section 88-9 D of this chapter.

E. Plan certification. The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this chapter.

F. Other environmental permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

G. Contractor certification.

(1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

(2) 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.

(3) The certification statement(s) shall become part of the SWPPP for the land development activity.

H. Plans on site. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

I. As-built drawings. After the Town's final inspection of the installed drainage facilities, the applicant/developer shall submit to the SMO and GIS Coordinator an as-built drawing of the drainage facilities along with the GPS reference data on all outfalls and permanent drainage structures.

§ 88-8. Performance and design criteria.

All non-exempt land development activities shall be subject to the following performance and design criteria:

A. Technical standards. For the purpose of this chapter, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this law:

(1) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual)

(2) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version) or its successor, hereafter referred to as the "Erosion Control Manual".

B. Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

§ 88-9. Maintenance and repair of facilities.

A. Maintenance and during construction.

(1) The applicant or developer of the land development activity or their representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that 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 fifty (50) percent.

(2) The applicant or developer or representative identified in the SWPPP shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every seven days and within 24 hours of any storm event producing 0.5 inches of precipitation or more. The reports shall be delivered to the Stormwater Management Officer and also copied to the site logbook.

B. Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Ulster to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of Ulster.

C. Maintenance after construction. Permanent stormwater management practices installed in accordance with this chapter shall be operated and maintained by the owner or operator to achieve the goals of this chapter. Proper operation and maintenance also includes, as a minimum, the following:

(1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) that are installed or used by the owner or operator to achieve the goals of this chapter.

(2) Written procedures for operation and maintenance and training new maintenance personnel.

(3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § 88-8 of this chapter.

D. Maintenance Agreement. The Town of Ulster shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this chapter, entitled "Sample Stormwater Control Facility Maintenance Agreement." Editor's Note: Schedule B is included at the end of this chapter. The Town of Ulster, in lieu of a maintenance agreement, at its sole discretion, may accept dedication of any existing or future stormwater management facility, provided that such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

§ 88-10. Inspections; monitoring and reporting; right of entry; performance guarantees.

A. Construction inspection.

(1) Erosion and sediment control inspection.

(a) The Town of Ulster 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 Town of Ulster enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

[1] Start of construction.

[2] Installation of sediment and erosion control measures.

[3] Completion of site clearing.

[4] Completion of rough grading.

[5] Completion of final grading.

[6] Close of the construction season.

[7] Completion of final landscaping.

[8] Successful establishment of landscaping in public areas.

(b) 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.

(2) Stormwater management practice inspections. The Town of Ulster Stormwater Management Officer is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit as-built plans for any stormwater management practices located on site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

(3) Inspection of stormwater facilities after project completion. Inspection programs shall be established on any reasonable basis, including, but not limited to, routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of contaminants or pollutants or with discharges of a type that 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.

(4) Submission of reports. The Town of Ulster Stormwater Management Officer may require monitoring and reporting from entities subject to this chapter as are necessary to determine compliance with this chapter.

(5) Right of entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public stormwater system, the landowner shall grant to the Town of Ulster the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in § 88-10A(3).

B. Performance guarantee.

(1) Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Ulster in its approval of the stormwater pollution prevention plan, the Town of Ulster may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of Ulster as the beneficiary. The security shall be in an amount to be determined by the Town of Ulster based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town of Ulster, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the Town of Ulster.

(2) 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 to provide the Town of Ulster with an irrevocable letter of credit from an approved financial institution or surety 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 of Ulster may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

(3) Recordkeeping. The Town of Ulster may require entities subject to this chapter to maintain records demonstrating compliance with this chapter.

§ 88-11. Enforcement; penalties for offenses.

A. Notice of violation. When the Town of Ulster determines that a land development activity is not being carried out in accordance with the requirements of this chapter, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

(1) The name and address of the landowner, developer or applicant.

(2) The address when available or a description of the building, structure or land upon which the violation is occurring.

(3) A statement specifying the nature of the violation.

(4) A description of the remedial measures necessary to bring the land development activity into compliance with this chapter and a time schedule for the completion of such remedial action.

(5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed.

(6) A statement that the determination of violation may be appealed to the Town by filing a written notice of appeal within 15 days of service of notice of violation.

B. Stop-work orders. The Town of Ulster 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 Ulster 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.

C. Violations. Any land development activity that is commenced or is conducted contrary to this chapter may be restrained by injunction or otherwise abated in a manner provided by law.

D. Penalties for offenses. No person shall construct, enlarge, alter, repair or maintain any grading, excavation or fill, or cause the same to be done, contrary to or in violation of any terms of this chapter.

(1) Any person violating any of the provisions of this chapter shall be deemed guilty of an offense, and each day during which any violation of any of the provisions of this chapter is committed, continued or permitted shall constitute a separate offense.

(2) Upon conviction of any such violation, such person, partnership or corporation shall be punished by a fine of not more than $250 for each offense.

(3) In addition to any other penalty authorized by this section, any person, partnership or corporation convicted of violating any of the provisions of this chapter shall be required to bear the expense of any such restoration.

E. Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this chapter, the Stormwater Management Officer may prevent the occupancy of said building or land.

F. Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Lloyd may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

§ 88-12. Fees for services.

Persons undertaking land development activities regulated by this chapter shall pay all development and consulting fees incurred by the Town of Ulster in connection with the review
of SWPPPs, inspections, or SMP maintenance performed by the Town of Ulster or performed by a third party for the Town of Ulster. The reasonableness of these fees shall be audited by the Supervisor of the Town of Ulster.

§ 88-13. Severability and effective date.

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this chapter. This chapter shall be effective upon filing with the office of the Secretary of State.

Schedule A

Stormwater Management Practices Acceptable for Water Quality (From: New York State Stormwater Management Design Manual, Table 5.1)		
Group	Practice	Description
Pond	Micropool Extended Detention Pond (P-1)	Pond that treats the majority of the water quality volume through extended detention, and incorporates a micropool at the outlet of the pond to prevent sediment resuspension.
	Wet Pond (P-2)	Pond that provides storage for the entire water quality volume in the permanent pool.
	Wet Extended Detention Pond (P-3)	Pond that treats a portion of the water quality volume by detaining storm flows above a permanent pool for a specified minimum detention time.
	Multiple Pond System (P-4)	A group of ponds that collectively treat the water quality volume.
	Pocket Pond (P-5)	A stormwater wetland design adapted for the treatment of runoff from small drainage areas that has little or no base flow available to maintain water elevations and relies on groundwater to maintain a permanent pool.
Wetland	Shallow Wetland (W - 1)	A wetland that provides water quality treatment entirely in a shallow marsh.
	Extended Detention Wetland (W-2)	A wetland system that provides some fraction of the water quality volume by detaining storm flows above the marsh surface.
	Pond/Wetland System (W-3)	A wetland system that provides a portion of the water quality volume in the permanent pool of a wet pond that precedes the marsh for a specified minimum detention time.
	Pocket Wetland (W-4)	A shallow wetland design adapted for the treatment of runoff from small drainage areas that has variable water levels and relies on groundwater for its permanent pool.

Infiltration	Infiltration Trench (I-1)	An infiltration practice that stores the water quality volume in the void spaces of a gravel trench before it is infiltrated into the ground.
	Infiltration Basin (I-2)	An infiltration practice that stores the water quality volume in a shallow depression before it is infiltrated into the ground.

Stormwater Management Practices Acceptable for Water Quality (From: New York State Stormwater Management Design Manual, Table 5.1)		
Group	Practice	Description
	Dry Well (I-3)	An infiltration practice similar in design to the infiltration trench, and best suited for treatment of rooftop runoff.
Filtering Practices	Surface Sand Filter (F-1)	A filtering practice that treats stormwater by settling out larger particles in a sediment chamber, and then filtering stormwater through a sand matrix.
	Underground Sand Filter (F2)	A filtering practice that treats stormwater as it flows through underground settling and filtering chambers.
	Perimeter Sand Filter (F-3)	A filter that incorporates a sediment chamber and filter bed as parallel vaults adjacent to a parking lot.
	Organic Filter (F-4)	A filtering practice that uses an organic medium such as compost in the filter in place of sand.
	Bioretention (F-5)	A shallow depression that treats stormwater as it flows through a soil matrix, and is returned to the storm drain system.
Open Channels	Dry Swale (O-1)	An open drainage channel or depression explicitly designed to detain and promote the filtration of stormwater runoff into the soil media.
	Wet Swale (O-2)	An open drainage channel or depression designed to retain water or intercept groundwater for water quality treatment.

Schedule B

SAMPLE STORMWATER CONTROL FACILITY MAINTENANCE AGREEMENT

Whereas, the Town Board of the Town of Ulster, hereafter referred to as Town Board and the _____("facility owner") want to enter into an agreement to provide for the long term maintenance and continuation of stormwater control measures approved by the Town Board for the below named project, and

Whereas, the Town Board and the facility owner desire that the stormwater control measures be built in accordance with the approved project plans and thereafter be maintained, cleaned, repaired, replaced and continued in perpetuity in order to ensure optimum performance of the components. Therefore, the Town Board and the facility owner agree as follows:

1. This agreement binds the Town Board and the facility owner, its successors and assigns, to the maintenance provisions depicted in the approved project plans which are attached as Schedule A of this agreement.

2. The facility owner shall maintain, clean, repair, replace and continue the stormwater control measures depicted in Schedule A as necessary to ensure optimum performance of the measures to design specifications. The stormwater control measures shall include, but shall not be limited to, the following: drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culvert s, soil absorption devices and retention ponds.

3. The facility owner shall be responsible for all expenses related to the maintenance of the stormwater control measures and shall establish a means for the collection and distribution of expenses among parties for any commonly owned facilities.

4. The facility owner shall provide for the periodic inspection of the stormwater control measures, not less than once in every five year period, to determine the condition and integrity of the measures. Such inspection shall be performed by a Professional Engineer licensed by the State of New York. The inspecting engineer shall prepare and submit to the Town Board within 30 days of the inspection, a written report of the findings including recommendations for those actions necessary for the continuation of the stormwater control measures.

5. The facility owner shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the stormwater control measures except in accordance with written approval of the Town Board.

6. The facility owner shall undertake necessary repairs and replacement of the stormwater control measures at the direction of the Town Board or in accordance with the recommendations of the inspecting engineer.

7. The facility owner shall provide to the Town Board within 30 days of the date of this agreement, a security for the maintenance and continuation of the stormwater control measures in the form of (a Bond, letter of credit or escrow account).

8. This agreement shall be recorded in the Office of the County Clerk, County of Ulster together with the deed for the common property and shall be included in the offering plan and/or prospectus approved pursuant to_____.

9. If ever the Town Board determines that the facility owner has failed to construct or maintain the stormwater control measures in accordance with the project plan or has failed to undertake corrective action specified by the Town Board or by the inspecting engineer, the Town Board is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the stormwater control measures and to affix the expenses thereof as a lien against the property.

10. This agreement is effective_____.

Signature Date

Chapter 89
MUNICIPAL SEPARATE STORMWATER SEWER SYSTEM CONTROL

§ 89-1. Purpose and intent.

§ 89-2. Definitions.

§ 89-3. Applicability.

§ 89-4. Responsibility for administration.

§ 89-5. Severability.

§ 89-6. Discharge prohibitions.

§ 89-7. Prohibition against failing individual sewage treatment systems.

§ 89-8. Prohibition against activities contaminating stormwater.

§ 89-9. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

§ 89-10. Suspension of access to MS4.

§ 89-11. Industrial or construction activity discharges.

§ 89-12. Access and monitoring of discharges.

§ 89-13. Notification of spills and other illicit discharges.

§ 89-14. Enforcement.

§ 89-15. Appeal of notice of violation.

§ 89-16. Corrective measures after appeals.

§ 89-17. Injunctive relief.

§ 89-18. Alternative remedies.

§ 89-19. Violations deemed a public nuisance.

§ 89-20. Remedies not exclusive

§ 89-21. Severability and effective date.

[HISTORY. Adopted by the Town Board of the Town of Ulster 3-19-2009 as L.L. No. 1-2009.]

ARTICLE I
General Provisions

§ 89-1. Purpose and intent.

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the Town of Ulster through the regulation of discharges of water (other than stormwater) into the Municipal Separate Storm Sewer System (MS4) to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the Town of Ulster MS4 in order to comply with requirements of the SPDES General Permit for MS4s. The objectives of this chapter are:

A. To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit no. GP-02-02 or as amended or revised;

B. To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge non-stormwater wastes;

C. To prohibit Illicit Connections, Activities and Discharges to the MS4;

D. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter; and

E. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.

§ 89-2. Definitions.

Whenever used in this chapter, unless a different meaning is stated in a definition applicable to only a portion of this chapter, the following terms will have meanings set forth below:
AGRICULTURAL STORMWATER RUNOFF – Any stormwater runoff from farm operations, and other non-point source agriculture and agricultural uses, but not including discharges from concentrated animal feeding operations as defined in 40 CFR Section 122.23 or discharges from concentrated aquatic animal production facilities as defined in 40 CFR Section 122.24.

BEST MANAGEMENT PRACTICES (BMPs) - Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT - The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY - Activities requiring authorization under the SPDES permit for stormwater discharges from construction activity, GP-02-01, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

DEPARTMENT - New York State Department of Environmental Conservation.

DESIGN PROFESSIONAL - New York State licensed professional engineer or licensed architect.

FARM OPERATION - The land and on-farm buildings, equipment, manure processing and handling facilities, and practices that contribute to the production, preparation and marketing of crops, livestock products as a commercial enterprise. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other [See Section 301 (11) of the New York Agriculture and Markets Law and the definition herein contained for “Agriculture”].

HAZARDOUS MATERIALS - Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLICIT CONNECTIONS - Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the MS4, including but not limited to:

(1) Any conveyances that allow any non-stormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any

(2) 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

(3) Any drain or conveyance connected from a commercial or industrial land use to the MS4 that has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE - Any direct or indirect non-stormwater discharge to the MS4, except as exempted in Section 89-6 of this chapter.

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, not including those facilities for which a permit is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

INDUSTRIAL ACTIVITY - Activities requiring the SPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activities (GP-0-06-002) as amended or revised.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) – The system of conveyances (including but not limited to, sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains), owned or operated by the Town of Ulster; designed or used for collecting or conveying stormwater; which is not a combined sewer; and which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

MUNICIPALITY - The Town of Ulster, Ulster County, New York.

NON-STORMWATER DISCHARGE - Any discharge to the MS4 that is not composed entirely of stormwater.

PERSON - Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner’s agent.

POINT SOURCE – Any discernible, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, fissure, container, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged and as regulated under this chapter and/or the Clean Water Act of the United States of America, 33 U.S.C.A 1251 et. seq..

POLLUTANT - Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into water; which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards. [Spoil - Waste material removed from excavation].

PREMISES - Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

RELEASE – Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of illicit discharges into surface water, ground-water, subsurface soils, surface soils and/or by any other direct or indirect discharge that is made to the MS4, the Waters of New York State and/or Waters of the United States.

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.

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 or other public official(s) designated by the Town of Ulster to enforce this chapter. The SMO may also be designated by the Town Board to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

303(D) LIST - A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the Department as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

TOTAL MAXIMUM DAILY LOAD (TMDL) – Is a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards, and an allocation of that amount to the pollutant's sources. A TMDL specifies the allowable pollutant loading from all contributing sources (e.g., point sources, non-point sources, and natural background) at a level necessary to maintain the applicable water quality standards with seasonal variations and a margin of safety that takes into account any lack of knowledge concerning the relationship between the sources of the pollutant and water quality. In essence, a TMDL defines the assimilative capacity of the waterbody to absorb a pollutant and still meet water quality standards.

WASTEWATER - Water that is not stormwater and is or may be contaminated with pollutants and is or will be discarded.

§ 89-3. Applicability.

This chapter shall apply to all water entering the Town of Ulster MS4 generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

§ 89-4. Responsibility for administration.

The Stormwater Management Officer (SMO) shall administer, implement, and enforce the provisions of this chapter. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the SMO as may be authorized by the Town Board.

§ 89-5. Severability.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

§ 89-6. 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 Section 89-6 (A) (1). The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this chapter, unless the Department or the Town has determined them to be substantial contributors of pollutants: water line flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising ground water, uncontaminated ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains, crawl space or basement sump pumps, air conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from fire fighting activities, and any water source not containing pollutants. Such exempt discharges shall be made in accordance with an appropriate plan for reducing pollutants.

(2) Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that, such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this chapter. Such approval shall be obtained by making application in the manner provided therefore to the SMO in advance of any such discharge, or, in the case of an emergency or unforeseen discharge, application for approval shall be made no more than hours after the discharge.

(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 granted for any discharge to the MS4.

B. Prohibition of illicit connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the Town's MS4, or allows such a connection to continue.

§ 89-7. Prohibition against failing individual sewage treatment systems.

No persons shall operate a failing individual sewage treatment system in areas tributary to the Town's MS4. A failing individual sewage treatment system is one that, in the opinion of the SMO has one or more of the following conditions:

A. The backup of sewage into a structure.

B. Discharges of treated or untreated sewage onto the ground surface.

C. A connection or connections to a separate stormwater sewer system.

D. Liquid level in the septic tank above the outlet invert.

E. Structural failure of any component of the individual sewage treatment system that could lead to any of the other failure conditions as noted in this section.

F. Contamination of off-site groundwater.

§ 89-8. Prohibition against activities contaminating stormwater.

A. No person shall conduct activities which:

- Cause or contribute to a violation of the Town's MS4 SPDES permit.
- Cause or contribute to the Town being subject to the Special Conditions as set forth in Appendix A attached hereto and made a part hereof.

B. Such activities include failing individual sewage treatment systems as defined in Section 89-7, improper management of pet waste or any other activity that causes or contributes to violations of the Town's MS4 SPDES permit authorization.

C. Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the Town'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 Town's MS4 SPDES permit authorization. Failure to take such actions as required by the SMO shall constitute a violation of this chapter and shall be punishable as provided in Section 89-14, below

§ 89-9. Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

A. Where the SMO has identified illicit discharges as defined in Section 89-2 or activities contaminating stormwater as defined in Section 89-8 the Town may require implementation of Best Management Practices (BMPs) to control those illicit discharges and activities.

(1) The owner or operator of a commercial or industrial establishment shall provide, at their own expense, protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and non-structural BMPs.

(2) Any person responsible for a property or premise, including, but not limited to an owner, tenant, building manager or otherwise, which is, or may be, the source of an illicit discharge as defined in Section 89-2 or an activity contaminating stormwater as defined in Section 89-8, shall be required to implement, at said person's expense, additional structural and non-structural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.

(3) Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

(4) Any person owning, leasing or occupying and/or controlling property with a failing individual septic system will immediately cease using such system, whether or not directed to do so by the SMO, and immediately undertake the restoration or replacement of such system as provided herein or otherwise by law or regulation.

B. Individual Sewage Treatment Systems - Response to Special Conditions Requiring No Increase of Pollutants or Requiring a Reduction of Pollutants. Where an individual sewage treatment system is contributing to the Town's being subject to the Special Conditions as set forth in Appendix A of this chapter, 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.

(b) Pump out septic tanks 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 ten inches of the bottom of the outlet baffle or sanitary tee.

(c) Avoid the use of septic tank additives.

(d) Avoid the disposal of excessive quantities of detergents, kitchen wastes, laundry wastes, and household chemicals into the septic system; and

(e) Avoid the disposal of cigarette butts, disposable diapers, sanitary napkins, trash and other such items into the septic system;

(f) Pump out tanks no less than every two to three years. However, pumping may be required more or less frequent depending on use. Inspection of the tank for cracks, leaks and blockages should be done by the septage hauler at the time of pumping of the tank contents.

(2) Repair or replace individual sewage treatment systems as follows:

(a) In accordance with 10 NYCRR Appendix 75A to the maximum extent practicable.

(b) A design professional licensed to practice in New York State shall prepare design plans for any type of absorption field that involves:

i. Relocating or extending an absorption area to a location not previously approved for such.

ii. Installation of a new subsurface treatment system at the same location.

iii. Use of alternate system or innovative system design or technology.

iv. as required by New York State law or regulation.

(c) A written certificate of compliance shall be submitted by the design professional to the Town at the completion of construction of the repair or replacement system.

§ 89-10. Suspension of access to MS4.

Illicit discharges in emergency situations.

A. Imminent danger. 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 that 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. The failure to comply with an order of the SMO issued pursuant to this subparagraph is a violation of this Chapter and shall be punishable as provided in Section 89-14, below.

B. Suspension due to the detection of illicit discharge. Any person discharging to the Town's MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefore. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the SMO.

§ 89-11. 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. Plans for compliance with the conditions of said permit shall be submitted to the SMO in advance in a form acceptable to the SMO prior to the allowing of discharges to the Town MS4. Upon such plans being provided, the SMO shall render his/her determination as to acceptability and shall provide the person with written confirmation of such determination.

§ 89-12. Access and monitoring of discharges.

A. Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this chapter, or whenever the Stormwater Management Officer has cause to believe that there exists, or potentially exists, any condition that constitutes a violation of this chapter.

B. Access to facilities.

(1) The SMO shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. If a discharger has security measures in force that require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.

(2) inspection, sampling, examination and copying of records as may be required to implement this chapter.

(3) The Town shall have the right to install on any facility subject to this chapter such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.

(4) The Town has the right to require the facilities subject to this chapter to install monitoring equipment as is reasonably necessary to determine compliance with this chapter. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated at least annually or otherwise as recommended by the manufacturer, to ensure their accuracy.

(5) Refusal to allow the SMO access to a facility subject to this chapter is a violation of this Chapter punishable as provided in Section 89-14, below. A person who is the operator of a facility subject to this chapter commits a violation if the person denies the SMO reasonable access to the facility for the purpose of conducting any activity authorized or required by this chapter.

(6) If the SMO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, then the SMO may seek issuance of an administrative search warrant from any court of competent jurisdiction.

§ 89-13. Notification of spills and other illicit discharges.

Notwithstanding any other requirements of chapter, 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 Town's MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non- hazardous materials, said person shall notify the Town 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 Town within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also make and retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 89-14. Enforcement.

A. Notice of violation.

When the SMO finds that a person has violated any provision of this Chapter or committed an act prohibited thereby or failed to meet a requirement of this chapter, he/she may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

(1) The elimination of illicit connections or discharges;

(2) That violating discharges, practices, or operations shall cease and desist;

(3) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

(4) The performance of monitoring, analyses, and reporting;

(5) The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator; and

(6) An appearance ticket to bring the matter to court. [We need to provide for a lien to be imposed on property if the fine is not paid]

B. Penalties. In addition to or as an alternative to any other penalty provided herein or by chapter, any person who violates the provisions of this chapter shall be guilty of an offense punishable by a fine not exceeding three hundred fifty dollars ($350.00) or imprisonment for a period not to exceed fifteen days, or both for conviction of a first offense; a second offense committed within a period of five years shall constitute a misdemeanor and upon conviction, shall be punishable by a fine not less than five hundred dollars ($500.00) nor more than seven hundred dollars ($700) or imprisonment for a period not to exceed six months, or both; a third or subsequent offense committed within a period of five (5) years shall constitute a misdemeanor and, upon conviction, be punishable by a fine not less than seven hundred dollars ($700) nor more than one thousand dollars ($1000) 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 chapter relating to misdemeanors shall apply to such violations. Each day's continued violation shall constitute a separate additional violation and offense.

§ 89-15. Appeal of notice of violation.

Any person receiving a Notice of Violation may appeal the determination of the SMO to the Town Board within 15 days of its issuance, which shall hear the appeal within 30 days after the filing of the appeal, and within five days of making its decision, file its decision in the office of the municipal clerk and mail a copy of its decision by certified mail to the discharger. An appeal to the Town Board does not constitute a stay of the order of the SMO to eliminate any illicit discharge or connection, cease and desist from any practice or operations violating this Chapter, abate or remedy ant stormwater pollution or contamination hazard and restore any effected property. In the event of an unsuccessful appeal each day of continued violation shall constitute a separate offense.

§ 89-16. Corrective measures after appeals.

A. If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 5 business days of the decision of the Town Board upholding the decision of the SMO, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.

B. If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate

the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

C. Notwithstanding any action by the SMO as provided in this section, 89-16, any person violating this Chapter shall be subject to the enforcement proceedings set forth in Section 89-14.

§ 89-17. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the SMO may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

§ 89-18. Alternative remedies.

A. Where a person has violated a provision of this chapter, he/she may be eligible for alternative remedies in lieu of any other penalty, upon recommendation of the Municipal Attorney and concurrence of the Municipal Code Enforcement Officer, where:

(1) The violation was unintentional.

(2) The violator has no history of pervious violations of this chapter.

(3) Environmental damage was minimal.

(4) Violator acted quickly to remedy violation.

(5) Violator cooperated in investigation and resolution.

B. Alternative remedies may consist of one or more of the following:

(1) Attendance at compliance workshops.

(2) Storm drain stenciling or storm drain marking.

(3) River, stream or creek cleanup activities.

(4) The costs of enforcement Civil Penalty not to exceed $250.00

§ 89-19. Violations deemed a public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

§ 89-20. Remedies not exclusive.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

§ 89-21. Severability and effective date.

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this chapter. This chapter shall be effective upon filing with the office of the Secretary of State.

Appendix "A"

SPECIAL CONDITIONS.

(1) Discharge compliance with water quality standards. The condition that applies where the Town has been notified that the discharge of stormwater authorized under their 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 Town must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.

(2) 303(d) listed waters. The condition in the Town'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.

(3) Total Maximum Daily Load (TMDL) Strategy. The condition in the Town's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a waterbody or watershed into which the MS4

(4) discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the Town was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

(5) The condition in the Town's MS4 permit that applies if a TMDL is approved in the future by EPA for any waterbody or watershed into which an MS4 discharges. Under this condition the Town 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 Town must, within six (6) 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.

GAMES OF CHANCE

§ 91-1. Purpose.

§ 91-2. Definitions.

§ 91-3. Authorization of games; restrictions; penalties for offenses.

§ 91-4. License applications.

§ 91-5. Investigation of applicants; issuance of licenses; fees; duration of licenses.

§ 91-6. Hearing, amendment of license.

§ 91-7. Form and contents of licenses; display.

§ 91-8. Control and supervision; suspension or revocation of license; serving alcoholic beverages.

§ 91-9. Conduct of games on Sunday.

§ 91-10. Participation by persons under eighteen unlawful.

§ 91-11. Frequency of games; permitted hours of operation.

§ 91-12. Operation of games.

§ 91-13. Maximum admission fee; amount and awarding of prizes.

§ 91-14. Advertising games.

§ 91-15. Records to be maintained by licensee and filed with town.

§ 91-16. Inspection of records.

§ 91-17. Appeals.

§ 91-18. Exemption from prosecution.

§ 91-19. Unlawful acts; penalties for offenses.

§ 91-20. Unlawful games of chance.

§ **91-21. Amendment and repeal of provisions.**

§ 91-22. When effective.

[HISTORY: Adopted by the Town Board of the Town of Ulster 9-1-1977 as L.L. No. 1-1977. Sections 91-3A(5), 91-5A and 91-21 amended during codification; see Ch. 1, General Provisions, Art. II. Other amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets - See Ch. 7.
Alcoholic beverages - See Ch. 55.
Public entertainment - See Ch. 81.

§ 91-1. Purpose.

This chapter is intended to authorize and provide for the conduct of games of chance under the Games of Chance Licensing Law, as provided in §§ 185 through 195-n of Article 9-A of the General Municipal Law, for the raising of funds for the promotion of bona fide charitable, educational, scientific, health, religious and patriotic causes and undertakings, where the beneficiaries are undetermined, in the public interest. All proper safeguards against commercialization of such games of chance are intended to be provided in this chapter.

§ 91-2. Definitions.

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

AUTHORIZED GAMES OF CHANCE LESSOR - An authorized organization which has been granted a lessor's license pursuant to the provisions of this chapter.

AUTHORIZED ORGANIZATION:

A. Includes any bona fide religious or charitable organization or bona fide educational or service organization or bona fide organization of veterans or volunteer firemen, which by its charter, certificate of incorporation, constitution, or act of the legislature, shall have among its dominant purposes one (1) or more of the lawful purposes as defined in this chapter, provided that each shall operate without profit to its members, and provided that each such organization has engaged in serving one (1) or more of the lawful purposes as defined in this chapter for a period of three (3) years immediately prior to applying for a license under this chapter.

B. No organization shall be deemed an "authorized organization" which is formed primarily for the purpose of conducting games of chance and the distribution of the proceeds thereof to itself or any other organization and which does not devote at least seventy-five percent (75%) of its activities to other purposes set forth in this subdivision. No political party shall be deemed an “authorized organization.”

AUTHORIZED SUPPLIER OF GAMES OF CHANCE EQUIPMENT - Any person, firm, partnership or organization licensed by the Board to sell or lease games of chance equipment or paraphernalia which meets the specifications and regulations established by the Board. Nothing herein shall prevent an authorized organization from purchasing common articles, such as cards and dice, from normal sources of supply of such articles or from constructing equipment and paraphernalia for games of chance for its own use. However, no such equipment or paraphernalia, constructed by an authorized organization shall be sold or leased to any other authorized organization without written permission from the Board.

BOARD - New York State Racing and Wagering Board.

CLERK - The Clerk of the Town of Ulster, Ulster County, New York.

GAMES OF CHANCE - Includes specific games of chance, in which prizes are awarded on the basis of a designated winning number or numbers, color or colors, symbol or symbols determined by chance, but not including games commonly known as "bingo" or "lotto" and also not including "slot machines," "bookmaking" and “policy or numbers games” as defined in § 225.00 of the Penal Law. No "game of chance" shall involve wagering of money by one player against another player.

LAWFUL PURPOSES - One (1) or more of the following causes, deeds or activities:

A. Those which shall benefit needy or deserving persons indefinite in number by enhancing their opportunity for religious or educational advancement, by relieving them from disease, suffering or distress, or by contributing to their physical well- being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles
upon which this nation was founded and enhancing their loyalty to their governments.

B. Those which shall initiate, perform or foster worthy public works or shall enable or further the erection or maintenance of public structures.

C. Those which shall otherwise lessen the burdens borne by government or which are voluntarily undertaken by an authorized organization to augment or supplement services which government would normally render to the people.

LICENSED PERIOD - A period of time not to exceed fourteen (14) consecutive hours.

NET LEASE - A written agreement between a lessor and lessee under the terms of which the lessee is entitled to the possession, use or occupancy of the whole or part of any premises from any non-commercial or non-profit organization for which the lessee pays rent to the lessor and likewise undertakes to pay substantially all of the regularly recurring expenses incident to the operation and maintenance of such leased premises.

NET PROCEEDS:

A. In relation to the gross receipts from one (1) or more occasions of games of chance, the amount that shall remain after deducting the reasonable sums necessarily and actually expended for supplies and equipment, prizes, stated rental, if any, bookkeeping or accounting services according to a schedule of compensation prescribed by the Board, janitorial services and utility supplies, if any, license fees, and the cost of bus transportation, if authorized by the division.

B. In relation to the gross rent received by an organization licensed to conduct such games for the use of its premises by another licensee, the amount that shall remain after deducting the reasonable sums necessarily and actually expended for janitorial services and utility supplies directly attributable thereto if any.

ONE OCCASION - The conducting of any type of game of chance during any one (1) licensed period. No series of prizes on any "one occasion" shall aggregate more than one thousand dollars ($1,000.).

PRIZE - A sum of money or item or merchandise awarded by the authorized organization to a participant in any one (1) operation or conducting of a game of chance in which participants utilize currency for participation and in which those who are not winners surrender their participating currency at the conclusion of the single operation of such game of chance. No prize for any one (1) participant in any one (1) operation or conducting of such single game of chance shall exceed the sum of one hundred dollars ($100.). If a prize is awarded based on odds, only that portion in excess of the winning participant's bet shall be considered as a "prize." For the purposes hereof, the value of a prize which consists of merchandise shall be the actual cost of the item of such merchandise.

§ 91-3. Authorization of games; restrictions; penalties for offenses.

The Town of Ulster, Ulster County, New York, hereby subject to the provisions of § 188 of the General Municipal Law, hereby adopts the powers and duties fixed in and prescribed for it as a municipality of the State of New York, to wit, Article 9-A of the General Municipal Law and hereby authorizes, pursuant to the terms and conditions provided in said Article, the conduct of games of chance by authorized organizations as herein defined and under the terms and conditions herein set forth and more specifically defined in § 91-1 above, and the Town Clerk of the Town of Ulster, Ulster County, New York, be and he hereby is designated as the local licensing authority to issue the necessary license or licenses as provided in said law and under the authority and regulations of the Board. In connection therewith, the said Town Clerk shall, in the issuance, suspension or revocation of licenses, adhere to and carry out the provisions thereof and covering the same as contained in Article 9-A of the General Municipal Law.

A. The conduct of such games of chance shall be subject to the following restrictions:

(1) No person, firm, association, corporation or organization, other than a licensee under the provisions of this chapter, shall conduct such game or shall lease or otherwise make available for conducting games of chance a hall or other premises for any consideration whatsoever, direct or indirect.
(2) No game of chance shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.
(3) No authorized organization licensed under the provisions of this chapter shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of games of chance from other than a supplier licensed by the Board or from another authorized organization.
(4) The entire net proceeds of any game of chance and of any rental shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same.
(5) No prize shall exceed the sum or value of one hundred dollars ($100.) in any operation or conducting of a single game of chance. No single wager shall exceed two dollars ($2.), or any other amount prescribed by state law.**(1)**
(6) No series of prizes on any one (1) occasion of games of chance shall aggregate more than one thousand dollars ($1,000.).
(7) No person except a bona fide member of any such organization, its auxiliary or affiliated organization, shall participate in the management or operation of such game, as set forth in § 195-c of the General Municipal Law.

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(1) Editor's Note: Amended during codification; see Ch. 1, General Provisions, Art II.

(8) No person shall receive any remuneration for participating in the management or operation of any such game.

B. The unauthorized conduct of a game of chance shall constitute and be punishable as a misdemeanor.

§ 91-4. License applications.

A. To conduct games of chance. Each applicant for a license after obtaining an identification number from the Board, shall file with the Town Clerk a written application therefor in a form to be prescribed by the Board, duly executed and verified, in which shall be stated:

(1) The name and address of the applicant together with sufficient facts relating to its incorporation and organization to enable such clerk or department, as the case may be, to determine whether or not it is a bona fide organization.

(2) The names and addresses of its officers; the place or places where, and the date or dates, and the time or times when, the applicant intends to conduct games under the license applied for.

(3) The amount of rent to be paid or other consideration to be given directly or indirectly for each occasion for use of the premises of another authorized organization licensed under this chapter to conduct such games or for the use of the premises of an authorized games of chance lessor.

(4) All other items of expense intended to be incurred or paid in connection with the holding, operating and conducting of such games of chance and the names and addresses of the persons to whom and the purpose for which they are to be paid.

(5) The purposes to which the entire net proceeds of such games are to be devoted and in what manner; that no commission, salary, compensation, reward or recompense will be paid to any person for conducting such game or games or for assisting therein except as in this chapter otherwise provided; and such other information as shall be prescribed by such rules and regulations.

(6) In each application there shall be designated not less than four (4) active members of the applicant organization under whom the game or games of chance will be conducted and to the application shall be appended a statement executed by the members so designated, that they will be responsible for the conduct of such games in accordance with the terms of the license, and the rules and regulations of the Board and of this chapter.

B. Authorized games of chance lessor. Each applicant for a license to lease premises to a licensed organization for the purposes of conducting games of chance therein shall file with the Town Clerk a written application therefor in a form to be prescribed by the Board duly executed and verified, which shall set forth the name and address of the applicant; designation and address of the premises intended to be covered by the license sought; a statement that the applicant in all respects conforms with the specifications contained in the definition of "authorized organization" set forth in this chapter, and such other information as shall be prescribed by the Board.

§ 91-5. Investigation of applicants; issuance of licenses; fees; duration of licenses.

A. The Town Clerk shall make an investigation of the qualifications of each applicant and the merits of each application, with due expedition after the filing of the application. **(2)**

(1) Issuance of licenses to conduct games of chance. If such Town Clerk shall determine that the applicant is duly qualified to be licensed to conduct games of chance under this chapter; that the member or members of the applicant designated in the application to conduct games of chance are bona fide active members of the applicant and are persons of good moral character and have never been convicted of a crime, or, if convicted, have received a pardon or a certificate of good conduct, that such games are to be conducted in accordance with the provisions of this chapter and in accordance with the rules and regulations of the Board and that the proceeds thereof are to be disposed of as provided by this chapter, and if such Town Clerk is satisfied that no commission, salary, compensation, reward or recompense whatever will be paid or given to any person, holding, operating or conducting or assisting in the holding, operation and conduct of any such games except as in this chapter otherwise provided; and that no prize will be given in excess of the sum or value of one hundred dollars ($100.) in any single game and that aggregate of all prizes given on one (1) occasion, under said license shall not exceed the sum or value of one thousand dollars ($1,000.), he shall issue a license to the applicant for the conduct of games of chance upon payment of a license fee as provided in Chapter A194, Fees.

(2) Issuance of licenses to authorized games of chance lessors. If the Town Clerk shall determine that the applicant seeking to lease a hall or premises for the conduct of games of chance to an authorized organization is duly qualified to be licensed under this chapter; that the applicant satisfies the requirements for an authorized games of chance lessor as defined in § 186 of the General Municipal law; that such Clerk shall find and determine that there is a public need and that public advantage will be served by the issuance of such license; that the applicant has filed its proposed rent for each game of chance occasion;

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(2) Editor's. Note: Amended during codification; see Ch. 1, General Provisions, Art. II.

that there is no diversion of the funds of the proposed lessee from the lawful purposes as defined in this chapter; that such leasing of a hall or premises for the conduct of such games is to be in accordance with the provisions hereof and in accordance with the rules and regulations of the Board; and that no permit shall be issued or continued unless the Office of the Building Inspector shall be satisfied that the grounds and any facilities are safe, sanitary and in compliance with the New York State Uniform Fire Prevention and Building Code, he shall issue a license permitting the applicant to lease said premises for the conduct of such games to the authorized organization or organizations specified in the application during the period therein specified or such shorter period by such Clerk, but not to exceed one (1) year, upon payment of a license fee as provided in Chapter A194, Fees.

B. On or before the thirtieth day of each month, the Supervisor of this municipality shall transmit to the State Comptroller a sum equal to fifty percent (50%) of all authorized games of chance lessor license fees and the sum of fifteen dollars ($15.) per license period for the conduct of games of chance collected by such Clerk pursuant to this section during the preceding calendar month.

C. No license shall be issued under this chapter which shall be effective for a period of more than one (1) year.

§ 91-6. Hearing, amendment of license.

A. No application for the issuance of a license to an authorized organization shall be denied by the Clerk, until after a hearing, held on due notice to the applicant, at which the applicant shall be entitled to be heard upon the qualifications of the applicant and the merits of the application.

B. Any license issued under this chapter may be amended, upon application made to such Town Clerk, if the subject matter of the proposed amendment could lawfully and properly have been included in the original license and upon payment of such additional license fee, if any, as would have been payable if it had been so included.

§ 91-7. Form and contents of licenses; display.

A. Each license to conduct games of chance shall be in such form as shall be prescribed in the rules and regulations promulgated by the Board, and shall contain a statement of the name and address of the licensee, of the names and addresses of the member or members of the licensee under whom the games will be conducted, of the place or places where, and the date or dates, and time or times when, such games are to be conducted and of the purposes to which the entire net proceeds of such games are to be devoted; if any prize or prizes are to be given in cash,

a statement of the amounts of the prizes authorized so to be given; and any other information which may be required by said rules and regulations to be contained therein, and each license issued for the conduct of any games shall be conspicuously displayed at the place where same is to be conducted at all times during the conduct thereof.

B. Each license to lease premises for conducting games of chance will be in such form as shall be prescribed in the rules and regulations of the Board and shall contain a statement of the name and address of the licensee and the address of the leased premises, the amount of permissible rent and any information which may be required by said rules and regulations to be contained therein, and each such license shall be conspicuously displayed upon such premises at all times during the conduct of games of chance.

§ 91-8. Control and supervision; suspension or revocation of license; serving alcoholic beverages.

A. The Town of Ulster Police Chief shall have and exercise rigid control and close supervision over all games of chance conducted under such license, to the end that the same are fairly conducted in accordance with the provisions of such license, the provisions of the rules and regulations promulgated by the Board and the provisions of the General Municipal Law and such Town of Ulster Police Chief and the Board shall have the power and the authority to temporarily suspend any license issued by the Clerk pending a hearing and after notice and hearing, the Board may suspend or revoke the same, and additionally, impose a fine in an amount not exceeding one thousand dollars ($1,000.) for violation of any such provisions and shall have the right of entry, by their respective officers and agents at all times into any premises where any game of chance is being conducted or where it is intended that any such game shall be conducted, or where any equipment being used or intended to be used in the conduct thereof is found, for the purpose of inspecting the same. An agent or the appropriate officer of the Town of Ulster Police Department shall make an on-site inspection during the conduct of all games of chance licensed pursuant to this chapter. **[Amended 1-25-1978 by L.L. No. 1-1978; 9- 17-1980 by L.L. No. 2-1980; 6-15-1983 by L.L. No. 2-1983]**

B. Service of alcoholic beverages. Subject to the applicable provisions of the Alcoholic Beverage Control Law, beer may be offered for sale during the conduct of games of chance, but the offering of all other alcoholic beverages is prohibited.

§ 91-9. Conduct of games on Sunday.

Except as provided in § 195-b of the General Municipal Law, no games of chance shall be conducted under any license issued under this chapter on the first day of the week, commonly

known and designated a Sunday, unless it shall be otherwise provided in the license issued for the holding, operating and conducting thereof, pursuant to the provisions of a local law or an ordinance duly adopted by the governing body of this municipality wherein such license is issued, authorizing the conduct of games of chance on that day. Notwithstanding the foregoing provisions of this section, no games of chance shall be conducted on Easter Sunday, Christmas Day or New Year's Eve.

§ 91-10. Participation by persons under eighteen unlawful.

No person under the age of eighteen (18) years shall be permitted to play any game or games of chance conducted pursuant to any license issued under this chapter. No person under the age of eighteen (18) years shall be permitted to conduct or assist in the conduct of any game of chance conducted pursuant to any license issued under this chapter.

§ 91-11. Frequency of games; permitted hours of operation.

No game or games of chance, shall be conducted under any license issued under this chapter more often than twelve (12) times in any calendar year. Games shall be conducted only between the hours of 12:00 noon and 12:00 midnight on Monday, Tuesday, Wednesday and Thursday, and only between the hours of 12:00 noon on Friday and 2:00 a.m. Saturday, and only between the hours of 12:00 noon on Saturday and 2:00 a.m. Sunday. The 2:00 a.m. closing period shall also apply to a legal holiday.

§ 91-12. Operation of games.

No person shall hold, operate or conduct any games of chance under any license issued under this chapter, except an active member of the authorized organization to which the license is issued, and no person shall assist in the holding, operating or conducting of any game of chance under such license, except such an active member or a member of an organization or association which is an auxiliary to the licensee or a member of an organization or association of which such licensee is an auxiliary or member of an organization or association which is affiliated with the licensee by being, with it, auxiliary to another organization or association. No game of chance shall be conducted with any equipment, except such as shall be owned or leased by the authorized organization so licensed or used without payment of any compensation therefore by the licensee. At least two (2) officers, directors, trustees or clergy of the authorized organization shall upon request certify, under oath, that the persons assisting in holding, operating or conducting any game of chance are bona fide members of such authorized organization, auxiliary or affiliated organization. Upon request by an officer or the department any such person involved in such games of chance shall certify that he or she has no criminal record. No items of expense shall be incurred or paid in connection with the conducting of any game of chance pursuant to any license issued under this chapter except those that are reasonable and are necessarily expended for games of chance supplies and equipment, prizes, stated rental, if any, bookkeeping or accounting services

according to a schedule of compensation prescribed by the Board, janitorial services and utility supplies, if any, and license fees, and the cost of bus transportation, if authorized by such officer or department.

§ 91-13. Maximum admission fee; amount and awarding of prizes.

Not more than two dollars ($2.) shall be charged by any licensee for admission to any room or place in which any game or games of chance are to be conducted under any license issued under this chapter. The officer or department may in its discretion fix a minimum fee. Every winner shall be determined and every prize shall be awarded and delivered within the same calendar day as that upon which the game was played. No alcoholic beverage shall be offered or given as a prize in any game of chance.

§ 91-14. Advertising games.

No game of chance conducted or to be conducted hereunder shall be advertised as to its location, the time when it is to be or has been played, or the prizes awarded or to be awarded, or transportation facilities to be provided to such game, by means of newspapers, radio, television or sound trucks or by means of billboards, posters or handbills or any other means addressed to the general public, except that one (1) sign not exceeding sixty (60) square feet in area may be displayed on or adjacent to the premises owned or occupied by a licensed authorized organization, and when an organization is licensed to conduct games of chance on premises of an authorized games of chance lessor, one (1) additional such sign may be displayed on or adjacent to the premises in which the games are to be conducted. Additional signs may be displayed upon any fire fighting equipment belonging to any licensee, which is a volunteer fire company, or upon any first-aid or first-aid on rescue squad, in and throughout the community or communities served by such volunteer fire company or such first-aid or rescue squad, as the case may be.

§ 91-15. Records to be maintained by licensee and filed with town.

A. Within seven (7) days after the conclusion of any license period, the authorized organization which conducted the same, and its members who were in charge thereof, and when applicable the authorized organization which rented its premises therefore, shall each furnish to the Town Clerk a statement subscribed by the member in charge and affirmed by him as true, under the penalties of perjury, showing the amount of the gross receipts derived therefrom and each item of expense incurred, or paid, and each item of expenditure made or to be made other than prizes, the name and address of each person to whom each such item of expense has been paid, or is to be paid, with a detailed description of the merchandise purchased or the services rendered therefore, the net and given, with the respective values thereof, and it shall be the duty of each licensee to maintain and keep such books and records as may be necessary to substantiate the proceeds derived from the conduct of games of chance during such license period, and the use to which such proceeds have been or are to be applied and a list of prizes offered particulars of each such statement.

B. Upon the filing of such statement of receipts, the authorized organization furnishing the same shall pay to the Town of Ulster Town Clerk or department, as and for an additional license fee, a sum based upon the reported net proceeds, if any, for the license period covered by such statement and determined in accordance with such schedule as shall be established from time to time by the Board to defray the actual cost to municipalities or counties of administering the provisions of the General Municipal Law, but such additional license fee shall not exceed five percent (5%) of the net proceeds for such occasion. **[Amended 9-17-1980 by L.L. No. 2-1980; 6-15-1983 by L.L. No. 2-1983]**

§ 91-16. Inspection of records.

A. The Town Clerk and the Board shall have power to examine or cause to be examined the books and records of:

(1) Any authorized organization which is or has been licensed to conduct games of chance, so far as they may relate to games of chance including the maintenance, control and disposition of net proceeds derived from games of chance or from the use of its premises for games of chance, and to examine any manager, officer, director, agent, member or employee thereof under oath in relation to the conduct of any such game under any such license, the use of its premises for games of chance or the disposition of net proceeds derived from games of chance, as the case may be.

(2) Any authorized games of chance lessor so far as they may relate to leasing premises for games of chance and to examine said lessor or any manager, officer, director, agent or employee thereof under oath in relation to such leasing.

B. Any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this chapter.

§ 91-17. Appeals.

Any applicant for, or holder of any license issued or to be issued hereunder aggrieved by any action of the town, to which such application has been made or by which such license has been issued, may appeal to the Board from the determination of said Clerk by filing with such Clerk a written notice of appeal within thirty (30) days after the determination or action appealed from, and upon hearing of such appeal, the evidence, if any, taken before such Clerk and any additional evidence may be produced and shall be considered in arriving at a determination of the matters in issue, and the action of the Board upon said appeal shall be binding upon such Clerk and all parties to said appeal.

§ 91-18. Exemption from prosecution.

No person, association, corporation or organization lawfully conducting or participating in the conduct of games of chance or permitting the conduct upon any premises owned or leased by him or it under any license lawfully issued pursuant to this chapter shall be liable to prosecution or conviction for violation of any provision of Article 225 of the Penal Law or any other law or ordinance to the extent that such conduct is specifically authorized by this chapter, but this immunity shall not extend to any person or corporation knowingly conducting or participating in the conduct of games of chance under any license obtained by any false pretense or by any false statement made in any application for license or otherwise, or permitting the conduct upon any premises owned or leased by him or it of any game of chance conducted under any license known to him or it to have been obtained by any such false pretense or statement.

§ 91-19. Unlawful acts; penalties for offenses.

Any person, association, corporation or organization who or which shall make any material false statement in any application for any license authorized to be issued under this chapter; pay or receive, for the use of any premises for conducting games of chance, a rental in excess of the amount specified as permissible rent in the license provided for in Subdivision 2 of § 195 of the General Municipal Law; fail to keep such books and records as shall fully and truly record all transactions connected with the conducting of games of chance or the leasing of premises to be used for the conduct of games of chance; falsify or make any false entry in any books or records so far as they relate in any manner to the conduct of games of chance, to the disposition of the proceeds thereof and to the application of the rents received by any authorized organization; or divert or pay any portion of the net proceeds of any games of chance to any person, association or corporation, except in furtherance of one (1) or more of the lawful purposes defined herein, shall be guilty of a misdemeanor and shall forfeit any license issued under this chapter and be ineligible to apply for a license under this chapter for at least one (1) year thereafter.

§ 91-20. Unlawful games of chance.

Any person, association, corporation or organization holding, operating or conducting a game or games of chance is guilty of a misdemeanor, except when operating, holding or conducting:

A. In accordance with a valid license issued hereto; or

B. On behalf of a bona fide organization of persons sixty (60) years of age or over,

commonly referred to as senior citizens, solely for the purpose of amusement and recreation of its members where:

(1) The organization has applied for and received an identification number from the Board;

(2) No player or other person furnishes anything of value for the opportunity to participate;

(3) The prizes awarded or to be awarded are nominal;

(4) No person other than a bona fide active member of the organization participates in the conduct of the games; and

(5) No person is paid for conducting or assisting in the conduct of the game or games.

§ 91-21. Amendment and repeal of provisions. (3)

This chapter may be amended, from time to time, or repealed by the Town Board, and such amendment or repeal, as the case may be, may be made effective and operative not earlier than thirty (30) days following the date of enactment of the local law effecting such amendment, or repeal, as the case may be; and the approval of a majority of the electors of this municipality shall be a condition prerequisite to the taking effect or repeal of such local law.

§ 91-22. When effective. (4)

This chapter shall take effect immediately after final passage, public hearing and approval of the Town Board, Town of Ulster, Ulster County, New York, as provided by law and submission of same at a general or special election to the voters of this municipality and the approval thereof of a majority of the qualified electorate of this municipality voting thereon.

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(3) Editor's Note: Amended during codification; see Ch. 1, General Provisions, Art. II.

(4) Editor's Note: This local law was approved at referendum 11-8-1977.

Chapter 95

GARBAGE, RUBBISH AND REFUSE

ARTICLE I
Definitions

§ 95-1. Definitions.

ARTICLE II
Transfer Station Regulations

§ 95-2. Site designated.

§ 95-3. Vehicles and large articles.

§ 95-4. Deposit of garbage and offensive materials restricted.

§ 95-5. Restrictions on use.

§ 95-6. Collectors of waste materials.

§ 95-7. Permit required for use by residents.

§ 95-8. Toxic and hazardous materials prohibited.

§ 95-9. Accepting waste from neighboring communities.

§ 95-10. Places, times and manner of use.

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§ 95-13. Dumping waste; removing materials from Station.

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§ 95-15. Penalties for offenses by waste collectors.

§ 95-16. Penalties for offenses.

§ 95-17. Deposit of tires at Transfer Station.

§ 95-18. Amendment of fees.

§ 95-19. Denial of use of Transfer Station.

§ 95-20. DEFINING AND PROVIDING PENALTIES FOR ILLEGAL DUMPING OF GARBAGE, REFUSE, RUBBISH AND OTHER WASTE ITEMS

[HISTORY: Adopted by the Town Board of the Town of Ulster 2-26-1976 as L.L. No. 1-1976; amended in its entirety 6-28-1988 by L.L. No. 3-1988; 2-21-1995 by L.L. No. 1-1995. LL No.5-1998 12-18-98 Other amendments noted where applicable.]

GENERAL REFERENCES
Appearance tickets - See Ch. 7.
Junkyards - See Ch. 101.
Fees - See Ch. A194.

ARTICLE I
Definitions

§ 95-1. Definitions.

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

COMPOSTABLES - All materials as defined under NYSDEC Rules and Regulations as being compostable such as leaves, grass clippings, shrub trimmings, ground up clean wood waste and most yard waste [under six (6) feet long and under six (6) inches in diameter].

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 inflammable or capable of fermentation or decay.

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

PERSON OR PERSONS ENGAGED IN THE BUSINESS OF COLLECTING GARBAGE, RUBBISH AND OTHER WASTE MATERIALS - Includes any individual, firm, partnership, corporation, municipality or association of persons engaged in the business of collecting garbage, rubbish and other waste materials for a fee or any other valuable consideration.

RECYCLABLES - All materials as defined under NYSDEC Mandatory Regulations to be recycled such as glass, plastic and metal containers as well as newspapers, junk mail and corrugated cardboard.

RUBBISH - Includes ashes, cinders, pottery and all discarded substances of solid and incombustible in nature that are not considered to be recyclable by the New York State Department of Environmental Conservation.

ARTICLE II
Transfer Station Regulations

§ 95-2. Site designated.

The premises owned by the Town of Ulster being in the Town and County of Ulster and State of New York generally bounded on the north by Hudson Valley Mall, on the east by lands of the Ulster County Resource Recovery Agency, on the south by a town road and on the west by lands owned by Florida Samas Ventures, Inc. This is the remainder of a twenty-five-acre parcel following a conveyance to the Ulster County Resource Recovery Agency of the site of the old town landfill.

§ 95-3. Vehicles and large articles.

No person shall carry or leave or cause to be carried or left upon the premises mentioned in § 95-2 of this chapter any automobile, vehicle, machine, trailer or mobile home which is longer than six (6) feet and/or wider than four (4) feet. Other large articles such as appliances must be smaller than above mentioned, and all appliances must be visibly free of coolants and/or PCB's and doors removed to be acceptable.

§ 95-4. Deposit of garbage and offensive materials restricted.

No person shall carry or leave, or cause to be carried or left upon the premises mentioned in § 95-2 of this chapter, any garbage as heretofore defined or any material, waste or offal of any kind which shall give off any offensive odor, either when left upon premises or thereafter, or creates or may thereafter create a nuisance of any kind or which shall be or may become dangerous to human or animal life.

§ 95-5. Restrictions on use.

Only residents and business establishments of the Town of Ulster and contractors who perform a service within the Town of Ulster may use the Transfer Station, provided that a current permit is properly posted on the vehicle.

§ 95-6. Collectors of waste materials.

Persons engaged in the business of collecting garbage for hire must use the facilities operated by the Ulster County Resource Recovery Agency or its successor or assigns. With proper permits, they may bring recyclables to the Transfer Station, provided that there is less than two (2) cubic feet of each material to be deposited.

§ 95-7. Permit required for use by residents.

Residents of the Town of Ulster not in the business of collecting garbage, rubbish and other waste materials for hire, money or any other valuable consideration may apply to the Town of Ulster Town Clerk for a permit for the limited purpose of depositing garbage, rubbish and other waste materials within reasonable amounts, i.e., standard household usage per week, originating from their own homes or property on the premises designated for that purpose.

§ 95-8. Toxic and hazardous materials prohibited.

No person shall under any circumstances carry or leave or cause to be carried or left any toxic or hazardous materials as defined under New York State law, or batteries of any kind. Any violation or deviations will be prosecuted to the fullest extent of the law.

§ 95-9. Accepting waste from neighboring communities.

The Town Board, by a majority plus one (1) vote, may authorize the acceptance of garbage, rubbish and other waste materials from neighboring municipalities at the rates specified in this law in order to alleviate solid waste problems within the communities.

§ 95-10. Places, times and manner of use.

No person shall deposit or cause to be deposited any substance of any kind at the Transfer Station herein designated, except at the places, time and in the 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 its authority.

§ 95-11. Burning at Transfer Station restricted.

No burning by any person shall be permitted at said Transfer Station, except by an order of the Town Board.

§ 95-12. Transportation of waste materials.

Any and all vehicles used for the collection and transportation of garbage, rubbish and other waste materials while traveling on the public highways in the Town of Ulster shall be constructed and covered so as to prevent any of the material thereon from falling on the road or blowing from said vehicles. All such vehicles and containers carrying garbage and other waste shall be clearly marked listing the owner's name, address and telephone number.

ARTICLE III
General Restrictions

§ 95-13. Dumping waste; removing materials from Station.

A. No person shall throw or deposit or cause to be thrown or deposited any garbage, rubbish or other waste materials or vehicle parts in or upon any public highway, street or place or in or upon any private property within the Town of Ulster, including his or her own, excepting at the Transfer Station aforesaid pursuant to the regulations hereof by the Town of Ulster or in an enclosed area or in a suitable container prepared for municipal collection.

B. No person shall remove any material from the site, except upon written permission from the person in charge of the aforementioned Transfer Station.

§ 95-14. Fees.

A. Applicants engaged in a business located physically in the Town of Ulster upon receiving a permit from the Town Clerk of the Town of Ulster to deposit solid waste, such as refrigerators, stoves, etc., shall pay an annual fee as provided in Chapter A194, Fees, upon obtaining said permit in addition to tipping fees.

B. Residents of the Town of Ulster not engaged in the business of collecting garbage, rubbish and other waste materials and not engaged in a business in the Town of Ulster whereby bulk refuse, such as refrigerators, stoves, etc., would be deposited, shall obtain an annual permit from the Town of Ulster upon paying an annual fee as provided in Chapter A194, Fees.

C. Contractors doing work for town residents or town businesses such as construction or renovations shall procure a permit from the Town Clerk and pay a fee as provided in Chapter A194, Fees, plus normal tipping fees. Contractors shall also provide proof of origin. Material to be dumped must originate from the Town of Ulster only.

§ 95-15. Penalties for offenses by waste collectors.

Any person engaged in the business of collecting garbage, rubbish and other waste materials in the Town of Ulster, violating any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of five thousand dollars ($5,000.) for each offense or by imprisonment in jail, not to exceed sixty (60) days, or both.

§ 95-16. Penalties for offenses.

A. Any person, firm, corporation, etc., doing business in the Town of Ulster, and permitted to deposit solid waste material, such as tires, refrigerators, stoves, etc. violating any provision of this chapter shall be guilty of a violation and, upon conviction thereof, shall be punishable by a fine of two hundred fifty dollars ($250.) for each offense or by imprisonment in jail, not to exceed fifteen (15) days, or both.

B. Any person, persons, corporation, partnership or firms violating any provision of this chapter, the penalty for which is not provided for in § 95-15 or § 95-16, shall be guilty of a violation and, upon conviction thereof, shall be punishable by a fine of two hundred fifty dollars ($250.) for each offense or by imprisonment in jail, not to exceed fifteen (15) days, or both.

§ 95-17. Deposit of tires at Transfer Station.

All passenger car tires, small truck tires and large truck tires deposited at the Transfer Station will be charged a fee as provided in Chapter A194, Fees.

§ 95-18. Amendment of fees.

The Town Board, by resolution, may adjust the above mentioned fees, from time to time, without public hearing.

§ 95-19. Denial of use of Transfer Station.

Any person who or whose servants, agents, employees or officers shall be convicted of violation of this chapter may thereafter be denied the use of the Transfer Station either temporarily or permanently by resolution of the Town Board, and their permit shall be subject to revocation or suspension.

§ 95-20. DEFINING AND PROVIDING PENALTIES FOR ILLEGAL DUMPING OF GARBAGE, REFUSE, RUBBISH AND OTHER WASTE ITEMS

The following terms shall have the meanings respectively ascribed:

BULKY WASTE*:* Large household items such as furniture, mattresses, major appliances, tires, scrap metal items and carpets.

CONSTRUCTION OR DEMOLITION DEBRIS: Remains of major remodeling, construction reconstruction, repair and demolition operations on houses, apartments, pavements and other structures, such as excavated earth, stones, concrete, bricks, plaster, roofing, sheathing, lumber and insulation, as well as rubble from the installation of plumbing, heating and electrical systems.

GARBAGE*:* Organic waste, such as meat, fat, bones, fish, fruit or vegetable, or any other matter used for food by human beings or used in the preparation, preservation, dressings or cooking thereof.

MAJOR APPLIANCES*:* Large and/or bulky household appliances (refrigerator, washer, dryer, stove, etc.) Ordinarily operated by gas or electric current.

PLASTIC: All containers made from high-density polyethylene or polyethylene terephthalate (PET), including but not limited to bottles having contained the following products: milk, water, juice, detergent, bleach, antifreeze and soda; or other resins that may be designated as a recyclable material in accordance with the Ulster County local law providing for the mandatory collection and disposition of recyclables in the Town of Ulster.

RECYCLABLE MATERIALS: office paper, cardboard, newspaper, cans, glass and plastic, aluminum products, tires, major appliances and such other materials as may be designated by the Resource Recovery Agency of Ulster County pursuant to the Ulster County local law providing for the mandatory collection and disposition of recyclables in Ulster County.

REFUSE: Building material and any other incombustible matter or material.

RUBBISH: Any paper, plastic, cardboard or other material used to wrap, cover or contain food, other than recyclable material as defined in this section; any other household waste resulting from the use, consumption and preparation of food; small metal household discards; miscellaneous waste material, including rags, drugs, health aids and materials, sweepings, rubber, leather, cloth, clothing, magazines, paper, waste materials from normal maintenance and repair activities, pasteboard, crockery, shells, dirt wood and glass, other than recyclable material and construction and demolition items as defined in this section.

Unlawful depositing of refuse, etc.

No person shall throw or deposit or procure, cause or direct the throwing or depositing, or shall allow or suffer the throwing or depositing , of any garbage, refuse, rubbish, recyclable material, bulky waste, major appliances, plastic, paper, construction or demolition debris onto, on or upon any property, lot or land, either public or private, or upon or into any creek, river or stream within the Town of Ulster. This Section should not apply to a person who is the legal owner or tenant having possession and control of the premises.

Any person violating the provisions of Section 1.2 shall be guilty of a misdemeanor punishable by a fine of not more than five hundred dollars ($500.00).

Chapter 96
GRASS, WEEDS & NOXIOUS VEGETATION

§ 96-1 Maintenance of grass lawns.

§ 96-2 Cutting of grass and other vegetation along streets.

§ 95-3. Weeds and other rank or noxious vegetation.

§ 95-4. Solid Waste.

§ 95-5. Enforcement procedures.

[HISTORY. Adopted by the Town Board of the Town of Ulster 12-1998 as L.L. No. 7-1998.]

§ 96-1. Maintenance of grass lawns.

Grass shall not be allowed to grow in excess of eight (8) inches. This provision shall not apply to land under cultivation, naturally wooded areas or undeveloped areas which are at least two hundred (200) feet distant from any occupied building or residence.

§ 96-2. Cutting of grass and other vegetation along streets.

It shall be the duty of the lessee or person having charge, or if there be no lessee or person having charge, then the owner of each and every parcel of land in this town fronting upon any street or highway to cut or cause to be cut and removed, all grass, brush and weeds growing between the curb or edge of roadway and the sidewalk or pathway at least once in each month from May to October, inclusive.

§ 96-3. Weeds and other rank or noxious vegetation.

It shall be the duty of the owner, lessee or other person in possession or having charge of each and every parcel of land in this town to keep said parcel free of poison ivy, poison sumac, ragweed, golden rod and other harmful weeds and rank or noxious vegetation.

§ 96-4. Solid Waste.

Yard Waste:

A. Brush and Tree Prunings:

(1) Brush and tree pruning bundles shall not exceed four feet in length or three feet in diameter.

(2) Brush and tree prunings must be bundled with cut ends in same direction and tied with twine (no wire).

(3) Brush and tree prunings will be collected in the Town Highway Department annual collection.

B. Grass clippings and leaves

(1) No grass clippings or leaves will be picked up and may not be left on the street outside the curbside except when the town highway department is making its annual collections.

§ 96-5. Enforcement procedures.

A. Violation of the provisions of this chapter shall be a violation, punishable by a fine of not more than two hundred fifty dollars ($250.00).

B. Upon default of the owners, or other persons responsible therefore, to perform the work as specified in § 2 and 3, the town may perform the same and upon receipt of a verified statement of the town building inspector or a code enforcement officer or their assistants who shall cause such work to be performed, the town board shall direct that the amount thereof be added to the next assessment roll of general town taxes and shall be collected and enforced in the same manner, by the same proceedings, at the same time and under the same penalties, as the general town tax and as a part thereof.

The town officer so designated shall serve personally or by certified mail upon the owner of or lessee responsible for such property at the same address or if it appears to be vacant, then at the address listed on the town tax roll, a written notice, stating that at a time and place specified therein, he will assess such cost against such property. Such notice shall be served at least eight days previous to the time specified herein. At the time and place so specified, he shall hear the parties interested, and shall thereupon complete the assessment, stating therein, the name of each owner and the amount so assessed, and shall return such assessment to the town clerk who shall present the same to the town board. Such town board shall certify such assessment levied against such property and any uncollected assessment shall be a lien upon the land affected. Such amount shall be levied and collected at the same time and in the same manner as other town taxes and shall be paid to the tax collector of the town, to be applied in reimbursing the fund from which such cost was defrayed.

Chapter 101
JUNKYARDS

ARTICLE I

§ 101-1. Legislative intent.

§ 101-2. Definitions.

§ 101-3. Unregistered vehicles.

Motor Vehicle Junkyards

§ 101-4. License and certificate of approval required.

§ 101-5. Application for license and certificate of approval; fees.

§ 101-6. Hearing; notice.

§ 101-7. License requirements.

§ 101-8. Location.

§ 101-9. Aesthetic considerations.

§ 101-10. Grant or denial of application; appeals.

§ 101-11. License fees.

§ 101-12. Fencing and screening-, dumping of garbage or refuse unlawful.

§ 101-13. Fire extinguishers required.

§ 101-14. Existing junkyards.

§ 101-15. Additional location requirements.

§ 101-16. Management; duties of licensee.

§101-17. Governing board designated.

§101-18. Enforcement.

§101-19. Penalties for offenses.

§ 101-20. Definitions.

ARTICLE II
Other Types of Junkyards

§ 101-21. Unlawful acts; exceptions.

§ 101-22. Purpose.

§ 101-23. Definitions.

§ 101-24. Outdoor storage.

§ 101-25. Notice of violation.

ARTICLE III
Abandoned Vehicles

§ 101-26. Public hearing-, determination; removal.

§ 101-27. Courtesy notification of violation; penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Ulster: Art. I, 8-9-1966, amended in its entirety 12-7-1967; Art. II, at time of adoption of Code (see Ch. 1, General Provisions, Art. I); Art. III, at time of adoption of Code (see Ch. 1, General Provisions, Art I). Sections 101-5B and C, 101-6, 101-11 and 101- 19A amended at time of adoption of Code; see Ch. 1, General Provisions, Art I. Other amendments noted where applicable.]

Appearance tickets - See Ch. 7.

GENERAL REFERENCES
Building construction and fire prevention - See Ch. 61.
Garbage, rubbish and refuse - See Ch. 95.
Site plan review - See Ch. 145.
Zoning - See Ch. 190.
Fees - See Ch. A194.

ARTICLE I
Motor Vehicle Junkyards
[Adopted 8-9-1966; amended in its entirety 12-7-1967]

§ 101-1. Legislative intent.

A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants and the safeguarding of their material rights against unwarrantable invasion, and in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the town and the general welfare of its citizens. It is further declared that the unrestrained accumulation of junk motor vehicles is a hazard to such health, safety and welfare of the citizens of the town, necessitating the regulation, restraint and elimination thereof. At the same time, it is recognized that the maintenance of junkyards, as hereinafter defined, is a useful and necessary business and ought to be encouraged when not in conflict with the express purposes of this Article.

§ 101-2. Definitions.

For the purpose of this Article, the following terms shall have the meanings indicated:

JUNKYARD - Any place of storage or deposit, outside of a completely enclosed building, whether in connection with another business or not, where two (2) or more unregistered, old or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any other purpose; such term shall include any place of storage or deposit for any such purpose of used parts or waste materials from motor vehicles which, taken together, equal in bulk two (2) or more such vehicles; provided, however, that the term 'junkyard" shall not be construed to mean an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal produce is scrap iron, steel or nonferrous scrap for sale for remelting purposes only.

MOTOR VEHICLE - All vehicles propelled or drawn by power other than muscular power originally intended for use on public highways.

§ 101-3. Unregistered vehicles.

For the purpose of this Article, where the occupant of the property cannot show a valid registration for some period during the preceding twelve (12) months for a vehicle in question, that fact may be admitted as prima facie evidence that the vehicle is no longer intended for legal use on the highway.

§ 101-4. License and certificate of approval required.

No person shall operate, establish or maintain a junkyard until he has:

A. Obtained a license to operate a junkyard business; and
B. Obtained a certificate of approval for the location of such junkyard.
C. Complied with Chapter 145 for site plan approval.

§ 101-5. Application for license and certificate of approval; fees.

A. An application for license and the certificate of approved location shall be made in triplicate to the Town Clerk, upon forms to be furnished by the Clerk. Should the town adopt zoning and have a Zoning Board of Appeals, the application shall be accompanied by a certificate from the Zoning Board of Appeals that the proposed location is not within an established district restricted against such uses or otherwise contrary to the prohibitions of such zoning.(1) The application shall contain a description of the land to be included within the junkyard, the name and address of the owner of the premises, the name and address of the applicant and the nature and extent of his interest in the business for which a license is desired and any other information required by the Town Board.
B. Such application shall be accompanied by an investigation fee as provided in Chapter A194, Fees, which shall cover the required investigation; and whether or not a license is issued, such investigation fee shall be retained by the town. The town, in addition to the investigation fee, may assess the applicant with the costs of advertising such application and such other reasonable costs incident to the hearing as are clearly attributable thereto and may make the license conditional upon payment of same.**(2)**
C. The application shall also be accompanied by a license fee as provided in Chapter A194, Fees.**(3)**
D. The Town Clerk shall refer such application to the Town Board prior to its next regularly scheduled meeting. No license shall be issued without the approval of the Town Board.

§ 101-6. Hearing; notice.**(4)**

A hearing on the application shall be set by the Town Board at their next regularly scheduled meeting after the application was made and the date of the hearing shall be not less than two (2)

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(1) Editor's Note: See Ch. 190, Zoning.
(2) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art I.
(3) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
(4) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

weeks nor more than four (4) weeks, from that meeting. Notice of the hearing shall be given to the applicant by mail, postage prepaid, to the address given in the application and shall be published once in the official newspaper as designated by the town, which publication shall be not less than seven (7) days before the date of the hearing.

§ 101-7. License requirements.

At the time and place set for hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for a license to operate, establish or maintain the junkyard. In considering such application, it shall take into account the suitability of the applicant with reference to his ability to comply with the fencing requirements or other reasonable regulations concerning the proposed junkyard, to any record of convictions for any type of larceny or receiving of stolen goods and to any other matter within the purposes of this Article.

§ 101-8. Location.

At the time and place set for the hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the application for certificate of approval for the location of the junkyard. In passing upon same, it shall take into account, after proof of legal ownership or right to such use of the property for the license period by the applicant, the nature and development of surrounding property, such as the proximity of churches, schools, hospitals, public buildings or other places of public gathering; and whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy odors or smoke, or of other causes.

§ 101-9. Aesthetic considerations.

At the hearing regarding location of the junkyard, the Town Board may also take into account the clean, wholesome and attractive environment which has been declared to be of vital importance to the continued general welfare of its citizens by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon. In this connection, the Town Board may consider collectively the type of road servicing the junkyard or from which the junkyard may be seen, the natural or artificial barriers protecting the junkyard from view, the proximity of the proposed junkyard to established residential and recreational areas or main access routes thereto, as well as the reasonable availability of other suitable sites for the junkyard.

§ 101-10. Grant or denial of application; appeals.

After hearing, the Town Board shall, within two (2) weeks, make a finding as to whether or not the application should be granted, giving notice of their finding to the applicant by mail, postage prepaid, to the address given on the application. If approved, the license, including the certificate of approved location, shall be forthwith issued to remain in effect until the following April 1. Approval shall be personal to the applicant and not assignable. License shall be renewed thereafter upon payment of the annual license fee without hearing, provided that all provisions of this Article are complied with during the license period, the junkyard does not become a public nuisance under the common law and the applicant is not convicted of any type of larceny or the receiving of stolen goods. The determination of the Town Board may be reviewed under Article 78 of the Civil Practice Law and Rules. Such license shall always be on display in the office of the junkyard.

§ 101-11. License fees.(5)

The annual license fee shall be as provided in Chapter A194, Fees, to be paid at the time when the application is made and annually thereafter in the event of renewal. In event that the application is not granted, the fee shall be returned to the applicant.

§ 101-12. Fencing and screening; dumping of garbage or refuse unlawful.

A. Before use, a new junkyard shall be completely surrounded with a fence at least eight (8) feet in height, which substantially screens, and with a suitable gate which shall be closed and locked, except during the working hours of such junkyard or when the applicant or his agent shall be within. Such fence shall be erected no nearer than fifty (50) feet from a public highway and twenty-five (25) feet from the other property lines. All motor vehicles and parts thereof stored or deposited by the applicant shall be kept within the enclosure of the junkyard, except as removal shall be necessary for the transportation of same in the reasonable course of the business. All wrecking and other work on such motor vehicles and parts and all burning of same within the vicinity of the junkyard shall be accomplished within the enclosure.

B. Where the topography, natural growth of timber or other considerations accomplish the purposes of this chapter in whole or in part, the fencing requirements hereunder may be reduced by the Town Board upon granting the license; provided, however that such natural barrier conforms to the purposes of this Article.

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(5) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

(1) The height of material stored within the fenced area shall not be greater than one (1) foot less than the height of the fence.

C. Use of the junkyard for the dumping of garbage or refuse shall not be permitted.

§ 101-13. Fire extinguishers required.

There shall be maintained in each junkyard at least two (2) approved fire extinguishers.

§ 101-14. Existing junkyards.

For the purposes of this section, the location of junkyards already established shall be considered approved by the Town Board and the owner thereof deemed suitable for the issuance of a license. Within sixty (60) days from the passage of this section, however, the owner shall furnish the Town Board the information as to location which is required in an application, together with the license fee, and the Town Board shall issue him a license valid until the next April 1, at which time such owner may apply for renewal as herein provided. Such owner shall comply with all other provisions of this Article, including the fencing requirements set forth in §101-12 of this Article.

§ 101-15. Additional location requirements.

Notwithstanding any of the foregoing provisions of this Article, no junkyard, hereafter established shall be licensed to operate if such junkyard or any part thereof shall be within five hundred (500) feet of a church, school, hospital, public building or place of public assembly.

§ 101-16. Management; duties of licensee.

A. Every junkyard shall be under the management of the licensee who must be of good reputation and character and who shall manage such junkyard from an office located on the premises. There shall be maintained in such office a bound book containing a record of the names of all persons from whom the licensee has purchased any material, their home addresses, the time of the purchase and a complete description of the material purchased and the price paid for such material.

B. It shall be the duty of the licensee of any such junkyard to:

(1) Operate and maintain the junkyard in such a manner as to prevent the creation of fire hazards of any kind.

(2) Take such other measures as shall be deemed necessary by the Town Board to preserve the health, comfort and safety of all persons doing business at the junkyard and of the general public.

(3) Prevent committing of any nuisance at the junkyard and to report immediately to the proper authorities all acts of a disorderly character created by any person at the junkyard and to that end to maintain proper policing thereof.

§ 101-17. Governing board designated.

The Town Board of the Town of Ulster shall be the governing board and is hereby authorized to conduct the investigation and hearings on any application for a license herein. The Town Board shall set the date, time and place of the hearings.

§ 101-18. Enforcement.

A. The said Town Board shall refer any violations of this Article to the proper law enforcement authorities for prosecution.

B. The owner or licensee of any such junkyard who commits any acts in violation of any of the provisions of this Article shall be liable for any such violation and for the penalty therefor. Each day such violation shall continue or be permitted to exist, shall constitute a separate violation.

§ 101-19. Penalties for offenses.

A. Any person violating any of the provisions of this Article shall be guilty of an offense and, upon conviction, shall be punishable by a fine of not more than two hundred fifty dollars ($250.) or by imprisonment for not more than fifteen(15)days or by both such fine and imprisonment.**(6)**

B. Where the owner of any property located in the town is notified of a violation of the provisions of this Article on his property and the same is not corrected or removed within thirty (30) days after written notification, said condition shall be corrected by the town at the expense of said property owner and if not paid, shall be added to the taxes on said property.

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(6) Editor's Note:. Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

ARTICLE II
Other Types of Junkyards
[Adopted at time of adoption of Code(7)]

§ 101-20. Definitions.

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

JUNKYARD OTHER THAN VEHICLE JUNKYARD-Any place of storage or deposit, other than vehicle junkyards, not within a building, whether or not in connection with another business of new or used materials, such as but not limited to lumber, machinery, building materials and equipment rags, paper, rubbish, bottles, glassware, crockery, bags, cloth, rubber, iron, brass, copper, silver, clothing, furniture, or parts thereof, or any repaired, reconstructed, renewed, renovated, partly ruined or damaged materials or merchandise or personal property.

§ 101-21. Unlawful acts; exceptions.

No person shall operate, establish or maintain a junkyard other than vehicle junkyards as provided in Article 1, Motor Vehicle Junkyards, within the Town of Ulster. This provision shall not apply to the conduct of bona fide resale of used materials from within a building as shown on approved site plan or upon a special permit as may be provided in the Zoning Local Law.(8)This provision shall not apply to the operation by the resident thereof of a yard sale or other temporary storage such as combined yard sales, flea markets or charitable events where such storage does not exceed a period of one (1) week.

ARTICLE III
Abandoned Vehicles
[Adopted at time of adoption of Code(9)]

§ 101-22. Purpose.

The outdoor storage of abandoned, junked, discarded and unlicensed motor vehicles and/or parts thereof upon privately owned properties within the Town of Ulster is hereby regulated for the preservation of the health, safety and general welfare of the community. Such storage of said vehicles and/or parts constitutes an attractive nuisance to children and imperils their safety. Such storage also endangers person and property, is unsightly, depreciates property values and constitutes a public nuisance.

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(7) Editor's Note: See Ch. 1, General Provisions, Art. 1.
(8) Editor's Note: See Ch. 190, Zoning.
(9) Editor's Note: See Ch. 11 General Provisions, Art. I.

§ 101-23. Definitions.

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

ABANDONED MOTOR VEHICLES - Any motor vehicle or substantial part thereof not intended for operation on public roadways. The intent of the owner shall be determined by the physical condition of the motor vehicle, his statements as to its abandonment, the length of time since the motor vehicle has last been used on the public highway, whether the motor vehicle is currently licensed and other relevant facts. With respect to a vehicle not required to be licensed or motor vehicles not usually used on the public highways, the intent of the owner shall be determined by the physical condition of the motor vehicle, the length of time since it was last used for the
purpose intended, any statements as to its abandonment by the owner and other relevant facts.

DISCARDED MOTOR VEHICLE - Any motor vehicle which the owner thereof, as established by the surrounding circumstances, does not intend to recover the possession of or any other vehicle the owner of which cannot be found after due and reasonable inquiry.

JUNKED MOTOR VEHICLE - Any motor vehicle in such condition as to cost more to repair and place in operating condition than its reasonable market value at the time before such repairs.

MOTOR VEHICLE - Every vehicle operated, driven or capable of being operated or driven upon a highway by any power other than muscular power. For the purposes of this local law, "motor vehicles" shall include tractors used exclusively for agricultural purposes, self-propelled harvesting machines and self-propelled Caterpillar or crawler- type equipment. For the purposes of this local law, the term "motor vehicles" shall also include motorcycles, buses and house trailers.

OWNER OF MOTOR VEHICLE - The person having the property in or title to a motor vehicle, including a person entitled to the use and possession of a vehicle subject to a security interest in another person, and also including any lessee or bailee of a motor vehicle having the use thereof under lease or otherwise.

OWNER OF PRIVATE PROPERTY - Includes the legal owner, contract purchaser, tenant, lessee, occupant, under-tenant, receiver or assignee of premises or property located within the Town of Ulster.

PREMISES - Includes all parcels of real property situated in the Town of Ulster, whether occupied or vacant, irrespective of size or topography.

UNLICENSED MOTOR VEHICLE - Any motor vehicle which has not been licensed with the proper authorities for a period of at least thirty (30) days from the expiration of the last licensing period.

§ 101-24. Outdoor storage.

A. Each residential property owner will be permitted one (1) unlicensed car for seasonal use, provided that it carries a valid New York State inspection sticker.

B. It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise, of any private property within the residential districts to store or deposit outside or cause or permit to be stored or deposited outside an abandoned, junked or discarded or unlicensed motor vehicle or motor vehicles and/or parts thereof upon any private land within the limits of the aforementioned described strip of property.

§ 101-25. Notice of violation.

A. If the provisions of the foregoing section are violated, the Town of Ulster shall serve a written notice, either personally or by mail, upon the owner, occupant or person having charge of any such private property to comply with the requirements of this local law. The Town of Ulster may determine ownership of any parcel of land in the Town of Ulster from the current assessment rolls of the village and may serve written notice upon the owner thereof by mailing, by regular mail, such notice to the owner at the address listed on the current assessment rolls.

B. If the Town of Ulster is unable to determine the ownership or address of the owner of said private property, such notification may be made by publishing in the official newspaper of the Town of Ulster once a week for two (2) consecutive weeks a notice in substantially the following form:

"To the owner, occupant or person having charge of land within the Town of Ulster briefly described as follows:

_____.

Notice is hereby given that an abandoned, junked, discarded or unlicensed motor vehicle or parts thereof have been stored or deposited on the above described property in the Town of Ulster. This vehicle must be removed therefrom within ten (10) days from the first date of this notice.

"In case you fail or refuse to comply with this notice on or before the expiration of said ten (10) days from the date thereof, you are hereby summoned to appear before the Building Inspector of the Town of Ulster, New York, at _____ o'clock,_____m., on the_____day of__, 2_____, to show cause why the Town of Ulster, New York, acting through its duly authorized agents, servants, officers and employees, should not enter upon said land and remove and cause said motor vehicle to be destroyed. In the event that the Building Inspector directs that said motor vehicle be removed and destroyed, the expense incurred by
the Town of Ulster shall be assessed against said land and shall constitute a lien thereon and be collected as provided by law.

Dated: _____"

§ 101-26. Public hearing, determination; removal.

In the event that an abandoned, junked, discarded or unlicensed motor vehicle or Parts are not removed as prescribed above, the Building Inspector of the Town of Ulster shall hold a hearing on the date and at the time specified in the notice, at which hearing the persons interested shall be heard concerning the removal of said motor vehicle. After said persons are heard, the hearing shall be closed, and the Building Inspector shall determine whether said motor vehicle has been abandoned, junked or discarded in violation of this local law. A determination by the Building Inspector that said motor vehicle or parts have been abandoned, junked or discarded shall authorize the issuance of an order by the Building Inspector directing the removal of said motor vehicle under the direction of the town police in accordance with the Vehicle and Traffic Law, and the expense thereof assessed against the property described in the notice, all in the manner provided by law.

§ 101-27. Courtesy notification of violation; penalties for offenses.

A. A courtesy notification of violation will be mailed by registered letter to the violator by the Building Inspector.

B. Any owner, occupant, lessee, agent or tenant who shall neglect and refuse to remove an abandoned, junked, discarded and unlicensed motor vehicle or parts as required by this local law or who shall fail or refuse to comply with the order of the Building Inspector to remove a motor vehicle after notice and hearing as herein provided or who shall violate any of the provisions of this local law or who shall resist or obstruct the duly authorized agents, servants, officers and employees of the Town of Ulster in the removal and destruction of a motor

vehicle as described herein shall, upon conviction thereof, be fined a sum not to exceed two hundred fifty dollars ($250.) or imprisoned for up to fifteen (15) days, or both. Each separate occurrence may constitute a separate additional violation.

C. Nothing herein contained shall prevent the Town of Ulster from directing the removal of a motor vehicle in accordance with the terms and provisions of this Article in addition to imposing the penalties hereinabove provided.

LANDLORD REGISTRY

Chapter 105

§ 105-1. Purpose and Scope.

§ 105-2. Definitions.

§ 105-3. Registration of Ownership of Property.

§ 105-4. Registry Form and Filing.

§ 105-5. Inspection Requirements.

§ 105-6. Penalties for Offenses.

[HISTORY: Adopted by the Ulster Town Board on 5-18-2011 as L.L. No. 4-2011, amended in 9-24-2013 by L.L. No. 5-2013 and in 10-02-2014 by L.L. No. 4.]

§ 105-1. Purpose and scope.

A. The purpose of this chapter is to establish a registry of all residential rental property as defined herein, enabling the Town to identify persons responsible for the care and management of such properties, which will ensure the enforcement of local, state and federal regulations.

B. The provisions of this chapter shall apply to all residential rental property containing four (4) residential units or more located in the Town of Ulster as defined herein.

§ 105-2. Definitions.

For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

BUILDING - Any structure having a roof, supported by columns or by walls or self- supporting, and intended for the shelter, housing or enclosure of persons, animals or chattel.

OWNER - Any individual or individuals, partnership or corporation, similar type of business organization or proprietary interest, whether for profit or otherwise, in whose name title to a building is vested.

RESIDENTIAL RENTAL PROPERTY- Residential rental property includes each parcel of real property which meets either of the following criteria:

1) A real property parcel on which at least three (3) dwelling units that are leased or otherwise rented to tenants solely for residential purposes is located.

2) A real property parcel that is located in a mobile home park or other permanent or semi-permanent site at which at least three (3) lots are leased or otherwise rented to tenants for parking a manufactured home, a mobile home, or a recreational vehicle that is used solely for residential purposes.

RESPONSIBLE PERSON - A local responsible person over 21 years old, residing or doing business in Ulster County, who shall be responsible for the care and management of such property and is authorized by said owner to accept legal process on behalf of the owner when the owner resides or has its principal place of business outside of Ulster County

§ 105-3. Registration of ownership of property.

A. Registration. Every owner of residential rental property as defined herein shall be required to register such property with the Town of Ulster Building Department on such form or forms as prescribed by the Building Department within a period of 60 days from notification by the Building Department. A new form shall be filed whenever there is a change of ownership, and it shall be the responsibility of the new owner to see that such form is filed within a period of 60 days from taking title to the property. It shall be the responsibility of all owners of residential rental property as defined herein to register such property with the Building Department, whether notified to do so by the Building Department or not, within 60 days of acquiring or establishing such rental unit.

B. Registry fee. On or after the notification of the requirement of this chapter by the Building Department, every owner or prospective owner of residential rental property, as defined in this chapter, shall be required to register said property with the Building Department and pay a fee as set forth in the Schedule of Fees.

C. Inspection fee: Following receipt of required registration the Town of Ulster Building Department will invoice every owner or prospective owner of residential property as defined in this chapter a fee set forth in the schedule of fees. Upon receipt of said fee, an inspection will be scheduled and conducted by the Building Department or its authorized designee. The amount of the inspection fee may be amended from time to time by resolution of the Town Board.

§ 105-4. Registry form and filing.

A. It shall be the responsibility of the owner of each property which is subject to the provisions of this chapter to file a registry application within 60 days of the notification by the Building Department. The form shall require the following information:

(1) The property address, the section, block and lot number of the property as stated on the Tax Map of the Town of Ulster, and the number of residential dwelling units on each property.

(2) The owner(s), owner mailing address and telephone number.

(3) The name and names, titles, addresses and telephone numbers of any responsible person(s) of the corporation, LLC, partnership or other similar business entity if the ownership is held in a non-individual capacity.

(4) The name, address and telephone number of a local responsible person as defined in § 105-2 herein.

B. The form shall be signed by the owner and his or her designee and witnessed by a notary public and shall contain the following declaration: "I certify that all information contained in this statement is true and correct to the best of my knowledge and belief. I understand that the willful making of any false statement of material fact herein will subject me to the provisions of law relevant to the making and filing of false instruments and shall constitute a violation of this chapter." It shall be the responsibility of each owner to timely notify the Building Department whenever the information provided in this form has become outdated or for any reason is no longer accurate. It shall be the responsibility of each owner to recertify the aforementioned information annually.

§ 105-5. Inspection requirements.

A. The Building Department or its authorized designee shall make provisions for inspections of each residential rental property which is subject to the provisions of this article and shall notify each responsible person of each residential rental property as to the time and place of such inspection. The inspection shall be conducted every two years. The inspection shall be conducted for the purpose of determining compliance with all applicable rules and regulations concerning safety and maintenance of said residential rental property, including the Town Code of the Town of Ulster and all other such rules and regulations and laws of the State of New York. In addition, the owner and/or managing agent shall be obligated to review with the Building Department and its designee or agent the contents of the landlord registration statement to determine if all said information is up-to-date, complete and accurate in all respects.

B. Any inspection report issued pursuant to Subsection A of this section which reveals the presence of a violation shall be remedied by the owner within the time stated in the report. Failure to bring any building and/or residential rental property into conformance with such report and/or to remedy within the time set forth therein shall constitute a violation of this article, it being expressly understood that this provision shall not constitute the exclusive remedy of the Town of Ulster, but shall be an addition thereto.

§ 105-6. Penalties for offenses.

A. No residential rental property as defined herein shall be occupied by any tenant without compliance with the provisions herein, and failure to comply shall constitute a violation of the Code of the Town of Ulster.

B. A violation of this chapter shall constitute an unclassified misdemeanor, and any person who shall violate any provision of this chapter, or any person who shall knowingly assist therein, shall be liable to a minimum fine of $250.00 and a maximum fine of $5,000.00 or imprisonment not exceeding six (6) months, or both such fine and imprisonment. Each and every week that any such violation continues after 10 days following notification that such violation exists shall constitute a separate offense. Such initial notice of violation shall be written by the Building Inspector or Code Enforcement Officer and shall be served by mail or by personal service.

Chapter 111
MINING

§ 111-1. Reclamation plan.

§ 111-2. Rehabilitation bond.

[HISTORY: Adopted by the Town Board of the Town of Ulster 2-14-1985 as L.L. No. 2-1985; amended in its entirety at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Subsequent amendments noted where applicable.]

§ 111-1. Reclamation plan.

A reclamation plan, showing both existing and proposed final contours for all affected land, the method of reclamation, and a schedule for performing reclamation, shall be submitted to and approved by the Planning Board. After any such operations, the site shall be made reusable for a nonextractive use, permitted on the site as shown on the Town Development Plan adopted pursuant to Article 16 of the New York State Town Law. Where topsoil is removed, sufficient arable soil shall be set aside for retention on the premises and shall be respread over the premises after the operation. The area shall be brought to the final grade by a layer of earth of two (2) feet or original thickness, whichever is less, capable of earth of supporting vegetation. All ridges, peaks and slopes created either by excavation of a mineral or by the disposal of soil shall be left no steeper than the following:

A. Rock (ledge or bedrock): forty-five degrees (45') depending upon the condition and characteristics of the formation as it exists in the mine.

B. Talus (broken rock): thirty-seven degrees (37'), or a slope of one (1) vertical on one and one-fourth (11/4) horizontal, unless the talus is to be covered and revegetated in which case the slope shall not exceed that which is required for fine sand, silt and clay.

C. Coarse sand and gravel: thirty-three degrees (33'), or a slope of one (1) vertical on one and one-half (11/2) horizontal.

D. Fine sand, silt and clay: twenty-six degrees (26'), or a slope of one (1) vertical on two (2) horizontal. The slope provisions contained herein may be modified with the approval of the Planning Board.

E. Ground cover and vegetation shall be provided through planting program on all disturbed areas.

§ 111-2. Rehabilitation bond.

Before site development plan approval is granted, the owner or his agent must file a bond or surety, or an additional bond or surety above that required by other jurisdictions reflecting conditions or requirements imposed by the Town in accordance with this chapter. This bond or additional bond may be required if, in the opinion of the Town Planning Board, with concurrence of the Town Board, a bond is necessary, to insure site rehabilitation in accordance with the requirements of this chapter. Such bond or surety shall be approved as to form and sufficiency by the Town Attorney and will be filed with the Town Clerk prior to issuance of a permit for the extractive operation. Such bond or surety shall run with the term of the permit and may be extended by the Town Board until such time as the site reclamation plan has been fully executed, including establishment of plantings and ground cover through one (1) full growing season.

Chapter 114

MOBILE HOMES AND TRAVEL TRAILERS

§ 114-1. Title.

§ 114-2. Purpose.

§ 114-3. Definitions.

§ 114-4. Annual license.

§ 114-5. Application procedure.

§ 114-6. Application contents.

§ 114-7 Mobile homes located outside mobile home parks.

§ 114-8. Enforcement

§ 114-9. Revocation of annual license.

§ 114-10. Penalties for offenses.

§ 114-11. Exceptions.

§ 114-12. Exterior appearance of Class A mobile homes.

§ 114-13. Variances.

§114-14. Mobile home parks.

§114-15. Trailer camps.

§114-16. Travel trailers located in mobile home parks.

[HISTORY: Adopted by the Town Board of the Town of Ulster 8-18-1982 as L.L. No. 1-1982. Sections 114-3, 114-4, 114-7B and D, 114-9, 114-10 and 114-13B amended at time of adoption of Code; see Ch. 1, General Provisions, Art, I. Other amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets - See Ch. 7.
Building construction and fire prevention - See Ch. 61. Flood damage prevention - See Ch. 87.
Site plan review - See Ch. 145. Subdivision of land - See Ch. 161.
Zoning - See Ch. 190.
Fees - See Ch. A194.

§ 114-1. Title.

This chapter shall be known as the "Local Law for the Regulation of Mobile Homes, Mobile Home Parks, Travel Trailers and Trailer Camps located in the Town of Ulster, Ulster County, New York."

§ 114-2. Purpose.

The purpose of this chapter is to promote the health, safety, morals and general welfare of the community, including the protection and preservation of the property of the Town of Ulster and of its inhabitants by establishing specific requirements and regulations governing the occupancy and maintenance of mobile homes, mobile home parks, travel trailers and trailer camps.

§ 114-3. Definitions.

For the purpose of this chapter, the following words, terms and phrases shall have the meaning ascribed to them in this section:

MOBILE HOME - Manufactured housing built on a chassis, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. "Mobile home" shall not be construed to be a travel trailer or other form of recreational vehicle or modular home.

MOBILE HOME PARK - Any parcel of land which is planned and improved for the placement of two (2) or more mobile homes which are used as dwellings. Said parcel of land must be at least five (5) acres in size with sixty (60) feet of frontage on a public road, not to include any right-of-way.

MOBILE HOME PARK LOT - A designated site of specific total land area which is located within a mobile home park for the accommodation of one (1) mobile home and its occupants.

MOBILE HOME PRIVATE LOT - Any parcel of land for the placement of a single mobile home and the exclusive use of its occupants.

MOBILE HOME STAND - A durable surface located on a mobile home lot, which is to be used for the placement and capable of supporting a mobile home.

TRAILER CAMP - Any parcel of land which is planned and improved for the placement of one (1) or more travel trailers which are used as temporary living quarters and for occupancy of not more than one hundred twenty (120) consecutive days. Said parcel of and must be at least five (5) acres in size with sixty (60) feet of frontage on a public road, not to include any right-of-way.**(1)**

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(1) Editor's Note: Amended at time of adoption of Code; see Ch, 1, General Provisions, Art. I.

TRAVEL TRAILER - Any portable vehicle which is to be transported on its own wheels; which is designed and intended to be used for temporary living quarters for travel, recreational or vacation purposes, and which or may not include one (1) or all of the accommodations and facilities included in a mobile home.

§ 114-4. Annual license(2)

A. Any person, partnership, association or corporation, being the owner or occupant of any land within the Town of Ulster shall not use or allow the use of such land for a mobile home park or trailer camp unless an annual license has been obtained as herein provided.

B. Issuance of annual license.

(1) The Town Clerk of the Town of Ulster shall issue an annual license, to be effective from the day of issuance to and including December 31 of that year.

(2) This annual license will not be issued until the Town Clerk has received:

(a) A written application from the applicant.
(b) The required fee as herein provided.
(c) Approval of the application by the Ulster County Department of Health.
(d) Inspection by the Town Building Inspector.
(e) A resolution from the Town Board approving issuance of annual license.

(3) This annual license shall not be transferable or assignable.

C. Supplemental annual license.

(1) Any person holding an annual license for a mobile home park or trailer camp and desiring to add additional lots to such park or camp, shall file an application for a supplemental annual license.

(2) The application for such supplemental annual license must be accompanied by three (3) complete sets of plans and specifications as required by § 114-6 of this chapter. The application for a supplemental annual license shall be filed and handled according to the procedure established in Subsection B of this section.

(3) When approved and upon receipt of the required fee, the Town Clerk shall issue a

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(2) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General provisions, Art I.

supplemental annual license which will be effective from the date of issuance to and including December 31 of the same year.

D. Annual license renewal.

(1) An application for the renewal of any mobile home park or trailer camp annual license which was issued in accordance with the provisions of this chapter, must be filed with the Town Clerk on or before December 1 preceding the expiration of the annual license.

(2) Upon the inspection of the Building Inspector and by resolution of the Town Board, the Town Clerk shall issue a renewal annual license to be effective upon the expiration of the previous annual license and continue in force for a period of one (1) year.

(3) At the time the renewal annual license is issued, the applicant shall pay the fee as provided by Chapter A194, Fees.

(4) Such renewal annual license shall not be transferable or assignable

E. Annual license fees.

(1) The applicant shall pay the Town Clerk an annual fee as provided in Chapter A194, Fees.

(2) The fee for a supplemental annual license shall be as provided in Chapter A194, Fees.

F. Existing mobile home parks, trailer camps and mobile homes.

(1) A mobile home park, trailer camp or mobile home which is in existence and in compliance with, may continue in existence provided it complies completely with the requirements of the Ulster County Department of Health. However, the application procedure of this chapter must be followed and application data furnished.

(2) Any additions, extensions or supplements to a mobile home park or trailer camp in existence prior to the enactment of this chapter must be made pursuant to this chapter.

§ 114-5. Application procedure.

A. Each application for a mobile home park or trailer camp shall be in writing and signed by the applicant.

B. The application and related information shall be filed with the Town Clerk in triplicate.

C. The Town Clerk shall transmit one (1) copy of the application to the Town Building Inspector.

D. The Building Inspector shall check the application for compliance with the minimum requirements as established by the rules and regulations of the New York State Department of Health, the Town of Ulster and the Sanitary Code of the State of New York. The Building Inspector shall, after such investigation, transmit the certified application to the Town Board, together with his written findings, as whether the application satisfies or does not meet the minimum health and sanitary standards within thirty (30) days after the date of filing the application with the Town Clerk.

E. Upon receipt of the application from the Town Clerk, the Building Inspector shall review the general arrangement of the mobile home park or trailer camp. This shall include a review of location and width of streets; the location, size and arrangement of lots; the location of other structures within the park or camp; the location of entrance and exits; and the location, type and extent of landscaping and screening materials. The Building Inspector shall transmit the application back to the Town Board, together with his written findings, within thirty (30) days of receipt of the application.

F. The Town Board shall review the findings of the Building Inspector and by resolution indicate its approval or disapproval of the application within sixty (60) days of the date of filing the application with the Town Clerk.

G. The application shall be returned to the Town Clerk and the applicants notified in writing within five (5) days by the Town Clerk of the Town Board's decision.

H. If the application is disapproved, the applicant shall have the right to appear before the Town Board for a hearing.

§ 114-6. Application contents.

A. Each application shall be accompanied by three (3) complete sets of plans which are prepared by a surveyor, engineer or other qualified person. The plans shall be drawn to a scale of twenty (20), forty (40) or fifty (50) feet to one (1) inch, shall include the date, North point and scale and shall furnish the following information:

B. Legal data.

(1) The name and address of the applicant; or the name and address of each partner if the applicant is a partnership; or the name and address of each officer and director if the applicant is an association or corporation.
(2) The location and description of the land that is proposed to be used as a mobile home park or trailer park.
(3) The number of lots to be provided in such park or camp.

C. Physical features.

(1) Contours at two-foot intervals.
(2) Location of watercourses, marshes and areas subject to flooding.
(3) Wooded areas.

D. Existing development.

(1) A location map which shows all land within two hundred(200)feet of the proposed park or camp, and all structures on the land which abuts the proposed park or camp.
(2) The location, names and widths of all adjacent streets.
(3) The location of all water lines and utilities within and adjacent to the proposed site.

E. Proposed development.

(1) The location and widths of all entrances, exits, streets, and walkways.
(2) The location, size and arrangement of each lot within the park.
(3) The method and plan for electric lighting.
(4) The location and plan of all proposed structures and improvements.
(5) Any proposed grading and plans for landscaping.
(6) Any proposed storm water drainage.
(7) Any proposed utilities.
(8) Any public improvements proposed by the town in or adjoining the proposed park **(2)**.

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(2) Editor's Note: Original Section 7.0 Requirements for mobile home parks, Section Requirements for trailer camps, and Section 9.0, Travel trailers located in mobile home parks, were deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 114-7. Mobile homes located outside mobile home parks.

A. No mobile home shall hereafter be parked or otherwise placed within the Town of Ulster and outside a licensed mobile home park, except on a mobile home private lot or commercial mobile home sales lot, or by special variance by the Town Board.

B. Mobile home annual license**(3)**

(1) The applicant for a mobile home private lot must file an application within the Town Clerk.

(2) Each application for a mobile home annual license shall be in writing and signed by the applicant. This application must state and be accompanied by the following:

(a) The name and address of the applicant.

(b) The location and description of the land.

(c) A plan drawn to scale of not smaller than one (1) inch equals twenty (20) feet. This plan must show the boundaries of the land, the location of the mobile home on the land, the location and plan for proposed water supply and sewage disposal systems and the location of adjacent properties and structures.

(d) A certified or photo static copy of the deed to the land which indicates that the applicant is the owner of such land or a lease showing he is a lessee of the property.

(e) An initial annual license fee as provided in Chapter A194, Fees, shall accompany each application.

(3) The Town Clerk shall transmit the application to the Town Building Inspector. Upon receipt, the Building Inspector shall review the application's compliance with the provisions of this Article and the requirements of the Ulster County Department of Health.

(4) The Building Inspector shall then transmit the application, along with his written findings, to the Town Board.

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Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art.

(5) The town shall review the application and the findings of the Building Inspector and by resolution indicate its approval or disapproval.

C. Mobile home requirements.

(1) Any mobile home parked or placed outside a duly licensed mobile home park shall have an adequate supply of pure water for drinking and domestic purposes and a sewage disposal system. Both systems shall satisfy the requirements of the Ulster County Department of Health.

(2) No mobile home outside a duly licensed mobile home park shall be parked or placed on a lot less than twenty thousand (20,000) square feet, with a minimum dimension of one hundred (100) feet, along an adjoining street, exclusive of any other residence or commercial establishment, or placed nearer than:

(a) A distance of at least fifty (50) feet from the nearest right-of-way of any public highway or street.

(b) A distance of at least ten (10) feet from an adjacent property line.

(3) Not more than one (1) mobile home shall be placed or parked on any parcel of land which is located outside a licensed mobile home park.

(4) Every mobile home located outside a licensed mobile home park shall be placed on a permanent foundation or have skirting which shall enclose at least eighty percent (80%) of the perimeter of the mobile home and any additions thereto.

D. Existing mobile homes.**(4)**

(1) A mobile home which is lawfully in existence prior to the enactment of this law but not located in a mobile home park may be continued to be used as living quarters by its occupants, provided that:

(a) The owner of the land shall register such mobile home with the Town Clerk within thirty (30) days of the effective date of this chapter. Such registration shall be accompanied by a description of the parcel of land and shall, in effect, constitute an annual license.

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(4)Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

(b) It meets the requirements of Subsection C (l).

(2) If the owner of the land desires to substitute a mobile home of superior construction or improve the facilities for the existing mobile home, such owner shall file an application for an annual license. Such application shall comply to the provisions of Subsection B of this section with respect to application procedure and requirements. Such substituted mobile home and the mobile home site shall meet the requirements of Subsection C(l) through(4) of this section as herein amended.

(3) Annual license renewal. No renewal annual license is required for any person holding an annual license for a mobile home private lot, so long as said person complies with the health requirements of the Ulster County Department of Health and so long as circumstances remain exactly as stated on the original application.

§ 114-8. Enforcement.

The Building Inspector of the Town of Ulster shall enforce all of the provisions of this chapter. Such Building Inspector shall have the right, at all times, to enter and inspect any mobile home park, trailer camp and other premises used for the parking or placement of a mobile home.

§ 114-9. Revocation of annual license.(5)

A. Revocation of mobile home park and trailer camp annual licenses.

(1) If the Town Building inspector finds and reports to the Town Board that a mobile home park or a trailer camp for which an annual license has been issued is not being maintained in a clean and sanitary condition, or is not being operated in accordance with the provisions of this chapter, the Town Board shall, by resolution, authorize the personal service upon the holder of the annual license a written order which will require the holder of the annual license to correct the conditions specified in such order within fifteen (15) days after the service of such order.

(2) If the holder of such annual license shall refuse or fail to correct the condition or conditions specified in such order within fifteen (15) days after the personal service of such order, the Town Board shall, by resolution, revoke such annual license and the holder of the annual license shall thereupon terminate the operation of such mobile home park or trailer camp.

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(5)Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art.I.

(3) However, if the owner or operator of such mobile home park or trailer camp shall thereafter correct such conditions and bring the mobile home park or trailer camp into compliance with this law, such owner may then apply for the issuance of a new annual license for such park or camp; and if the application is approved and an annual license is granted, the applicant shall pay to the Town Clerk the fee required by this chapter without any credit for the fee paid for the annual license which was revoked.

B. Revocations of annual licenses for mobile homes outside of mobile home parks.

(1) If the Town Building Inspector finds and reports to the Town Board that any mobile home located outside a licensed mobile home park is not being maintained in accordance with the provisions of § 114-7C or D of this chapter, the Town Board shall serve a written order upon the holder of the permit and/or owner of the mobile home and/or the owner of the premises, directing that the condition or conditions herein specified be remedied within fifteen (15) days after the date of service of the order.

(2) If such condition or conditions are not corrected within the fifteen (15) days, the Town Board shall revoke such annual license. On revocation of the annual license, the water supply and sewage disposal system shall be disconnected and the mobile home shall be removed from the premises.

§ 114-10. Penalties for offenses(6)

Any person, partnership, association or corporation who violates any provision of this chapter shall be guilty of a violation and subject to a fine not exceeding two hundred fifty dollars ($250.) or to imprisonment for a period of not more than fifteen (15) days, or both fine and imprisonment. When a violation of any of the provisions of this chapter is continuous, each week or portion thereof shall constitute a separate and distinct violation.

§ 114-11. Exceptions.

None of the provisions of this chapter shall be applicable to the following:

A. The business of mobile home or travel trailer sales, except that where units are used as living quarters, they shall conform with the provisions of this chapter.

B. The storage or garaging of travel trailers not being used for living or sleeping purposes within a building or structure or to the storage of one (1) unoccupied travel trailer on

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(6)Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

premises occupied as the principal residence by the owner of travel trailer; provided, however, that such unoccupied travel trailer shall not be parked or located between the street line and the front building line of such premises.

C. Class A mobile homes determined by the Building Inspector as meeting acceptable standards of similarity in appearance with residences constructed on site shall be exempted from all requirements of this chapter, except § 114-7B, plus this subsection and § 114-12.

§ 114-12. Exterior appearance of Class A mobile homes.

A. The following standards shall be used in determination of acceptable similarity in appearance between mobile homes and residences constructed on the site, to assure that such mobile homes will be compatible in appearance with site-built housing that has been or may be constructed in adjacent or nearby locations. Necessary information to enable such determination to be made shall be submitted with the application for a permit.

B. Minimum width of main body. Minimum width of the main body of the mobile home as assembled on the site shall not be less than twenty (20) feet, as measured across the narrowest portion.

C. Minimum roof pitch; minimum distance, eaves to ridge; roofing materials. The pitch of the main roof shall be not less than one (1) foot of rise for each four (4) feet of horizontal run. Minimum distance from eaves to ridge shall be ten (10) feet. In general, any roofing material may be used that is generally acceptable for housing built on the site, if applied in such a manner as to be similar in appearance.

D. Exterior finish; light reflection. Any materials that are generally acceptable for housing built on the site may be used for exterior finish if applied in such a manner as to be similar in appearance; provided, however, that reflection from such exterior shall not be greater than from siding coated with clean white gloss exterior enamel.

E. Minimum dimensions parallel to principal street frontage. Class A mobile homes shall be so located on lots that the portions nearest the principal street frontage are at least thirty (30) feet in total dimension parallel to the street. Such dimension shall be measured from outer extremities, including eaves, and shall include any additions to the main body of the mobile home, such as living or recreation rooms, garages, carports, utility rooms, and the like, the front portions of which are within ten (10) feet of the front of the main body of the mobile home.

F. Minimum floor area. Minimum floor area required for Class A designation shall be one thousand two hundred (1,200) square feet. Such floor area shall include that of any attached living area, but not the floor area of attached carports, garages, utility or storage rooms.

§ 114-13. Variances.

A. Where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of this chapter, the Town Board shall have the power to vary or modify the application of any of the regulations or provisions of the chapter so that the spirit of said chapter shall be observed, public welfare and safety secured and substantial justice done.

B. Any person, partnership, corporation or other entity which shall hereafter acquire an ownership interest in an existing mobile home park or travel trailer camp shall deliver his name and address to the Town Clerk within ten (10) days of acquisition of such interest. The Town Clerk shall then issue an amended annual license which shall indicate the new ownership interest.**(7)**

§ 114-14. Mobile home parks. [Added 5-13-1991 by L.L. No. 7-1991]

A. Site.

(1) The park shall be located in an area where grades and conditions are suitable for use as mobile home sites.

(2) The park shall be located on a well-drained site which is properly graded to ensure rapid drainage and be free at all times from stagnant pools of water.

(3) The park shall be free from heavy or dense growth of brush and woods.

B. Mobile home park lot.

(1) Each mobile home park shall be marked off into mobile home lots, and each lot shall be separately numbered.

(2) The total number of mobile home park lots in a mobile home park shall not exceed five (5) per gross acre.

(3) Each mobile home park lot shall have a total area of not less than eight thousand (8,000) square feet with a minimum dimension of sixty (60) feet.

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(7)Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

C. Mobile home.

(1) Any mobile home shall not be parked or otherwise located nearer than a distance of:

(a) At least twenty (20) feet from an adjacent mobile home in any direction.

(b) At least twenty (20) feet from an adjacent property line.

(c) At least thirty (30) feet from the right-of-way line of a public street or highway.

(d) At least ten (10) feet from the nearest edge of any roadway within the park.

(2) Only one (1) mobile home shall be permitted to occupy anyone (1) mobile home park lot.

(3) No mobile home park in the Town of Ulster shall exceed one hundred (100) mobile home park lots or spaces.

(4) Each mobile home park lot shall provide a hard surface off-street parking bay of not less than four hundred (400) square feet.

(5) The park operator shall be permitted to consult with the Town Building Inspector regarding a trailer, the condition of which poses a clear and present danger to the health and safety of the occupants or the other occupants of the trailer park If the Building Inspector makes such a finding, the park operator may cause said trailer to be removed.

D. Mobile home stand.

(1) Each mobile home park lot shall have a mobile home stand which will provide for the practical placement on and removal from the lot of both the mobile home and its appurtenant structures and the retention of the home on the lot in a stable condition.

(2) The stand shall be of sufficient size to fit the dimension of the anticipated mobile homes and their appurtenant structures or appendages.

(3) The stand shall be constructed of an appropriate material which is durable and adequate for the support of the maximum anticipated loads.

(4) The stand shall be suitably graded to permit rapid surface drainage.

E. Accessibility.

(1) Each mobile home park shall be easily accessible from an existing public highway or street.

(2) Where a mobile home park has more than twenty-four (24) mobile homes, two (2) points, of entry and exit shall be provided.

(a) Such entries and exits shall be designed and strategically located for the safe and convenient movement into and out of the park, and to minimize friction with the free movement of traffic on a public highway or street.

(b) All entrances and exits shall be at right angles to the existing public highway or street.

(c) All entrances and exits shall be free of any material which would impede the visibility of the driver on a public highway or street.

(d) All entrances and exits shall be of sufficient width to facilitate the turning movements of vehicles with mobile homes attached.

(3) Each park 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 park lots and other important facilities within the park.

(a) The street system shall be designed to permit the safe and convenient vehicular circulation within the park.
(b) Streets shall be adapted to the topography and shall have suitable alignment and gradient for traffic safety.
(c) All streets shall have a minimum width of thirty (30) feet.

F. Utilities and service facilities.

(1) The following utilities and service facilities shall be provided in each mobile home park, which shall be in accordance with the regulations and requirements of the Ulster County Department of Health, the New York State Department of Health and the Sanitary Code of New York State.

(a) An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all mobile home park lots and buildings within the park to meet the requirements of the park. Each mobile home park lot shall be provided with proper water connection.

(b) Each mobile home park 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 toilet, lavatory and the 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. The connections in unoccupied lots shall be so sealed to prevent the emission of any odors and the creation of breeding places for insects.

(c) Garbage cans with tight-fitting covers shall be provided and maintained by each mobile home occupant to permit the disposal of all garbage and rubbish. The cans shall be kept in a sanitary condition at all times. Garbage and rubbish shall be collected and disposed of as frequently as may be necessary to ensure that such cans shall not overflow.

(2) Each mobile home park shall be provided with weatherproof electric service connections and outlets which are a type approved by the New York State Board of Fire Underwriters.

G. Open Space

(1) Each mobile home park shall provide common open space for the use of the occupants of such park for recreation.

(2) Such open space shall be conveniently located in the park. Such space shall have a total area equal to at least ten percent (10%) of the gross land area of the park.

H. Landscaping.

(1) Lawn and ground cover shall be provided on those areas not used for the placement of mobile homes and other buildings, walkways and roads.

(2) Planting 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 homes and other facilities.

(a) Screen planting shall be provided to screen objectionable views. Views which shall be screened include laundry facilities, other nonresidential uses, garbage storage and collection areas and all abutting yards of adjacent dwellings within fifty (50) feet.

(b) Other planting shall be provided along those areas within the park which front upon existing public highways and streets to reduce glare and provide pleasant outlooks for the living units.

(c) The park owner is responsible for maintenance.

I. Recording.

(1) The owner or operator of each mobile home park shall keep a written record of all persons occupying or using the facilities of such park. This record shall be available for a period of at least one (1) year from the date of occupancy.

(2) This record shall include:
(a) The name and address of the occupant of each mobile home.
(b) The name and address of the owner of each mobile home which is not occupied by such owner.

§ 114-15. Trailer camps. [Added 5-13-1991 by L.L. No. 7-1991]

A. Site. The provisions found in § 114-14A shall apply.

B. Trailer lot.

(1) Each trailer camp shall be marked of into trailer lots.

(2) The total number of trailer lots in such camp shall not exceed twelve (12) per gross acre.

(3) Each trailer lot shall have a total area of not less than two thousand five hundred (2,500) square feet with a minimum dimension of thirty (30) feet.

C. Travel trailer.

1. Any travel trailer shall not be parked or otherwise located nearer than a distance of:

(a) At least twenty (20) feet to an adjacent travel trailer in any direction.
(b) The provision found in § 114-14C(l)(b) shall apply.
(c) The provision found in § 114-14C(l)(c) shall apply.
(d) The provision found in § 114-14C(l)(d) shall apply.

D. Travel trailer stand.

1 Each trailer lot shall have a travel trailer stand which will provide for the practical placement on and removal from the lot of the travel trailer and the retention of the trailer on the lot in a stable condition.
2. The stand shall be of sufficient size to fit the dimensions of the anticipated loads.
3. The stand shall be constructed of an appropriate material which is durable, compact and adequate for the support of the maximum anticipated loads.
4. The provisions found in § 114-14D(4) shall apply.

E. Accessibility. The provisions found in § 114-14E shall apply.

F. Utilities and service facilities.

(1) The following utilities and service facilities shall be provided in each trailer camp which shall be in accordance with the regulations and requirements of the Ulster County Department of Health, The New York State Department of Health and Sanitary Code of New York State.

(a) Each trailer camp which provides for travel trailers having all the facilities of a mobile home as defined in § 114-3 of this chapter shall provide all the required facilities indicated in § 114-14F(l)(a) and (b).

(b) Each trailer camp which provides for travel trailers not equipped with the facilities in a mobile home as defined in § 114-3 of this chapter shall provide the following facilities:

[1] An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all buildings and trailer lots within the camp to meet the requirements of such camp. Each lot shall be provided with a cold-water tap, the waste from which shall be emptied into a drain connected to an approved disposal system.

[2] Toilet and other necessary sanitary facilities for males and females shall be provided in permanent structures. Such facilities shall be housed in either separate buildings or in the same building, and in the latter case such facilities shall be separated by soundproof walls. The male and female facilities shall be marked with appropriate signs and have separate entrances for each.

[3] Such toilet and other sanitary facilities shall be provided in the following manner:

[a] Male facilities shall consist of not less than one (1) flush toilet for every ten (10) trailers; one (1) urinal for every ten (10) trailers; one (1) lavatory for every ten (10) trailers; one shower with an adjoining dress compartment of at least sixteen (16) square feet for every ten (10) trailers.

[b] Female facilities shall consist of not less than one (1) flush toilet for every ten (10) trailers; one (1) shower with an adjoining dress compartment of at least sixteen (16) square feet for every ten (10) trailers.

[4] Lavatory and shower facilities shall be supplied with hot and cold running water.

[5] The buildings housing such toilet and sanitary facilities shall be well lighted at all times of the day and night; shall be well ventilated with screened openings; shall be constructed of moisture-clean and sanitarily maintained at all times. The floors of such buildings shall be water-impervious material.

[6] Such buildings shall not be located nearer than twenty (20) feet nor further than two hundred (200)feet from any travel trailer.

(2) The provisions found in § 114-14F(l)(c) shall apply.

(3) Waste from all buildings and trailer lots shall be discharged into an approved public or private sewer system in such a manner so as not to present a health hazard.

(4) The provision found in § 114-14F(2) shall apply.

G. Open space. The provision found in § 114-14G shall apply.

H. Landscaping. The provision found in § 114-14H shall apply.

I. Recording.

(1) The owner or operator of each trailer camp shall keep a written record of all persons occupying or using the facilities of such camp. This record shall be available for a period of at least one (1) year from date of occupancy.

(2) The record shall include:

(a) The name and address of the occupant of each travel trailer.

(b) The name and address of the owner of each trailer which is not occupied by such owner.

(c) The state in which the trailer is registered and the registration number.

(d) The name and address of the owner of the automobile or other vehicle which propelled the travel trailer.

(e) The state in which the automobile is registered and the registration number.

§ 114-16. Travel trailers located in mobile home parks. [Added 5-13-1991 by L.L. No. 7-1991]

A. Requirements for travel trailers within a mobile home park.

(1) All travel trailers which are to be placed on the same legal parcel of land with mobile homes shall be arranged into a trailer camp as defined in § 114-3 of this chapter. All mobile homes on such land parcel shall be arranged into a mobile home park as defined in § 114-3 of this chapter.

(2) When a trailer camp and mobile home park are to be combined on the same legal parcel of land, such trailer camp and mobile home park shall have separate physical locations on the parcel of land.

B. Mobile home park. When the parcel of land is divided for mobile home park and trailer camp uses, the provisions contained in § 114-14 of this chapter shall apply to that portion of land to be used as a mobile home park, except as herein provided.

C. Trailer camp. When the parcel of land is divided for the mobile home park and trailer camp uses, the provisions of § 114-15 of this chapter shall apply to that portion of the land to be used for a trailer camp, except as herein provided.

D. Additional requirements.

(1) The parcel of land which is provided for both a mobile home park and trailer camp shall be located adjacent to a public highway or street.

(2) Where practicable, that portion of the land to be used as a trailer camp shall be located adjacent to a public highway or street.

(3) The trailer camp and mobile home park shall be physically separated by a parcel of land of at least fifteen (15) feet in width along all areas where the trailer camp abuts the mobile home park. Such parcel of land shall be properly landscaped with appropriate planting materials so that the view of such trailer camp from the mobile home park is adequately screened and maintained.

(4) Where practicable, the trailer camp and the mobile home park shall each have separate points of entry and exit. Where the parcel of land fronts on two (2) or more existing public highways or streets, the trailer camp shall be located adjacent to the public highway or street that is most heavily traveled.

CHAPTER 115

§ 115-1. Findings.

§ 115-2. Circumstances.

§ 115-3. Storage and Charges.

[HISTORY: Adopted by the Town Board of the Town of Ulster 5-18-2011 as L.L. No. 5-2011.]

§ 115-1. Findings.

The Vehicle and Traffic Law of New York State expressly directs or authorizes a police officer to impound and store a motor vehicle under certain circumstances. It is the purpose of this local law to provide for the impoundment of motor vehicles by the Town of Ulster Police Department under such circumstances.

§ 115-2. Circumstances.

Under circumstances where under the Vehicle and Traffic Law of New York State directs or authorizes a police officer to impound a motor vehicle, such circumstances including, but not necessarily limited to:

> arrest or issuance of summons or appearance ticket for aggravated unlicensed operation of a motor vehicle in the first or second degree; arrest or issuance of summons or appearance ticket for operation of an uninsured or unregistered motor vehicle; arrest or issuance of summons or appearance ticket for driving while intoxicated; failure of the owner or operator of a motor vehicle, involved in an accident in the state resulting in death or bodily injury to any person, to produce satisfactory evidence of financial security with forty-eight (48) hours of such accident.
>
> The Town of Ulster Police Department, or a police officer of such Department, may impound a motor vehicle by removal and storage of such vehicle, consistently with the provisions of the said Vehicle and Traffic Law.

§ 115-3. Storage and Charges.

A. After removal and impoundment of any vehicle pursuant to this Chapter, the Town of Ulster Police Department may store such vehicle in a suitable storage place, and shall charge the owner or person responsible for the vehicle a charge sufficient to cover the reasonable costs of towing, storage, and any costs incident to the impoundment. No vehicle so impounded may be redeemed or released to the person responsible except upon payment of such charge.

B. All fees and charges shall be payable to the Town of Ulster and payable to the Town Clerk. The Town of Ulster shall charge a fee of $50.00 per vehicle to cover impound expenses, plus the actual towing fee incurred. If the owner or person responsible for the vehicle does not claim such vehicle within ten (10) business days from the date of impoundment, a storage fee of $25.00 per day will be assessed to the impound fee and actual towing fee, which will compound daily after ten business days.

C. The Town Board of the Town of Ulster may revise the fees listed in this section by resolution adopted at a duly authorized meeting of the Town Board.

D. The Chief of the Town of Ulster Police Department has the authority to waive or reduce towing costs and storage fees if the vehicle was determined to be unfairly impounded or if other mitigating or extenuating circumstances exist.

Chapter 117
NOISE

§ 117-1. Findings and purpose; applicability.

§ 117-2. Definitions.

§ 117-3. Maximum noise levels.

§ 117-4. Exceptions.

§ 117-5. Variances.

§ 117-6. Enforcement; penalties for offenses; additional remedies.

[HISTORY: Adopted by the Town Board of the Town of Ulster at time of adoption of Code; see Ch. 1, General Provisions, Art. 1. Amendments noted where applicable.]

§ 117-1. Findings and purpose; applicability.

A. Whereas excessive sound is a serious hazard to the health, welfare, safety and the quality of life, it is the policy of the Town of Ulster, New York to prevent excessive sound that may jeopardize the health, welfare or safety of the citizens or degrade the quality of life.

B. This chapter shall apply to the control of sound originating from stationary sources within the limits of the Town of Ulster, New York.

§ 117-2. Definitions.

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

CONSTRUCTION - Any site preparation, assembly, erection, repair, alteration or similar action, including demolition of buildings or structures.

DECIBEL - A unit of measure of the relative loudness of sound, equal approximately to the smallest degree of difference of loudness detectable by the human ear, which is a range between one (1) and one hundred thirty (130).

DEMOLITION - Any dismantling, intentional destruction or removal of buildings or structure.

EMERGENCY WORK - Any work or action necessary to deliver essential services, including but not limited to repairing water, gas, electricity, telephone, sewer facilities or public transportation facilities, removing fallen trees on public rights-of-way or abating life- threatening conditions.

IMPULSIVE SOUND - A sound characterized by brief excursions of peak sound pressure which significantly exceeds the ambient sound.

MUFFLER - A sound-dissipative device or system for abating the sound of escaping gases of an internal combustion engine or any other instrumentality.

MULTI-DWELLING-UNIT BUILDING - Any building wherein there are two (2) or more dwelling units.

NOISE - Any sounds of such level and duration as to be or tend to be injurious to human health or welfare or that would unreasonably interfere with the enjoyment of life or property.

NOISE CONTROL ADMINISTRATOR - The noise control officer designated as the official liaison with all municipal departments, empowered to grant permits for variances.

NONRESIDENTIAL PROPERTY - Any property or facility which is not used for human habitation, either actually or potentially.

PUBLIC RIGHT-OF-WAY - Any street, avenue, boulevard, road, highway, sidewalk, alley or similar place that is owned or controlled by a governmental entity.

PUBLIC SPACE - Any real property or structures thereon that are owned or controlled by a governmental entity.

REAL PROPERTY LINE - Either the imaginary line including its vertical extension that separates one parcel of real property from another, or the vertical and horizontal boundaries of a dwelling unit that is in a multi-dwelling-unit building.

RESIDENTIAL PROPERTY - Any property used for human habitation.

SOUND LEVEL - The sound pressure level measured in decibels with a sound level meter set for A-weighting "sound level" expressed in dBA.

SOUND LEVEL METER - Any instrument for the measurement of sound levels as specified in American National Standards.

§ 117-3. Maximum noise levels.

A. No person shall cause, suffer, allow or permit the operations of any source of sound on a particular category of property or any public space or right-of-way in such a manner as to create a sound level that exceed the particular sound level limits set forth below when measured at or within the real property line of the receiving property, except as provided in Subsection C.

B. When measuring noise within a dwelling unit of a multi-dwelling-unit building, all exterior doors and windows shall be closed, and the measurements shall be taken in the center of the room.

Table I
Maximum Permissible Sound Levels by Receiving Property Category

	Receiving Property Category			
	Residential		**Nonresidential**	
Sound Source Property Category	**7:00 am. to 10:00 p.m. (dBA)**	**10:00 p.m. to 7:00 a.m. (dBA)**	**7:00 a.m. to 10:00 p.m. (dBA)**	**10:00 p.m. to 7:00 a.m. (dBA)**
Residential	72	66	72	66
Nonresidential	72	66	72	66

C. The following are exempt from the sound level limits of Table I:

(1) Noise from domestic power tools, lawn mowers and agricultural equipment, when operated with a muffler.

(2) Sound from church bells and church chimes.

(3) Noise from construction activity, provided that all motorized equipment used in such activity is equipped with functioning mufflers.

(4) Noise from snow blowers, snow throwers and snowplows, when operated with a muffler for the purpose of snow removal.

(5) Noise from stationary emergency signaling devices that conforms to the provisions of American National Standards, which provisions are incorporated herein by reference.

(6) Noise from an exterior burglar alarm of any building or motor vehicle, provided that such burglar alarm shall terminate its operation within fifteen (15) minutes after it has been activated.

§ 117-4. Exceptions.

The provisions of this chapter shall not apply to:

A. The emission of sound for the purpose of alerting persons to the existence of an emergency.

B. The emission of sound in the performance of emergency work.

§ 117-5. Variances.

A. Any person who owns or operates any stationary noise source may apply to the Building Inspector for a variance from one (1) or more of the provisions of this chapter. Applications for a permit of variance shall supply information, including but not limited to:

(1) The nature and location of the noise source for which such application is made.

(2) The reason for which the permit of variance is requested, including the hardship that will result to the applicant, his/her client of the public if the permit of variance is not granted.

(3) The nature and intensity of noise that will occur during the period of the variance.

(4) The section or sections of this chapter for which the permit of variance shall apply.

(5) A description of interim noise control measures to be taken by the applicant to minimize noise and the impacts occurring therefrom.

(6) A specific schedule of the noise control measures which shall be taken to bring the source into compliance with this chapter within a reasonable time.

(7) A copy of the permit of variance must be kept on file by the Town Clerk for public inspection.

B. Failure to supply the information required by the Building Inspector shall be cause for rejection of the application.

C. The Building Inspector may charge the applicant a fee as provided in Chapter A194, Fees, to cover expenses resulting from the processing of the permit of variance application.
D. The Building Inspector may, at his/her discretion, limit the duration of the permit of variance, which shall never be longer than one (1) year. Any person holding a permit of variance and requesting an extension of time shall apply for a new permit of variance under the provisions of this section.
E. The permit of variance shall operate as a stay of prosecution.
F. The permit of variance may be revoked by the Building Inspector if the terms of the permit of variance are violated.

§ 117-6. Enforcement; penalties for offenses; additional remedies.

A. Issuance of summons. Violation of any provision of this chapter shall be cause for a summons to be issued by the Building Inspector according to procedures set forth in Subsection C, Penalties.

B. Abatement orders.

(1) Except as provided in Subsection B(2), in lieu of issuing a summons, the Building Inspector may issue an order requiring abatement of any source of sound alleged to be in violation of this chapter within a reasonable time period and according to guidelines which the Building Inspector may prescribe.
(2) An abatement order shall not be issued when the Building Inspector has reason to believe that there will not be compliance with the abatement order.

C. Penalties.

(1) Any person who violates any provision of this chapter shall be subject to a penalty for each offense of not more than two hundred fifty dollars ($250.) or up to fifteen (15) days imprisonment or both.
(2) If the violation is of a continuing nature, each day during which it occurs shall constitute an additional, separate and distinct offense.

D. Other remedies. No provision of this chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this chapter or from any other law.

Chapter 123

ARTICLE I.

§ 123-1. Purpose; Terms Defined.

§ 123-2. Authority to Install Traffic Control Devices.

ARTICLE II.
Traffic Control Devices

§ 123-3. Applicability.

ARTICLE III.
Parking, Standing and Stopping

§ 123-4. Stopping, Standing or Parking Prohibited in Certain Locations.

§ 123-5. Shopping.

§ 123-6. No-Parking Zones.

§ 123-7. Seasonal or Temporary No-Parking Zones.

§ 123-8. Authority to Impound Vehicles.

ARTICLE IV.

Removal and Storage of Abandoned or Illegally Parked Vehicles

§ 123-9. Storage and Charges.

§ 123-10. Prohibitions; Exceptions.

ARTICLE V.
Truck Exclusions

§ 123-11. Littering from a Motor Vehicle.

ARTICLE VI.
Littering

§ 123-12. Penalties for Offenses.

ARTICLE VII.
Penalties

§ 123-13. Enforcement Agencies; Appearance Tickets.

ARTICLE VIII.
Enforcement

§ 123-14. Authorization for Establishment; Purpose.

ARTICLE IX.
Traffic Violations Bureau

§ 123-15. Officers and Hours.

§ 123-16. Authority to Dispose of Certain Violations; Procedure.

§ 123-17. Authorization to Prescribe form of Complaint.

§ 123-18. Right to Counsel.

§ 123-19. Fines.

§ 123-20. Maintenance of Records.

§ 123-21. Form of Waiver and Plea.

[HISTORY: Adopted by the Town Board of the Town of Ulster 11-15-2012 by L.L. No. 5- 2012, prior chapter 123 repealed.]

GENERAL REFERENCES

Appearance tickets - See Ch. 7.
Building construction and fire prevention - See Ch. 61.
Abandoned vehicles - See Ch. 101, Art. III.
Site plan review - See Ch. 145.
Vehicles and traffic - See Ch. 181

ARTICLE I.
Definitions

§ 123-1. Purpose; Terms defined.

A. The purpose of this chapter shall be to improve and promote the health, safety and general welfare of the community pertaining to traffic regulations at parking areas, which are regularly used by the public within the Town of Ulster, to adopt reasonable rules and regulations with respect to traffic and parking in such areas as local conditions may require for the safety and convenience of the public or of the users of the area, to regulate winter parking based upon the findings of the Ulster Town Board that the leaving of vehicles on Town streets during periods of snowfall has hindered and obstructed the Town of Ulster Highway Department in snow removal operations, and that the leaving of vehicles on streets within the Town during snowstorms causes hazards to persons using the streets. Accordingly pursuant to the authority granted under New York State Vehicle and Traffic Law, Article 41, Regulation of Traffic by Towns, §§ 1660, 1660-a, 1662-a, 1663 and 1664, under New York State Vehicle and Traffic Law, Article 42, Regulation of Traffic by Local Authorities and School Districts, §1670, under New York State Vehicle and Traffic Law, Article 32 and in accordance with the Municipal Home Rule Law, the Town Board of the Town of Ulster does hereby regulate the parking of vehicles within the Town of Ulster.

B. The words and phrases used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them by Article 1 of the Vehicle and Traffic Law of the State of New York.

ARTICLE II.
Traffic Control Devices

§ 123-2. Authority to install traffic control devices.

A. The Town Superintendent of Highways shall have the authority to install and maintain such traffic control devices as he may deem necessary to regulate, warn or guide traffic upon roads, streets and highways maintained and controlled by the Town of Ulster, subject to the provisions of § 1682 and § 1684 of the Vehicle and Traffic Law of the State of New York.

B. All traffic control devices installed and maintained shall conform to the provisions and specifications of the Manual of Uniform Traffic Control Devices of the State of New York, Department of Transportation.

ARTICLE III.
Parking, Standing and Stopping

§ 123-3. Applicability.

The provisions of this article shall apply except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with directions of a police officer or an official traffic control device.

§ 123-4. Stopping, standing or parking prohibited in certain locations.

No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or a traffic control device, in any of the following places, unless otherwise indicated by official signs or markings:

A. Within 15 feet of a fire hydrant.

B. In front of or within five feet of a public or private driveway.

C. Within an intersection.

D. In front of, in or within 20 feet of the driveway, entrance or paved approach to any fire station.

E. On or within a crosswalk.

F. Within 20 feet of a crosswalk at an intersection.

G. Within a fire lane, which shall be defined as follows: A designated fire lane is the area within a public right-of-way, easement, or on private property set aside for the purpose of permitting fire trucks and other firefighting or emergency equipment to use, travel upon, and park.

H. On a sidewalk.

I. In an area of space posted as a no-parking or a no-standing zone or in an area of space designated for handicapped parking on all property, whether public or private, within the Town of Ulster, except those persons prominently displaying a valid handicapped parking permit on the dashboard or sun visor on the driver's side of the vehicle.

J. So as to prevent a parked vehicle from moving away.

K. Outside designated or striped parking spaces within a parking area.

§ 123-5. Shopping Centers.

A. Purpose.

The Town Board finds that it is in the best interest of the public welfare and safety to have reasonable traffic regulations for traffic control and parking within malls and office building complexes located in the town. The Town hereby adopts this section to permit enforcement of traffic regulations pursuant to the traffic control plan on file with the Town Clerk and this chapter.

B. Authority.

This section is enacted pursuant to N.Y. Vehicle & Traffic Law Section 1660-a.

C. Applicability.

This chapter shall be applicable to:

1. The drives, driveways, and parking areas for:

    a. Hudson Valley Mall;
    b. Kings Mall;
    c. Benderson Plaza;
    d. Tech City [East Campus];
    e. Dena Marie Plaza.

2. Any other mall or office building complex that maintains drives, driveways, and parking areas that exceed one acre in size may be included in the provisions of this chapter pursuant to a resolution of the Town Board.

D. Traffic Control Plan.

Mall and office building complex authorities shall provide the Town with a current traffic control plan that includes the location of all traffic control devices as well as restricted parking areas.

The traffic control plan shall be filed with the Town Clerk. The mall or office building complex authority shall submit a revised traffic control plan at any time that the plan is amended or modified. Such revised plan shall be filed with the Town Clerk within five (5) days of executing such amendment.

E. Speed Limit and Moving Restrictions.

1. The maximum speed limit on traffic lanes within the parking area of a shopping center or office building complex shall be twenty-five (25) miles per hour unless otherwise posted with traffic control devices.

2. Except when directed by a police officer or other competent authority, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line. However, if there is not a clearly marked stop line provided, the driver shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

3. After having stopped pursuant to § 123-5(E)(2), the driver shall yield right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on the highway or traffic lane as to constitute an immediate hazard during the time which such driver is moving across or within the intersection.

F. Parking Restrictions.

1. Vehicles will be parked in the parking areas provided and in accordance with the posted signs.

2. Within parking areas, vehicles will be parked between the lines indicating individual parking spaces.

3. Overnight parking is prohibited except with the permission of the mall or office building complex management.

G. Enforcement.

All provisions of this chapter shall be enforced by:

1. The Ulster County Sheriff Department;

2. The New York State Police.

3. The Town of Ulster Police Department. H. Violations – Penalties.

Any violation of this section shall be a traffic infraction and shall be punishable as specified in the Vehicle and Traffic Law.

§ 123-6. No-parking zones.

A. Parking is prohibited at any time in the following designated street locations: RESERVED

B. Parking is prohibited at any time at any other street location as may be designated hereafter by resolution of the Town Board.

C. No parking from 11:00 p.m. to 9:00 a.m.: RESERVED

§ 123-7. Seasonal or temporary no-parking zones.

Parking of vehicles is hereby prohibited on all streets within this town between 2:00 a.m. and 6:00 a.m. from November 15 to April 1. Violators of this section shall have automobiles towed away at the owner's expense.

ARTICLE IV.

Removal and Storage of Abandoned or Illegally Parked Vehicles

§ 123-8. Authority to impound vehicles.

A. When any vehicle is parked or abandoned on any highway within this Town during a snowstorm, flood, fire or other public emergency which affects that portion of the public highway upon which said vehicle is parked or abandoned, said vehicle may be removed by the Town of Ulster Police Chief or his authorized agent.

B. When any vehicle is found unattended on any highway within this Town where said vehicle constitutes an obstruction to traffic, said vehicle may be removed by the Town of Ulster Police Chief or his authorized agent.

C. When any vehicle is parked in violation of the provisions of §§ 123-4, 123-5, 123-6 and 123-7, or found abandoned on any highway within the Town of Ulster, said vehicle may be removed by the Town of Ulster Police Chief or his authorized agent to any place designated by the Town Board as a vehicle pound.

§ 123-9. Storage and charges.

A. After removal and impoundment of any vehicle pursuant to this Chapter, the Town of Ulster Police Department may store such vehicle in a suitable storage place, and shall charge the owner or person responsible for the vehicle a charge sufficient to cover the reasonable costs of towing, storage, and any costs incident to the impoundment. No vehicle so impounded may be redeemed or released to the person responsible except upon payment of such charge.

B. All fees and charges shall be payable to the Town of Ulster and payable to the Town Clerk. The Town of Ulster shall charge a fee of $50.00 per vehicle to cover impound expenses, plus the actual towing fee incurred. If the owner or person responsible for the vehicle does not claim such vehicle within ten (10) business days from the date of impoundment, a storage fee of $25.00 per day will be assessed to the impound fee and actual towing fee, which will compound daily after ten business days.

C. The Town Board of the Town of Ulster may revise the fees listed in this section by resolution adopted at a duly authorized meeting of the Town Board.

D. The Chief of the Town of Ulster Police Department has the authority to waive or reduce towing costs and storage fees if the vehicle was determined to be unfairly impounded or if other mitigating or extenuating circumstances exist.

ARTICLE V.
Truck Exclusions

§ 123-10. Prohibitions; exceptions.

All trucks, tractors and tractor-trailers having a gross vehicle weight of 10,000 pounds or more are hereby excluded from all Town roads in the Town of Ulster, except for the purpose of making local deliveries or pickups, and except for farm operations, local construction operations, Town highway and public utility trucks in similar local purposes, school buses, fire trucks, emergency vehicles and federal, county-owned and state-owned trucks and military vehicles.

ARTICLE VI.
Littering

§ 123-11. Littering from a motor vehicle.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter or recklessly cause litter to be deposited upon any street or other public place within the Town or upon private property.

ARTICLE VII.
Penalties

§ 123-12. Penalties for offenses.

A. Any person convicted of a traffic infraction for a violation of any provision of this chapter or for operating a motor vehicle in violation of any traffic control device installed pursuant to the provisions of § 123-2 of this chapter shall be subject to the penalties provided in § 1800 of the Vehicle and Traffic Law.

B. Failure to respond to the issued summons will result in forwarding a report to the New York State Department of Motor Vehicles under the Scofflaw Law.

C. A violation of this chapter with respect to littering shall be an offense against this chapter which shall be punishable by a fine of not less than $25.00 and no more than $500.00 or imprisonment for a period not exceeding 10 days for each offense, or by both such fine and imprisonment.

ARTICLE VIII.
Enforcement

§ 123-13. Enforcement agencies; appearance tickets.

A. The provisions of this chapter shall be enforced by members of the state police, Ulster County Sheriff's Department, Town of Ulster Police Department, and other law enforcement officers and, in addition, by anyone authorized by the Town Board of the Town of Ulster to issue appearance tickets.

B. When a law enforcement officer or a Town employee authorized to issue an appearance ticket as aforesaid finds a vehicle so parked or standing as to constitute a violation of §§ 123-2, 123-4, 123-5, 123-6 and 123-7 of this chapter, and when the absence of the operator or owner prevents present personal service of a notice as prescribed in the following subsection, said officer or duly designated Town employee shall attach a ticket form to the vehicle and shall prepare, sign and verify the information. The ticket bearing the information shall be in a form prescribed by the Town Board of the Town of Ulster, with the advice of the Town Justices and the Town of Ulster Police Department Chief. The signed and verified information shall be delivered promptly to the Justice Court of the Town of Ulster.

C. The attachment of a parking violation ticket to a vehicle shall be deemed a sufficient notice to the operator or owner of said vehicle.

D. All persons receiving a parking violation ticket, or having a parking violation ticket attached to his or her vehicle, as provided section 123-13(B), shall, within twenty (20) days, either (1) answer at the Town Hall the charges set forth in such notice by paying the amount prescribed on the notice, and admitting the violation charged, in writing, and waiving a hearing in court, or (2) plead not guilty to the violation and request a trial date. The acceptance of the prescribed amount stated in the notice, together with the admission

and waiver set forth, shall be deemed complete satisfaction for the violation, and the Town of Ulster Justice Court or Traffic Violations Bureau shall issue a receipt which so states.

E. In the event a violator does not appear with twenty (20) days to answer a ticket by either pleading guilty and paying a fine, or by pleading not guilty and requesting a trial date, the Town of Ulster Justice Court or Traffic Violations Bureau shall report the facts thereof to the Town Justice, who shall issue to the owner of the motor vehicle, to which such notice was attached, a trial notice directing the violator to appear in court.

ARTICLE IX.
Traffic Violations Bureau

§ 123-14. Authorization for establishment; purpose.

Notwithstanding the provisions of any other local law, ordinance, resolution or order of the Town Board of the Town of Ulster pertaining to a Traffic Violations Bureau, the Town Board of the Town of Ulster hereby authorizes the Justice Court of the Town of Ulster to establish a Traffic Violations Bureau, pursuant to Article 14-B, §§ 370, 371 and 373, of the General Municipal Law, to aid said Court in the disposition of traffic offenses when such traffic offenses shall not constitute a traffic infraction known as "speeding" or a misdemeanor or felony.

§ 123-15. Officers and hours.

Said Bureau shall be in charge of such person or persons and shall be open at such hours as the Justice Court of the Town of Ulster may designate.

§ 123-16. Authority to dispose of certain violations; procedure.

Said Traffic Violations Bureau so established is authorized to dispose of traffic violations of traffic

laws, ordinances, rules and regulations, when such offenses shall not constitute the traffic infraction known as “speeding” or a misdemeanor or felony, by permitting a person charged with an offense within the limitations herein stated to answer, within a specified time, at the Traffic Violations Bureau, either in person or by written power of attorney as herein prescribed, by paying a prescribed fine 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.

§ 123-17. Authorization to prescribe form of complaint.

The Town Justices of the Town of Ulster shall be authorized to prescribe the form of complaint in all cases involving a violation of any traffic law, ordinance, rule or regulation relating to parking, which complaint shall be known as a "parking violations ticket."

§ 123-18. Right to counsel.

Said Traffic Violations Bureau of the Town of Ulster 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, explain or defend any charge of a violation of any traffic law, ordinance, rule or regulation.

§ 123-19. Fines.

The Justice Court shall designate the fines to be paid for offenses which may be satisfied at the Bureau as hereinbefore stated, provided that such fines are within the limits established as penalties for such offenses.

§ 123-20. Maintenance of records.

The Traffic Violations Bureau as herein authorized shall keep a record of all violations of which each person has been guilty, whether such guilt was established in Court or in the Bureau, and also maintain a record of all fines collected and the disposition thereof. It shall also perform such other duties and keep such other or additional records as shall be prescribed by the Court and/or the Town Board of the Town of Ulster.

§ 123-21. Form of waiver and plea.

All persons who shall appear by written power of attorney must execute the waiver and plea on any uniform traffic or parking ticket or a waiver and plea in substantially the following form and forward the same to the Traffic Violations Bureau, together with their operator's license if a moving violation is involved other than a speeding or a traffic offense which would be a misdemeanor or a felony, in

addition to the sum prescribed by the Justice Court of the Town of Ulster to: Traffic Violations Bureau, Justice Court of the Town of Ulster, 1 Town Hall Drive, Lake Katrine, NY 12449:

Authorization and Waiver

I, the undersigned, hereby waive a hearing in the Justice Court of the Town of Ulster, County of Ulster, and plead guilty to the charge specified herein. I authorize the person or persons in charge of the Traffic Violations Bureau of said Court to make such a plea and pay the prescribed fine in Court. All statements are made under the penalty of perjury.

Affirmed the_____day of_____, 20____

Signature: Address:

Chapter 127
PARKS

ARTICLE I
Use

§ 127-1. Permit required for use of parks; application.

§ 127-2. Use limited to town residents and guests.

§ 127-3. Powers of Recreation Commission.

§ 127-4. Glass containers prohibited.

§ 127-5. Cutting or removal of trees restricted.

§ 127-6. Trespass.

§ 127-7. Unlawful acts.

§ 127-8. Speed limits.

§ 127-9. Penalties for offenses.

ARTICLE II
Enforcement Provisions

§ 127-10. Legislative intent.

§ 127-11. Findings.

§ 127-12. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Ulster at time of adoption of Code; see Ch. 1, General Provisions, Art. 1. Amendments noted where applicable. Section 7 C was added June 19, 1995 by LL.#3 of 1995)]

GENERAL REFERNCES
Appearance tickets - See Ch. 7.
Alcoholic beverage - See Ch. 55.

Dogs and other animals – See Ch. 75.
Noise - See Ch. 117,
Snowmobiles and all-terrain vehicles - See Ch. 149

ARTICLE I
Use

§ 127-1. Permit required for use of parks; application.

No person shall be admitted to the use of any parks who shall not have applied in writing for and received a permit for the use thereof signed by either a member of the Recreation Commission of said town or by the Recreational Director appointed by the Commission, the form of which applications and permits shall be determined and supplied by the Commission. Such application may be filed with either the Recreational Director, the Town Clerk or with such member of the Commission at such time and place as the Commission shall from time to time determine.

§ 127-2. Use limited to town residents and guests.

As required by the terms of the grant of the parkland to the town, the use of the park shall be limited to residents of the Town of Ulster. The Recreation Commission, by regulation, may also admit nonpaying houseguests of Ulster residents on such terms as the Commission may see fit.

§ 127-3. Powers of Recreation Commission.

The Recreation Commission of the town shall have the power to make any other rules and regulations with respect to the use of any parks of the town and in particular instances, in its discretion, to vary and create exceptions to the terms of this Article.

§ 127-4. Glass containers prohibited.

All glass containers are hereby prohibited from being brought into any parks or recreation areas of the Town of Ulster without prior approval from the Recreation Commission. A violation of this section shall be punishable by a penalty as hereinafter provided.

§ 127-5. Cutting or removal of trees restricted.

No person shall cut or remove any live or dead trees from any town parks or recreation areas without the prior written approval of the Town Board and/or the Recreation Commission.

§ 127-6. Trespass.

Any person who knowingly enters or remains unlawfully in or upon any town park or recreation area maintained by the Recreation Commission shall be guilty of a trespass.

§ 127-7. Unlawful acts.

A. No person shall hunt or carry a loaded firearm within any of the parks of the Town of Ulster. Officially designated summer season or at any time during the summer season without the approval of the Ulster Recreation Commission. Also, no land vehicles, including mopeds, tripeds, quads, snowmobiles or any other such vehicles, shall be permitted within any of the parks of the Town of Ulster.

B. Animals. (**Amended 8-1-2024 by L.L. No. 3 of 2024)**

(1) The Town Board has approved on-leash walking of dogs in Charles Ryder Park and Robert Post Park. All dogs in those areas where such animals are permitted shall be restrained at all times by an adult on adequate leashes not greater than six (6) feet in length and shall not run at large. Dog waste must be immediately collected and removed by the owner or person in charge of the dog.

(2) It shall be unlawful for any person to allow a dog leashed and/or unleashed to be in any of the following town properties or parts thereof, unless the dog is a service dog: all other town parks; all playgrounds; all picnic areas; all active recreation areas including but not limited to courts and sports fields; all park benches; all town camp or town-licensed education program areas; all town beaches except for paved areas and boardwalks.

(3) All cats, horses and any other animals are hereby prohibited within any of the parks within the Town of Ulster.

C. Parking of Vehicles.

(1) No person shall park a vehicle anywhere within the parks of the Town of Ulster during such times as the Town Board may, by resolution, restrict parking. Any vehicle that is parked illegally according to the regulations adopted by the Town Board shall be removed from the Park. Upon removal, the Town through its Agents may store such vehicle in a suitable place at the expense of the owner.

(2) The owner of said vehicle may redeem the same upon payment to the Town Clerk of the Town of Ulster with the amount of all expenses actually and necessarily incurred in

effecting the removal of such vehicle, including the charge for towing and any storage charge incurred. These changes shall be paid before the vehicle is returned to the owner. These charges are in addition to any penalties which may be imposed pursuant to Section 127-9 hereinafter set forth

§ 127-8. Speed limits.

The maximum speed allowed within any of the town parks shall be fifteen (15) miles per hour. The Recreation Commission shall immediately, upon adoption of this section, post the various roads throughout the parks indicating said maximum speed.

§ 127-9. Penalties for offenses.

Any person committing an offense against any provision of this Article shall, upon conviction, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars ($250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuance of an offense for each day [twenty-four (24) hours] shall be deemed a distinct and separate violation.

ARTICLE II
Enforcement Provisions

§ 127-10. Legislative intent.

It is the intention of this Article to promote the general welfare of the people of the Town of Ulster by providing enforcement provisions and penalties for the enforcement of the rules and regulations adopted by the Town of Ulster Recreation Commission.

§ 127-11. Findings.

The Ulster Recreation Commission has adopted rules and regulations for the operation of the parks and recreation areas within the Town of Ulster which require a legislative enactment of the enforcement provisions of those rules and regulations.

§ 127-12. Penalties for offenses.

Any person committing an offense against any provision of this Article shall, upon conviction, be guilty of a violation pursuant to the Penal law of the State of New York, punishable by a fine not exceeding two hundred fifty dollars ($250.) or by imprisonment for a term not exceeding fifteen (15) days, or by both such fine and imprisonment. The continuance of an offense for each day [twenty-four (24) hours] shall be deemed a distinct and separate violation.

CHAPTER 128

PARKLAND AND RECREATION FEES

2-16-2023: Law 1 of 2022 Repealed in Full and Replaced by Local Law 1 of 2023 as Follows

§ 128-01. 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 Ulster 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 the Town of Ulster Town Code, 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 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.

§ 128-02. 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.

§ 128-03. Establishment of fee in lieu of parkland.

The amount of the parkland and recreation fee shall be as follows:

40 dwelling units or less:	$2,000.00 per dwelling unit
41 dwelling units or more:	$4,000.00 per dwelling unit

Parkland and recreation fees are cumulative in nature. Projects may not be built in phases so as to reduce the parkland and recreation fee. For example, a 57 dwelling unit housing project will incur a parkland and recreation fee of $148,000.00 (40 x $2,000.00, plus 17 x $4,000.00). Any additional dwelling unit for the same project will be at the rate of $4,000.00 per dwelling unit.

Said amounts 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.

Chapter 131

PEDDLING AND SOLICITING

§ 131-1. Findings; intent.

§ 131-2. Definitions.

§ 131-3. Exempt sales.

§ 131-4. Veteran's license exemption.

§ 131-5. License required.

§ 131-6 License and special permit application requirements

§ 131-7. Application procedure..

§ 131-8. License fees; expiration.

§ 131-9. License production and display.

§ 131-10. Nontransferability of license.

§ 131-11. Peddling restrictions.

§ 131-12. Enforcement.

§ 131-13. Revocation of license.

§ 131-14. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Ulster 8-8-1974 as L.L. No. 3-1974. Sections 131-1, 131-6, 131-9B and 131-13 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1. Law repealed and replaced with L.L. No. 6 of 2010 8-19-2010]

GENERAL REFERENCES

Appearance tickets - See Ch. 7.
Fees - See Ch. A194.

§ 131-1. Findings; intent.

A. The Town Board of the Town of Ulster finds that there has been an increase in the number of roadside peddlers selling their wares from vehicles on vacant and improved land adjacent to major roadways within the Town.

B. It is necessary and proper, pursuant to the powers granted unto the Town of Ulster by virtue of Town Law § 136, to regulate the practice of peddling. It is the intent of this chapter to regulate peddling and soliciting in the Town of Ulster, and this chapter is enacted pursuant to Town Law

§ 131-2. Definitions.

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

ESTABLISHED PLACE OF BUSINESS - A building or store in which a person transacts business and deals in the goods, wares and merchandise he hawks, peddles or solicits.

HAWKER and PEDDLER - Includes any person, either principal or agent, who from any vehicle or any public street or public place or by going from house to house, on foot or on or from a vehicle, sells or barters or offers for sale or barter or carries or exposes for sale or barter any goods, wares or merchandise.

PUBLIC GROUNDS - Lands in addition to Town rights-of-way owned by the Town of Ulster and used for public purposes, such as parks and recreation areas.

PUBLIC WAY - Any publicly owned land adjacent to and abutting any public street, road or highway.

SOLICITOR - Includes any person who goes from place to place or house to house or who stands in any street or public place taking or offering to take orders for goods, wares or merchandise.

SPECIAL PERMIT - A permit issued by the Town Clerk subject to the terms and conditions of this chapter for the sale of food and drink items from a vehicle parked on public grounds.

VEHICLE - Includes any automobile, truck, wagon or cart, either propelled by hand, motor power or animals, or any other means of transportation of commodities or locomotion.

§ 131-3. Exempt sales.

The provisions of this chapter shall not apply to political, charitable, or not-for-profit organizations involved in activities covered by this statute, and shall not apply to peddling of meats, fish, fruits or farm produce. This exemption shall apply to farmers and producers thereof or his or her servants or employees and shall not be construed to include other persons who buy goods for resale.

§ 131-4. Veteran's license exemption.

Any honorably discharged veteran of the armed services of the United States who has obtained a veteran's license from the Ulster County Clerk, under § 32 of the General Business Law, to hawk, peddle, vend or solicit trade on the streets and highways within the County of Ulster shall be exempt from the provisions of § 131-8 of this chapter. Upon approval of the veteran's application, the Town Clerk will issue the license to said veteran to ply his or her trade in the Town of Ulster, subject to all other provisions of this chapter. However, said individual will need a special permit as herein required; provided, however any honorably discharged veteran is exempt for paying any fee under this chapter.

§ 131-5. License required.

A. It shall be unlawful for any person, except as exempted herein, to peddle within the Town of Ulster without first having obtained a license from the Town Clerk as hereinafter provided for each vehicle, and it shall be unlawful for an individual to peddle on public grounds without a special permit for each vehicle from the Town Clerk in addition to said license.

B. The applicant shall submit and maintain a current list of drivers of said vehicles.

§ 131-6. License and special permit application requirements.

A. Applicants for a license and a special permit to peddle or a renewal thereof shall file with the Town Clerk a verified application upon a form supplied by the Town Clerk, which shall contain the following:
   (1) The name, address and telephone number of the applicant.
   (2) The applicant's place of residence for the past five years.
   (3) The applicant's business or employer for the past five years.
   (4) The applicant's age, height, weight, color of eyes, color of hair and place of birth.
   (5) Two full-face photographs of the applicant taken within 30 days of the application and measuring at least 1 1/2 inches by 1 1/2 inches.
   (6) [Reserved]

(7) Whether or not the applicant has ever been convicted of a felony, misdemeanor or violation of any municipal ordinance, except traffic violations, and if so, the date, court, ordinance violated and sentence of the court.
(8) Whether the applicant has been previously licensed in any occupation, and if so, when, where and for what periods, and if such previous license was ever revoked, the date of revocation and the reason therefor.
(9) The name and address of the person, firm or corporation the applicant represents or is employed by.
(10) The particular business, trade or occupation for which the license is requested, including a brief description of the nature of the business and the kind of goods or property to be peddled or solicited.
(11) The manner or means of conveyance in which said business or trade or occupation shall be conducted.
(12) If the application is for a license to handle food in any form, the applicant shall submit a valid permit issued by the Ulster County Health Department indicating compliance with the provisions of the Ulster County Public Health Regulations.
(13) If the applicant requires the use of weighing and/or measuring devices, such application shall be accompanied by a certificate, not more than six months old, from the County Sealer of Weights and Measures certifying that all weighing and measuring devices to be used by the applicant have been examined and approved.
(14) If the application involves use of a vehicle, proof of a valid state motor vehicle registration for the vehicle to be used.
(15) If the application involves the use of a vehicle, proof that the applicant holds a valid state driver's license.
(16) Proof that applicant holds a New York State sales tax identification number.

B. In the event that any other license or permit shall be required by any other governmental agency in connection with the applicant's business, the same shall be produced by the applicant and the Town Clerk shall duly note the same.

C. Any change in circumstances with regard to the information provided in the application or on the license shall be reported to the Town Clerk within 30 days.

D. The applicant must submit proof that the vehicle subject to the license and or permit is covered by a current liability insurance policy as required by New York State Law which shall be attached to the application in the form of a current copy of insurance policy or certificate of insurance. Applicants who receive a license and or special permit as described in this chapter shall be subject to the directions and restrictions imposed by the individual in charge of the event, if any, taking place on the public grounds as herein defined. Applicant shall also have and provide proof of commercial auto insurance in the minimum sum of $20,000.

E. The license and special permit as described herein shall be issued as applications are received and shall be valid for one calendar year. It shall be the licensee and/or permitee's responsibility to renew his or her license or permit once expired. The Town shall not be obligated to send out reminder notices or renewal forms.

F. The applicant shall provide evidence of liability insurance with minimum policy limits of one million dollars ($1,000,000) per occurrence.

§ 131-7. Application procedure.

A. The application, accompanied by all required information and a nonrefundable application fee, in the amount as set by the Town Clerk and/or the Town Board. Fees shall be submitted to the Town Clerk.

B. Upon receipt of such application, the Town Clerk shall refer the same to the Town of Ulster Building Department for such investigation of the applicant as to the applicant's compliance with Town of Ulster building and zoning codes and regulations.

C. If such investigation should prove the applicant to be in violation of any Town of Ulster building and zoning codes and regulations, the Building Department shall attach to the application a copy of the applicant's violations and shall return the application to the Town Clerk.

D. The Town Clerk may refuse to issue the license or special permit if the applicant has any open violations of Town of Ulster building and zoning codes and regulations, or the applicant shall be an undesirable person or incapable of properly conducting the trade or business involved.

E. Any applicant who has been denied a license or special permit under Subsection D may apply to the Town Board at its next regular meeting for a review of such denial by the Town Clerk. In the event that the Town Board, after formal review thereof, approves the license or special permit, the application shall be returned to the Town Clerk, who, upon payment of the prescribed license fee by the applicant, shall proceed to issue the peddler's license.

F. Such license shall contain the following:

(1) The name, address and photograph of the licensee.
(2) The kind of goods to be peddled or solicited thereunder.

(3) The amount of fee paid.
(4) The peddler's license number.
(5) The date of issuance and the date of expiration of such license.
(6) The type of license (i.e., on foot or by vehicle).
(7) The state license plate number of the vehicle if for a vehicular permit.
(8) The seal of the Town of Ulster.
(9) The signature of the Town Clerk.

G. The Town Clerk shall keep a record of all licenses issued, and a list of such licensed peddlers shall be filed with the Town Police Department.

H. The applicant for either a license or special permit by virtue for the application for said license or permit does expressly authorize the Town Clerk's Office to do a background check including but not limited to his or her driving record and other background material.

§ 131-8. License fees; expiration.

A. There shall be a nonrefundable application fee in the amount as set by the Town Clerk and/or Town Board. If the application is approved, the peddler's license fee shall be in the amount as provided by the Town Clerk and/or the Town Board.

B. All licenses issued pursuant to this chapter shall be issued annually and shall expire on the last day of December next succeeding the date of issuance.

C. The annual fees herein provided shall be assessed on a yearly basis, and no annual fee shall be prorated or rebated.

§ 131-9. License production and display.

A. Each licensee shall carry on his or her person all licenses or special permits issued by the Town Clerk at all times that the licensee is engaged in peddling and shall exhibit the same to any Town official or police officer upon request.

B. If a peddler's license or special permit is lost or stolen, such shall be reported to the Town Clerk within 10 days. Upon such notification, the Town Clerk shall issue a replacement peddler's license at a cost to the licensee.

C. Each vehicle shall display the license and/or permit issued by the Town Clerk on its windshield, rear bumper or front bumper in a location totally and readily
D. visible to any member of the public, and a failure to do so shall constitute a violation of this section.

§ 131-10. Nontransferability of license.

No license or special permit issued under the provisions of this chapter may be used or displayed at any time by any person other than the person whose name and picture appear on the license.

§ 131-11. Peddling restrictions.

A. Restricted and prohibited locations:

(1) Pursuant to §§ 1157(c) and 1800 of the New York State Vehicle and Traffic Law, no pedestrian shall occupy any part of a state highway in any manner for the purpose of selling or soliciting, except a veteran holding a peddler's license under §§ 32 and 35 of the General Business Law.

(2) In the interest of public safety and due to traffic hazards caused by stopping of motor vehicles and traffic congestion on certain highways in the Town of Ulster during the hours set forth herein, no person shall park any vehicle, cart, wagon or trailer between the hours of 7:00 a.m. and 7:00 p.m. along and upon the state and county roads listed below in the Town of Ulster or within 200 feet from the point where any listed road intersects any other road or highway for the purpose of peddling: [reserved]

(3) It shall be unlawful for any peddler or solicitor to peddle, vend or sell his or her goods or wares within 250 feet of any church or place of worship during services or any place occupied as a public or private school or college or for school or college purposes while in session, nor shall he or she permit his or her cart, wagon or vehicle to stand on any public highway within said distance of any such school or college property while in session.

(4) It shall be unlawful for any peddler or solicitor in plying his or her trade to enter upon any premises or property, or to ring the doorbell or knock upon or enter any building whereon there is painted or otherwise affixed or displayed to public view any sign containing any or all of the following words, "No peddlers, no solicitors, no agents," or other wording the

purpose of which purports to prohibit peddling or soliciting on the premises.

(5) It shall be unlawful for any peddler or solicitor in plying his or her trade to enter upon any premises or property, or to ring the doorbell or knock upon or enter any building whereon there is painted or otherwise affixed or displayed to public view any sign containing any or all of the following words, "No peddlers, no solicitors, no agents," or other wording the purpose of which purports to prohibit peddling or soliciting on the premises.

(6) It shall be unlawful for any peddler or solicitor in plying his or her trade to enter property on which there exists an apartment complex, a mobile home park or a shopping complex to solicit on foot without the permission of the owner of such property to do so.

B. Use of signs and displays:

(1) It shall be lawful for peddlers to use signs which are painted on or affixed to a peddler's vehicle, provided the same do not exceed the dimensions of the vehicle on which they are placed and such vehicle can be driven with the sign affixed. Such permitted signs shall be exempt from the provisions of this chapter. The use of other movable, portable and/or freestanding signs by peddlers is prohibited.

(2) Only one awning or umbrella which is mounted on a vehicle licensed pursuant to this chapter is permitted per vehicle.

C. Other peddling restrictions. It shall be unlawful for any peddler licensed pursuant to this chapter to stand or allow or permit the vehicle used by him or her to stand in any one public place for more than four hours. After four hours in any one public place, said peddler must move his or her vehicle a distance of not less than 500 feet from said place. This restriction shall not apply to peddlers or vendors who are participating in a one-day or two-day special event sanctioned by the Town Board.

D. Occupying public ways or grounds. No person shall store commercial vehicles on public streets or public grounds if such vehicles are, at the time of storage, being held out for sale, lease, rent or loan to the general public.

E. Locating near established places of business. It shall be unlawful for any peddler licensed pursuant to this chapter to peddle, vend or sell his or her goods or wares within 500 feet of any established place of business selling like or similar items for similar uses or consumption. A like or similar item or use shall be judged by the consumer market for which it is offered for sale. This restriction shall not apply to flea markets, carnivals, circuses, community days or other similar activities.

F. No person shall park a commercial vehicle on public grounds for the purpose of selling merchandise, foods, drinks or any other type of commodity without a license under § 131-5, and without special permit from the Town Clerk for the utilization of public grounds.

§ 131-12. Enforcement.

It shall be the duty of any police officer of the Town of Ulster to require any person seen peddling or soliciting on public streets, rights-of-way or public grounds to produce a copy of the license required under the provisions of this Code and the special permit necessary for sale of goods on public grounds and to enforce the provisions of this chapter against any person violating the same.

§ 131-13. Revocation of license.

A. Special permits or licenses issued under the provisions of this chapter may be revoked by the Town Board of the Town of Ulster, after notice and hearing, for any of the following causes:

(1) Fraud, misrepresentation or false statement contained in the application for license.
(2) Fraud, misrepresentation or false statement made in the course of carrying on business as a peddler.
(3) Any violation of this chapter.
(4) Conviction for any crime or misdemeanor involving moral turpitude.
(5) Conviction for a felony or misdemeanor, which misdemeanor or felony, in the judgment of the Town Board, renders the applicant unfit or undesirable.
(6) Conducting the business of peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
(7) Upon the recommendation of the Ulster County Department of Health that the sale of food or food products or other edibles is being conducted under unsanitary conditions or that there is a violation of law, regulation, code or ordinance cited by the Ulster County Department of Health.

B. Notice of the hearing for revocation of a license shall be given by the Town Clerk, 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 or her last known address at least 10 days prior to the date set for hearing.

C. The Town Clerk, upon receiving information giving him or her reasonable cause to believe that the holder of any license or special permit hereunder has violated any provisions of this chapter or has been convicted of any violation referred to in this section or convicted of any crime or misdemeanor herein, may temporarily suspend such license, after notice and hearing.

§ 131-14. Penalties for offenses.

A. Any person violating any provision of this chapter shall be guilty of a violation and shall be punishable by a fine of not more than $1,000 or by imprisonment not exceeding 15 days, or by both such fine and imprisonment.

B. In addition to any other remedies set forth herein authorizing the Town to enforce the provisions of this chapter, establishing penalties, and setting forth additional remedies, the person charged with the responsibility to enforce the provisions of this chapter may impose a civil fine or agree to a civil fine not to exceed $1,000 per day for each day of the violation. If said civil fine is imposed, then the alleged violator may appeal to the Town Board

Chapter 132

§ 132-1. Declaration of Legislative Findings.

§ 132-2. Prohibition of Synthetic Cannabinoids .

§ 132-3. Regulation of Loose Leaf Incense.

§ 132-4. Penalties.

§ 132-5. Severability.

§ 132-6. Reverse Preemption

§ 132-7. Effective Date.

[HISTORY: Adopted by the Town Board of the Town of Ulster 10-08-2012 by L.L. No. 4-2012.]

§ 132-1. Declaration of legislative findings.

The Town Board of the Town of Ulster finds and determines that a new series of products are being sold in the Town that contain chemicals, called synthetic cannabinoids, which produce effects similar to marijuana when ingested or inhaled.

The Town Board of the Town of Ulster finds that products containing these synthetic cannabinoids are particularly attractive to children and young adults due to their availability in small packages being sold at neighborhood stores at minimal costs.

The Drug Enforcement Administration has determined that the consumption of synthetic cannabinoids can have adverse health effects such as agitation, anxiety, nausea, vomiting, tachycardia, elevated blood pressure, tremors, seizures, hallucinations, paranoid behavior and non-responsiveness.

The New York State Commissioner of Health has issued an "Order for Summary Action" dated March 28, 2012 which banned the sale and distribution of synthetic cannabinoids in New York State.

The Town Board of the Town of Ulster having been presented with compelling evidence by the general public and the Town of Ulster Police Department, leading the Town Board of the Town of Ulster to find that these synthetic cannabinoids pose a direct threat to the citizens of the Town of Ulster.

The Town Board of the Town of Ulster finds and determines that in the protection of the safety, health, comfort, and general welfare of the Town inhabitants, the protection of their property, the preservation of peace and good order, and suppression of vice, the Town Board of the Town of Ulster must take action to respond to this threat in the absence of any laws enacted by the State of New York and the United States Government.

This Local Law is adopted pursuant to Section 10 of the Municipal Home Rule Law of the State of New York.

§ 132-2. Prohibition of synthetic cannabinoids.

1. No person, firm, corporation, partnership, association, limited liability company or other entity shall sell, offer for sale, deliver, knowingly possess, smoke, inhale, ingest, consume or be under the influence of any product containing any material, compound, mixture, or preparation which contains any quantity of synthetic cannabinoids, their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation inside the Town of Ulster.

2. The term `synthetic cannabinoid'—
   a. means any substance that is a cannabinoid receptor type 1 (CB1 receptor) agonist as demonstrated by binding studies and functional assays within the following structural classes:

      i. 2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent.

      ii. 3-(1-naphthoyl)indole or 3-(1-naphthyl)indole by substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent.

      iii. 3-(1-naphthoyl)pyrrole by substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the naphthoyl ring to any extent.

      iv. 1-(1-naphthylmethyl)indene by substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent.

v. 3-phenylacetylindole or 3-benzoylindole by substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent.; and

b. bincludes—

i. 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]- phenol (CP-47,497);

ii. 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (cannabicyclohexanol or CP-47,497 C8-homolog);

iii. 2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl) cyclohexyl]-5-(2-methyloctan-2-yl)phenol (CP-55,940);

iv. (2-Methyl-1-propyl-1H-indol-3-yl)-1-naphthalenymethanone (JWH-015);

v. 1-pentyl-2-methyl-3-(1-naphthoyl)indole (JWH-007);

vi. 1-pentyl-3-(1-naphthoyl)indole (JWH-018 and AM678);

vii. 1-butyl-3-(1-naphthoyl)indole (JWH-073);

viii. 1-hexyl-3-(1-naphthoyl)indole (JWH-019);

ix. 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200);

x. 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250);

xi. 1-pentyl-3-(2methylphenylacetyl)indole (JWH-251 and JWH-302);

xii. 1-pentyl-3-[1-(4-methoxynaphthoyl)]indole (JWH-081);

xiii. 1-pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122);

xiv. 1-pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398);

xv. 4-methoxynapthalen-1-yl-(1-pentylindol-3-yl)methanone (JWH- 098);

xvi. 7-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone (JWH- 164);

xvii. 4-ethylnaphthalen-1-yl-(1-pentylindol-3-yl) methanone (JWH-210);

xviii. 1-H-indol-3-yl-(1-naphthyl)methane (whether or not further substituted including but not limited to JWH-175 and JWH 184);

xix. 3-(1-naphthoyl)pyrrole (whether or not further substituted including but not limited to JWH-307);

xx. 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201);

xxi. 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694);

xxii. 1-pentyl-3-[(4-methoxy-benzoyl]indole (SR-19 and RCS-4);

xxiii. 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (SR-18 and RCS-8); and

xxiv. 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203).

xxv. (6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2- yl)-6a,7,10,10atetrahydrobenzo [c]chromen-1-ol (HU-210);

xxvi. (6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2- yl)-6a,7,10,10atetrahydrobenzo [c]chromen-1-ol (HU-211);

xxvii. [(1R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl] methanol (HU-308);

xxviii. (3-hydroxyl-2-[(1R,6R)-3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione (HU- 331);

xxix. (R)-(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-de)-1,4-benzoxazin-6-yl]-1-nepthalenylmethanone (WIN 55,212-2);

xxx. 4-ethylnaphthalen-1-yl-(1-pentylindol-3-yl) methanone (JWH-210);

xxxi. 1-H-indol-3-yl-(1-naphthyl)methane (whether or not further substituted including but not limited to JWH-175 and JWH 184);

xxxii. 3-(1-naphthoyl)pyrrole (whether or not further substituted including but not limited to JWH-307);

xxxiii. 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM2201);

xxxiv. 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM694);

xxxv. 1-pentyl-3-[(4-methoxy-benzoyl]indole (SR-19 and RCS-4);

xxxvi. 1-cyclohexylethyl-3-(2-methoxyphenylacetyl)indole (SR-18 and RCS-8); and

xxxvii. 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203).

xxxviii. (6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10atetrahydrobenzo [c]chromen-1-ol (HU-210);

xxxix. (6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2- yl)-6a,7,10,10atetrahydrobenzo [c]chromen-1-ol (HU-211);

xl. [(1R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl] methanol (HU-308);

xli. (3-hydroxyl-2-[(1R,6R)-3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione (HU- 331);

xlii. (R)-(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo [1,2,3-de)-1,4-benzoxazin-6-yl]-1-nepthalenylmethanone (WIN 55,212-2);

§ 132-3. Regulation of loose leaf incense.

1. No person, firm, corporation, partnership, association, limited liability company or other entity shall sell or offer for sale loose leaf incense in the Town of Ulster except as follows:

a. Every package of loose leaf incense sold shall contain the warning label in bold fourteen (14) point font that reads as follows: "This product is not meant to be inhaled or ingested. The side effects of ingestion or inhalation are unknown."

b. All packages of loose leaf incense shall be labeled with each ingredient present in the product, including but not limited to all chemicals and additives contained therein.

c. Loose leaf incense includes loose potpourri, loose herbal incense, herbal smoking blends, or similarly dried or compacted, leafy substances sold or marketed, directly or indirectly, as a relaxation, smoking, or herbal enhancement product. Herbal dietary supplements or remedies and United States Food and Drug Administration approved herbal teas or products are not included as loose leaf incense under this section.

§ 132-4. Penalties.

Violations of this Local Law shall be punishable as set out below. Each violation of this Local Law, or everyday a violation continues to exist, shall constitute a new, separate, and distinct violation.

1. First Violation – Any person who knowingly violates this Local Law, shall be guilty of a violation punishable by a fine up to Two Hundred Fifty Dollars ($250), and/or up to thirty (30) days imprisonment, where such violation constitutes the person's first offense.

2. Second Violation – Any person who knowingly violates this Local Law, shall be guilty of a violation punishable by a fine up to Five Hundred Dollars ($500), and/or up to sixty (60) days imprisonment, where such violation constitutes the person's second offense.

3. Third and Subsequent Violations – Any person who knowingly violates this law, shall be guilty of an unclassified misdemeanor punishable by a fine of up to $1,000.00 and/or up to one (1) year imprisonment.

§ 132-5. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this Local Law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, 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, section, or part of this Local Law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

§ 132-6. Reverse Preemption.

This local law shall be null and void on the day that the duly enacted legislation of State of New York or of the United State of America goes into effect which is either the same or substantially similar to the provisions contained in this Local Law, or in the event that State or Federal administrative agency issues and promulgates regulations preempting such action by the Town of Ulster. The Town of Ulster Town Board may determine via resolution whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

§ 132-7. Effective Date.

This chapter shall take effect immediately upon filing with the Secretary of State.

CHAPTER 133
PROPERTY MAINTENANCE

§ 133-1. Title.

§ 133-2. Legislative Findings and Purpose.

§ 133-3. Definitions.

§ 133-4. Outdoor Deposit or Storage of Waste.

§ 133-5. Inspection.

§ 133-6. Notice of Violation.

§ 133-7. Second Inspection and Report.

§ 133-8. Declaration of Public Nuisance and Remediation.

§ 133-9. Enforcer.

§ 133-10. Emergency Action.

§ 133-11. Judicial Relief.

§ 133-12 Junkyards.

§ 133-13. Severability.

§ 133-14. Effective Date.

[HISTORY. Adopted by the Town Board of the Town of Ulster 08-19-2002 as L.L. No. 1-2002]

§ 133-1. Title.

This local law shall be known as the "Property Maintenance Law of the Town of Ulster."

§ 133-2. Legislative Findings and Purpose.

The Town Board of the Town of Ulster hereby finds that the outdoor storage, accumulation, deposit or placement of: abandoned, junked, discarded, wholly or partially dismantled or unlicensed or unregistered motor vehicles, rubbish, debris, or solid waste upon private property threatens the health, safety and welfare of town residents. Outdoor storage, accumulation, deposit or placement of such items creates a

significant fire hazard, endangers the environment and ground water, leads to infestation by insects, vermin or rodents, depreciates property values, and has a deteriorating and blighting effect upon the neighborhood and community. The Town Board hereby determines that the outdoor storage, accumulation, deposit or placement of abandoned, junked, discarded, wholly or partially dismantled or unlicensed or unregistered motor vehicles, rubbish, debris, or solid waste upon private property constitutes a public nuisance.

§ 133-3. Definitions.

Motor Vehicle- As used in this chapter, the term "motor vehicle" includes all vehicles as defined by NYS Vehicle and Traffic Law §125. The term "motor vehicle" as used in this chapter shall also include "all-terrain vehicles" as defined by NYS Vehicle and Traffic Law §2281 and snowmobiles as defined by NYS Vehicle and Traffic Law §222l.

Rubbish- As used in this chapter, the term "rubbish" includes all discarded or worthless nonputrescible solid wastes consisting of both combustible and non-combustible wastes, including but not limited to paper and paper products, rags, wrappings, cigarettes, cardboard, tin cans, yard clippings, wood, glass, metals, plastics, tires, bedding, cloth, crockery, furniture, appliances and similar items.

Debris- As used in this chapter, the term "debris" includes all materials resulting from the construction, excavation, renovation, equipping, remodeling, repair or demolition of structures, property or roads as well as materials consisting of vegetation resulting from land clearing and grubbing, utility line maintenance and seasonal and storm related clean up. Such materials include but are not limited to: bricks, concrete and other masonry material, soil, rock, wood, wall coverings, plaster, drywall, plumbing fixtures, nonasbestos insulation, roofing shingles, asphaltic pavement, glass, window frames, electrical wiring and components, plastic, carpeting, foam padding, linoleum, metals, or any combination thereof which are incidental to construction, excavation/ renovation, equipping, remodeling, repair or demolition.

Solid Waste- As used in this chapter, the term "solid waste" includes all putrescible and nonputrescible materials and substances discarded or rejected as having served their original intended use or as being spent, useless, worthless or in excess to the owner at the time of such discard or rejection including but not limited to household and commercial garbage, industrial waste, rubbish, debris, litter, and ashes.

Garbage- As used in this chapter, the term "garbage" includes all putrescible animal and vegetable waste resulting from growing, processing, marketing and preparation of food items, including container in which packaged. All other terms as used in this chapter shall have their common and ordinary meaning.

§ 133-4. Outdoor Deposit or Storage of Waste.

No person, as owner, occupant, lessee or agent, or in any capacity shall store, deposit, place, maintain or cause or permit to be stored, deposited, placed or maintained outdoors any abandoned, junked, discarded, wholly or partially dismantled, unlicensed or unregistered motor vehicle or any solid waste rubbish or debris upon any private property within the town. This section shall not apply to any solid waste, rubbish or debris temporarily stored or placed in a container for collection or disposal.

Violation of this section is punishable by a fine of up to $250 and/or up to fifteen days in jail.

§ 133-5. Inspection.

Whenever it shall appear that the provisions of this chapter are violated, the Building inspector of the Town of Ulster, his deputy or assistant or any such other officer or employee authorized by the Town to have jurisdiction thereof, shall make an inspection of the property involved and shall prepare a written report of the conditions found, which report shall be filed with the Town Board.

§ 133-6. Notice of Violation

(1) If conditions existing on the inspected property violate the provisions of this chapter, the Building Inspector of the Town of Ulster, his deputy or assistant or other designated officer or employee shall serve or cause to be served a written notice of such violation, either personally or by certified mail, upon the owner or owner's agent as well as upon the lessee or occupant of said premises.

(2) Said notice shall contain substantially the following: the name of the owner, lessee or occupant of the premises; the address or location of the premises; the identification of the premises as the same appears on the current assessment roll; a statement of the conditions on the property deemed upon inspection to be in violation of this chapter; demand that the motor vehicle, solid waste, rubbish or debris determined to be in violation of this chapter be removed from the property on or before 10 days after the service or mailing of such notice; a statement that a failure or refusal to comply with the provisions of this chapter and the notice given pursuant thereto within the time specified may result in a duly authorized officer, agent or employee of the Town entering upon the property and removing such motor vehicle, solid waste, rubbish or debris and causing the some to be disposed of or otherwise destroyed; and that the cost and expense of such removal and disposal or destruction shall be assessed against the described property and shall constitute a lien thereon to be collected as provided by law.

(3) Said notice shall also contain the date, time, and location at which the Town Board will conduct a public hearing to determine whether the conditions upon the subject property constitute a public nuisance. Said notice shall state that the property owner, his/her agent, lessee or occupant is entitled to be heard at such hearing and present evidence or testimony. The date of such public hearing must be at least 10 days after service or mailing of the Notice of Violation. Notice of the public hearing shall be published in a paper of general circulation in the Town at least five days prior to the date of the public hearing.

(4) Nothing contained herein shall require notice as a prerequisite to the issuance of a summons or appearance ticket for violation of any of the provisions of this chapter.

§ 133-7. 2nd Inspection and Report.

On or before the date of the public hearing and prior to commencement of the public hearing the Building Inspector of the Town of Ulster, his deputy or assistant or other duly authorized officer or employee shall conduct a second inspection of the property and file a written report of the conditions deemed in violation of this chapter found thereon with the town board. Such inspection shall be conducted as close to the date of the public hearing as practicable.

§ 133-8. Declaration of Public Nuisance and Remediation.

At the close of the public hearing, the Town Board may determine that the conditions upon the subject property which violate this chapter constitute a public nuisance. Upon a determination by the Town Board that conditions upon the property constitute a public nuisance, the Town Board is empowered to authorize officers, agents or employees of the Town to enter onto the property to remove any vehicle, solid waste, rubbish or debris stored, deposited, placed or maintained in violation of this chapter and dispose of or otherwise destroy same or to contract for these services. Any costs and expenses incurred by the town when acting pursuant to this chapter to abate a public nuisance shall be assessed against the property involved and shall constitute a lien thereon to be collected as provided by law.

§ 133-9. Enforcer.

The Building Inspector of the Town of Ulster, his deputy, assistant or such other person appointed by the Town Board are hereby authorized to write, issue and prosecute appearance tickets in connection with violations of this local law and to enforce the provisions of this chapter.

§ 133-10. Emergency Actions.

Nothing in this chapter shall prohibit the Town of Ulster from entering onto private property to remove any solid waste, motor vehicle, appliance, rubbish or debris whenever there exists an imminent threat to the life or safety of persons. Municipal authority pursuant to this section may only be exercised where there is a dire necessity to protect life and safety. Any municipal action taken pursuant to this section must be reasonably calculated to alleviate or prevent the crisis condition and must be limited to those actions necessary to eliminate the emergency situation.

A property owner shall be given notice and an opportunity to be heard prior to any costs and expenses incurred pursuant to this section being placed on the property's tax bill.

§ 133-11. Judicial Relief.

Nothing contained in this chapter shall prevent the town from seeking judicial or equitable relief to abate violations of this chapter.

§ 133-12. Junkyards.

This chapter shall not apply to any authorized junkyard as defined in the Town Code.

§ 133-13. Severability.

If any clause, sentence, subdivision, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 133-14. Effective Date.

This local law shall be effective upon filing with the Secretary of State.

Chapter 135
RECORDS

ARTICLE I
Public Access

§ 135-1. Place of inspection.

§ 135-2. Hours of inspection.

§ 135-3. Fees.

§ 135-4. Protection of personal privacy.

§ 135-5. Subject matter list.

§ 135-6. Record of town agency votes to be maintained.

§ 135-7. Denial of access.

ARTICLE II
Records Management

§ 135-8. Program established; designation of records management officer.

§ 135-9. Powers and duties of officer.

§ 135-10. Records Advisory Board.

§ 135-11. Custody.

§ 135-12. Replevin.

§ 135-13. Disposal.

§ 135-14. Definitions.

[HISTORY: Adopted by the Town Board of the Town of Ulster: Art. I, 10-10-1974 by resolution; Art. II, 7- 19-1993 as L.L. No. 4-1993. Sections 135-3A(l) and B, 135-4, 135-5 and 135-6 amended and §135-7 added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

ARTICLE I
Public Access
[Adopted 10-10-1974 by resolution (1)]

§ 135-1. Place of inspection.

Such records shall be made available for inspection at the office of the Town Clerk charged with the custody and keeping thereof.

§ 135-2. Hours of inspection.

Such records shall be made available for public inspection on regular business days between the hours of 10:00 a.m. and 12:00 noon and 2:00 p.m. and 4:00 p.m., if readily available. If not readily available, written request specifically describing records to which access is desired shall be filed with the Town Clerk charged with the custody and keeping thereof, who shall produce same within forty-eight (48) hours of such request. Such written request shall be on the form prescribed by the State Comptroller. If the Town Clerk charged with the custody and keeping of the record elects to refuse access, he shall submit to the requester written statement of his reason therefor within forty-eight (48) hours of such request.

§ 135-3. Fees.

A. Copies.

(1) The Town Clerk charged with the custody and keeping of the record shall, upon request, make a copy or copies of any record subject to such inspection upon a payment of a fee as provided in Chapter A194, Fees. (**Amended 1-14-1991 by L.L. No. 1-1991)**

(2) If a copy or copies are desired thereof by the requester, the Town Clerk charged with the custody and keeping of the record shall make the same and mail or deliver the same to the requester within one (1) week depending on the volume and number of copies requested.

B. Certification. The Town Clerk charged with the custody and keeping of any such record shall, upon request, certify a copy of a document or record prepared pursuant to the provisions of the preceding subsection upon payment of a fee as provided in Chapter A194, Fees. **(Amended 1-14-1991 by L.L. No. 1-1991)**

(1) Editor's Note: The preamble to this resolution read as follows: "BE IT RESOLVED that the following rules and regulations shall apply to the public inspection and copying of such town records as are subject to public inspection by law and shall continue in effect until altered, changed, amended or superseded by further resolution of this Town Board, or by action of the Committee on Public Access to Records established pursuant to Chapters 578, 579 and 580 of the Laws of 1974:"

§ 135-4. Protection of personal privacy. (Amended 1-14-1991 by L.L. No. 1-1991)

To prevent an unwarranted invasion of personal privacy, the Committee on Open Government may promulgate guidelines for the deletion of identifying details for specified records which are to be made available. In the absence of such guidelines, an agency or municipality may delete identifying details when it makes records available. An "unwarranted invasion of personal privacy" includes but shall not be limited to:

A. Disclosure of such personal matters as may have been reported in confidence to an agency or municipality and which are not relevant or essential to the ordinary work of the agency or municipality.

B. Disclosure of employment, medical or credit histories or personal references of applicants for employment, except such records may be disclosed when the applicant has provided a written release permitting such disclosure.

C. Disclosure of items involving the medical or personal records of a client or patient in a hospital or medical facility.

D. The sale or release of lists of names and addresses in the possession of any department if such lists would be used for private, commercial or fund-raising purposes.

E. Disclosure of items of a personal nature when disclosure would result in economic or personal hardship to the subject party and such records are not relevant or essential to the ordinary work of the department.

§ 135-5. Subject matter list. (Amended 1-14-1991 by L.L. No. 1-1991)

Each department shall maintain and make available for public inspection and copying, in conformity with such regulations as may be issued by the Committee on Open Government, a current list, reasonably detailed, by subject matter of any records which shall be produced, filed, or first kept or promulgated after the effective date of this Article. Such list may also provide identifying information as to any records in the possession of the department on or before the effective date of this Article.

§ 135-6. Record of town agency votes to be maintained. (Amended 1-14-1991 by L.L. No. 1-1991)

In addition to such requirements as may be imposed by this Article or by § 84 et seq. of the Public Officers Law, each board, commission or other group of the town having more than one (1) member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding in which he votes.

§ 135-7. Denial of access. (Added 1-14-1991 by L.L. No. 1-1991)

A. Denial of access to records shall be in writing stating the reason therefor and advising the requester of the right to appeal to the body established to hear appeals.

B. If requested records are not provided promptly, such failure shall also be deemed a denial of access.

C. The Supervisor shall hear appeals for denial of access to records under the Freedom of Information Law.

D. The timed for deciding an appeal by the person designated to hear appeals shall commence upon receipt of a written appeal identifying:

(1) The date of the appeal.

(2) The date and location of the request for records.

(3) The records to which the requester was denied access.

(4) Whether the denial of access was in writing or due to failure to provide records promptly.

(5) The name and return address of the requester.

E. The person designated to hear appeals shall inform the requester of his decision in writing within ten (10) business days of receipt of an appeal.

F. The person designated to hear appeals shall immediately forward to the Committee on Open Government copies of all appeals upon receipt and the ensuing determination thereon.

ARTICLE II
Records Management
[Adopted 7-19-1993 as L.L. No. 4-1993]

§ 135-8. Program established; designation of records management officer.

There shall be a records management program established under the aegis of the Town of Ulster and headed by a records management officer (RMO), already designated as the Town

Clerk, who is the official keeper of records. The officer will be responsible for administering the non-current and archival public records and storage areas for the Town of Ulster in accordance with local, state and federal laws and guidelines.

§ 135-9. Powers and duties of officer.

The officer shall have all the necessary powers to carry out the efficient administration, determination of value, use, preservation, storage and disposition of the non-current and archival public records kept, filed or received by the offices and departments of the Town of Ulster.

A. The records management officer and/or designee shall continually survey and examine public records to recommend their classification so as to determine the most suitable methods to be used for the maintaining, storage and servicing of archival material:

   (1) Obsolete and unnecessary records according to New York State Records Retention and Disposition Schedules, thereby subject to disposition;

   (2) Information containing administrative, legal, fiscal, research, historical or educational value which warrants its permanent retention; or

   (3) Records not subject to disposition according to state law.

B. The officer shall establish guidelines for proper records management in any department or agency of the Town of Ulster in accordance with local, state and federal laws and guidelines.

C. The officer shall report annually to the chief executive official and the governing body on the powers and duties herein mentioned, including but not limited to the cost/benefit ratio of programs effectuated by the department.

D. The officer shall operate a Records Management Center for the storage, processing and servicing of all non-current and archival records for all Town of Ulster departments and agencies.

E. The officer shall establish a Town of Ulster Archives and perform the following functions:

(1) Advise and assist Town of Ulster departments in reviewing and selecting material to be transferred to the Town of Ulster Archives for preservation.

(2) Continually survey and examine public records to determine the most suitable methods to be used for the creating, maintaining, storing and servicing of archival materials.

(3) Establish and maintain an adequate repository for the proper storage, conservation, processing and servicing of archival records.

(4) Promulgate rules governing public access to and use of records in the archives subject to the approval of the Records Advisory Board.

(5) Develop a confidentiality policy for archival records designated confidential, provided that such policy does not conflict with any state or federal statutes.

(6) Provide information services to other Town of Ulster offices.

(7) Collect archival materials which are not official Town of Ulster records but which have associational value to the Town of Ulster or a close relationship to the existing archival collection. Such collecting shall be subject to archive space, staff and cost limitations and to the potential endangerment of such materials if not collected by the Archives.

(8) Develop a procedure whereby historically important records are to be identified at the point of generation.

§ 135-10. Records Advisory Board.

A Records Advisory Board shall be designated to provide advice, guidance and support to the records program. Members of the Records Advisory Board shall be in positions of sufficient authority to ensure compliance with records management practices throughout all departments. The Board shall consist of the Supervisor, the Town Clerk, the Superintendents of Sewer, Water, and Highway, a representative from the Justice Court, the Police Department, Assessors Office and Tax Office. The Board shall:

A. Review the performance of the program on an ongoing basis and discuss needs, changes and improvements.

B. Review retention periods proposed by the Records Management Office for records not covered by the State Archives Schedules.

C. Be the final sign-off entity as to what is or is not archival.

§ 135-11. Custody.

A. The Town Clerk is the legal custodian of records and shall retain custody of records deposited in the Records Center.
B. Records shall be transferred to the Archives upon the recommendation of the RMO, with the approval of the head of the department which has custody of the records and the approval of the Records Advisory Board.
C. Records may be permanently removed from the Archives at the request of the RMO or head of the department which had prior custody of the records subject to the approval of the Advisory Board.

§ 135-12. Replevin.

The legal staff may take steps to recover local government records which have been alienated from proper custody and may, when necessary, institute actions of replevin.

§ 135-13. Disposal.

No records shall be destroyed or otherwise disposed of by a department of the Town of Ulster unless approval has been obtained from the Records Management Officer. No records shall be destroyed or otherwise disposed of by the Records Management Officer without the signatures of the department head and the supervisor.

§ 135-14. Definitions.

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

ARCHIVES - Those official records which have been determined by the RMO and Advisory Board to have sufficient historical or other value to warrant their continued preservation by the local government.

RECORDS - Any documents, books, papers, photographs, sound recordings, microforms or any other materials, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official Town of Ulster business.

RECORDS CENTER - An area established and maintained by the Town of Ulster primarily for the storage, servicing, security and processing of records which must be preserved for varying periods of time and need not be retained in office equipment or space.

RECORDS DISPOSITION:

A. The removal by the Town of Ulster, in accordance with approved records control schedules, of records no longer necessary for the conduct of business by such agency through the removal methods which may include the disposal of temporary records by destruction or donation or the transfer of records from the Records Center/Archives for the temporary storage of inactive records and permanent storage of records determined to have historical or other sufficient value warranting continued preservation.

B. The transfer of records from one Town of Ulster agency to another Town of Ulster agency.

RECORDS MANAGEMENT - The planning, controlling, directing, organizing, training, promotion and other managerial use and records disposition, including records preservation, records disposal and records centers or other storage facilities.

SERVICING - Making information in records available to any Town of Ulster agency for official use or to the public.

Chapter 141
SEWERS

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§ 141-55. Penalties for offenses.

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ARTICLE XII
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§ 141-58. Appeal board.

[HISTORY: Adopted by the Town Board of the Town of Ulster 6-17-1981 as L.L. No. 1-1981. Sections 141- 2B, 141-14, 141-15, 141-17, 141-18, 141-20, 141-23, 141-25, 141-28, 141-31, 141-32A and D, 141-33, 141-34, 141-40141-41 and 141-55 amended at time of adoption of Code; see Ch. 1, General Provisiorlis, Art. I. Other amendments noted where applicable. Section 141-35 amended on June 16, 2003 by Local Law #2 of 2003. Section 141-2(B) and 141-13 amended on November 19, 2007 by Local Law #3.]

GENERAL REFERENCES
Appearance tickets - See Ch. 7.
Building construction and fire prevention - See Ch. 61.
Subdivision of land - See Ch. 161.
Water - See Ch. 177. Fees - See
Ch. A 194.

ARTICLE I
Purpose

§ 141-1. Purpose.

The purposes of these rules and regulations are specifically stated as follows:

A. To prohibit excessive volumes and/or inordinate rates of flow of sewage and wastes into the improvement area sewerage system.

B. To prohibit the contribution, industrial wastes or other wastes of a flammable nature which create in any way a poisonous or hazardous environment for sewerage maintenance and operation personnel.

C. To prohibit the contribution of sewage, industrial wastes and other wastes which may cause maintenance difficulties in the lateral and trunk sewers, force mains, pumping stations and other structures and appurtenances of the improvement.

D. To prohibit the contribution of sewage, industrial wastes or other wastes which may create operating difficulties at the sewage treatment plants as they may be constructed, modified or improved in the future.

E. To prohibit and/or to regulate the contribution of sewage, industrial wastes or other wastes which require for treatment at the plants, greater expenditures than are required for equal volumes of normal sewage.

F. To require the treatment, before introduction into the improvement sewers, of such wastes as may otherwise impair the strength and/or durability of the structures pertinent to the sewer system, by direct or indirect chemical action, or interfere with the normal treatment processes.

G. To provide cooperation with the Ulster County Department of Health, the New York State Department of Environmental Conservation, the United States Environmental Protection Agency, and any other agencies which have requirements or jurisdiction for the protection of the physical, chemical and bacteriological quality of watercourses within or bounding the improvement.

H. To set uniform requirements for the discharges into the wastewater collection and treatment system to enable the improvement to comply with the administrative provisions, the applicable effluent limitations, national standards of performance, toxic and pretreatment effluent standards, and any other discharge criteria which

are required or authorized by state or federal law, and to derive the maximum public benefit by regulating the quality and quantity of wastewater discharged into those systems.

I. To protect the public health and to prevent nuisances.

ARTICLE II
Terminology

§ 141-2. Definitions and word usage.

A. "Shall" is mandatory. "May" is permissive.

B. Unless the context specifically indicates otherwise, the meaning of terms in this chapter shall be as follows:

A.S.T.M. - The latest edition of American Society for Testing and Materials.

B.O.D. (denoting "biochemical oxygen demand) – The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees Celsius (20' C.), expressed in parts per million by weight.

BUILDER - Any person, persons or corporation who undertake to construct, either under contract or for resale within two (2) years, any habitable building.

BUILDING DRAIN - The 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 building sewer, beginning five (5) feet outside the inner face of the building wall.

BUILDING SEWER - The extension from the building drain to the public sewer or other place of disposal.

CHLORINE REQUIREMENT or CHLORINE DEMAND - The number of parts per million (ppm) of chlorine required to be added to the sewage to produce a, residual chlorine content of one and zero-tenths (1.0) parts per million after thirty (30) minutes contact of the chlorine with the sewage.

COMMERCIAL SERVICE - Any service from business buildings or institutions from which the wastes are not predominantly industrial.

COMPATIBLE POLLUTANT - Biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the improvements National Pollutant Discharge Elimination System (NPDES) Permit if the publicly owned treatment works was designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree.

CONTRACTOR - Any person, firm, or corporation approved by the Superintendent to do work in the Town of Ulster.

DEVELOPER - Any person, persons or corporation who undertake to construct simultaneously more than one (1) housing unit on a given tract or land subdivision.

DOMESTIC SEWAGE - Only that sewage discharged into the sanitary sewer through to the building drain from lavatories, bathrooms, sinks, laundry tubs, etc., and shall not include drainage from underground drain tile or water from beneath the cellar floor and foundation of building or structure or other areas.

ENGINEER - The professional engineer retained as Engineer for the Ulster Sewer Improvement Area.

GARBAGE - Solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

IMPROVEMENT - The Ulster Sewer District, or the Whittier Sewer District, or the Washington Avenue Sewer District, Town of Ulster, Ulster County, New York.**(1)**

IMPROVEMENT BOUNDARIES - The physical boundaries as presently established or as may be extended from time to time as duly provided by Town Law.

INCOMPATIBLE POLLUTANT - Any pollutant which is not a compatible pollutant, as defined in this section. The pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry, not subject to Section 307(c) of the Federal Act shall be, for sources within the corresponding industrial or commercial category, that established by a promulgated effluent limitations guideline defining best practicable control technology currently available pursuant to Sections 301(b) and receives the pollutants is committed, in its national pollutant discharge elimination system permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant; and provided further

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(1) **Editor's Note: Amended by Local Law #3 of 2007, 11-19-2007**

that even when the effluent limitations guideline for each industry category is promulgated, a separate provision will be proposed concerning the application of such guidelines to pretreatment.

INDUSTRIAL SERVICE - Any service from which the wastes are predominantly industrial.

INDUSTRIAL WASTES - The liquid wastes from industrial processes as distinct from sanitary sewage.

MAJOR CONTRIBUTING INDUSTRY - A user who is required to obtain a permit, as defined in Article IX.

NATURAL OUTLET - Any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater,

OWNER - Any individual, firm, company, association, society, person or group having title to real property.

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

pH - The logarithm of the reciprocal of the concentration of hydrogen ions in gram-ionic weights per liter of solution.

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

PROPERTY LINE - The edge of a sewer right-of-way in those instances where the building sewer connects to the public sewer located in a right-of-way. "Property line" shall also mean the edge of the street right-of-way in those instances where the building sewer connects to a public sewer located off or in the paved portion of the street.

PUBLIC SEWER - A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

RESIDENTIAL SERVICE - Any service from which the wastes are of a domestic nature only.

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 WORKS - All facilities for collecting, pumping, treating and disposing of sewage.

SEWER - A pipe or conduit for carrying sewage.

STORM SEWER or STORM DRAIN - A sewer which carries storm- and surface waters and drainage, but excludes sewage and polluted industrial wastes.

SUPERINTENDENT - The Superintendent of the Ulster Sewer District, or his authorized deputy, agent or representative.

SUSPENDED SOLIDS - Solids that either float on the surface of, or are in suspension in water, sewage or other liquids; and which are removable by laboratory filtering.

TOWN - The Town of Ulster, Ulster County, New York.

TOWN BOARD - The duly elected Town Board of the Town of Ulster or their authorized deputy or representative.

WATERCOURSE - A channel in which a flow of water occurs, either continuously or intermittently.

WATER POLLUTION CONTROL PLANT - Any arrangement of devices and structures used for treating sewage.

ARTICLE III
Use of Public Sewers

§ 141-3. Placement of objectionable waste in unsanitary manner prohibited.

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner upon public or private property within the improvement, or in any area under the jurisdiction of said improvement, any human or animal excrement, garbage or other objectionable waste.

§ 141-4. Discharges to natural outlets prohibited; storm sewers.

It shall be unlawful to discharge to any natural outlet, either directly or through any storm sewer, within the improvement, or in any area under the jurisdiction of the improvement, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter. Use of separate storm sewers and sanitary sewers is mandatory where such facilities now exist. Construction of new facilities on streets not presently served by sewers shall be separate storm and sanitary systems. No combined sewers shall be allowed.

§ 141-5. Permit required for septic tank or cesspool.

Within the established limits of the improvement, the use of septic tanks or cesspools is prohibited, except in such cases as the Superintendent finds that it is physically impossible or would work an undue hardship upon the owner or owners of the property in question to establish a connection to a sewer main. The phrase "physically impossible" is self-explanatory, being concerned with terrain and construction. "Undue hardship" is defined as meaning financial cost or time period out of proportion to neighbors, abutting property owners and other persons in the improvement. If and when such a permit is issued by the Superintendent for a septic tank, the installation of such a septic tank will be accomplished as prescribed by the Ulster County

Department of Health and to continue in use only so long as an established sewer main is not accessible.

§ 141-6. Connection to public sewer.

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose, situated within the improvement 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 of the improvement, is hereby required at his expense to install suitable plumbing facilities therein, and to connect such facilities directly to the proper public sewer in accordance with the provisions of this chapter, within ninety (90) days after the date of official notice to do so, provided that said public sewer is within one hundred (100) feet of the property line.

ARTICLE IV
Private Sewage Disposal

§ 141-7. Connection of building sewer to private disposal system.

Where a public sanitary sewer is not available under the provisions of § 141-6, the building sewer shall be connected to a private sewage disposal system complying with the provisions established by the Ulster County Department of Health.

§ 141-8. Permit required.

Before commencement of construction of a private sewage disposal system, 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 may be supplemented by any plans, specifications and other information as are deemed necessary by the Ulster County Health Department.

§ 141-9. Inspections.

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 forty-eight (48) hours of the receipt of notice by the Ulster County Health Department.

§ 141-10. Standards; discharge to natural outlet prohibited.

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. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

§ 141-11. Operation and maintenance.

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 improvement.

§ 141-12. Connection to available public sewer.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in .§ 141-6, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be cleaned of sludge and liquid, abandoned and filled with suitable material.

§ 141-13. Construction of provisions.

No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the authorized representative of the Ulster County Department of Health or the New York State Department of Health.

ARTICLE V
Building Sewers and Connections

§ 141-14. Permit required. (2)

No person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

§ 141-15. Classes of permits; application; fees. (3)

There shall be three (3) classes of building sewer permits for residential, for commercial service and for service to establishments producing industrial wastes. In any case, the owner or his agent shall make application on a special form furnished by the improvement. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the improvement. Fees shall be in accordance with Chapter A194, Fees.

§ 141-16. Building sewers to be separate; exception.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one (1) building sewer. In such cases, approval shall be obtained from the Superintendent prior to installation of the building sewer.

§ 141-17. Use of old building sewers. (4)

Old building sewers may be used in connection with new buildings only when they are found, on examination and test under the direction of the Superintendent, to meet all requirements of this chapter.

§ 141-18. Materials; joints; maximum length. (5)

The building sewer shall be cast iron soil pipe, ASTM Specification A74 or equal; PVC/ABS Schedule 80 or SDR 15, or equal approved by the Superintendent. Joints shall be tight and waterproof Cast iron pipe with leaded joints may be required by the Superintendent

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(2) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
(3) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.
(4) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

where the building sewer is exposed to damage by tree roots. If installed in filled or unstable ground, the building sewer shall be of cast iron soil pipe, except that nonmetallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the Superintendent. Building sewer pipe shall have a maximum length of twenty (20) feet between joints.

§ 141-19. Size and slope of building sewer.

The size and slope of the building sewer shall be subject to the approval of the Superintendent, but in no event shall the diameter be less than four (4) inches. The slope of such four-inch pipe shall be not less than one-fourth (1/4) inch per foot. The slope of a five-inch and six-inch pipe shall be not less than three-sixteenths (3/16) and one-eighth (1/8) inch per foot, respectively.

§ 141-20. Elevation and location of building sewer.[6]

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor and an approved trap provided. Any openings, such as cleanout hand holes in traps, in house drains, cellar drains, etc., shall be not lower than the level of the finished basement floor. No building sewer shall be laid parallel to and within three (3) feet of any bearing wall, which might thereby be weakened. The minimum depth of cover shall be thirty (30) inches. 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.

§ 141-21. Lifting of sewage to drain by mechanical means.

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 mechanical means and discharged to the building sewer.

(5) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.
(6) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 141-22. Excavations.

All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Superintendent. Pipe laying and backfill shall be performed in general accordance with ASTM Specification C12; C13; the Manual of Practice No. 9, Design and Construction of Sanitary and Storm Sewers (ASCE), and in full accordance with the local building code, except that no backfill shall be placed until the work has been inspected.

§ 141-23. Joints and connections. (7)

A. All joints and connections shall be made gas tight and watertight. Lead shall be run in one (1) pouring and caulked tight. The entire joint shall conform to AWWA Specification C600, Section 9a. No paint, varnish or other coatings shall be permitted on the jointing material until after the joint has been tested and approved. The transition joint between cast iron pipe and/or other approved pipe material shall be made with either lead or approved hot-poured jointing material. Such material for hot-poured joints shall not soften sufficiently to destroy the effectiveness of the joint when subjected to a temperature of one hundred sixty degrees Fahrenheit (160' F.), nor be soluble in any of the wastes carried by the drainage system. The joint shall first be caulked tight with jute, hemp, or similar approved material.

B. Premolded gasket joints for plain end cast iron pipe may be used if approved by the Superintendent, and shall be a neoprene compression-type gasket which provides a unit, designed for joining the plain end cast iron hub and spigot soil pipe and fittings. The assembled joint shall be sealed by compression of the gasket between the exterior surface of the spigot and the interior spigot of the hub. The joint shall be assembled following the manufacturer's recommendations using acceptable lubricant and special pipe-coupling tools for that purpose. The plain spigot end shall be forced into the hub end of the pipe for the full depth of the hub itself. Lubricant shall be a bland, flax- base, nontoxic material and shall not chemically attack the gasket material. Typical manufacturer of this type gasket is the Tyler Pipe and Foundry Company, Tyler, Texas, or Buffalo Pipe and Foundry Corporation, Buffalo, New York.

§ 141-24. Connection to building sewer.

The connection of the building sewer into an existing public sewer shall be made at the property line. If a building sewer connection has not previously been provided, the building sewer will be constructed from the existing public sewer to the property line by the owner, after obtaining the necessary permit.

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(7) **Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.**

The cost of constructing the building sewer from the public sewer to the property line will be at the owner's expense. All subsequent costs and expense incidental to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the improvement from any loss or damage that may directly or indirectly be occasioned by the installation and maintenance of the building sewer. The method of connection of the building sewer will be dependent, upon the type of sewer material used and in all cases shall be approved by the Engineer or Superintendent.

§ 141-25. Inspection of trenches. (8)

A. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent, or his representative.

B. When trenches are opened for the laying of building sewer pipes, such trenches shall be inspected by the Superintendent before the trenches are filled; and the contractor performing such work shall notify the Superintendent when the laying of building sewer is completed. The filling of a trench before inspection is made or approval given, will subject the contractor to a re-inspection fee in accordance with Chapter A194, Fees, and the trench shall be reopened for inspection by and at the expense of the contractor.

§ 141-26. Protection of excavations.

All excavations for building sewer installation shall be adequately protected with barricades and lights so as to protect the public from hazard. An indemnity bond will be required to be posted before a permit will be granted to excavate in or under the streets, highways or public places. All excavations must be properly refilled, tamped at intervals and the original type of surface be replaced. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the improvement or other authority having jurisdiction.

§ 141-27. Capping of building sewer during demolition.

In the case of the demolition of a building within the improvement, which has a building sewer, the owner is responsible for properly capping the building sewer at the property line to prevent entry of dirt, debris or any foreign substances into the public sewer. This shall be accomplished under the supervision of the Superintendent.

§ 141-28. Sewer rates. (9)

Sewer rates shall be as provided in Chapter A194, Fees.

*****(8)Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.**

§ 141-29. Design standards.

All extensions to the sanitary sewer system owned and maintained by the improvement 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 New York State Department of Health. Plans and specifications for sewer extensions shall be submitted to, and approval obtained from, the Engineer and the Ulster County Department of Health before construction may proceed. The design of sewers must anticipate and allow for flows from all possible future extensions or developments within the immediate drainage area.

§ 141-30. Proposal; construction by improvement.

Sewer extensions, including individual building sewer laterals to the property line, may be constructed by the improvement under public contract, if in the opinion of the Town Board, the number of properties to be served by such extension warrants its cost. Under this arrangement the property owner shall pay for and install the building sewer from the property line to his residence or place of business in accordance with the requirements of Article V. Property owners may propose sewer extension within the improvement by drafting a written petition, signed by a majority of the benefiting property owners, and filing with the Town Board.

§ 141-31. Construction by developer or property owners. (10)

If the Town Board does not elect to construct a sewer extension under public contract, the property owner, builder or developer may construct the necessary sewer extension not exceeding five hundred (500) feet in length, if this extension is approved by the Town Board in accordance with the requirements of § 141-29. The property owner, builder or developer must pay for the entire installation, including all expenses incidental thereto. Each building sewer installed must be installed and inspected as previously required and the inspection fees shall be paid. Design of sewers shall be as specified in § 141 '-32. The installation of the sewer extension must be subject to inspection by the Engineer and Superintendent and the expenses for this inspection shall be paid for by the owner, builder or developer. The Superintendent's decisions shall be final in matters of quality and methods of construction. The sewer, as constructed, must pass the exfiltration test required in § 141-33 before any building sewer is connected thereto. The entire cost of the sewer extension thus made shall be absorbed by the developers or benefiting property owners.

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(9) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

(10) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

§ 141-32. Sewer design. (11)

A. Sewer design shall be in accordance with the following provisions. Rubber 0-ring gasket shall be of solid, natural rubber. Joints of either type of pipe shall be made in accordance with the manufacturer's published recommendations. Trench widths as measured just above the crown of the pipe shall not exceed the following:

Pipe Diameter (inches)	Trench Width
8	3 feet, 3 inches
10	3 feet, 6 inches
12	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 (6) inches of concrete for that length of trench whose width exceeds the maximum. Pipe shall be firmly and uniformly bedded in a minimum depth of three (3) inches of No. 1A or No. 1 crushed stone (New York State Department of Public Works specification). Pipe thickness and field strength shall be calculated on the following criteria:

(1) Safety factor: one and five-tenths (1.5).

(2) Load factor: one and seven-tenths (1.7).

(3) Weight of soil: one hundred twenty (120) pounds per cubic foot.

(4) Wheel loading: sixteen thousand (16,000) pounds.

C. 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.

D. Manholes shall be constructed at every change in size, slope and direction; at all line endings and intersections; at every two hundred fifty (250) feet or less. The manholes shall be constructed with a poured three thousand (3,000) psi concrete base, steel- troweled concrete bench walls and channels, precast four-foot diameter concrete manhole barrel section.,; and a tapered top section as specified by

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(11) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

ASTM C-478, or precast manhole blocks ASTM Specification C-139. The manhole frame and cover shall be the standard design of the improvement and shall be set with no less than two (2) courses of brick underneath to allow for latter adjustment in elevation.**(12)**

§ 141-33. Final exfiltration test. (13)

All sewers shall satisfy requirements of a final exfiltration test before they will be approved and sewage flow accepted from them by the Improvement. This test consists of filling the pipe with Water to provide a head of at least five (5) feet above the top of the pipe or five (5) feet above ground water, 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 this test, the line must remain filled with water for at least twenty-four (24) hours prior to the taking of measurements. An exfiltration test of the manhole itself will be tested as follows; the manhole will be filled with water up to the base of the frame and grate; the loss of water will be measured over a twenty-four-hour period. Acceptance of the test will be at the discretion of the Superintendent.

§ 141-34. Extensions constructed by developers or property owners to become improvement property; guaranty. (14)

All sewer extensions constructed at the property owner's, builder's or developer's expense, after final approval and acceptance by the Superintendent shall become the property of the improvement and shall thereafter be maintained by the improvement. Said sewer extensions after their acceptance by the improvement, shall be guaranteed for one (1) year by the builder or developer. The guaranty shall be in such form and contain such provisions as provided for by the improvement. At the sole discretion of the improvement a completion bond or bank check may be demanded as part of the guarantee. As-built plans shall be submitted prior to acceptance.

§ 141-35. Sanitary facilities required prior to issuance of building permit.

No builder or developer shall be issued a building permit-for a new dwelling or structure requiring sanitary facilities within the improvement unless a suitable and approved method of waste disposal is proposed. All new housing or building developments shall be provided with an approved system of sanitary sewers. In the event that a builder or developer is advised by the Superintendent that a new dwelling(s) or structure(s) will require an increase in capacity of the Sewage Works in connection with said new dwelling or structure(s), the entire cost of said increase in capacity shall be absorbed by the builder or developer benefited thereby.

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(12) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I
(13) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I
(14) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I

ARTICLE VII
Discharges to Public Sewers

§ 141-36. Unlawful discharges to sanitary sewer.

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters to any sanitary sewer.

§ 141-37. Discharge of unpolluted drainage or process water.

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the Superintendent, to a storm sewer, or natural outlet.

§ 141-38. Unlawful discharges to public sewer.

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 one hundred fifty degrees Fahrenheit (150' F.) [sixty-five degrees centigrade (65' C.)].

B. Any waters or wastes which contain grease or oil or other substance that will solidify or become discernibly viscous at temperatures between thirty-two degrees Fahrenheit (32' F.) and one hundred fifty degrees Fahrenheit (150' F.).

C. Any waters or wastes containing fats, wax, grease or oils, whether emulsified or not, exceeding an average of fifty (50) parts per million [four hundred seventeen (417) pounds per million gallons] other 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 shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower or greater shall be subject to the review and approval of the Superintendent. Garbage disposal units shall not be installed, except by written permission of the Superintendent.

G. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, cardboard, wood, paunch manure, hair and fleshiness entrails, lime, slurry, lime residues, beer or distillery slops, whey, chemical residues, paint residues, cannery waste, bulk solids, or any other viscous substance capable of causing obstruction to the flow of the sewers, or other interference with the proper operation of the sewerage 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 sewerage system. Free acids and alkalis must be neutralized at all times, within a permissible pH range of five point five (5.5) to nine point five (9.5).

I. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations.

J. Any waters or wastes that for a duration of fifteen (15) minutes has a concentration greater than five (5) times that of "normal" sewage as measured by suspended solids and B.O.D. and/or which is discharged continuously at a rate exceeding five hundred
(500) gallons per minute except by special permit. For the average daily sewage flow, normal sanitary sewage shall be construed to fall within the following ranges at the effluent of the industrial plant in question.

Constituents	**Permissible Range(ppm)**
Suspended solids	180 to 350
B.O.D.	140 to 300
Chlorine requirements	5 to 15

K. Any stormwater, roof drains, spring water, cistern or tank overflow, footing drain, or the contents of any privy vault, 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, high B.O.D. or 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 improvement water pollution control plant. Such toxic substances shall be limited to the average concentrations listed hereinafter in the sewage at the point of discharge to the public sewer and at no time shall the hourly concentration of such discharge exceed three (3) times the average concentration. If concentrations listed are exceeded, individual establishments will be subject to control in volume and concentration of sewage by the Engineer and the Superintendent.

Limits or Toxic Substances in Sewage

Constituent	**Limit** (ppm)
Chromium, as Cr (hexavalent)	1.0
Copper, as Cu	2.0
Mercuric Chloride	0.5
Silver	0.03
Phenol	2.0
Cyanide, as CN	0.5
Cadmium, as Cd	0.5
Zinc, as Zn	5.0
Lead, as Pb	1.0
Nickel	3.0

M. Any waters or wastes containing quantities of pollutants in excess of effluent limitations promulgated by the Federal Act, except as provided for in § 141-39.

§ 141-39. Construal of provisions; most stringent standards to prevail.

A. Effluent limitations promulgated by the Federal Act shall apply in any instance where they are more stringent than those in this chapter. Pursuant to Section 307(b)(1) of the Federal Act, the Administrator published "Pretreatment Standards" for pollutants introduced into a publicly-owned treatment works in the Federal Register, Volume 38, No. 215 on Thursday, November 8, 1973. Nothing in this chapter shall be construed to relieve any major industrial contributor from its obligation to comply with these standards, or as they may be amended by the Administrator.

B. Federal pretreatment standards are designed to achieve two (2) purposes:

(1) To protect the operation of publicly owned treatment works; and

(2) To prevent the discharge of pollutants which pass through such works inadequately treated. Users in industrial categories subject to effluent guidelines, who discharge wastewater containing incompatible pollutants to publicly owned treatment works, are required to adopt best practicable control technology currently available, as defined by the Administrator pursuant to Section 304(b) of the Act. Where the improvement's treatment works was designed to and does achieve substantial removal of pollutants other than the four (4) pollutants listed in the definition for compatible pollutants in § 141-2 (BOD, suspended solids, pH and fecal coliform bacteria), it is not appropriate to require the industrial user to achieve best practicable control technology currently available, since this would lead to an uneconomical duplication of treatment facilities. While the term 'substantial removal" is not subject to precise definition, it generally contemplates removals in the order of eighty percent (80%) or greater. Minor incidental removals in the order of ten percent (10%) to thirty percent (30%) are not considered "substantial."

C. Limitations on wastewater strength in this Article of this chapter may be supplemented with more stringent limitations pursuant to Article IX:

(1) If the Superintendent determines that the limitations in this Article may not be sufficient to protect the operation of the improvement's treatment works; or

(2) If the Superintendent determines that the limitations in this Article may not be sufficient to enable the improvement's treatment works to comply with water quality standards or effluent limitations specified in the improvement's national pollutant discharge elimination system (NPDES) permit.

§ 141-40. Grease, oil and sand interceptors; grease tanks; grease traps. (15)

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 other harmful ingredients. Interceptors

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(15) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

shall not be required for private living quarters or dwelling units. All commercial kitchens and restaurants shall be required to install a grease tank with a minimum capacity of seventy hundred fifty (750) gallons. When, in the opinion of the Superintendent, existing interceptors are inadequate to handle the present volume of liquid waste, a grease tank with a minimum capacity of seven hundred fifty (750) gallons shall be installed. If conditions are such that a tank cannot be installed, an alternative means shall be met, at the discretion of the Superintendent. All interceptors shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removal covers which when in place shall be gastight and watertight.

B. Grease tanks, when installed, should comply with DEC Publication, Division of Water, Design Standards for Wastewater Treatment Works, 1988.

C. Food service facilities of any type will be fitted with separate grease traps of pre-cast concrete, minimum one thousand (1,000) gallons' capacity exterior to the structure, and accessible for inspection and pump-out. Any food service facility with a seating capacity in excess of one hundred fifty (150) seats shall be provided with a grease trap with minimum capacity of two thousand (2,000) gallons.

§ 141-41. Maintenance and accessibility of grease, oil and sand interceptors.

Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times and shall be readily accessible and open to inspection by the Superintendent at any time.

§ 141-42. Restricted discharges.

The admission into the public sewers of any waters or wastes having:

A. A five-day biochemical oxygen demand greater than three hundred (300) parts per million.

B. Containing more than three hundred fifty (350) parts per million of suspended solids.

C. Containing more than fifteen (15) parts per million of chlorine requirement.

D. Containing any quantity of substances having the characteristics described in § 141- 39.

E. Having an average daily flow greater than two percent (20%) of the average daily sewage flow of the improvement, shall be subject to the review and approval of the Superintendent. Where necessary, in the opinion of the Superintendent, the owner shall provide, at his expense, such preliminary treatments as may be necessary to:

(1) Reduce the biochemical oxygen demand to three hundred (300) parts per million and the suspended solids to three hundred fifty (350) parts per million by weight;

(2) Reduce the chlorine requirements to fifteen (15) parts per million;

(3) Reduce objectionable characteristics or constituents to within the maximum limits provided for in § 141-39; or

(4) Control the quantities and rates of discharge of such waters or wastes.

F. Plans, specifications and any other facilities shall be submitted for the approval of the Superintendent, for informational purposes, and no construction of such facilities shall be commenced until said approval is obtained in writing. Failure to comply with one (1) or more of the remedial procedures as required by the Superintendent will constitute a violation of this chapter.

§ 141-43. Maintenance of preliminary treatment or flow-equalizing facilities.

Where preliminary treatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation, by the owner at his expense.

§ 141-44. Control manholes.

When required by the Superintendent, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible 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.

§ 141-45. Analysis of unlawful or restricted discharges.

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in §§ 141-39 and 14142 shall be determined, in accordance with Standard Methods for the Examination of Water and Waste Water, upon suitable samples taken at control manhole provided for in § 141-44. 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.

§ 141-46. Construal of provisions.

No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the improvement and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the improvement for treatment, subject to payment therefore by the industrial concern.

§ 141-47. Sampling of industrial wastes.

All of the preceding standards are to apply at the point where the industrial wastes are discharged into the public sanitary sewerage system and any chemical or mechanical corrective treatment required must be accomplished to practical completion before the wastes reach that point. The laboratory methods used in the examination of all industrial wastes shall be those set forth in the latest edition of Standard Methods for the Examination of Water and Waste Water, published by the American Public Health Association. However, alternate methods for the analysis of industrial wastes may be used subject to mutual agreement between the improvement and the producer of such wastes. The frequency and duration of the sampling of any industrial waste shall not be less than once a quarter for twenty-four (24) hours. However, more frequent and longer periods may be required at the discretion of the improvement.

ARTICLE VIII
Tampering with Sewerage Works;
Plumbers or Firms Making Connections

§ 141-48. Tampering with sewerage works prohibited.

No person shall maliciously, willfully, break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the improvement sewerage works. Any person violating this provision shall be subject to immediate arrest and prosecuted under the appropriate section of the Penal Law.

§ 141-49. Requirements for plumbers or firms making connections to improvement.(16)

A. Any plumber or firm obtaining a permit to make connections within the improvement system shall save harmless said improvement from all suits, accidents and damages consequential thereof, for or by reason of any opening in any street, alley or avenue made by him or by those employed by him for making any connection with said improvement system, or for any other purpose or object whatever; and he shall also replace and restore said street over such opening in as good a state and condition as he found it, or reimburse the improvement for the cost of the same when done by the improvement. He shall keep guards by day and lights by night and keep and maintain the same in good order and comply with all ordinances of the Town Board applicable thereto. Every plumber or firm, before commencing any work or installation, shall have executed and filed in the office of the Town Clerk, the following required insurance coverages:

(1) Public liability.

(a) Contractors' liability.

(b) Owners protective (improvement named insured).

(c) Each shall be in the following amounts: one hundred thousand dollars/three hundred thousand dollars ($100,000./$300,000.).

(2) Property damage: fifty thousand dollars/one hundred thousand dollars ($50,000./$100,000.).

(3) Blasting coverage (if applicable): twenty-five thousand dollars/fifty thousand dollars ($25,000./$50,000.).

(4) License and permit bond: In the amount of five thousand dollars ($5,000.) guaranteeing that the holder will observe the laws of the municipalities involved and will hold the improvement harmless for any damage done.

B. The bonds, insurance and certificates herein required must be approved by the improvement's counsel as to form and sufficiency.

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(16) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

ARTICLE IX
Administration

§ 141-50. Discharge reports.

The Superintendent may require that any person discharging or proposing to discharge wastewater into a public sewer file a periodic discharge report. The discharge report may include, but not be limited to, nature of process, volume, rates of flow, mass emission rate, production quantities, hours of operation, number and classification of employees, periodic notice regarding specifications taken to achieve full compliance with requirements of Section 307 of the Federal Act, or other information which relates to the generation of waste including wastewater constituents and characteristics in the wastewater discharge. Such reports may also include the chemical constituents and quantity of liquid or gaseous materials stored on site even though they may not normally be discharged. In addition to discharge reports, the Superintendent may require information in the form of wastewater discharge permit applications and self-monitoring reports.

§ 141-51. Wastewater discharge permits.

A. Mandatory permits. Each major contributing industry proposing to connect or to discharge into a public sewer must obtain a wastewater discharge permit before connecting to or discharging into a public sewer. Each existing major contributing industry connected to or discharging into a public sewer must obtain a wastewater discharge permit within ninety (90) days after the effective date of this chapter. For purposes of this chapter, major contributing industry is defined as any user whose user classification is identified in the Standard Industrial Classifications (SIC) Manual in any of Divisions A, B, D, and I and who:

(1) Has a discharge flow of fifty thousand (50,000) gallons or more per average work day;

(2) Has a flow greater than five percent (5%) of the now in the improvement's wastewater treatment system;

(3) Has in his wastes toxic pollutants in toxic amounts as defined in standards issued under Section 307(a) of the Federal Act; or

(4) Is found by the Superintendent to have significant impact, either singly or in combination with other contributing industries, on the collection system, the treatment works or the quality of its effluent.

(5) Is found by the Superintendent to have significant impact, either singly or in combination with other contributing industries, on the collection system, the treatment works or the quality of its effluent.

B. Permit application.

(1) Users seeking a wastewater discharge permit shall complete and file with the Superintendent, an application in the form prescribed by the Superintendent, and accompanied by the applicable fees. The applicant may be required to submit, in units and terms appropriate for evaluation, the following information:

(a) Name, address and SIC number of applicant.

(b) Volume of wastewater to be discharged.

(c) Wastewater constituents and characteristics including but not limited to those mentioned in § 141-38 as determined by a laboratory approved by the Superintendent;

(d) Time and duration of discharge.

(e) Average and thirty-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any.

(f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by size, location and elevation.

(g) Description of activities, facilities and plant processes or the premises, including all materials, processes and types of materials which are or could be discharged.

(h) Each product produced by type, amount and rate of production; maximum seven-day average daily production in applicable units.

(i) Number and type of employees and hours of work.

(j) Maximum daily consumption of raw materials in applicable units.

(k) Schematic diagram showing sources of all wastewater in the plant. This will include the internal and pretreatment processes prior to entering the public sewers by the use of block diagrams with labels indicating the functions of each block.

(l) Influent source water analytical data if source used in industrial process if from a surface water body.

(m) Any other information as may be deemed by the Superintendent to be necessary to evaluate the permit application.

(2) The Superintendent will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Superintendent may issue a wastewater discharge permit subject to terms and conditions provided herein.

C. Permit conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other regulations, user charges and fees established by the improvement. The conditions of wastewater discharge permits shall be uniformly enforced by the Superintendent in accordance with this chapter and applicable state and federal regulations. Permits may contain the following:

(1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a public sewer.

(2) The average and maximum wastewater constituents and characteristics.

(3) Limits on rate and time of discharge or requirements for flow regulations and equalization.

(4) Requirements for installation of inspection and sampling facilities.

(5) Pretreatment requirements.

(6) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards for tests and reporting schedule.

(7) Requirements for submission of technical reports or discharge reports.

(8) Requirements for maintaining plant records relating to wastewater discharge as specified by the Superintendent and affording the Superintendent's access thereto.

(9) Mean and maximum mass emission rates or other appropriate limits when incompatible pollutants (as defined in § 141-2B) are proposed or present in the user's wastewater discharge.

(10) Other conditions as deemed appropriate by the Superintendent to ensure compliance with this chapter.

D. Duration of permits. Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. If the user is not notified by the Superintendent thirty (30) days prior to the expiration of the permit, the permit shall be extended one (1) additional year. The terms and conditions of the permit may be subject to modification and change by the Superintendent during the life of the permit as limitations or requirements as identified in Article VII are modified and changed. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

E. Transfer of a permit. Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation.

F. Revocation of permit. Any user who violates the following conditions of the permit or of this chapter or applicable state and federal regulations, is subject to having his permit revoked:

(1) Failure of a user to factually report the wastewater constituents and characteristics of his discharge.

(2) Failure of the user to report significant changes in operations or wastewater constituents and characteristics.

(3) Refusal of reasonable access to the user's premises for the purpose of inspection and/or monitoring.

§ 141-52. Confidential information.

A. All information and data on a user obtained from reports, questionnaires, permit application, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Superintendent that the release of such information would divulge information, processes or methods which would be detrimental to the user's competitive position.

B. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available to governmental agencies for use in making studies; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings Involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

C. Information accepted by the Superintendent as confidential, shall not be transmitted to any governmental agency or to the general public by the Superintendent until and unless prior and adequate notification is given to the user.

ARTICLE X
Inspections

§ 141-53. Inspectors; right of entry.

The Superintendent, the Engineer, agents of the United States Environmental Protection Agency, and other duly authorized employees of the Improvement bearing proper credentials and identification shall be permitted to enter upon all properties subject to this chapter for the purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this chapter.

ARTICLE XI
Penalties for Offenses

§ 141-54. Correction of violations.

Any person found to be violating any provision of this chapter except § 141-54 shall be served by the improvement 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.

§ 141-55. Penalties for offenses.(17)

Any person, individual, firm, corporation or partnership who violates any provision of this chapter shall be guilty of a violation and subject to a fine of not more than two hundred fifty dollars ($250.) or to imprisonment for not more than fifteen (15) days, or both fine and imprisonment. When a violation of any of the provisions of this chapter is continuous, each week or portion thereof shall constitute a separate and distinct violation.

§ 141-56. Additional remedies.

As an alternative, upon violation of this chapter, the Town Board, 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.

§ 141-57. Offenders to be liable for damages.

Any person violating any of the provisions of this chapter shall become liable to the improvement for any expense, loss, or damage occasioned the improvement by reason of such violation.

ARTICLE XII
Appeals

§ 141-58. Appeal board.

The Town Board shall act as the appeal board in the event that there should be any discrepancies between the Superintendent and the user.

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(17) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

SITE PLAN REVIEW

Chapter 145

§ 145-1. Title.

§ 145-2. Planning Board Approval of Certain Site Plans.

§ 145-3. Legislative authority.

§ 145-4. Purpose.

§ 145-5. Applicability.

§ 145-6. Application procedure; design standards.

§ 145-7. Review standards.

§ 145-8. Approval conditions.

§ 145-9. Changes in plan or use.

§ 145-10. Approval required prior to issuance of building permit.

§ 145-11. Hearing; approval or denial.

§ 145-12. Guarantee of Site Improvements

§ 145-13. Expiration of approval.

§ 145-14. Waiver of provisions.

§ 145-15. Existing and nonconforming uses.

§ 145-16. Penalties for offenses.

§ 145-17. Filing fees.

[HISTORY: Adopted by the Town Board of the Town of Ulster 4-19-2011 as L.L. No. 3- 2011 deleting, repealing and replacing as hereby enacted.]

GENERAL REFERENCES

Building construction and fire prevention - See Ch. 61. Flood damage prevention - See Ch. 87.
Sewers - See Ch. 141.
Subdivision of land - See Ch. 161. Zoning - See Ch. 190.
Fees - See Ch. A194.
Site plan review regulations - See Ch. A196.

§ 145-1. Title.

The title of this chapter shall be the "Town Of Ulster Site Plan Review Law."

§ 145-2. Planning Board approval of certain site plans.

A. Notwithstanding any other contrary provisions of this chapter, the following actions shall be subject to review and approval by the Planning Board only and shall not be referred to or require action by the Town Board.

(1) Applications for all free-standing signs and billboards.

(2) Site plans for new structures or additions of less than 2,500 square feet of gross floor area.

(3) Site plans where no structure is proposed and which utilize a ground area of less than one (1) acre.

(4) Site plans involving the change of use of an existing structure.

(5) Revisions to any previously approved site plan which did not qualify under this section but where such revision does not exceed the limits set forth in (2) or (3) above.

B. Procedures. The procedures and standards set forth in § 145-6 and 7 shall apply to site plans reviewed in accordance with this section

§ 145-3. Legislative authority.

Enacted according to the authority granted by the provisions of Town Law, §§ 274 and 274-a, and pursuant to the procedures and purposes set forth in Town Law §§ 261, 264, 266, 267, 268, 280 and 280-a, Article IX New York State Constitution and § 10 of the Municipal Home Rule Law.

§ 145-4. Purpose.

To provide a procedure whereby the Town Board or Planning Board shall approve, approve with modifications or conditions or disapprove site plan applications after public hearing, if required, and following referral to and advisory report of the Planning Board when required in order to review the provisions for parking, means of access, screening, signs, landscaping, location and dimensions of buildings, drainage, traffic flow and impact of proposed use or uses on adjacent land uses. All such new uses or structures covered by this chapter are referred to herein as the "proposed use or uses."

§ 145-5. Applicability.

A. Approval required. This site plan review law shall apply to all proposed changes in land uses and to the proposed design, construction, and/or change of use of all structures in the Town of Ulster, including residences, multiple dwellings, row or attached dwellings, institutions, community facilities, office buildings, laboratories, stores, shops, theaters, restaurants, business establishments or industrial plants unless excluded below.

B. Exceptions. This chapter shall not apply to the construction or use of the following:

(1) A single-family residence situated on a lot which was approved by the Planning Board under § 276 of the Town Law which otherwise complies with the provisions of this chapter.

(2) A single-family residence on a lot which existed prior to the enactment of subdivision regulations within the Town of Ulster which has been subsequently owned at all times separate and apart from any other contiguous lands of the fee owner and which otherwise complies with the provisions of this chapter.

(3) Agricultural uses, including farm buildings, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes which are situated on a parcel of at least five (5) acres in size which buildings or uses are located at least fifty (50) feet from the bounds of any lot line or public road.

(4) The addition of garages, carports, porches, cellars, patios, greenhouses, solariums or uninhabitable basements or attics appurtenant to existing single-family residences, provided that they comply with the minimum setback requirements of §190-27(H) and §190-69 of the Town Code entitled “Table of Lot and Bulk Requirements.”

(5) *Interior alterations,* which do not change the use of the structure.

(6) *Exterior alterations,* involving normal maintenance and repair to any building or structure, except for alternations involving changes to the exterior involving a material deviation from the existing *color scheme* of any multi-family, institutional, commercial or industrial building or structure.

(1) Repair, replacement, upkeep or maintenance of any building or structure, which is in compliance with this and any other applicable laws or regulations of the Town of Ulster.

(2) Changes in ownership or changes in retail or commercial uses, which do not substantially change the nature of the goods sold or services provided.

§ 145-6. Application procedure; design standards.

A. Application. The application for a site plan review and approval, together with copies of the site plan and related drawings shall be submitted by the owner to the Planning Board Secretary with copies for transmittal to the Town Board, the Building Inspector and the Planning Board at least ten (10) days prior to the Planning Board meeting scheduled to consider the site plan in question. References in this chapter to "owner" shall also include the attorney and/or authorized representative of the owner for the purposes of application and representations made during the review process. The application shall be reviewed in accordance with the following procedures and standards.

B. Supporting documentation required. In order for the Planning Board or Town Board to properly consider the proposed use or uses in compliance with this chapter, the Board may require the owner to submit, as warranted on a case-by-case basis, a site plan and supporting data, which has been prepared by and shall bear the signature and seal of an architect, landscape architect, engineer, land surveyor or planner, and shall include the following information accompanied by a written summary describing the intent of the project in question.

(1) A survey of the property, showing existing features of the property, including buildings, structures, densely vegetated areas, streets, utility easements, rights-of- way, land use and sign locations and contours on properties over two (2) acres in size.

(2) A site plan, drawn to reasonable scale not to exceed one (1) inch equals one hundred (100) feet, showing proposed building locations, traffic circulation, both internal and external, parking and loading spaces and pedestrian walks.

(3) Landscaping plans, including site grading and landscape design and plant materials.

(4) Lighting photometric plan, showing lighting levels for all exterior lighting.

(5) Preliminary concept drawings for structures to be constructed shall be delineated, including general floor plans, exterior elevations, overall dimensions and designs and exterior construction materials.

(6) A description of proposed screening, and/or fencing, if applicable, including size, design, materials and buffer or perimeter strip.

(7) Location and provisions for management of storm water runoff.

(8) Preliminary site engineering concept plans, including street improvements, public utility systems and hydrant locations.

(9) A description of the proposed uses to the extent known, including hours of operation, number of employees, expected volume of business and type and volume of traffic to be generated and expected water and sewage use.

(10) The applicant shall describe the nature of any *environmental constraints* on the subject site.

(11) The applicant should verify whether any rare or endangered plant or animal species are present on the subject site.

(12) A Short or Full Environmental Assessment Form (EAF) shall be provided pursuant to the New York State Environmental Quality Review Act (SEQRA) plus a narrative and graphic description of Army Corp of Engineers (ACOE) or NYSDEC regulated wetlands, hydric soils, stream courses or slopes exceeding 15%.

C. Access to public street. No approval hereunder or building permit shall be granted or issued for the proposed use until the applicant demonstrates compliance with Town Law § 280-a. Compliance with § 280-a may be met in three ways:

(1) Access is provided to the site from a town, county or state street or highway.

(2) Private streets may be permitted within or appurtenant to multiple family dwelling projects or within the interior of commercial or industrial subdivisions. This provision shall not preclude the further division of commercial or industrial tracts that have been granted approval hereunder or under prior applicable laws of the Town of Ulster subject to compliance with the other provisions of this chapter and all other applicable municipal laws and regulations.

(3) Access is provided to the site from a town, county or state street or highway.

(4) Private streets may be permitted within or appurtenant to multiple family dwelling projects or within the interior of commercial or industrial subdivisions. This provision shall not preclude the further division of commercial or industrial tracts that have been granted approval hereunder or under prior applicable laws of the Town of Ulster subject to compliance with the other provisions of this chapter and all other applicable municipal laws and regulations**.**

(5) An owner may apply to the Town Board to establish *Open Development Areas* under § 280-a of NYS Town Law, where lots do not abut a suitably improved street (see also Section 190-17 (B) of the Town Code, which authorizes the Town Board to approve Open Development Areas.

§ 145-7. Review standards.

The Town Board or Planning Board shall review the site plan permit application data to determine compliance with the following objectives:

A. Conformance with the provisions of this chapter and any other laws or regulations then applicable to the proposed use within the Town of Ulster.

B. Adequacy and safety of vehicular circulation between the site and the street and/or between the site and adjacent properties.

C. The practicality of mitigation measures to minimize adverse impacts on adjacent uses.

D. Adequacy of interior site circulation, parking and loading facilities, with particular attention to vehicular and pedestrian safety.

E. Adequacy of landscaping, screening, buffering, plantings and setbacks in regard to providing reasonable compatibility with and protection of adjacent uses, particularly of residential subdivisions, and adequacy of maintenance provisions. The Planning Board is hereby expressly authorized to require such additional front, side and rear yard setbacks as may be required to ensure that the nonresidential use does not interfere with the quiet enjoyment of neighboring residential lands.

F. Provisions for public or other central water, sewer and drainage facilities for industrial and concentrated residential and commercial uses. Preferred status shall be given to Town Law Article 12 and 12-A district improvements financed pursuant to Local Finance Law.

G. Capacity of existing water mains, sewer lines, pumping stations, treatment facilities and storm water drainage facilities and downstream disposition and easements therefore.

H. Aesthetics and compatibility of building design and signage with other existing uses. The Planning Board and Town Board are hereby expressly authorized to review the exterior architectural features of the proposed construction, addition, alteration or remodeling of buildings, including architectural elevations, facade treatments, building exterior finish and ornamentation, signage, windows, lighting and colors; in order to ensure and convey an attractive appearance of any multi-family, institutional, commercial or industrial building or structure.

I. Hours and manner of operation and adequacy of measures to confine or minimize adverse effects of smoke, noise, glare, vibration, odors or other noxious or offensive activities.

J. Avoidance of dangerous or hazardous activities and adequacy of measures to minimize dangers or hazards.

K. The Planning Board or Town Board shall ensure that the design of each parking area provides adequate room for snow storage.

§ 145-8. Approval conditions.

A. Should changes or additional facilities be deemed necessary by the town to mitigate significant adverse impacts, final approval of the site plan shall be conditional upon the satisfactory compliance by the owner with said changes or additions. Building permits shall be issued by the Building Inspector in accordance with an approved site plan, which shall be signed by the appropriate officer of the Town Board and Planning Board and transmitted to the Building Inspector.

B. The Planning Board may require either the reservation of land or the payment of a fee in lieu of land for a park or other recreational purposes as provided by § 161-22(A) of this Code as a condition of the approval of a site plan application that has a residential purpose.

§ 145-9. Changes in plan or use.

The site plan must conform exactly to the plans as approved by the Planning Board. Any and all changes, except as otherwise provided in the resolution granting site plan approval will require formal site plan amendment approval by the Planning Board.

§ 145-10. Approval required prior to issuance of building permit.

No building permit shall be issued by the Town of Ulster for any use or construction coming within the provisions of § 145-4, Applicability, above, until the Town Board or Planning Board shall have granted final site plan approval therefore.

§ 145-11. Hearing; approval or denial.

A. The Planning Board or Town Board as the case may be may but shall not be required to hold a public hearing as provided for in Town Law, §274-a, Paragraph 2. The Planning Board shall make written findings of fact on the criteria above set forth and shall render its decision accordingly.

B. Referral. A full statement of a site plan application that meets the specific referral requirements of § 239-l and § 239-m of the General Municipal Law shall also be referred to the Ulster County Department of Planning for its review prior to the public hearing. No action shall be taken by the Planning Board or Town Board on such site plan application until an advisory recommendation has been received from said County Planning Department or 30 calendar days have elapsed since the County Planning Department received such full statement.

C. The Planning Board shall decide the matter or issue its advisory report and recommendation to the Town Board within sixty-two (62) days after the close of any public hearing or after receipt of a complete application if no hearing has been held.

D. The Planning Board or Town Board as the case may be shall recommend conditions to the grant of site plan approval and require such assurances and guaranties as deemed appropriate to ensure compliance with the terms of the proposed decisions and conditions. Representations and assurances made by the applicant in the application for approval shall be deemed of the essence in the decision process and shall be reflected as conditions on the site plan prior to approval thereof. If the Planning Board shall fail to decide the matter and issue its advisory report and recommendation to the Town Board within such period(s) **no** recommendation of approval shall be deemed provided and the application as presented shall be referred to the Town Board for final action.

E. The Town Board shall act to approve, modify and approve or disapprove within sixty (60) days after the Planning Board's decision, report and recommendation shall have been filed or the time to do so shall have elapsed. In the event that the Town

Board shall not have modified and approved or disapproved such proposed use within said sixty (60) no decision and report, the application shall be deemed to have been approved.

F. The map of the proposed use as finally approved, shall be endorsed by the Ulster County Health Department, if required, and shall be endorsed as approved by the authorized officers of the Planning Board and Town Board and a copy, so endorsed and bearing or accompanied by a statement of all conditions attached thereto, shall be filed in the office of the Town Clerk. A second copy, so endorsed, shall be filed in the office of the Clerk of Ulster County, a third copy, so endorsed, shall be filed in the office of the Town Planning Board, and a fourth copy, so endorsed, shall be delivered to the applicant.

§ 145-12. Guarantee of site improvements.

A. Subsequent to the granting of site plan approval, no certificate of occupancy shall be issued until all improvements shown on the site plan are installed. Upon a determination by the Town Board that extenuating circumstances prevent completion of all necessary improvements prior to occupancy and that it is in the Town's interest to permit such occupancy, the Board may authorize issuance of a certificate of occupancy upon provision of a sufficient performance guarantee by the applicant to ensure completion of improvements not yet completed.

B. Performance Guarantee Options. In order that the Town has assurance that the construction and installation of such improvements as storm sewers, water supply, sewage disposal, sidewalks, parking, landscaping and access roads will be completed in accordance with an approved site plan, the Town Board may require that the applicant provide one of the following methods of surety to the Town in an amount equal to the cost of all uncompleted improvements. The cost of such improvements shall be based on an estimate furnished by the applicant, and confirmed by the Building Inspector or Town Engineer.

(1) A bond executed by a surety company.
(2) A certified check.
(3) A letter of credit.

C. Conditions.

(1) The performance guarantee shall provide that the applicant, his/her heirs, successors, assigns, or his/her agent will comply with all applicable terms, conditions, provisions, and requirements of this law; and will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with the approved site plan.

(2) Any such guarantee shall require the approval of the Town Board in consultation with the Town Attorney as to form, sufficiency, manner of execution and surety.

(3) Certified checks shall be made payable to "The Town of Ulster" and will be placed in an escrow account established by the Town for this purpose.

(4) Letters of credit shall require the approval of the Town Board in consultation with the Town Attorney as to form, sufficiency, and manner of execution and shall be duly notarized.

D. Extension of Time. The construction or installation of any improvements or facilities for which a guarantee has been made by the applicant shall be completed within six (6) months from the date of approval of the certificate of occupancy. The applicant may request that the Town Board grant he or she an extension of time to complete such improvements, provided the applicant can show reasonable cause for inability to perform said improvements within the required time. The extension shall not exceed six (6) months, at the end of which time the Town may use as much of the surety to construct the improvements as necessary. The Board may also grant the applicant an extension of time to correct construction of improvements not performed in accordance with applicable standards and specifications.

E. Release of Surety. When surety is provided pursuant to the preceding sections, the Town and applicant shall enter into a written agreement itemizing the schedule of improvements and providing that each cost as listed may be repaid to the applicant upon completion and approval after inspection of such improvement or installation.

F. Inspections. Inspections during the installation of improvements shall be made by the Building Inspector or Town Engineer to insure conformity with the approved plans and specifications as contained in the contract and this law. The applicant shall notify the Building Inspector when each phase of improvements is ready for inspection. Upon acceptable final completion of installation and improvement, the Town Board shall issue a letter to the applicant or his/her representative that provides sufficient evidence for the release by the Town of the portion of the surety as designated in the contract to cover the cost of such completed work.

§ 145-13. Expiration of approval.

An approval of a proposed use by the Town Board shall be deemed to have expired unless:

A. Construction of the development shown on said map shall be actually commenced within twelve (12) months; and
B. Construction of the development shown on said map shall be fully completed, as to all buildings, structures, streets, and other improvements shown on said map, within three (3) years after the start of construction.

§ 145-14. Waiver of provisions.

The Town Board may vary or waive the provisions of this chapter in any specific case where, in its judgment, the circumstances justify such variance or waiver upon such terms and conditions as it may deem appropriate provided that such variation and/or waiver promotes the health or general welfare and orderly growth.

§ 145-15. Existing and nonconforming uses.

This chapter hereby amends by replacing all the terms and provisions of Site Development Local law No. 2 of 1974, which amended Local Law No. 1 of 1971. Any use approved by the Town Board under said Site Development Local law No. 2 of 1974 shall be a lawful use hereunder. Lawful uses existing prior to enactment of this chapter being nonconforming may continue as nonconforming uses but any expansion or change in such use shall be subject to the provisions of § 145-4 hereof.

§ 145-16. Penalties for offenses.

Failure of the applicant to conform to the representations made by the applicant in the application and hearing process or failure to conform to the terms and conditions of the site plan approval or this chapter shall be deemed a violation of the law and is declared to be an offense punishable by fines not exceeding the maximum set forth in Town Law § 268. In addition, the town may institute any appropriate action or proceedings pursuant to the provisions of Town Law § 268, Paragraph 2. The Building Inspector is charged with the enforcement of this chapter.

§ 145-17. Filing fees.

Each application submitted for approval shall be accompanied by a fee as provided in Chapter A194, Fees.

Chapter 147

NO SMOKING ON TOWN PROPERTY

[HISTORY: Adopted by the Town Board of the Town of Ulster 8-4-2022 as L.L. No. 3-2022]

§ 147-1. Legislative Findings and Intent

A. The Town Board of the Town of Ulster finds there is an increasing public awareness and acceptance of the dangers that smoking tobacco products, cannabis, e-cigarettes and other vaping products have on the health and well- being of the general public.

B. The Town Board of the Town of Ulster further finds it is in the Town' s best interest to do all it can to protect the Town' s property from the danger of fire posed by discarded tobacco, cannabis, and vaping products, as well as the prevalence of unsightly litter caused by same.

C. In light of the above findings, the Town Board of the Town of Ulster has adopted this Chapter of the Town Code of the Town of Ulster, the primary purpose of which is to ban all smoking and vaping on town owned property, except in specific designated areas.

D. The Town Board of the Town of Ulster further recognizes that the Clean Indoor Air Act, adopted by the New York State Legislature as Public Health Law, Article 13-E, § 1399- n et seq., already effectively prohibits smoking and vaping in almost all public and private indoor workplaces, as well as numerous specified outdoor areas. The Clean Indoor Air Act, however, allows localities to adopt and enforce local laws regulating smoking and vaping, as long as any such local law is at least as strict as the State Law. Accordingly, this legislation is enacted to enhance the prohibitions of the Clean Indoor Air Act as it pertains to property in the Town of Ulster.

§ 147-2. Prohibited Areas

Other than in specifically designed outside areas, smoking (principally, but not exclusively, meaning the use, ignition, and/ or consumption of tobacco products, cannabis, e-cigarettes and other vaping products) is prohibited in or upon any town - owned property, building, or facility, including but not limited to:

1. Town Hall, 1 Town Hall Drive;

2. Town Highway Department Complex, 584 East Chester Street Bypass;\

3. Robert Post Park;

4. Charles Rider Park;

5. Orlando Street Ball Park;

6. Town of Ulster Mini Parks.

§ 147-3. Enforcement

This chapter may be enforced by any law enforcement officer or agent, including but not limited to the Town of Ulster Police, New York State Police, Ulster County Sheriff, any other local police or peace officer, any Town of Ulster Code Enforcement Officer, or any other person so designated by the Town Board of the Town of Ulster.

§ 147-4. Penalties

Any person cited for violating this Chapter shall be subject to criminal prosecution and if found guilty of such violation, be sentenced to a term of imprisonment up to fifteen (15) days and/or fined up to $2,000.00 for each violation.

Chapter 149

SNOWMOBILES AND ALL-TERRAIN VEHICLES

§ 149-1. Statement of policy.

§ 149-2. Definitions.

§ 149-3. Unlawful acts.

§ 149-4. General regulations for all-terrain vehicles.

§ 149-5. Impoundment.

§ 149-6. Penalties for offenses.

§ 149-7. Exceptions.

§ 149-8. Conflicts with state law.

[HISTORY: Adopted by the Town Board of the Town of Ulster at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

GENERAL REFERENCES

Vehicles and traffic - See Ch. 181.

§ 149-1. Statement of policy.

Increased use of motorized sport bikes, hereafter called "all-terrain vehicles (ATV's)," and snowmobiles throughout the Town of Ulster without any regard for the rights of the property owners whose property is used for the operation of these ATVs and snowmobiles without the permission of said landowners and without regard for the noise emanating from said ATV's and snowmobiles and the dirt and dust raised up into the air by the operation of these ATV's has increased to such a degree that these ATV's and snowmobiles are not only hazardous and detrimental to property owners and residents but also to those who operate them with no regard for their own safety or the safety of others.

§ 149-2. Definitions.

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

MOTORIZED SPORT BIKE - Any all-terrain vehicle (ATV) that is motor-propelled or contains a motor to assist the operation of said vehicle, and which vehicles are commonly referred to as "dirt bikes," "minibikes," "go-karts," "all-terrain vehicles (ATVs)," "dune buggies" and "trail bikes," which vehicles, by their nature and design, are not intended to be used and operated along paved roads and highways but are intended, rather, to be operated in dirt, sand, up and down hills, along trails and in similar-type areas.

PRIVATE PROPERTY - All land and buildings in the Town of Ulster not included in the definition of "public property" nor part of the public road system.

PUBLIC PROPERTY - Lands and buildings owned or leased by the Town of Ulster, any school district, the County of Ulster or the State of New York or any other equivalent public body. This definition specifically excludes any public roadways owned or maintained by any of the aforementioned public entities.

§ 149-3. Unlawful acts.

It shall be unlawful:

A. To operate an ATV or snowmobile upon public property at any time without express consent or permit issued by the governmental agency in control of said property.

B. To operate an ATV or snowmobile on private property, other than that private property owned by the family of the operator, without the written consent of all of the owners of the private property.

C. To operate an ATV or snowmobile for sport or recreation during the period of 9:30 p.m. to 8:30 a.m.

D. To operate an ATV or snowmobile that does not comply with the requirements and regulations of the Department of Motor Vehicles of the State of New York. Should the Department of Motor Vehicles require registration or licensing of said vehicles, then it shall be unlawful to operate said vehicle without proper registration and licensing.

E. To operate an ATV or snowmobile that causes noises that are disturbing and bothersome to adjoining property owners.

F. To operate an ATV so as to cause it to propel sand, dirt, dust, rocks, gravel or other similar materials into the air so as to be likely to injure persons and/or damage property.

G. To operate an ATV or snowmobile on public or private property in such a way as to harass, worry or disturb farm animals, domestic livestock or wildlife or further to destroy or damage crops or farm produce.

H. To operate an ATV or snowmobile without a muffler or other similar device to reduce the sound coming from the engine of the vehicle.

I. To operate an ATV or snowmobile near any public roadway so that the operation of said ATV would cause operators of automobiles, motorcycles or trucks to have to take evasive or irregular action to move away from said ATV.

J. To operate an ATV or snowmobile without being in proper operating condition, which means that all of the original operating equipment specified by the original manufacturer must be present on the bike or replacement equipment equal to the specifications of the original manufacturer's equipment is present and in operating condition at least equal to the manufacturer's requirements for the proper operation thereof.

K. To operate an ATV or snowmobile on any private street or right-of-way within the Town of Ulster without the written permission of the owner of the private street or right-of- way.

L. To operate an ATV or snowmobile in a careless, reckless or negligent manner which endangers the safety of any person, including the operator himself, or the property of any person.

M. To operate an ATV or snowmobile while under the influence of liquor or drugs.

N. For a parent or guardian to authorize or knowingly permit a child or ward, if under sixteen (16) years of age, to operate an ATV or snowmobile in violation of any provision of this chapter or any rules or regulation promulgated thereunder.

O. For the owner or other person in possession of any ATV or snowmobile to authorize or knowingly permit any person under sixteen (16) years of age to operate such vehicle in violation of any provisions of this chapter.

§ 149-4. General regulations for all-terrain vehicles.

A. The operator of an ATV shall wear a helmet upon his head and goggles or face shields on his face, such as approved by the Department of Motor Vehicles of the State of New York.

B. No person operating an ATV or motorcycle shall engage in fancy or trick riding or ride without maintaining full control of the ATV or remove both hands from the handlebar.

C. No person operating an ATV shall carry any other person on it except in a place designated for such purpose and equipped for such purpose as part of the original manufacture for said purpose.

§ 149-5. Impoundment.

A. A police officer may impound any ATV or snowmobile if :

(1) The identity of the operator or owner of the ATV or snowmobile is unknown to the officer.

(2) The operator of the ATV or snowmobile has no evidence of permission to operate the same on private property.

(3) The operator is in violation of this chapter.

(4) The ATV or snowmobile was involved in an accident causing serious injury or death while operated in violation of this chapter.

B. The period of impoundment for the ATV or snowmobile shall be for such period of time as is necessary for police purposes, which shall include use of the vehicle for identification in any court action. Any person wishing to have an ATV or snowmobile released from impoundment must make motion before the appropriate court, and said ATV or snowmobile shall only be released upon court order. Upon receipt of said court order, the ATV or snowmobile shall be released by the Ulster Town Police Department upon payment of an impoundment fee of two hundred fifty dollars ($250.), which sum shall be payable to the Town Clerk, and any storage fees as incurred by the Ulster Police Department.

C. The Town Police Department, upon the order of the Chief of Police or his duly authorized subordinate, may, of its own violation, without court order, release such ATV or snowmobile if it deems that is has no further need of the vehicle for purposes of identification, but only after payment of the impoundment fee of two hundred fifty dollars ($250.) and storage fees as above.

§ 149-6. Penalties for offenses.

For any violation of the terms of § 155-3, Prohibited acts, and § 155-4, General regulations, the offender shall be liable for a penalty of not more than two hundred fifty dollars ($250.) or imprisonment for up to fifteen (15) days, or both.

§ 149-7. Exceptions.

This chapter shall not apply to the operation of ATV's or snowmobiles on premises owned by the operator in the course of his business or by employees of the owner on the business of the owner nor to the operation of ATV's or snowmobiles under circumstances regulated by any agency of the State of New York.

§ 149-8. Conflicts with state law.

In the event that this chapter or any of the provisions herein shall conflict or vary with existing or prevalent state law involving the operation of ATV'S, or snowmobiles, such inconsistencies, conflicts or variations shall be governed or controlled in favor of the state law.

Chapter 153

SPECIAL IMPROVEMENT DISTRICTS

§ 153-1. Statutory authority.

§ 153-2. Allocation of personal property, equipment, material and personnel.

§ 153-3. Allocation of costs and expenses.

[HISTORY: Adopted by the Town Board of the Town of Ulster 12-20-1978 by resolution. Amendments noted where applicable.]

GENERAL REFERENCES

Sewers - See Ch. 141. Water - See Ch. 177.

§ 153-1. Statutory authority.

Pursuant to the authority contained in § 208 of the Town Law of the State of New York, that the special improvement districts referred to above (1) be operated and administered jointly.

§ 153-2. Allocation of personal property, equipment, material and personnel.

Such personal property as may now or hereafter be acquired from time to time, equipment, material, supplies and personnel be allocated among the various districts to effectuate the purposes of this chapter.

§ 153-3. Allocation of costs and expenses.

The costs and expenses incurred be allocated among the various participating districts on the basis of the amount of service rendered.

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(1) Editor's Note: The preamble to this resolution referred to the Spring Lake Water District, the Halcyon Park Water District, the Ulster Sewer Improvement Area, the Wbittier Sewer District and the Ulster Water District.

Chapter 157
STREETS AND SIDEWALKS

ARTICLE I
Notice of Defects

§ 157-1. Prior notice of defects in highways required.

§ 157-2. Prior notice of defects in sidewalks required.

§ 157-3. Notices to be given to Town Clerk.

§ 157-4. Records to be kept.

§ 157-5. Construal of provisions.

ARTICLE II
Removal of Obstacles

§ 157-6. Removal; time period for compliance.

§ 157-7. Obstructing streets or sidewalks prohibited.

§ 157-8. Removal by town; costs to become lien.

ARTICLE III
Excavations and Driveways

§ 157-9. Permit required; bond; renewal of permit.

§ 157-10. Permit application.

§ 157-11. Deposit to accompany application.

§ 157-12. Additional permits and renewals; excavations to be guarded.

§ 157-13. Permits issued due to sewer break or obstruction.

§ 157-14. Filling of excavation.

§ 157-15. Penalties for offenses.

§ 157-16. Workers compensation coverage required.

§ 157-17. Emergencies.

ARTICLE IV
Temporary Blocking of Streets

§ 157-18. Purpose.

§ 157-19. Definitions.

§ 157-20. Permit required; application.

§ 157-21. Determination of approval or disapproval of permit application.

§ 157-22. Duration of permit; time limitations.

§ 157-23. Cleanup required.

§ 157-24. Blocking of roads.

§ 157-25. Limitation on number of permits issued.

[HISTORY: Adopted by the Town Board of the Town of Ulster: Art. I, 4-10-1975 as L.L. No. 1-1975; Art. II, 4-10-1975 as L.L. No. 2-1975, amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. 1); Art. III, 10-10-1985 as L.L. No. 4-1985; § 157-17, Sections 157-9 and 157-15 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable. Art. IV adopted, 10-19-2010 as L.L. No. 7-2010]

GENERAL
REFERENCES

Appearance tickets - See Ch. 7.
Subdivision of land - See Ch. 161.

ARTICLE I
Notice of Defects
[Adopted 4-10-1975 as L.L. No. 1-1975]

§ 157-1. Prior notice of defects in highways required.

No civil action shall be maintained against the Town of Ulster or the Town Superintendent of Highways of the Town of Ulster, or against any improvement district in the Town of Ulster 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 Ulster, or any property owned by any improvement district, 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 Ulster, or any property owned by any improvement district, was actually given to the Town Clerk of the Town of Ulster or the Town Superintendent of Highways of the Town of Ulster, and that 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 Ulster, or any property owned by any improvement district in the Town of Ulster, unless written notice thereof, specifying the particular place, was actually given to the Town Clerk of the Town of Ulster or the Town Superintendent of Highways of the Town of Ulster 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

§ 157-2. Prior notice of defects in sidewalks required.

No civil action shall be maintained against the Town of Ulster and/ or the Town Superintendent of Highways of the Town of Ulster for damages or injuries to person or property sustained by reason of any defect in the sidewalks of the Town of Ulster 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 Ulster or the Town Superintendent of Highways of the Town of Ulster 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 Ulster or to the Town Superintendent of Highways of the Town of Ulster, 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.

§ 157-3. Notices to be given to Town Clerk.
The Town Superintendent of Highways of the Town of Ulster shall transmit, in writing, to the Town Clerk of the Town of Ulster, within ten (10) days after receipt thereof, all written notices received by him pursuant to this Article.

§ **157-4. Records to be kept.**
The Town Clerk of the Town of Ulster shall keep an index record in a separate book, of all written notices which he 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, which record shall state the date of the receipt of the notice, the nature and location of the condition stated to exist, and the name and address of the person from whom the notice is received. The record of each notice shall be preserved for a period of five (5) years after the date it is received.

§ 157-5. Construal of provisions.
Nothing contained in this Article shall be held to repeal or modify or waive any existing requirement or statute of limitations which is applicable to these classes of actions but, on the contrary, shall be held to be additional requirements to the right to maintain such action, nor shall anything herein contained be held to modify any existing rule of law relative to the question of contributory negligence, nor to impose upon the Town of Ulster and/or any of its improvement districts any greater duty or obligation than it shall keep its streets, sidewalks and public places in a reasonably safe condition for public use and travel.

ARTICLE II
Removal of Obstacles
[Adopted 4-10-1975 as L.L. No. 2-1975; amended in its entirety at time of adoption of Code] (1)

§ 157-6. Removal; time period for compliance.
Every owner, lessee, occupant and other person having charge of any building or lot of ground in the Town of Ulster, fronting or abutting upon any sidewalk along any street in the said town shall, within twenty-four (24) hours, after cessation of every fall of snow or the formation of any ice on the sidewalk abutting said building or lot of ground, or upon written notice to remove obstacles, obstructions, remove or cause the said snow or ice to be removed or cleared entirely from said sidewalk abutting said building or lot of ground, excepting snow deposits deposited by other persons, firms, corporations or municipalities, provided that, in case the snow or ice on any sidewalk abutting said building or lot of ground shall be frozen so hard that it cannot practically be removed, the owner, lessee, occupant or other person or persons having charge thereof shall, within the time hereinabove specified, cover or cause the said abutting sidewalk to be covered and strewn with ashes, sand or similar material and shall, as soon

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(1) Editor's Note: See Ch. 1, General Provisions, Art 1.

thereafter as the weather will permit, thoroughly clean said sidewalk and remove the said ice and snow therefrom.

§ 157-7. Obstructing streets or sidewalks prohibited.

No person, firm or corporation or municipality, the owner, tenant, or occupant of any premises abutting on any street shall obstruct or block access along or throw, place or deposit any snow or ice into or upon any street or sidewalk in the Town of Ulster, it being the intent and purpose of this provision to prohibit all persons from throwing, casting, placing or depositing materials, debris, equipment, snow and ice which accumulated within the private property belonging to said person, upon the sidewalks or streets in said town.

§ 157-8. Removal by town; costs to become lien.

In case such materials, equipment, snow or ice shall not be removed from such sidewalks, or shall be cast, deposited thereon or placed upon said sidewalks or said streets by the owner or owners, tenant or tenants, occupant or occupants of any said premises, as provided in §§ 157-6 and 157-7 hereof, the same shall be removed forthwith under the direction of the Superintendent of Highways and the cost of such removal as nearly as can be ascertained shall be certified by the Superintendent of Highways to the Town Board. The Town Board shall examine such certification and if found to be correct shall cause such cost to be charged against such real estate so abutting or bordering upon such sidewalks and the amount so charged shall forthwith become a lien and a tax upon such real estate or land and be added to, recorded and collected in the same way and manner as the taxes next to be levied and assessed upon such premises, and shall bear interest and be enforced and collected by the same officers and in the same manner as other taxes.

ARTICLE III
Excavations and Driveways
[Adopted 10-10-1985 as L.L. No. 4-1985]

§ 157-9. Permit required; bond; renewal of permit.(2)

No cut, break, trench or excavation shall be made in the pavement, street surface or the sidewalk area nor the blocking off of a portion of a sidewalk shall be made for any purpose whatsoever in any street in the Town of Ulster, Ulster County, New York, nor shall a driveway or other entrance from a public road be opened, without first obtaining from the Town

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(2) Editor's Note: Amended at time of adoption of Code; see Ch.1, General Provisions, Art. I.

Highway Superintendent a written permit for the making of such a cut, trench or excavation, drive or entrance, which permit shall specify the purpose for which the permit is asked and the name of the corporation or person making application thereof, whether or not such corporation or person has duly filed a bond or certificate of insurance for public liability and property damage with the Town Clerk, holding the town harmless in case of accident. Such permit shall be valid for a period of not more than fifteen (15) days after the date of issuance of the same, after which the said permit shall lapse and become null and void. If the work for which such permit is issued is not completed within the said period of fifteen (15) days, the corporation or person doing such work may apply for a renewal of said permit and the Town Highway Superintendent may grant such renewal subject to the same limitations and conditions obtained in the issuance of the original permit.

§ 157-10. Permit application.

Application for such permit must be made in person by the corporation or person who filed the necessary bond or certificate of insurance at the office of the Superintendent of Highways, Town of Ulster Garage, Lake Katrine, New York, during the regular office hours.

§ 157-11. Deposit to accompany application.

Application for such permit must be accompanied by a cash deposit or certified check payable to the Town of Ulster and deposited with the Town Clerk. The same to cover the repaving charges at rates approved by the Town Superintendent of Highways for the type of streets and pavement.

§ 157-12. Additional permits and renewals; excavations to be guarded.

No further permits or renewals thereof shall be issued by the Town Highway Superintendent unless and until any and all charges existing, levied or certified by the Town Highway Superintendent against the corporation or person granted the permit are paid and satisfied in full. All excavations or trenches must be properly protected by necessary guards, sheathing and bracing; and must also be protected by adequate lights at night and the corporation or person granted such permit shall be responsible for all claims for damages resulting from any cause connected with the making of such cut, trench or excavation. The corporation or person granted the permit must cause to be placed at the excavation in a conspicuous place, a sign which will be issued to him by the Town Highway Superintendent at the time of the issuance of the permit. This sign must not be removed from the place of excavation until the work is completed.

§ 157-13. Permits issued due to sewer break or obstruction.

A. In case of permit issued under this Article because of a break or obstruction in a sewer, the corporation or person receiving the permit shall excavate to a depth of eight (8) feet only. At that point, the corporation or person holding the permit shall notify the Town Highway Department, and the Highway Department shall then take over or supervise the work of excavation.

B. In the event that a person or corporation granted such permit shall block off the entire sidewalk area, a temporary sidewalk to safeguard pedestrian traffic shall be barricaded off. The area affected must be adequately illuminated at night. The corporation or person granted such permit shall be responsible for all claims for damages resulting from any cause connected with such excavation or blocking off of this area.

§ 157-14. Filling of excavation.

The refilling materials of such trench or excavation shall be approved by the Highway Department of the Town of Ulster and done in the proper manner for filling cuts, trenches or excavations and in a workmanlike manner by the corporation or person receiving said permit who shall then notify the Town Highway Department that he has completed this work and the Town Highway Superintendent shall then relay the pavement over the said cut, trench or excavation and the cost of repaving said cut, trench or excavation as certified by him shall be paid by the corporation or person granted such permit If such cost of repaving said cut, trench or excavation or sewer service charge is not satisfied in full by the corporation or person receiving such permit, the cost shall be a lien against the property so connected and it may be collected in the same manner as special assessments as provided by the Real Property Tax Law of the State of New York.

§ 157-15. Penalties for offenses.(3)

Any person violating any of the provisions of this Article shall be guilty of a violation and shall be punished by a fine of not exceeding two hundred fifty dollars ($250.) or imprisonment for not exceeding fifteen (15) days, or both.

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(3) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art 1.

§ 157-16. Workers compensation coverage required.

In the event that one (1) or more persons are employed by the party or corporation seeking the permit for the within described work, a certificate showing the said employee or employees are covered by the Workmen's Compensation shall be submitted to the Highway Department before such a permit is issued.

§ 157-17. Emergencies.

In case of emergencies, such as (but not limited to) gas leaks or broken water or sewer lines, this entire Article shall be abided by, except that the work may begin as soon as possible after the emergency is found to exist and notification has been given to the Town of Ulster Police Department. Application for a permit must then be made on the next business day.

ARTICLE IV
TEMPORARY BLOCKING OF STREETS
[Adopted 8-19-2010 as L.L. No. 7-2010]

§ 157-18. Purpose.

This chapter is adopted pursuant to the authority set forth in Town Law § 64, Subdivision 10-b. The purpose of this chapter is to provide for the temporary blocking of town streets, highways and roads in a safe manner to allow neighborhoods to have neighborhood block parties, celebrations, graduation parties, fire parades or other like events.

§ 157-19. Definitions.

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

PARTY -- A neighborhood block party, celebration or event as provided in Town Law § 64, Subdivision 10-b, but shall not include a garage sale, yard sale, bazaar, rummage sale or other similar activity having the principal purpose as fundraising for an individual or organization, nor shall it include a political meeting or rally, carnival or theatrical or musical performances, such as rock concerts or similar events.

STREET -- A town street, highway or road.

§ 157-20. Permit required; application.

1. Any person, before blocking or barricading a road in the Town of Ulster for purposes of holding a block party, celebration, graduation party, fire parade or other like event, shall obtain a permit from the Town Highway Superintendent.

2. The Superintendent of Highways shall be authorized to issue a permit for the temporary blocking of a street for the purpose of holding a party. Such permit shall allow the temporary blocking of a road on one (1) particular date only, and during a specified time period which shall be of a single duration. An application for such permit shall be filed with the Superintendent of Highways at least ten (10) days before the commencement of such party. Such application shall contain the following information:

   (1) The name and address of applicant.
   (2) The name of the street or streets and the description of the portions thereof to be blocked.
   (3) A description of the specific party to be held.
   (4) The date and the hours thereof.

3. The exact specific nature of the form of the permits shall be determined by the Superintendent of Highways.

§ 157-21. Determination of approval or disapproval of permit application.

The permit shall be granted by the Superintendent of Highways upon determining that the party is authorized by Town Law § 64, Subdivision 10-b, and this chapter. The permit shall be denied if the Superintendent finds that blocking the street or portion thereof on the date requested in the application will unduly interfere with the flow of vehicular traffic or upon determining that the party is not authorized under Town Law § 64, Subdivision 10-b, and this chapter. The Superintendent of Highways shall advise the applicant, in writing, of the reason for denial of the application. There will be no fee charged for the permit.

§ 157-22. Duration of permit; time limitations.

A permit issued pursuant to this chapter shall be valid only for the date and hours specified thereon, which shall not be before 8:00 a.m. or after 11:00 p.m.

§ 157-23. Cleanup required.

The applicant shall be responsible for the removal of litter, debris and other materials from the street or portion thereof used for the party which is attributable to or caused by the party.

§ 157-24. Blocking of roads.

1. Prior to the commencement of the time for which the road is to be blocked, the Town Highway Superintendent shall cause the street or portion thereof to be blocked by devices of his choice to motor vehicles except authorized emergency or hazard vehicles, as the same are defined in the Vehicle and Traffic Law, and to provide detour signs for vehicular traffic. No other person shall in any manner block or place barricades in the road.

2. A street or portion thereof blocked off for a party shall not be obstructed by picnic tables and shall not be obstructed by other obstacles which cannot be readily moved to allow emergency or hazard vehicles to enter in response to an emergency.

3. The Town Highway Superintendent shall notify the Ulster County Sheriff's Department, New York State Troopers and appropriate Fire Company and Rescue Squad of the date and time of the road blocking at the time the permit is issued by telephone call followed by written confirmation.

§ 157-25. Limitation on number of permits issued.

No more than two (2) permits shall be granted by the Town Highway Superintendent in any calendar year for the same neighborhood.

Chapter 161

SUBDIVISION OF LAND

ARTICLE I
General Provisions

§ 161-1. Planning Board granted power to approve plats.

§ 161-2. Policy.

§ 161-3. Conflicts with statutory provisions.

§ 161-4. Waiver of provisions.

§ 161-5. Plats straddling municipal boundaries.

§ 161-6. Resubdivision.

§ 161-7. Penalties for offenses.

§ 161-8. Amendments.

§ 161-9. Definitions.

ARTICLE III
Application, Review and Approval Procedures

§ 161-10. General procedure.

§ 161-11. Preapplication conference.

§161-11.1 Lot Line Adjustment.

§ 161-12. Sketch plan.

§ 161-13. Preliminary plat.

§ 161-14. Subdivision plat.

§ 161-15. Required improvements.

§ 161-16. Filing of approved subdivision plat.

§ 161-17. Status of streets, parks and easements.

ARTICLE IV
General Requirements and Design Standards

§ 161-18. General requirements.

§ 161-19. Streets.

§ 161-20. Blocks.

§ 161-21. Lots.

§ 161-22. Reservations and easements.

§ 161-23. Monuments; improvements.

ARTICLE V

Documents to be Submitted

§ 161-24. Sketch plan.

§ 161-25. Preliminary plat.

§ 161-26. Plat.

[HISTORY: Adopted by the Planning Board of the Town of Ulster 2-14-1985; approved by the Town Board 2-28-1985. Sections 161-7, 161-13A, 161-14A, 161-21A, 161-25B and 161-26A amended during codification; see Ch. 1, General Provisions, Art II. Other amendments noted where applicable. Ulster Town Board adopted Local Law #2 of 2006, to amend 161-22 (a) paragraphs (3) & (4), dated 12-18-2006]

GENERAL REFERENCES

Building construction and fire prevention - See Ch. 61. Flood damage prevention - See Ch. 87.
Sewers - See Ch. 141.
Site plan review - See Ch. 145. Zoning - See Ch. 190,
Fees - See Ch. A 194.

ARTICLE I
General Provisions

§ 161-1. Planning Board granted power to approve plats.

By the authority of the resolution of the Town Board of the Town of Ulster, Ulster County, New York, adopted pursuant to the provisions of Article 16 of the Town law of the State of New York, the Planning Board of the town is authorized and empowered to approve plats showing lots, blocks or sites, with or without streets or highways, to approve the development of entirely or partially undeveloped subdivisions for which plats are already filed in the office of the County Clerk and to conditionally approve preliminary plats.

§ 161-2. Policy.

It is declared to be the policy of the town to consider land subdivisions as part of a plan for the orderly, efficient and economical development of the town. This means, among other things, that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace; that proper provisions shall be made for drainage, water supply, sewage and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed streets shall compose a convenient system conforming to the Official Map, when adopted, and shall be properly related to the proposals shown on the Town Development Plan, and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and to provide access of fire fighting equipment to buildings; and that proper provision shall be made for open spaces for parks and playgrounds. All land is not necessarily suitable for subdivision.

§ 161-3. Conflicts with statutory provisions.

Should any of these regulations conflict or be inconsistent with any provision of the New York State Town law, such provision of the New York State Town law shall apply.

§ 161-4. Waiver of provisions.

The Planning Board may waive, subject to appropriate conditions, the provision of any or all such improvements and requirements as in its judgment of the special circumstances of a particular plat or plats are not requisite in the interest of the public health, safety and general welfare, or which in its judgment are inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision or would cause unusual hardship, provided that the public interest is protected and the development is in keeping with the general spirit and intent of these regulations, the Town Official Map, when adopted, the Site Development Law,(1) and the Town Development Plan.

However, no procedural steps set forth in Article III shall be waived or omitted, except as provided in § 161-10B. A waiver shall not be granted except by a vote of a majority plus one (1).

§ 161-5. Plats straddling municipal boundaries.

Whenever access to the subdivision is required across land in another municipality, the Planning Board may request assurance from the Town Attorney that access is legally established and from the Town Engineer that the access road is adequately improved, or that a performance bond has been duly executed and is sufficient in amount to assure the construction of the access road. In general, lot lines should be laid out so as not to cross town boundary lines.

§ 161-6. Resubdivision.

For a resubdivision, the same procedure, rules and regulations shall apply as for a subdivision.

§ 161-7. Penalties for offenses. [Amended 1-14-1991 by resolution]

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 the Planning Board is required to act without submitting the subdivision for review, on or before favorable referral and final approval has been obtained, such person shall be subject to a fine not to exceed two hundred fifty dollars ($250.) or imprisonment for not more than fifteen (15) days, or both. Each parcel, plot or lot so disposed of shall be deemed a separate violation. Furthermore, no building permit shall be issued for any such parcel, plot or lot that is in violation of these regulations.

§ 161-8. Amendments.

These regulations or any portion thereof may be amended, supplemented or repealed at any time by the Planning Board in accordance with New York State Town law.

ARTICLE II
Definitions

§ 161-9. Definitions.

For the purpose of these regulations, certain words and terms used herein are defined as follows:

EASEMENT - Authorization by a property owner for the use by another, and for a

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(1) Editor's Note: See Ch. 145, Site Plan Review.

specified purpose, of any designated part of the property.

FINAL PLAT, PLAT or SUBDIVISION PLAT - A drawing prepared in a manner prescribed by these regulations, showing a proposed subdivision, containing in such additional detail as shall be provided by these regulations all information required to appear on a preliminary plat and the modifications, if any, required by the Planning Board at the time of approval of a preliminary plat of such proposed subdivision, if such preliminary plat has been so approved.

LOT LINE ADJUSTMENT - The transfer of land between two adjoining parcels by relocating the boundary line between the two parcels so that no new lot is created, or the combination of one or more lots. A lot line adjustment is not a "subdivision" or "resubdivision" as defined herein. [**Added 7-6-2004]**

LOT LINE REVISION - The adjustment of the property line between two (2) adjoining parcels which does not result in the creation of a new buildable lot, but is intended to be used in conjunction with and as a part of an existing lot. (This is a minor subdivision.)

OFFICIAL DATES OF SUBMISSION - The dates when a sketch plan, preliminary plat or final plat shall be considered submitted to the Planning Board, hereby defined to be the date of the regular monthly meeting of the Planning Board at least ten (10) days prior to which all required surveys, plans, data and fees are filed with the Chairman or other authorized person of the Planning Board. An application subject to state environmental quality review is not officially submitted until the first regular meeting following completion of SEQR processing: either a negative declaration, or positive declaration and approval of mitigation measures.

OFFICIAL MAP - The map, when established by the Town Board pursuant to § 270 of the Town Law, showing streets, highways, parks and drainage, whether existing or proposed. In the absence of an Official Map, the Planning Board shall determine the classification of streets based on functional description and prospective land use.

PLANNING BOARD - The Planning Board of the Town of Ulster.

PRELIMINARY PLAT - A drawing prepared in a manner prescribed by these regulations, showing the layout of a proposed subdivision, including but not restricted to road and lot layout and approximate dimensions, key plan, topography and drainage, all proposed facilities unsized, including preliminary plans and profiles, at suitable scale and in such details as these regulations may require.

RESUBDIVISION - Any change in the plat of a subdivision which has previously been filed in the office of the County Clerk.

SKETCH PLAN - A freehand diagram showing the general features of a proposed subdivision in accordance with these regulations.

STREET - A right-of-way for vehicular traffic, including road, avenue, lane, highway or other way which is an existing public way or a way shown upon a subdivision plat approved by the Planning Board as provided by Town Law, or on a plat duly filed and recorded in the office of the County Clerk.

STREET, COLLECTOR OR SECONDARY - A street which serves or is designed to connect minor streets to the major street system.

STREET, LOCAL OR MINOR - A street intended to primarily provide access to abutting property.

STREET, MAJOR - A street which serves or is designed to carry fast-moving or through traffic.

SUBDIVIDER - Any person, firm, corporation, partnership or association who shall lay out any subdivision or part thereof as defined herein, either for himself, herself or others.

SUBDIVISION – [NOTE: For state definitions, see Public Health Law § 1115 (l); Environmental Conservation Law § 171501.] The division of any land into two (2) or more lots, blocks, parcels or sites, regardless of size. "Subdivision" includes the division of any land for the purpose of offer, sale, lease or development, either on the installment plan or upon any and all other plans, terms and conditions, including resubdivision. "Subdivision" includes the division or development of residential and nonresidential zoned land or land intended for either purpose. [Any parcel of land divided into two (2) is automatically a “subdivision.”]

SUBDIVISION, MAJOR - Any subdivision containing more than three (3) lots or any subdivision requiring any new municipal street, street extension or extension of municipal facilities. (See also "lot line revision")

SUBDIVISION, MINOR - Any subdivision containing not more than three (3) lots which does not require any new municipal street, street extension or extension of municipal facilities.

TOWN BOARD - The Town Board of the Town of Ulster.

TOWN DEVELOPMENT PLAN - A comprehensive plan for the development of the town prepared by the Planning Board, pursuant to § 272-a of the Town Law, which indicates the general locations recommended for various public works and reservations, and for the general physical development of the town, and including any part of such plan separately adopted an any amendment top such plan or parts thereof.

TOWN ENGINEER - The Municipal Engineer, Town Superintendent of Highways, or anyone so designated by the Town Board.

SITE DEVELOPMENT LAW - The officially adopted Site Plan Review Law of the town, together with any and all amendments thereto, in accordance with Article 16 of the Town law. **[Amended 7-9-1987]**

OPEN SPACE - land which could remain forever wild and be free of man-made developments.

ARTICLE III
Application, Review and Approval Procedures

§ 161-10. General procedure.

Whenever any subdivision of land is proposed to be made and before any contracts for the sale or any offer to sell such subdivision or any part thereof is made, and before any permit for erection of a structure in such proposed subdivision shall be granted, the subdivider, or authorized agent, shall apply for approval of such proposed subdivision in accordance with the following procedure:

A. Major subdivision. For a major subdivision:

(1) Preapplication meeting with Planning Board.

(2) Sketch plan showing general concept.

(3) State environmental quality review processing. [NOTE: State environmental quality review processing can be undertaken concurrently with subdivision review; however, official submission does not occur until state environmental quality review procedures are completed in accordance with Article 8 of the Environmental Conservation Law.]

(4) Preliminary plat showing proposal in detail.

(5) Preliminary public hearing.

(6) Review by town and non-town agencies.

(7) Plat or finalized proposal.

(8) Public hearing.

(9) Planning Board approval by resolution.

(10) Completion of improvements or posting of bond, certified checks or suitable alternative surety.

(11) Signing of plat by Planning Board.

(12) Filing of plat in County Clerk's Office.

B. Minor subdivision. For a minor subdivision, the same steps shall be followed as for a major subdivision, with the exception that the steps in Subsection A(4) and (5) may be omitted.

C. Lot line revision. In the case of a lot line revision between two (2) adjoining parcels, the Planning Board may waive any of the above requirements but in no case shall approval be granted for a lot line revision which will result in the creation of a nonconforming lot under the provisions of the Town of Ulster Local Law and State Building Code.

§ 161-11. Preapplication conference.

Before preparing a detailed proposal, the subdivider should make an appointment at a regular meeting of the Planning Board to familiarize himself or herself with the requirements of these and other regulations, the policies and plans of the Planning Board, and other information that may be pertinent to the subdivision. He or she should also discuss his or her proposal with the County Health Department, which is responsible for the adequacy of lot sizes and facilities for individual water supply and sewage disposal. Under certain conditions, the subdivider may also need the approval of the state or county highway agencies, the Ulster County Planning Board and others; therefore, the proposed subdivision should be discussed in advance with those agencies. At this time, the proper form of environmental assessment worksheet and general state environmental quality review procedures will be outlined and a tentative schedule developed for compliance with Part 617 of the New York Codes, Rules and Regulations.

§ 161-11.1. Lot line adjustment. [**Added 7-6-2004, LL#2 of 2004]**

At the initial conference and review, the Planning Board may determine that the proposed action qualifies as a lot line adjustment. In such case, it shall use the following procedures instead of those set forth in Section 161-12 through 14.

A. The Planning Board shall review the proposed lot line adjustment in order to make a finding that such action will not create any new non-conforming conditions under the Zoning Law with regard to lot size, setbacks or other required dimensions and will not impede the maintenance of existing or development of future access or utility services to the affected lots. If the Planning Board cannot make such a finding, it shall consider the application as a subdivision under the procedures set forth in Sections 161-12 through 14.

B. Upon approval of a finding as described in A., above, and receipt of a map prepared by a licensed surveyor which depicts the original lot line as "lot line to be deleted" and any proposed lot line as "new lot line", the Planning Board may approve the lot line adjustment and authorize filing of the approved map. A public hearing shall not be necessary.

§ 161-12. Sketch plan.

A. Prior to filing a preliminary plat, the subdivider, or duly authorized representative, shall submit a sketch plan showing the basic proposed layout and other information required in Article V of these regulations. At least four (4) copies of the sketch plan shall be delivered to the Chairman or other authorized official of the Planning Board. After submission of the sketch plan, the Planning Board may schedule a field trip to the site to be accompanied by the subdivider. To facilitate the inspection of the site, the subdivider shall have the center line of any proposed streets marked by temporary stakes. After review of the sketch plan and field inspection, and within forty-five (45) days of the official date of submission of the sketch plan, the Planning Board shall tentatively approve the sketch plan or recommend modifications in writing.

B. The Planning Board may request a technical review and analysis of the proposed sketch plan of its planning consultant and/or Town Engineer or other authorized persons.

§ 161-13. Preliminary plat.

A. Procedure. A preliminary plat shall then be prepared and submitted showing in detail how the subdivision is to be designed, the details of construction, any proposed covenants, and other items required in Article V. The Planning Board shall conduct a public hearing in

accordance with § 161-14C within forty-five (45) days of the official date of submission. Such hearing shall be advertised in a newspaper of general circulation in the town at least five (5) days before such hearing. Within forty-five (45) days of the hearing, the Planning Board shall approve, with or without modification, or disapprove such preliminary plat. Notwithstanding the foregoing provisions, such time periods may be extended by written mutual consent of the Planning Board and owner. The Planning Board shall state in its approval the specific modifications necessary and the character and extent of improvement or waivers of improvements. The approval of the preliminary plat shall not constitute approval of the final plat, but general agreement on which the final plat may be submitted. **[Amended 1-14-1991 by resolution]**

B. Study of preliminary plat. The Planning Board shall study the practicability of the preliminary plat taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets; the relation to the topography of the land; water supply, sewage disposal and drainage; lot sizes, shape and arrangement; the future development of adjoining lands as yet unsubdivided; and the requirements of the Town Plan, the Official Map, when adopted, Site Development Local Law,**(4)** and other matters enumerated in § 277 of the Town Law. The Planning Board shall state in its approval specific changes necessary and the character and extent of improvements or waivers of improvements. Approval of the preliminary plat shall not constitute approval of the final plat nor of the acceptability of the required improvements.

C. 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 Board's tentative conclusions.

D. Approval of preliminary plat. Approval shall be noted on two (2) copies of the preliminary plat referenced and attached to any statement of modifications. One (1) copy shall be returned to the applicant and one (1) copy shall be retained by the Planning Board.

§ 161-14. Subdivision plat.

A. Filing of final plat; time limit. Within six (6) months after the approval of the preliminary plat, the subdivider shall file the plat in final form with the Planning Board, accompanied by required fees and information required in Article V. If the plat and required

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(4) Editor's Note: See Ch. 145, Site Plan Review.

accompanying materials are not submitted within six (6) months after approval of the preliminary plat, the submission shall lapse and be void unless by resolution of the Planning Board such approval is extended. **[Amended 1-14-1991 by resolution]**

B. Agency review. Where review of subdivisions is required by other agencies such as the County Health Department, the State Department of Environmental Conservation, County and State Highway Departments, and the County Planning Board, tentative written recommendations of these agencies, subject to modifications due to local conditions which may be brought forth at the public hearing, shall be filed by the subdivider with the Planning Board prior to the public hearing.

C. Public hearing. A public hearing shall be held within forty-five (45) days of the submission of the plat in final form for approval. Such hearing shall be advertised in a newspaper of general circulation in the town at least five (5) days before such hearing. When the Planning Board deems the final plat to be in substantial agreement with the preliminary plat approved as in § 161-13A of these regulations, and modified in accordance with the requirements of such approval, the Planning Board may waive the requirement for such public hearing.

D. Planning Board action.

(1) After study, the Planning Board shall by resolution within forty-five (45) days of the public hearing, conditionally approve, conditionally approve with modifications, disapprove or grant final approval and authorize signing of the plat. Where the public hearing is waived pursuant to Subsection C of this section, the Planning Board shall take action within forty-five (45) days of the official date of submission. Notwithstanding the foregoing provisions, such time periods may be extended by written mutual consent of the Planning Board and the owner.

(2) Plats conditionally approved shall not be signed by the authorized officers of the Planning Board until the subdivider has complied with all conditions or modifications of approval. Conditional approval of a final plat shall expire within one hundred eighty (180) days after the date of the resolution granting conditional approval.

E . Conditional approval. In the event that requirements of § 16115 of these regulations or other conditions set forth by the Planning Board are not complete at the time of submission of the final plat, the Planning Board may conditionally approve the final plat. The owner shall have one hundred eighty (180) days to meet the conditions, and

the Planning Board may extend this time for up to one hundred eighty (180) additional days. Upon satisfaction of these conditions, the plat shall be signed by an authorized officer of the Planning Board.

F. Filing of the approved final plat. An approved plat shall be filed by the subdivider in the Office of the Clerk of Ulster County within sixty (60) days from the approval date.

Failure to file the signed approved plat within the required time shall render the approval void without further action by the Board.

G. Division of subdivision plat into two (2) or more sections. The Planning Board may permit the plat to be divided into two (2) or more sections, subject to such conditions as it deems necessary to assure the orderly development of the subdivision. Any section shall encompass at least ten percent (10%) of the total number of lots shown on the plat. If a subdivision is subdivided into several sections, the performance bond or other surety as specified in § 161-15A may be limited to those improvements required to service the proposed section for which final approval is requested.

§ 161-15. Required improvements.

A. Improvements or performance bond. Before the Planning Board Chairman or other authorized person may sign the plat, the subdivider shall either post a bond or certified check, bank passbook or other surety satisfactory to the Town Board, in an amount sufficient to construct required improvements, or shall complete the required improvements to the satisfaction of the Town Engineer or other authorized person.

(1) When bond or certified check is posted. The subdivider shall either file with the Town Clerk a certified check to cover the full cost of the required improvements as determined by the Planning Board, or the subdivider shall file with the Town Clerk a performance bond to cover the full cost of the required improvements. Any such bond shall comply with the requirements of § 277 of the Town Law and shall be satisfactory to the town Board and as to form, sufficiency, manner of execution and surety. A period of one (1) year, or such other period as the Planning Board may determine appropriate, but not to exceed three (3) years, shall be set forth in the bond within which the required improvements shall be completed.

(2) When no bond is posted. When no bond, certified check, bank passbook or other surety satisfactory to the Town Board is posted, the subdivider shall complete all required improvements to the satisfaction of the Town Engineer, who shall file with the Planning Board a letter signifying the satisfactory completion of all improvements required by the Planning Board.

(3) As-built drawings necessary. The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Town Engineer and a map satisfactory to the Planning Board has been submitted indicating the actual location of all required improvements and monuments marking all underground utilities as actually installed. If the subdivider completes all required improvements according to Subsection A (2) above, then said map shall be submitted prior to endorsement of the plat by the appropriate Planning Board officer. However, if the subdivider elects to provide a bond or certified check, bank passbook or other surety satisfactory to the Town Board for all required improvements as specified in Subsection A(2) above, such surety shall not be released until such map is submitted.

B. Modification of design of improvements. If at any time before or during the construction of the required improvements, it is demonstrated to the satisfaction of the Town Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Town Engineer may, upon approval of the Planning Board, authorize modifications, provided that these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Planning Board. The Town Engineer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at their next regular meeting.

C. Inspection of improvements and fee. At least ten (10) days prior to commencing construction of required improvements, the subdivider shall pay to the Town Clerk an inspection fee of one percent (1%) of the cost of required improvements and shall notify the Planning Board in writing of the time proposed to commence construction of such improvements so that the Planning Board may cause inspection to be made to assure that all town specifications and requirements shall be met during the construction of required improvements and utilities required by the Planning Board.

D. Proper installation of improvements.

(1) If the Town Engineer shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he

shall so report to the Planning Board. The Planning Board then shall notify the subdivider and, if necessary, the bonding company and take all necessary steps to preserve the town's rights under the bond.

(2) Culvert dimensions on all water courses must be approved by the Planning Board and watercourses may not be dammed or diverted without written permission from the Planning Board.

§ 161-16. Filing of approved subdivision map. [Amended 12-20-2013, LL#8 of 2012]

A. Signing and filing. Upon completion of the requirements of **§** 161-14 and **§** 161-15, the plat shall be signed by the Chairman of the Planning Board as directed by resolution of the Planning Board at a public meeting. In the absence of the Chairman, the Vice Chairman may sign. The plat may be filed by the subdivider in the Office of the Ulster County Clerk. Any subdivision plat not so filed or recorded within sixty- two (62) days of the date upon which such plat is approved or considered approved by reasons of the failure of the Planning Board to act, shall become null and void.

B. Plat void if revised after approval. No changes, erasures, modifications or revisions shall be made in any plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless the said plat is first resubmitted to the Planning Board, and such Board approves any modifications. In the event that any such plat is recorded without complying with this requirement, the same shall be considered null and void, and the Planning Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

§ 161-17. Status of streets, parks and easements.

A. In accordance with § 278 of the Town Law, the subdivider may add a notation on the plat that no offer of streets, parks or easements shown on the plat is made to the public. Failure to make such notation will constitute a continuing offer of cession to the town which may be accepted by the Town Board at any time prior to revocation of said offer by the owner of the land or his or her agent. Formal offers of cession to the public of all streets, parks and easements, not marked with such notation on the plat, shall be filed with the Planning Board prior to approval of the plat.

B. Acceptance by town.

(1) Acceptance of any such offer of cession shall rest with the Town Board. In the event that the applicant shall elect not to file the subdivision plat in the office of the County Clerk, such offer of cession shall be deemed to be void.

(2) The approval by the Planning Board of a plat shall not be deemed to constitute or imply the acceptance by the Town Board of any street, park, easement or open space shown on said plat. The Planning Board may require said plat to be endorsed with an appropriate note to this effect.

C. Maintenance of roads. In those cases where no offer of cession to the public is made for the roads, parks and required easements shown on the plat, there shall be submitted with the plat copies of agreements or other documents providing for, and fixing responsibility for liability, their suitable maintenance, and statements of all rights which exist with respect to the use of such property or properties. Such documents shall be reviewed by the Town Attorney for legal adequacy and competency.

ARTICLE IV

General Requirements and Design Standards

§ 161-18. General requirements.

A. Character of land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.

B. Conformity to Official Map and Master Plan. Subdivisions shall conform to the Official Map of the town when adopted and Ulster County and shall be in harmony with the Town Development Plan.

C. Preservation of natural cover. Land to be subdivided shall be laid out and improved in reasonable conformity to existing topography, in order to minimize grading and cut and fill, to retain, insofar as possible, the natural contours, to limit stormwater runoff and to conserve the natural cover and soil. No topsoil, sand or gravel shall be removed from any lots shown on any subdivision plat, except for the purpose of improving such lots and for laying out of streets shown thereon. Topsoil so removed shall be restored to a depth of six (6) inches and properly seeded and fertilized on areas of such lots not occupied by buildings or structures. No excess topsoil so removed shall be disposed of outside of the boundaries of the town, except upon the approval of the Town Board. Any change of the natural slope of the land shall be permitted only by special consideration of the Planning Board.

D. Preservation of existing features. Existing features which would enhance the attractiveness of the site or the community as a whole, such as trees, watercourses, ponds, historic places and similar irreplaceable assets, shall be preserved insofar as possible through harmonious design of the subdivision.

E. Specifications for required improvements, All required streets and other improvements shall

be constructed or installed to conform to town specifications, which may be obtained from the Town Clerk.

§ 161-19. Streets.

A. General.

(1) Streets shall be suitably located, of sufficient width, and adequately improved to accommodate the prospective traffic and to afford satisfactory access to police, firefighting, snow removal or other road maintenance equipment and shall be coordinated so as to compose a convenient system. All streets shall be properly related to the Town Development Plan and in conformance in location and alignment to the Official Map, when adopted.

(2) The town shall not accept an offer of dedication for any street that does not have direct access to an existing public street or highway.

B. Relation to topography. Streets shall be logically related and shall conform insofar as possible to the original topography. They shall be arranged so as to obtain as many building sites as possible at or above the grade of the street. A combination of steep grades and sharp curves shall be avoided.

C. Continuation of streets into adjacent property. Streets shall be arranged to provide for the continuation of principal streets between adjacent properties where such continuation is necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities and particularly where such continuation is in accordance with the Town Development Plan. Reserve strips, controlling access to streets, shall be prohibited except where their control is placed with the town under conditions approved by the Planning Board. If adjacent property is undeveloped and the street must temporarily be a dead-end street, the right-of-way and improvements shall be extended to the property line. A temporary circular turnaround with a traveled way radius of at least fifty (50) feet shall be provided on all temporary dead-end streets, with the notation on the plat that land outside the normal street right-of-way shall revert to abutting properties.

D. Treatment of major streets.

(1) In residential areas. Where a subdivision abuts or contains an existing or proposed major street, the Planning Board may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(2) In business areas. In areas designed for or generally devoted to commercial use, or where contemplated for commercial use, the Planning Board may require that the street width be increased or that a service road be constructed, to assure the free flow of through traffic without interference by parked or parking vehicles and to provide adequate and safe parking space for such commercial area.

E. Dead-end streets. Permanent dead-end streets shall normally not exceed one thousand two hundred (1,200) feet in length in order to provide for convenience of traffic movement and facilitate more effective police and fire protection. A depth suitable for an adequate building lot may be required to be retained between the terminus of the street and adjoining property. The Planning Board may require the reservation of a twenty- foot-wide easement through this property to facilitate pedestrian traffic or utilities. No permanent dead-end streets may be constructed having more than twenty (20) building lots. A T-shaped turnaround or circular cul-de-sac shall be installed at the end of a dead-end street. This T should be fifty (50) feet each side of the right-of-way and the same width as the road [i.e., fifty (50) feet by one hundred fifty (150) feet]. Cul-de-sac minimum-travel way radius is fifty (50) feet. Any deviation may be made only by written release from the Town Board, Planning Board and Superintendent of Highways. Such release should accompany the owner's petition.

F. Street names. All streets shall be named, and such names shall be subject to the approval of the Planning Board. Names shall be sufficiently different in sound and spelling from other street names in the town to avoid confusion. A street which is a continuation of an existing street shall bear the same name. As general policy, the use of personal names for new roads is discouraged. Historical names are preferred or names appropriate to the particular development or general neighborhood.

G. Intersections.

(1) Design. Intersections of major streets by other streets shall be at least eight hundred (800) feet apart. Cross (four-cornered) street intersections shall be avoided, except at important traffic intersections. A distance of at least one hundred fifty (150) feet shall be maintained between offset intersections. Within one hundred (100) feet of an intersection, streets shall be approximately at right angles, and grades shall be limited to two and zero-tenths percent (2.0%). All street intersection corners shall be rounded by curves of at least twenty-five (25) feet in radius at the property line.

(2) Visibility at intersections. Within the triangular area formed at corners by the intersecting street lines, for a distance of seventy-five (75) feet from their intersection, and diagonal connecting the end points of these lines, visibility for traffic safety shall be provided by excavating, if necessary. Nothing in the way of fences, walls, hedges or other landscaping shall be permitted to obstruct such visibility. An easement for the enforcement of this provision shall be granted to the owner of the street and notation to this effect made on the plat.

H. Provision for future resubdivision. Where a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged to allow the provision of future streets and logical further subdivision.

I. Design standards for streets. Streets shall meet the design standards set forth in the following table, based on the street classification indicated on the Town Development Plan or the Official Map, as they may be adopted. In the absence of an Official Map, the classification shall be determined by the Planning Board.

Design Element	**Major Street**	**Collector Street**	**Local Street**
Minimum right-of-way width	60 feet	60 feet	50 feet
Minimum travelway width (excluding shoulders)	30 feet	30 feet	20 feet
Maximum grade	7%	8%	12%
Minimum grade	0.5%	0.5%	0.5%
Minimum radius of horizontal curve at centerline	400 feet	250 feet	125 feet
Minimum length of vertical curve	300 feet	200 feet	100 feet**
Minimum length of tangent between reverse curves	300 feet	200 feet	150 feet
Minimum sight distance	400 feet	300 feet	200 ft***
Road pavement, shoulders, sidewalks, drainage structures curbs, etc.	See Town of Ulster Construction Standards and Specifications		

NOTES:

* But not less than forty (40) feet for each one-percent algebraic difference in grade.

** But not less than twenty (20) feet for each one-percent algebraic difference in grade.

*** Measured along the axis of the higher road classification.

§ 161-20. Blocks.

Block dimensions shall be at least twice the minimum lot depth in width and at least four hundred (400) feet in length, but generally not more than one thousand two hundred (1,200) feet in length. In long blocks, the Planning Board may require the establishment of easements or public ways through the block to accommodate utilities or pedestrian access.

§ 161-21. Lots.

A. Lots to be buildable. The lot size, width, depth, shape and arrangement shall be appropriate for the type of development and use contemplated and shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the Site Development Law and Zoning Law as it may be adopted, or in providing access to buildings on such lots from an approved street. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum front yard setback from both streets. Lots platted for residential occupancy shall contain a minimum of forty thousand (40,000) square feet of area unless central sewage disposal or central water supply is available (see §161-23C), or will be available prior to final filing of the subdivision plat. Such facilities may be considered constructed after posting of a bond or other surety in accordance with Article 111. A minimum of thirty thousand (30,000) square feet of area is required of lots served by central water or sewer; and fifteen thousand (15,000) square feet is required for lots with both central water and sewer service available. **[Amended 7- 9-1987; 1-14-1991 by resolution]**

B. Side lot lines. Side lot lines shall generally be at right angles to street lines unless a variation from this rule will give, in the opinion of the Planning Board, a better street or lot plan. Lot lines shall coincide with municipal boundaries rather than cross them. Where extra width has been dedicated for widening an existing street to meet the minimum right-of-way requirements of § 161-191 lot lines shall begin at such extra width line. **[Amended 7-9-1987]**

C. Access from major streets. Lots shall generally not have their vehicular access from a major street. Where driveway access from a major street may be necessary for several adjoining lots, the Planning Board may require that such lots be served by a combined access drive in order to limit possible traffic hazard on such street. (See § 161-19D, Treatment of major streets.)

D. Access across a watercourse. Where a watercourse separates the buildable area of a lot from the access street, provision shall be made for the installation of a culvert or other structure, of a design approved by the Town Engineer.

E. Water bodies. If a tract being subdivided contains a water body or portion thereof, lot lines shall be so drawn as to distribute the ownership of an responsibility for safe maintenance of the water body is so placed that it will not become a town responsibility. No more than twenty percent (20%) of the minimum lot area required under the provisions of the Site Development Law, as it may be adopted, may be satisfied by land under water.

§ 161-22. Reservations and easements.

A. Parks and open space.

(1) General. In accordance with § 277 of the Town law, the Planning Board may require either the reservation of land for a park or recreational purposes or payment of money in lieu of land to a trust fund to be used exclusively for a neighborhood park, playground or recreational purposes, including the acquisition of property.

(2) Reservation of land. The Planning Board may require the reservation of land for open space or a park or recreational purposes to be reserved on the plat, but in no case to be more than ten percent (10%) of the gross area of the subdivision. The location of such reservation shall be in accordance with the Town Development Plan or Official Map, if such exist, or otherwise where the Planning Board shall deem such reservation to be appropriate. In general, such reservations should have an area of at least two (2) acres and have adequate street access.

(3) Payment of money in lieu of land. Where the Planning Board determines that a suitable park or recreation site of adequate size cannot be properly located in any such plat or is otherwise not practical, the Planning Board may stipulate the payment of moneys-in-lieu of recreation land. Such moneys shall be placed in trust to be used exclusively for the purpose of acquisition and development of neighborhood sites for parks, playgrounds or other recreational purposes as may be deemed appropriate by the Town Board. The amount of such moneys in lieu shall be computed as provided by § A194-1(D) (7) (e) of this Code. **[Amended 12-18-2006]**

(4) The reservation of land or payment of moneys-in-lieu of land provided above shall be made prior to the grant of approval by the Planning Board. **[Added 12-18-2006]**

B. Widening or realignment of existing streets. Where the subdivision borders an existing street and additional land is required for realignment or widening of such street as indicated on the Official Map when adopted and Town Development Plan, or where the Planning Board deems such reservation necessary, the Planning Board may require that such areas be indicated on the plat and marked “Reserved for Street Realignment (or Widening) Purposes.”

C. Easements for utilities and drainage. Where topography or other conditions are such as to make impractical the inclusion of utilities or drainage facilities within street right-of-way, perpetual unobstructed easements at least twenty (20) feet in width for such utilities shall be provided across property outside the street lines and with satisfactory access to the street. Such easements shall be centered on rear or side lot lines.

D. Easements for pedestrian access. The Planning Board may require perpetual unobstructed easements at least twenty (20) feet in width, in order to facilitate pedestrian access from streets to schools, parks, playgrounds or other nearby streets.

E. Easements for maintenance of slopes. Where steep slopes beyond the street right-of-way may require maintenance, an easement may be required for such purpose.

F. Responsibility for ownership of reservations. Title to all reservations, if vested in interests other than the subdivider, shall be clearly indicated on the plat.

§ 161-23. Monuments; improvements.

A. Monuments and markers. Permanent monuments shall be placed at all block corners, angle points, points of curvature and point of tangency in streets and at intermediate points as required by the Town Engineer. In no case shall there be less than four (4) permanent monuments per block. Monuments shall be set so as to prevent movement by frost upheaval and other pressures. Markers of a material, size and length suitable to the Town Engineer shall be placed at all points where road lines intersect plat boundaries and at all lot corners.

B. Street improvements.

(1) General. Streets shall be graded and improved with pavement, street signs, sidewalks, street lighting standards, curbs, gutters, street trees, water mains, sanitary sewers, storm drains and fire hydrants, except where waivers may be requested; the Planning Board may waive, subject to appropriate conditions, such improvements as it considers are not requisite in the interest of the public health, safety and general welfare or may result in unnecessary hardship. If underground utilities are required by the Planning Board, they shall be placed between the paved roadway and street right-of-way line, where possible, to simplify location and repair of the lines. The subdivider shall install underground service connections to the property line of each lot before the street is paved. Such grading and improvements shall be approved as to design and specifications by the Town Engineer, who shall require that all pertinent town standards and specifications shall be met.

(2) Utility poles. Where possible, utility poles shall be within the right-of-way of any street and shall be placed not further than two (2) feet from the boundary line of such right-of-way.

C. Water and sewerage facilities. Facilities for water and sewerage shall be provided in each new subdivision in accordance with the requirements of the appropriate agency having jurisdiction over the planning and installation of these in the area of the subdivision; however, the following minimum requirements of the town shall be met:

(1) Central water supply systems shall be designed with adequate pressures, mains and fire hydrants to meet Association of Fire Underwriters specifications for a Class C protected area.

(2) All water mains shall be at least six (6) inches in diameter.

(3) Sanitary sewers shall not be used for storm water drainage.

(4) Central sewage systems, if any, shall provide a six-inch minimum size connection to each lot. The service lateral may be reduced to a minimum of four-inch diameter within the lot. **[Amended 7-9-1987]**

(5) Where possible, an access to ponds or water holes may be made available for fire purposes.

D. Storm drainage facilities. Storm drainage facilities shall provide a clear and protected channel fully adequate to handle runoff from a twenty-five-year storm and designed so that heavy runoff which exceed the capacity of the channels can be handled with the least possible damage to improvements and structures. United States Department of Agriculture Tech Release 55 shall be used for design of stormwater management systems. **[Amended 7-9-1987]**

E. Public utilities. The Planning Board may accept assurance from each public utility company whose facilities are proposed to be installed. Such assurance shall be in writing, addressed to the Planning Board, stating that such public utility company will make the installations necessary for furnishing of its services within a specified time, in accordance with the approved plat.

F. Water supply. The Planning Board in these subdivision regulations will implement the Ulster County Department of Health recommendations of central water and sewerage for subdivision of fifty (50) or more building lots. However, the Planning Board reserves the right to require central water and sewerage for any subdivision where, in its judgment, conditions warrant it.

ARTICLE V
Documents to be Submitted

§ 161-24. Sketch plan.

A. Number of copies. At least four (4) copies of the sketch plan shall be delivered to the Planning Board.

B. Details required.

(1) The sketch shall be at a convenient scale of no more than one hundred (100) feet to the inch and shall be submitted on uniform size sheets not larger than thirty-six by forty-eight (36 x 48) inches and shall contain the date of preparation, approximate true north point, title "sketch plan," and the graphic scale. Where more than one (1) sheet is required, a scaled map showing the entire subdivision on one (1) sheet shall be prepared.

(2) The name and address of the owner or owners of the land to be subdivided, the name and address of the subdivider if other than the owner, the name of the land surveyor or licensed professional engineer or individual who prepared the sketch plan, the proposed name of the subdivision, the Town of Ulster and Ulster County.

(3) A map of the location of the tract with respect to surrounding properties and community facilities, such as roads, parks and schools. Such map to be at a scale of either two thousand (2,000) or eight hundred (800) feet to the inch and shall identify all property in the vicinity of the subdivision held by the subdivider.

(4) All existing restrictions on the use of land including easements, covenants, utility district boundary or street lines.

(5) A sketch plan on a topographic survey of the proposed area to be subdivided showing in simple form the proposed layout of roads, lots and other features.

§ **161-25. Preliminary plat.**

A. Number of copies. At least four (4) copies shall be delivered to the Planning Board.
B. Application fee. The preliminary plat for a major subdivision shall be accompanied by a minimum fee as provided in Chapter A194, Fees, which shall cover the charge for the lots or parcels on the map up to a maximum of four (4); additional lots or parcels shall be paid for at

a rate as provided in Chapter A194, Fees. All checks shall be made payable to the Town of Ulster. The fee for a minor subdivision is as provided in Chapter A194, Fees, for each newly created lot or lot line revision payable upon application. **[Amended 7-9-1987; 1-14-1991 by resolution]**

C. Details required. The preliminary plat shall show or be accompanied by the following information, except where requirements have been waived through sketch plan review:

(1) All data required in § 161-24B, except it shall be clearly labeled "Preliminary Plat."

(2) The location, bearings and distances of the tract's boundaries prepared by a licensed surveyor, including seal and number.

(3) If topographic conditions are significant as determined by the Planning Board, contours shall be indicated at intervals of five (5) feet or as required by the Planning Board.

(4) The names of all adjoining property owners of record and the names of adjacent developments.

(5) The location and dimensions of all public properties, street lines, easements, utility district boundaries or restrictions on the property.

(6) Location of existing and proposed sewers, water mains, leaching fields, culverts and storm drains including pipe size and type, grades, direction of flow and ownership.

(7) The location, width and approximate grade of all proposed streets with the approximate elevations shown at the beginning and end of each street, at street intersections and at all points where there is a decided change in slope or direction.

(8) The area of the land included in the subdivision and the approximate location, dimensions and area of all proposed or existing lots and land to be set aside for recreation and public purposes. The suggested location of buildings on lots will also be shown. All lots shall be numbered.

(9) Proposed provision of water supply, fire protection, sanitary waste disposal, stormwater drainage, street trees, street lighting, fixtures, signs, sidewalks and easements.

(10) The location of all existing structures, such as buildings and stone walls and all pertinent natural features that may influence the design of the subdivision such as

watercourses, swamps, rock outcropping, wooded areas and single large trees eight (8) inches or more in diameter measured three (3) feet above the base of the trunk within the subdivision and within fifty (50) feet thereof. Where large trees occur in groupings or cluster, only the general outlines of said groups or clusters need be shown.

(11) The location, dimensions and status of all covenants, deed restrictions or easements proposed by the applicant.

(12) Soil characteristics as determined by the United States Department of Agriculture, where available.

(13) Other data which may influence the design of the proposed subdivision and the health, safety and welfare of future residents.

§ 161-26. Plat.

A. General specifications. All subdivision plats shall be clearly drawn on a transparent stable material, such as Mylar or Chronoflex, suitable for reproduction, using black waterproof ink. Such plat shall be at a convenient scale of no more than one hundred (100) feet to the inch and shall be submitted on uniform sheets not larger than thirty-four by forty-four (34 x 44) inches. Where more than one (1) sheet is required, a scaled map showing the entire subdivision on one (1) sheet shall be submitted. These specifications shall always be consistent with those of the County Clerk**. [Amended 1-14-1991 by resolution]**

B. Copies required. The subdivider shall submit to the Planning Board one (1) transparency as required in Subsection A above, which will be filed with the County Clerk, one (1) transparent sepia-type copy for the records of the Planning Board, and three (3) prints.

C. Details required. The subdivision plat shall show or be accompanied by the following information except where requirements have been waived by the Planning Board:

(1) Name of the subdivision, name, address and signature of the owner, subdivider, seal and number of the licensed professional engineer or land surveyor who prepared the plat; the Town of Ulster and Ulster County.

(2) A map of the location of the track with respect to surrounding properties and community facilities such as roads, parks and schools, at a scale of either eight hundred (800) or two thousand (2,000) feet to the inch.

(3) Date of preparation, graphic scale, approximate true north point, bearings and distances of tract's boundaries.

(4) To the extent feasible, the current names of all adjoining property owners of record shall be indicated on the plat. Stamped envelopes, addressed to each of the owners of record of property, abutting or across the street from the tract, shall be submitted to the Planning Board.

(5) The location and dimension of all public properties, streets, easements, utility district boundaries, building lines or restrictions on the tract.

(6) The location of existing and proposed sewers, water mains, culverts and storm drains, including pipe size and type, grades, direction of flow, ownership.

(7) The location, width, grade and names of all proposed streets, with elevations shown at the beginning and the end of each street, at street intersections and at all points where there is a decided change in slope or direction shown on the plat.

(8) Statement from subdivider's engineer giving estimated cost of construction of roads and other improvements to meet the requirements of these regulations, together with quantities and unit costs used in making the estimate.

(9) Radii of all curves and lengths of arcs.

(10) Profiles showing existing and proposed elevations along the center lines of all streets, the elevation along the center line of the existing street or streets, within one hundred (100) feet of the intersection, shall be shown.

(11) The Planning Board may require a cross section where steep slopes exist, showing present elevations of all proposed streets every one hundred (100) feet at five (5) points on a line at right angles to the center line of the street, and said elevation points shall be at the center line of the street, each property line, and points thirty (30) feet inside each property line.

(12) Plans and profiles showing the location and a typical cross section of street pavements, including curbs and gutters, sidewalks manholes, and catch basins; the location of street trees, street lighting standards and street signs; the location, size and invert elevation of existing and proposed sanitary sewers, stormwater drains, and fire hydrants; and the exact location and size of all water, gas or other underground utilities or structures.

(13) The area of the land included in the subdivision, and the location, dimensions and area (in square feet or acres) of all existing or proposed lots and land to be set aside for recreation or public purposes. All lots shall be numbered for identification.

(14) The location of all existing water bodies, swamps or streams that will be retained or relocated or intended to be developed.

(15) Sufficient data acceptable to the Town Engineer to readily determine the location, bearings and length of all lines and to reproduce such lines on the ground.

(16) The location of all existing and proposed monuments and markers.

(17) Offers of cession, in a form satisfactory to the Town Board, of all land offered, or to be offered, for dedication for streets, highways, easements, parks or other public facilities.

(18) Proposed covenants, deed restrictions and easements proposed by the applicant.

(19) The following notations shall be shown on the plat:

(a) Endorsement by the Ulster County Health Department and any stipulations of that Department (only tentative written endorsement is necessary before the public hearing, but final endorsement on the plat is needed before filing with the County Clerk).

(b) Explanation of drainage easements as follows: "The drainage easements (or the drainage discharge points) shown hereon establish the perpetual right to discharge stormwater runoff from the highway and from the surrounding area onto and over the affected premises by means of pipes, culverts or ditches, or a combination thereof, together with the right of the holder of fee title to the highway, or his or her authorized representatives, to enter said premises for purposes of making such installations and doing such maintenance work as said holder of fee title may deem necessary to adequately drain the highway and surrounding area."

(c) Explanation of sight easements as follows: "The sight easements shown hereon establish the perpetual right of the holder of fee title of the highway, or his or her authorized representatives, to clear, regrade and maintain the area within these easements at such elevation that there is a clear line of sight anywhere across the area between an observer's eye at an elevation of three

and five-tenths (3.5) feet above the road surface at the nearest edge of the road and an object one (1) foot above the nearest edge of pavement on the intersecting road."

(d) Explanation of reservation as follows: "Reserved for highway purposes (or recreation purposes or other approved purpose)."

(e) Explanation of slope easements, as follows: "The slope easements shown hereon convey to the (insert here “Town of Ulster' or 'holder of fee title of the highway' or other phrase as directed by the Planning Board) the right to enter said premises for the purpose of cutting and maintaining a stable earth slope.”

(f) Endorsement of owner as follows: "I hereby grant my approval to this plat and consent to the filing of it in the Office of the County Clerk."

(g)

§ 165-1. Findings.

§ 165-2. Definitions.

§ 165-3. Enclosure required; gate.

§ 165-4. Aboveground pools; compliance required.

§ 165-5. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Ulster 8-19-1981 as L.L. No. 2- 1981. Sections 165-2 and 165-4 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets - See Ch. 7.
Water - See Ch. 177.

§ 165-1. Findings.

It is hereby declared and found that the public interest requires that all swimming pools be fenced in the manner described in § 1653 of this chapter.

§ 165-2. Definitions.

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

SWIMMING POOL - Any constructed body of water or structure to contain water exceeding thirty-five (35) cubic feet and any related equipment pertaining thereto whether or not the same is operated for gain or profit which are used or intended to be used for swimming or bathing. **(1)**

§ 165-3. Enclosure required; gate.

The entire portion of the premises upon which such pool is located shall be entirely enclosed with a good quality protective fence, which has been approved by the building inspector of the Town of Ulster, of not less than four (4) feet in height. Every gate or other opening in the fence enclosing such pool shall be kept securely closed and locked at all times when said pool is not in use.

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(1) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 165-3. Enclosure required; gate.

The entire portion of the premises upon which such pool is located shall be entirely enclosed with a good quality protective fence, which has been approved by the building inspector of the Town of Ulster, of not less than four (4) feet in height. Every gate or other opening in the fence enclosing such pool shall be kept securely closed and locked at all times when said pool is not in use.

§ 165-4. Aboveground pools; compliance required. (2)

Swimming pools which are located above ground and which are four (4) feet or more in height may, in lieu of the fence requirement set forth in § 165-3, be equipped with stairs which fold and lock or are removable. Such stairs shall be kept folded and locked or removed at all times when said pool is not in use. Notwithstanding anything to the contrary in the New York State Uniform Fire Prevention and Building Code, all swimming pools must comply with the provisions herein.

§ 165-5. Penalties for offenses.

The violation of any provision of this chapter shall be an offense against this chapter and shall be punishable by a fine of not more than two hundred fifty dollars ($250.) or imprisonment for a period not exceeding fifteen (15) days for each offense, or by both such fine and imprisonment. Every day that a violation of this chapter shall exist shall constitute a separate and distinct violation.

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(2) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

TAXATION
CHAPTER 171

[HISTORY: Adopted by the Town Board of the Town of Ulster: Art.I, 6-12-1986 as L.L.No. 3-1986; Art. II, 2-22-1989 as L.L. No. 1-1989; Art. 111, 2-19-1990 by resolution. Amendments noted where applicable.]

ARTICLE I
Direct Payment of Tax Revenues
[Adopted 6-12-1986 as L.L. No. 3-1986]

§ 171-1. Tax revenues to be paid directly.

The Town Board hereby adopts § 1262 (d) of the Tax Law of the State of New York and elects to be paid directly the revenues from taxes imposed by cities under one million(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.

§ 171-2. Use of funds.

The town shall provide that these moneys shall be used for any town purpose.

ARTICLE II
Business Investment Exemption
[Adopted 2-22-1989 as L.L. No. 1-1989]

§ 171-3. Exemption. [Amended 4-19-1993 by L.L. No. 1-1993, REPEALED 4-20-1998 by L.L. No. 4-1998; REPEALED 11-21-2019 as L.L. No. 2 of 2020]

1. Real property constructed, altered, installed or improved after the effective date of this local law for the purpose of commercial, business or industrial activity shall be exempt from taxation and special ad valorem levies, except for special ad valorem levies for fire district, fire protection district and fire alarm district purposes, to the extent hereinafter provided.

2. (a) (i) Such real property shall be exempt for a period of one year to the extent of fifty per centum of the increase in assessed value thereof attributable to such construction, alteration, installation or improvement and for an additional period of nine years provided, however, that the extent of such exemption shall be decreased by five per centum each year during such additional period of nine years and such exemption

shall be computed with respect to the "exemption base." The exemption base shall be the increase in assessed value as determined in the initial year of such ten year period following the filing of an original application, except as provided in subparagraph (ii) of this paragraph.

(ii) In any year in which a change in level of assessment of fifteen percent or more is certified for a final assessment roll pursuant to the rules of the state board, the exemption base shall be multiplied by a fraction, the numerator of which shall be the total assessed value of the parcel on such final assessment roll (after accounting for any physical or quantity changes to the parcel since the immediately preceding assessment roll), and the denominator of which shall be the total assessed value of the parcel on the immediately preceding final assessment roll. The result shall be the new exemption base. The exemption shall thereupon be recomputed to take into account the new exemption base, notwithstanding the fact that the assessor receives the certification of the change in level of assessment after the completion, verification and filing of the final assessment roll. In the event the assessor does not have custody of the roll when such certification is received, the assessor shall certify the recomputed exemption to the local officers having custody and control of the roll, and such local officers are hereby directed and authorized to enter the recomputed exemption certified by the assessor on the roll. The assessor shall give written notice of such recomputed exemption to the property owner, who may, if he or she believes that the exemption was recomputed incorrectly, apply for a correction in the manner provided by title three of article five of this chapter for the correction of clerical errors.

(iii) The following table shall illustrate the computation of the tax exemption:

Year of Exemption	Percentage of Exemption
1	50
2	45
3	40
4	35
5	30
6	25
7	20
8	15
9	10
10	5

(b) No such exemption shall be granted unless

(1) such construction, alteration, installation or improvement was completed after the effective date of this local law, as evidenced by the issuance of a certificate of occupancy by the Town of Ulster Building Department;

(2) the cost of such construction, alteration, installation or improvement exceeds the sum of fifty thousand dollars; and

(3) such construction, alteration, installation or improvement is completed as may be evidenced by a certificate of occupancy or other appropriate documentation as provided by the owner.

(c) For purposes of this section the terms construction, alteration, installation and improvement shall not include ordinary maintenance and repairs.

(d) No such exemption shall be granted concurrent with or subsequent to any other real property tax exemption granted to the same improvements to real property, except, where during the period of such previous exemption, payments in lieu of taxes or other payments were made to the local government in an amount that would have been equal to or greater than the amount of real property taxes that would have been paid on such improvements had such property been granted an exemption pursuant to this section. In such case, an exemption shall be granted for a number of years equal to the ten year exemption granted pursuant to this section less the number of years the property would have been previously exempt from real property taxes.

3. Such exemption shall be granted only upon application by the owner of such real property on a form prescribed by the state board. Such application shall be filed with the assessor of the town on or before the appropriate taxable status date of the town and within one year from the date of completion of such construction, alteration, installation or improvement.

4. If the assessor is satisfied that the applicant is entitled to an exemption pursuant to this section, he or she shall approve the application and such real property shall thereafter be exempt from taxation and special ad valorem levies, except for special ad valorem levies for fire district, fire protection district and fire alarm district purposes, as herein provided commencing with the assessment roll prepared after the taxable status date referred to in subdivision three of this section. The assessed value of any exemption granted pursuant to this section shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

5. The provisions of this section shall apply to real property used primarily for the buying, selling, storing or developing goods or services, the manufacture or assembly of goods or the processing of raw materials. This section shall not apply to property used primarily for the furnishing of dwelling space or accommodations to either residents or transients other than hotels or motels.

6. In the event that real property granted an exemption pursuant to this section ceases to be used primarily for eligible purposes, the exemption granted pursuant to this section shall cease.

7. The provisions of this Article shall apply only to construction, alteration, installation or improvements having a greater value than fifty thousand dollars.

8. This local law does not establish an industrial and commercial incentive board.

ARTICLE III
Senior Citizens Exemption

[ADOPTED 2-19-1990 by resolution; AMENDED Chapter 171-4 by the Town Board of the Town of Ulster on 3-21-2019 as Local Law 1 of 2019; AMENDED Chapter 171-4 by the Town Board of the Town of Ulster on 11-17-2022 as Local Law 4 of 2022.]

§ 171-4. Senior Citizens and Persons with Disabilities Tax Exemption; Amount; Exceptions.

A. **Senior Citizens**

1. Real property situate within the bounds of the Town of Ulster, Ulster County, New York, owned by one or more persons, each of whom is 65 years of age or over, or real property owned by husband and wife, or by siblings, one of whom is 65 years of age or over, shall be exempt from taxation for real estate taxes to be levied by the Town of Ulster by the percentage of exemption specified for the annual income ranges listed below. Such exemption shall be based upon the assessed valuation of the exempt real property and shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed. For the purposes of this Section, "sibling" shall mean a brother or sister, whether related through half blood, whole blood or adoption.

2. The value of "M" upon which each of the foregoing exemptions is based, shall be set at the sum of $41,600.00, based upon the adopted State legislation.

3. Percent of exemption based on income eligibility (I.E.). Base exemption: 50% of assessed value.

   Sliding-scale income/exemption options: % of assessed value exempt is determined according to the following schedule.

   M= the maximum income eligibility level for the base (50%) exemption

Annual Income	Percentage of Assessed Valuation Exempt from Taxation
More than $3,000 but not more than M	50%
More than (M) but not more than (M + $1,000.00)	45%
(M + $1,001.00 or more) but not more than (M + $2,000.00)	40%
(M + $2,001.00 or more) but not more than (M + $3,000.00)	35%
(M + $3,001.00 or more) but not more than (M + $3,900.00)	30%
(M + $3,901.00 or more) but not more than (M + $4,800.00)	25%
(M + $4,801.00 or more) but not more than (M + $5,700.00)	20%
(M + $5,701.00 or more) but not more than (M + $6,600.00)	15%
(M + $6,601.00 or more) but not more than (M + $7,500.00)	10%
(M + $7,501.00 or more) but not more than (M + $8,400.00)	5%

B. Persons with Disabilities

1. In accordance with the authorization of subdivision 1 of § 459-c of the Real Property Tax Law, a partial exemption from real property taxation by the Town of Ulster is granted for property described in § 459-c of the Real Property Tax Law.

2. In accordance with the authorization of subdivision 1(b) of § 459-c of the Real Property Tax Law, the maximum income eligibility level and percentage of assessed value exempt from taxation are set in accordance with the following schedule. The value of “M" upon which each of the foregoing exemptions is based, shall be set at the sum of $41,600.00, based upon the adopted State legislation:

Annual Income	Percentage of Assessed Valuation Exempt from Taxation
More than $3,000 but not more than M	50%
More than (M) but not more than (M + $1,000.00)	45%
(M + $1,001.00 or more) but not more than (M + $2,000.00)	40%
(M + $2,001.00 or more) but not more than (M + $3,000.00)	35%
(M + $3,001.00 or more) but not more than (M + $3,900.00)	30%
(M + $3,901.00 or more) but not more than (M + $4,800.00)	25%
(M + $4,801.00 or more) but not more than (M + $5,700.00)	20%
(M + $5,701.00 or more) but not more than (M + $6,600.00)	15%
(M + $6,601.00 or more) but not more than (M + $7,500.00)	10%
(M + $7,501.00 or more) but not more than (M + $8,400.00)	5%

TOW, ROTATIONAL TOW LIST RULES AND REGULATIONS

Chapter 175

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§175-33. Regulations for tow truck drivers.

§175-34. General regulations.

§175-35. Exception to the Rotational tow list.

[HISTORY. Adopted by the Town Board of the Town of Ulster 9-15-2003 as L.L. No. 4- 2003. Revised by the Town Board 5-21-2009 as LL. No. 4-2009 and Town Board 12-18-2014 as LL. No 7-2014]

§175-1. Purpose.

It is hereby declared and found that it is of vital importance to the traveling public that disabled vehicles and or vehicles disabled as a result of a motor vehicle accident be removed from the highways as promptly as possible, that delay in removal results in retarding the movement of traffic unnecessarily

and causes street accidents and that the towing of disabled motor vehicles in the streets of the Town of Ulster 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 fraud and exorbitant rates and similar abuses.

§175-2. Definitions.

Unless otherwise expressly provided, the following words for the purpose of this chapter shall have the meanings herein indicated:

MOTOR VEHICLE ACCIDENT – Any incident or occurrence in which one or more vehicles come into contact with each other or other objects thereby causing personal injury or property damage.

TOWN – The corporate area of the Town of Ulster.

DRIVER – Any person driving a tow truck upon public highways for hire.

FOR HIRE - Includes any incident where a fee, charge or other consideration is directly or indirectly imposed for towing, carrying or removing a vehicle, and it shall include any case where any person makes repairs on a towed vehicle for consideration, although no charge is imposed for towing such vehicle.

GARAGE – Any place of business which is not in violation of the existing Zoning Ordinance or Building Code of the Town of Ulster, and, as a substantial source of its activity, engages in the repair of motor vehicles and provides on-premises parking for their storage.

OPERATE – Includes the control and direction of the use of vehicles for towing from places within the Town of Ulster for hire.

OWNER – Includes a person owning or leasing or controlling one or more tow trucks and driving or operating or causing any such vehicle to be operated upon public highways for hire.

PERSON – Includes an individual, partnership, any incorporated association, a corporation or any other entity.

REGISTERED REPAIR SHOP – As defined in Article 12-A of the Vehicle and Traffic Law of New York State.

TOWING – The moving or removing of disabled or abandoned motor vehicles by another vehicle for hire.

TOW TRUCK – A motor vehicle that is either equipped for the purposes of carrying or lifting and towing a disabled, illegally parked or abandoned motor vehicle or a motor vehicle involved in an accident.

§175-3. License required.

It shall be unlawful for any person to engage in the business of towing with the Town of Ulster from the Town Rotational tow list without having obtained a valid license issued hereunder or to operate a tow truck in the course of such business without having displayed thereon a valid sticker issued hereunder, except that no license or stickers shall be required for persons whose business is not being conducted from the Town of Ulster Rotational Tow list.

§175-4. License application and expiration.

A. Every license issued hereunder shall remain in effect for one year from the date of issuance unless revoked, as hereinafter provided.

B. Every person, firm or corporation who desires to operate from the Town of Ulster Rotational tow list, except as herein otherwise provided, shall be duly licensed as a tow truck operator in the Town and must make written application annually under oath providing the following information:

1. The name and address of the applicant, address of the place from which tow trucks are proposed to be garaged and dispatched, specifying, the case of any unincorporated association, the names and addresses of each member thereof and, in the case of any corporation, the names and addresses of each officer.

2. All crimes, if any, of which the applicant or any member thereof has been convicted and, if an unincorporated association, that any officer thereof has been convicted, stating the name, if any, and location of the courts and the dates on which such convictions were had and the penalties imposed therefore.

3. The experience of the applicant, or, if an unincorporated association or corporation of its officers in the towing of vehicles for hire.

4. The number of tow truck vehicles proposed to be operated by the applicant and a description of each such vehicle, including the make, model, year and manufacture, New York State registration number and vehicle identification number.

5. The name, address and driver's license number of each driver employed by the applicant.

6. The location of any and all depots and terminals proposed to be used by the applicant.

7. The licensee shall provide proof of insurance in the minimum amount of $1,000,000.00 personal liability and $150,000.00 property damage liability covering each tow truck and/or place of business. Coverage limits must be maintained throughout the duration of the license. Coverage shall also be provided for the towed vehicle. Said proof shall be provided.

8. The licensee's insurance policy must include an endorsement naming the "Town of Ulster and its agents, officers and employees as additionally insured. "An endorsement providing for thirty days advance notice before cancellation or material change of coverage. The notice is to be mailed to the Town of Ulster Police Department, 1 Mulvin Drive Lake Katrine, NY 17549.

9. Proof of valid registration and inspection of each tow truck to be operated.

10. Any other relevant information that the Chief of Police may require.

§175-5. Issuance of license.

The Chief of Police shall accept all applications for licenses from persons desiring to engage in the business of towing on such forms as he shall provide. Upon certification by the Chief that the applicant has complied with all applicable provisions of law, the Chief of Police or his agent shall issue a license to the applicant along with a sticker for each vehicle listed on the application specifically identifying the vehicle to which each sticker is to be affixed and the license under the sticker is issued. All licenses and tow truck vehicle stickers expire on the 31st of December each calendar year.

§175-6. Transferability.

Each license and sticker issued hereunder shall not be transferred from one person to another or from one vehicle to another.

§175-7. License fee; qualifications.

Applicants for a license will be required to pay a non-refundable fee of $250.00 annually. The fee shall be paid no later than January 15th of each calendar year. The licensee will qualify, provided that:

A. The licensee owns, operates or maintains a bona fide registered repair shop within the Town of Ulster or the City of Kingston because it is encompassed by the Town of Ulster. If the licensee does not own, operate or maintain a bona fide registered repair shop, the licensee must provide the name, address and license number of a bona fide registered repair shop within the Town of Ulster or City of Kingston that he does business with. Any licensee that utilizes a registered repair shop owned or operated by another, shall not charge any additional fees to tow any disabled vehicles requesting repairs to a registered repair shop.

B. Such applicant maintains twenty-four-hour capability to answer calls for service off the Town of Ulster Rotational tow list.

C. Such applicant must have at least one conventional tow truck equipped with a lifting boom on the rear of the truck to tow vehicles AND at least one flatbed tow truck that is equipped to carry vehicles. Each registered tow truck must have a minimum of three-ton power winch, equipped with 75 feet of 3/8 inch steel cable, a dry chemical fire extinguisher with a minimum of 10 pounds of pressure, three Department of Transportation approved (triangular) road reflectors and three Department of Transportation approved road flares, a broom, a hacksaw, an ax and a shovel.

D. The licensee and tow truck operators possess a valid N.Y.S. driver's license with at least a CDL A, B, C or NON-CDL C class license with a tow truck endorsement.

§175-8. Additional requirements.

Every applicant for license shall, at the time of submitting his application, submit a complete current schedule of fees for all services in connection with the towing and storage of motor vehicles that the applicant charges in cases other than when called from the Town of Ulster Rotational tow list, hereafter provided. The schedule of maximum prices to be charged may be revised at any time but shall not be effective until filed with the Ulster Police Department.

§175-9. Investigation of applicants.

All applicants shall execute such consents for releases of information as may be required.

§175-10. Lettering required on truck.

On each side of every tow truck for which a sticker has been issued, the owner shall prominently display, by painting, magnetic sign or other similar means, the business name and address of the licensee, together with the business phone number, by letters of not less than three inches high.

§175-11. Examination or hearing prior to issuance of license.

The Chief of Police or his agent may, in his discretion, before the issuance of a license, require the applicant and any others having knowledge of the facts to submit to an examination under oath and to procedure for the adducing of evidence relating thereto and shall hold a hearing upon such application, as hereinafter provided.

§175-12. Additional tow trucks.

Every owner licensed hereunder who desires to add to the number of tow trucks he is duly licensed to operate shall file a written application under oath with the Chief of Police or his agent stating:

A. The name and address of the applicant.

B. The applicant owner's license number.

C. Proof of required insurance, valid registration and inspection.

D. A description of each such additional tow truck, including the make, motor number and the year manufactured**.**

§175-13. License renewals.

Any license and sticker issued hereunder may be renewed annually prior to the 15th day of January of each calendar year, said license and sticker will be in effect for that calendar year expiring on December 31st of that calendar year. Renewal can be made upon the submission of an amendment to the original application or subsequent amendments containing all the information required by the provisions of this chapter for original application.

§175-14. Inspection of vehicles.

No license or sticker shall be issued or renewed annually which shall permit the use of any vehicle as a tow truck unless and until it has been inspected and certified annually by the Chief of Police or his designee as conforming to the requirements of this chapter and has been duly inspected as required by the Vehicle and Traffic Law of New York. Annual inspections must be completed by January 15th of each year.

§175-15. Towing of vehicles to be impounded or disabled without accident.

Motor vehicles not involved in accidents but which are otherwise disabled and which are disrupting the flow of traffic and whose owners do not otherwise request assistance from a licensee, or motor vehicles

which are to be impounded for other reasons, shall be towed away by licensees after being contacted from the Town of Ulster Rotational tow list. In the event that a licensee is called pursuant to this section, it shall be unlawful for the licensee to charge more than the rates provided for in 175-16.

§175-16. Town of Ulster Rotational tow list; requirements and fees.

Any licensee who agrees to abide by the following requirements shall be placed on the Town of Ulster Rotational tow list to be called in rotation to remove vehicles from scenes of accidents, disabled vehicles, abandoned vehicles or vehicles otherwise left in violation of law, provided that:

A. The licensee swears under oath that he owns or rents and operates and maintains a bona fide legally permitted registered repair shop in the Town of Ulster or City of Kingston, but applicants shall not qualify as herein provided if applicants state they maintain a registered repair shop on the very same premises or real property owned by another licensee and on which property said licensee operates or maintains or another licensee operates or maintains a place of like business, or the applicant states that he is a lessee of a licensee.

B. Such garage maintains twenty-four-hour capability to answer calls for service from the Town of Ulster Rotational tow list.

C. The licensee agrees to charge no more than the following maximum rates for towing from the accident scene or other location within the Town of Ulster to his place of business or any other place within the Town of Ulster or City of Kingston designated by the owner or operator of a motor vehicle, regardless of distance with the Town of Ulster or City of Kingston when called by the Ulster Police Department:

1. Towing Charges:

a. Passenger automobiles, sport utility vehicles, light trucks, pickup trucks, vans, minivans or suburbans up to ¾ ton.

1. Day: $200.

2. Evenings, nights, weekends and holidays: $250.

b. Above three-quarter-ton vehicles

1. Day: $250.

2. Evenings, nights, weekends and holidays: $300.

c. Tractor trailers and/ or any other vehicles with a GVWR of over 50,000lbs.

1. Day $175: per hour.

2. Evenings, nights, weekends and holidays: $200 per hour.

d. Vehicles not requiring a tow after being restored to pavement 1.

Days: $150.

2. Evenings, nights, weekends and holidays: $200.

2. Additional charges. The licensee shall be permitted to charge additional fees for additional services. Any fees not provided for herein shall be in accordance with the schedule of fees filed with the Ulster Police Department.

a. Winching

1. Passenger automobiles, sport utility vehicles, light trucks, pickup trucks, vans, minivans, suburban up to ¾ tons

a. Day: $100 per hour, chargeable to the ½ hour

b. Nights, weekends and holidays: $150 per hour, chargeable to the ½ hour.

b. Waiting and/ or cleanup time in excess of 15 minutes on scene

1. With standard tow trucks

a. Day: $50 per hour.

b. Evenings, nights, weekends and holidays: $60 per hour.

c. Mileage. Outside of the Town of Ulster and encompassed area of the City of Kingston: $4.50 per loaded mile.

3. "Days" shall mean 8:00 a.m. through 5:00 p.m., Monday through Friday. "Evenings, nights, weekends and holidays" shall mean all other times, with "holidays" being those established by the State of New York.

D. Storage. The licensee agrees to charge a maximum of $65. per day for storage; provided, however, that no storage shall be charged if the vehicle is picked up prior to the close of the next business day of the licensee; and provided, further, that no additional storage may be charged from the time the owner of the vehicle contacts the licensee for the purpose of attempting to pick up the vehicle, so long as the owner does pick up the vehicle prior to the end of the next business day of the licensee. Reasonable charges not to exceed $75 may be imposed by the licensee to enable the owner to pick up the vehicle at other than normal business hours of the licensee. Licensees shall be available to owners desiring to pick up vehicles at least 10 hours per day, Monday through Friday, which hours must include either 8:00 a.m. or 6:00 p.m., as the licensee shall elect, Saturday, Sunday and holidays excluded; but if a request for pick up is made for Saturday, Sunday and holidays a fee of no more than $75.00 may be imposed to respond. Hours of availability shall be filed with the Ulster Police Department.

E. Form of payment. The licensee must accept at a minimum the following forms of payment from a customer; cash and/ or Visa/Master Cards.

F. The charges and fees herein provided may be modified from time to time by resolution of the Town Board of the Town of Ulster, New York.

§175-17. Designation of licensees on the Town of Ulster Rotational tow list.

The Chief of Police of the Ulster Police Department or his authorized agent is hereby authorized to designate licensees on the Town of Ulster Rotational tow list on a rotating basis for the purpose of towing motor vehicles to the place of business of the tow truck applicant, except elsewhere at the request of the vehicle's owner/ operator. The rotational tow list shall be filed with the Town Clerk for availability to the public and shall be amended on the first working day of the month only in the event of an addition or deletion of a licensed applicant.

§175-18. Loss of turn on the Town of Ulster Rotational tow list.

The licensee shall furnish twenty-four-hour telephone numbers for the licensee, his business and/or his designated agent. The telephone numbers provided shall not be a pager system, but

have an actual answering service or person answering the call. If a licensee or his designated agent does not answer a call for service from the Ulster Police Department or is not available when called, he shall lose his turn on the rotational tow list and must wait for the rotational tow list to be called in its entirety before he is eligible to be called again

§175-19. Removal of debris at accidents.

As licensee called to the scene of an accident, if necessary, must sweep or clean up any debris, but only if he is provided with police protection against vehicles at the scene.

§175-20. No transferability of place on rotational list.

It shall be unlawful for a licensee to transfer or exchange his place on the rotational list with any other licensee or other person on the rotational list.

§175-21. Accidents requiring more than one tow truck.

If more than one tow truck is needed at the scene of an accident, the Ulster Police Department, through its authorized agent, shall call the next licensee on the rotational tow list. The police officer at the scene shall designate which licensee tows which vehicle. The first licensee to appear on the scene shall, however, assist the police officer in clearing the motor vehicles from the public highways onto the shoulder of the highway.

§175-22. Unauthorized towing.

It shall be unlawful for any person who is not designated from the rotational tow list, as aforesaid, or who does not have the prior consent and direction of the police officer at the scene or owner of the vehicle, to tow away any motor vehicle which has been involved in an accident. The police officer, if at the scene, will determine when the aforesaid vehicle shall be removed. No vehicle will be towed in any event unless the Ulster Police Department is notified or has been at the scene.

§175-23. Refusal to respond to call or tow vehicle.

It shall be unlawful for any licensee on the rotational tow list to willfully refuse to tow away a motor vehicle after having appeared upon the scene, or to willfully fail to arrive at the scene after being duly designated as herein provided, regardless of the hour of day or distance to the scene of the occurrence. It shall be unlawful for any licensee or his designated agent to fail to answer a call for service or refuse to respond to a call for service on three occasions within the same month. A conviction for violating this section shall result in an automatic suspension from the rotational tow list for 60 days.

§175-24. Response Time for tow truck.

A licensee and or tow truck operator shall have his tow truck respond to any call for service by the Town of Ulster Police Department in a safe and lawful manner. It shall also be determined that a tow truck should be able to arrive at any scene within the Town of Ulster within 30 minutes from the time the call was placed to the tow truck company by the Town of Ulster Police Department.

§175-25. Licensee to have one place on the Rotational tow list.

A licensee duly qualified shall have but one place on the rotational tow list, although he maintains several licensed tow trucks and or businesses/ corporations in the Town of Ulster or City of Kingston.

§175-26. Cancellation of tow truck prior to Service.

If a tow truck is called from the Town of Ulster Rotational tow list and is cancelled prior to arrival or upon arrival without any service being rendered, it shall be the tow truck operator's responsibility to notify the Police Officer on scene. The Police Officer shall then notify the Dispatcher, so that the tow truck company can be placed back on the Rotational tow list. The vehicle disabled will not be towed if it is no longer required. There will also be no fee assessed to the operator or owner of said vehicle because no service was rendered.

§175-27. Maximum prices for towing and storage.

It shall be unlawful for any licensee to charge any person more than the maximum fees set forth in its application or filed with the Ulster Police Department for the towing and storage of motor vehicles, except when called from the Town of Ulster Rotational tow list, the maximum fees as herein provided shall apply. A conviction for violating this section shall result in an automatic suspension from the rotational tow list for 60 days.

§175-28. Solicitation at accidents prohibited.

It shall be unlawful for any person to solicit towing or bodywork at the scene of any motor vehicle accident on private property or on a public highway with the Town of Ulster.

§175-29. Driving on streets to solicit work prohibited.

It shall be unlawful for any person to drive along any public street or highway within the Town of Ulster for the purpose of soliciting towing work, or repair work or both.

§175-30. Hearing procedure.

A. Whenever it shall be provided herein that a hearing shall be held, such hearing shall be held on a date and at a place and hour designated by the Chief of Police or his agent.

B. The Chief of Police or his agent shall give notice thereof, stating the name and address of the applicant or license holder concerned, the subject matter of the hearing and date, place and hour thereof designated therefore, by mailing a copy thereof to the applicant or license holder concerned at the address shown upon the most recent application of such applicant or licensee at least 10 days before such hearing.

C. Upon any hearings, the applicant or license holder involved shall be entitled to be represented by legal counsel and to present such competent and material testimony or other evidence in his own behalf that may be relevant to the subject matter at the hearing.

D. All witnesses shall be sworn and examined under oath.

§175-31. Suspension and revocation of license.

A. Any license issued hereunder may be suspended for a period of not more than three months or revoked by the Chief of Police or his agent if the holder thereof shall violate any provisions of this chapter or any ordinance of the Town or be convicted of the violation of any traffic law, ordinance or regulation of the State of New York or any municipality of the State of New York or of any crime, or be guilty of making a false statement or misrepresentation in his application. A license hereunder shall not be suspended or revoked by the Chief of Police or his agent without a hearing having been held thereupon, which hearing shall be held not less than 10 days after written notice thereof to the licensee, either in person or in person or by certified mail.

B. The Chief of Police, upon receiving information giving him reasonable cause to believe that the holder of any licensee has violated any provisions of this chapter, or has been convicted of any violation referred to herein, or has been indicted or charged with or for any crime or offense, or is guilty of having made false statements or for any crime or offense, or is guilty of having made false statements or misrepresentations in his application, may temporarily suspend such licensee from the rotational tow list until such time as hearing

is held by said Chief of Police or his agent, as provided herein, and the Chief of Police or his agent shall have rendered its determination thereon.

C. Towing authorization. No vehicle shall be removed without authorization of the police officer, the owner of the vehicle or other person in charge thereof. Such authorization shall be for the towing and the storage of the vehicle only.

§175-32. Administration and enforcement.

The Chief of Police or his agent shall have the power to prescribe reasonable rules and regulations for the proper and efficient administration and enforcement of this chapter.

§175-33. Regulations for tow truck drivers.

A. A licensed tow truck driver

1. Shall have an identification card, approved by the Chief of Police, signed by the licensee, attesting to the employment and qualifications of such driver as required herein in his possession at all times while engaged in his occupation as a tow truck driver, and, while so engaged, shall also be in possession of his valid NYS driver's license with at least a CDL, A, B, C, or NON-CDL C class license with a tow truck endorsement. The tow truck driver must possess the appropriate driver's license and endorsement for the class/ weight tow truck he is operating.

2. Shall not permit any other person to use his identification card.

3. Shall not be engaged on an unlicensed tow truck or on a tow truck that the license for which has been suspended or revoked.

4. Shall promptly report the loss of his identification card to the Chief of Police or his agent.

5. Shall report a change of address to the Chief of Police or his agent within 48 hours.

6. Shall have with him at all times properly authorized forms for towing and repair, such forms to be printed and maintained by the tow truck owners.

7. Shall refrain from use of addictive drugs, expect those medically prescribed, or intoxicating liquors, while on duty either at the garaging facility, office or place of accident.

B. Each driver at the scene of an accident

1. Shall exhibit his identification card, upon request to the owner of the vehicle being towed or persons in charge thereof or to any member of the Ulster Police Department.

2. Shall not remove any vehicle involved in an accident in which a person has been injured until released by a duly authorized member of the Ulster Police Department.

3. Shall notify the Ulster Police Department of personal or property damage at an accident scene unless a police officer is or has been present.

4. Shall notify Ulster County Communications (911) if any evidence of fire or a liquid leak is apparent or if the vehicle to be towed may contain hazardous or contaminated substances.

5. The arrival and departure times from the scene of the call shall be noted on the bill for services as well as be made available to the Ulster Police Department upon request.

C. Every tow truck driver shall obey all traffic laws, ordinances, local laws, rules and regulations while operating a tow truck and, upon receipt of a summons or his arrest for any alleged violation of any such law, ordinance, local law, rule or regulation, shall report the same within three days to the Chief of Police or his agent, advising him of the nature of the offense charged and the name and the location of the court and the date upon which said summons is returnable or the date upon which the hearing or such trial is be held.

§175-34. General regulations.

A. The owner or driver of any disabled vehicle shall have the right to require the services of any available licensed tow truck and it shall be unlawful for any owner or driver of any licensed tow truck to refuse to render such services if such owner or driver of such disabled motor vehicle is able and willing to pay the fee prescribed in the schedule of prices filed by the owner

of such licensed tow truck with the Chief of Police or his agent; unless such tow service is physically unable for good cause shown to tow such motor vehicle in that all of its available equipment is already engaged in other towing operations.

B. Licensed tow truck owners and drivers, when required, will answer all communications received from the Chief of Police or his agent.

§175-35. Exception to the Rotational tow list.

A. The Ulster Police Department and its members have the right to utilize the nearest tow truck and not call for service off the rotational tow list in the event of an emergency or a threat to safety requiring the immediate assistance of the nearest tow truck.

B. Upon arrival to the scene of any disabled vehicle or motor vehicle accident, it is the responsibility of any member of the Ulster Police Department to first inquire with the operator of the vehicle requiring a tow if he or she has their own preference for a tow truck service. The member can only refuse there request if the response time of the tow truck service would cause undo inconvenience in time or safety at the scene.

Chapter 177

WATER

§ 177-1. Purpose.

§ 177-2. Agent designated.

§ 177-3. Plumbers and firms to be approved.

§ 177-4. Connection to public water system required.

§ 177-5. Applications.

§ 177-6. Permit for water service required.

§ 177-7. Tapping; fees.

§ 177-8. Distribution systems to be independent.

§ 177-9. Water service pipes; connections.

§ 177-10. Notice required prior to introduction of water to premises.

§ 177-11. Expenses to be paid by owner of premises.

§ 177-12. Laying of service pipes.

§ 177-13. Work to be supervised by Superintendent.

§ 177-14. Reports to be furnished by plumbers.

§ 177-15. Permit required to perform work on water service.

§ 177-16. Permit required to turn on water.

§ 177-17. Service to premises to be independent; exception.

§ 177-18. Turning off water at curb.

§ 177-19. Turning off water at main.

§ 177-20. Reconnection after being turned off at main.

§ 177-21. Damages; repairs and additions.

§ 177-22. Leaks in service lines; repair.

§ 177-23. Check valves.

§ 177-24. Public and school buildings.

§ 177-25. Cross connections.

§ 177-26. Fire hydrants; obstructing or opening valves or gates.

§ 177-27. Permit required for use of water for special purposes.

§ 177-28. Meters.

§ 177-29. Protection of excavations; insurance requirements.

§ 177-30. Construal of provisions.

§ 177-31 – §177-33. Water rates in Bright Acres Water District, Cherry Hill/ Sawkill Road Water District, East Kingston Water District, Glenerie Water District, Halcyon Park Water District Ulster Water District Water rates in Ulster Water District

§ 177-34. Payment of water rents.

§ 177-35. Willful acts injuring water apparatus or supply.

§ 177-36. Penalties for offenses.

§ 177-37. Word usage.

[HISTORY: Adopted by the Town Board of the Town of Ulster 3-14-1979 as L.L. No. 1-1979. Sections 177-5, 177-6, 177-9B and C, 177-18A and B, 177-20, 177-28C, 177-31, 177-32, 177-33 and 177-36 amended and §§ 177-7C, 177-22, 177-25, 177-26C and 177-28F added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. 177-28 (G) Adopted by the Town Board of the Town of Ulster 10-16-2014 as L.L. No. 5- 2014. Sections 177-26 (C) and (D) amended and § 176-26 (B) and (E) added by the Town Board of the Town of Ulster 11-2-2016 as L.L. No. 1-2016. Other amendments noted where applicable.]

GENERAL REFERENCES

Building construction and fire prevention - See Ch. 61.
Sewers - See Ch. 141.
Site plan review - See Ch. 145.
Streets and sidewalks - See Ch. 157.
Subdivision of land - See Ch. 161.
Fees - See Ch. A194.
Site plan review regulations - See Ch. A196.

§ 177-1. Purpose.

The purpose for the enactment of this chapter is to promote the health, safety and general welfare of the inhabitants of the District. It shall be unlawful for any person, firm or corporation to use or attempt to use any of the facilities of the District except as hereinafter provided, nor shall any person, firm or corporation do or attempt to do any plumbing work in connection with the District, other than in compliance with the terms and provisions of this chapter.

§ 177-2. Agent designated.

The Superintendent of the District shall act as agent for the Town Board in the issuance of permits and the inspection of work.

§ 177-3. Plumbers and firms to be approved.

No plumber or firm shall engage in the installation of services unless and until such plumber or firm has been approved by the Town Board or the Superintendent.

§ 177-4. Connection to public water system required.

The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the District 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 water system of the District, is hereby required, at his expense, to install suitable plumbing facilities therein, and to connect such facilities directly to the proper public water system, in accordance with the provisions of this chapter, within ninety (90) days after the date of official notice to do so, provided that the said public water system is within one hundred (100) feet of the property line.

§ 177-5. Applications. (1)

All applications for use of water from the mains or distribution pipes of the District must be made at the office of the Water Department, where a copy of the rules and regulations will be furnished, together with instructions as to the form prescribed for that purpose. The application shall state truly and fully each particular purpose and manner in which the water is to be used and the name of the plumber or firm selected to do the work and shall be signed by the owner of the premises or his authorized agent. Every plumber or firm shall be responsible for performing the work in accordance with and pursuant to the authority of the proper state and county government agencies, when applicable. The filing of certificates of insurance and payment of fees for permits from such state and county government agencies shall be the responsibility of the plumber or firm doing the work. A separate application and permit fee is required for each connection to the public water system.

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(1) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I

§ 177-6. Permit for water service required. [Amended 1-9-1986 by L.L. No. 1-1986(2)]

A. A permit for water service must be obtained from the Water Department for the respective water district for each connection in the public main. The permit for water service must be issued to the property owner or his designated agent for the permit. The permit must be cosigned by the Superintendent of the District or his designee.

B. The fee schedule for the permit will be as provided in Chapter A194, Fees.

§ 177-7. Tapping; fees. [Amended 1-9-1986 by L.L. No. 1-1986]

A. The tapping of water mains or distributions pipes, the furnishing of the corporation cocks, the curbcock and the box shall be provided by the District. The cost of the above mentioned material shall be included in the permit fee for a three-fourths-inch tap. All materials for a tap larger than three-fourths (3/4) inch shall be provided by the owner of the property.

B. No single tap larger than three-fourths (3/4) inch (inside diameter) shall be permitted, except by special permission issued by the Superintendent of the District with the approval of the Town Board. No water main or distributions pipe shall be tapped by any person, except an authorized employee of the District or its designee.

C. The tapping of water mains or distribution pipes of the public water system, including the furnishing of corporation cocks, the curb cocks and box, shall be provided by the District, unless provided as part of the subdivision improvements plan. (3)

§ 177-8. Distribution systems to be independent.

Any water supply taken from the District's system shall be distributed through a piping system entirely independent of and unconnected to any other system conveying any other supply of water.

§ 177-9. Water service pipes; connections.

A. The minimum size of water service pipes from the curb to the meter shall be three-fourths (3/4) of an inch copper service type K tubing with brass fittings and valves. No red or white lead joint compound shall be used on joints between the main and the meter.

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(2) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I
(3) Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

B. Two-inch water services are to be laid with soft K copper service with brass flare fittings and valves. **(4)**

C. Connections above two (2) inches must be of cement-lined ductile iron or copper and must conform to the District's standard of water mains. **(5)**

§ 177-10. Notice required prior to introduction of water to premises.

A plumber or firm receiving a permit to lay service or supply pipes for the introduction of water to any premises shall give the Superintendent at least twenty-four (24) hours of notice prior to the time of the tapping of the main.

§ 177-11. Expenses to be paid by owner of premises.

A. All expenses for introducing water to any premises, excavating for and laying service pipes and all fixtures connected therewith (except the corporation cock at the main, which belongs to the District), must be paid by the owner of the premises.

B. All expenses for repairs and replacements to service lines, curb cocks, rods and boxes to the street main will be borne by the owner of the premises. All curbcock valve boxes must be at grade level or excavated by the owner if water is requested to be shut off.

C. All service line thawing with electric welders or other methods will be the responsibility of the owner to the street main.

§ 177-12. Laying of service pipes. [Amended 3/01/2004]

All service pipes to any premises shall be laid at least four and one-half (4 1/2**)** feet below the surface of the grade at right angles to and from the street main to the inside of the curbline, where a curbcock shall then be attached and valve box placed. There shall be a stop and waste cock placed on every supply pipe just inside of the building or cellar and on the customer's side of the meter. No ¾" or 1" pipe unions are allowed if the house or meter are within 100' from curb stop.

§ 177-13. Work to be supervised by Superintendent.

All work attendant to the introduction of water to any premises, laying supply pipes thereto and

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****(4) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.**
(5) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

fixtures connected therewith shall be done under the supervision of the Superintendent of the District and subject to his approval.

§ 177-14. Reports to be furnished by plumbers.

All plumbers shall, after completion of work on any service pipe or fixture, make a true report, upon the blanks furnished by the District, of all the fixtures and pipes attached or connected by them or under their supervision; and such report shall be filed in the office of the Town Clerk within forty-eight (48) hours after completion of the work.

§ 177-15. Permit required to perform work on water service.

No plumber shall make any addition, attachment, alteration or extension to any water supply or service pipe on any premises, until a permit is granted upon an application made and signed by the owner of the premises, as provided for by §177-5 and §177-6 hereof.

§ 177-16. Permit required to turn on water.

No plumber or other person shall open any curbcock or turn on the supply of water to any service pipe without a permit from the District.

§ 177-17. Service to premises to be independent; exception.

One (1) tap and one (1) service pipe will not be allowed to supply more than one (1) house or premise, unless such service pipe is provided with separate and independent curb stops and boxes at the curb line in front of each house or premise. In no case will service pipes be allowed to run across lots, but must be taken from the main in front of the premises. Any exception to this regulation must receive the approval of the Town Board.

§ 177-18. Turning off water at curb.

A. The supply of water to any premises may be shut off for nonpayment in the event that any quarterly bills or other charges are unpaid at the expiration of a period of sixty (60) days from the date due. The Superintendent must give the delinquent five (5) days printed or written notice, at the expiration of which time, if the charges are not paid, the water will be shut off from such premises until the charges are paid in full. The sum as provided in Chapter A194, Fees, shall be charged for turning the water on. **[Amended 1-9-1986 by L.L. No. 1-1986 (6)]**

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(6) Editor's Note. Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I

B. The payment of the regular water rents shall not conflict with the right of the Superintendent to shut off the supply of water from any premises for any violation of any of the provisions of this chapter.

C. In the event that a house or other building is to be closed or become vacant, notice thereof must be given to the District, in order that the meter may be read and the curbcock closed. Where such notice is not given, and pipes burst from freezing or other causes, the value of the water lost by reason thereof, as estimated by the District Superintendent, together with the additional sum as provided in Chapter A194, Fees, to cover labor and expense to the District, shall be added to the next bill and be paid in like manner as regular water charges. **[Amended 1-9-1986 by** L.L. **No. 1-1986(7)]**

§ 177-19. Turning off water at main.

In a case where the water is shut off for nonpayment of water rent or for other causes, and when, in the opinion of the Superintendent, the shutting off at the curb is not sufficient protection against the further use of water, he may cause the corporation cock to be shut off and the supply pipe to be discontinued therefrom.

§ 177-20. Reconnection after being turned off at main. [Amended 1-9-1986 by L.L No. 1-1986 (8)]

Upon reapplication for water where the water has been shut off at the corporation cock, an additional charge as provided in Chapter A194, Fees, must be paid for opening the street main and reconnecting the supply line.

§ 177-21. Damages; repairs and additions.

No person shall be entitled to damages or to have any portion of a payment refunded for any stoppage of supply occasioned by accident to any portion of the work, nor for stoppage for purposes of additions or repairs. Owners desiring pressure-reducing valves shall furnish and install the same at their own expense. The Superintendent of the District shall have the right to shut off water to make repairs or additions of new work.

§ 177-22. Leaks in service lines; repair. (9)

Any service line found to have a leak will be given a seven-day notice to have service line

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(7) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
(8) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
(9) Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

repaired. If repairs are not made, service will be turned off until repairs are made. Service will be restored after our inspection.

§177-23. Check valves.

A. In all cases where water is supplied to water backs in stoves and ranges, or to steam boilers for domestic use or manufacturing purposes, the supply pipe must be provided with a suitable check valve or other sufficient device to prevent damage from collapse or explosion when the water is shut off from the street mains or other causes.

B. Whenever a check valve is installed on the cold water supply pipe between the street main and the hot water tank, there shall be installed on the hot-water-distributing system a suitable relief valve.

High-pressure steam boilers shall not be supplied with water directly from public water supply pipes. All such boilers shall be provided with a tank or other receptacle of sufficient capacity to hold not less than six (6) hours supply for the boiler.

§ 177-24. Public and school buildings.

The use of water in all public and school buildings shall be subject to the same requirements and restrictions as in private dwellings.

§177-25. Cross connections. (10)

A. Backflow prevention device. The Water Superintendent may require the property owner to install an approved backflow prevention device in every water service line to the facility for which a potential hazard exists. Such devices shall be installed at or as near the service connection as may be required by the Superintendent. Such backflow preventers shall be designed and installed in accordance with all regulations of Part 5, 1.31 of the New York State Sanitary Code, and must be approved by the Water Superintendent and the New York State Health Department prior to installations. All costs of installation and maintenance shall be borne by the property owner.

B. Cross-connection hazard. The following is partial list of facilities that are especially likely to have cross-connection hazards:

(1) Automobile plants.

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(10) Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

(2) Auxiliary water systems, such as wells.

(3) Beverage bottling plants.

(4) Breweries.

(5) Food-processing plants.

(6) Chemical plants and plating facilities.

(7) Film laboratories.

(8) Hospitals, medical buildings, sanitariums, morgues and mortuaries.

(9) Irrigation systems.

(10) Laundries and dye works.

(11) Meatpacking plants.

(12) Metal manufacturing, cleaning and fabricating plants.

(13) Radioactive materials production or research plants.

(14) Restricted, classified or other facilities closed to.

(15) Sewage.

(16) Buildings heated by boilers where treatment chemicals are used.

(17) Building with certain types of air conditioning systems.

(18) Swimming pools.

(19) Printing operations.

(20) Furniture stripping.

C. Testing. All backflow prevention devices shall be tested at least once a year by a tester certified by the New York State Department of Health in accordance with Part 5, 1.31 of the New York State Sanitary Code, and the results of the test submitted to the Water Superintendent. If annual test reports are not received, the Water Superintendent may test the backflow prevention device for a fee pursuant to Chapter A194, Fees. All costs of testing shall be borne by the property owner.

D. Water shutoff. If a required backflow prevention device is not installed or tested within the period of time set by the Water Superintendent, the supply of water to the premises may be shut off by the Water Department until the provisions of this chapter have been complied with.

§177-26. Fire hydrants; obstructing or opening valves or gates.

A. No person or persons shall open any fire hydrant or draw water therefrom, except the Superintendent of the District or persons under his direction or with his permission and except in case of fire, when the Chief of the Fire Department, his assistants, officers and members of the Fire Department shall have free and entire control of the hydrants for the purpose of extinguishing fires.

B. No person or persons shall open any fire hydrant or draw water therefrom without a meter and backflow device properly installed and working.

C. No person or persons, except the Superintendent and employees under his direction, shall open or close any valve or gate in any water main or street pipe, or in any manner interfere with or obstruct the same.

D. No person shall erect or plant any obstruction within three and one-half (3 ½) feet of any hydrant or cause any obstruction that will hinder a fire company from hooking onto it, or operating any hydrant. No obstruction shall be placed so as to obstruct the view of any hydrant for a distance of at least two hundred (200) feet up and down the road [11].

E. Penalty. Any violation of the rules, regulations or provisions of this section, is hereby declared to be an offense punishable by a fine not to exceed five hundred dollars ($500.00) or imprisonment not to exceed fifteen (15) days, or by both said fine and imprisonment, plus the cost of the water used. If the amount of water used cannot be determined, the person or persons shall be charged for one million (1,000,000) gallons at the current bulk rate. When a violation of any of the provisions of this chapter is continuous, each twenty-four (24) hours thereof shall constitute a separate and distinct violation.

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(11) Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art I.

§ 177-27. Permit required for use of water for special purposes.

Persons desiring to use water for building purposes, filling cisterns or for any special purpose whatsoever, will be required to make application at the office of the Town Clerk and to pay in advance for the same when the Superintendent will issue a permit therefor, such advance payment to be the minimum charge as fixed by §§ 177-31, 177-32 and 177-33 hereof.

§ 177-28. Meters.

A. No meter shall be set or attached by any person other than an employee of the District, nor shall any meter so attached be interfered with, removed, disconnected or repaired by any person other than an employee of the District. The plumber making the installation shall provide all necessary supports for the meter, as directed by the Superintendent. The Superintendent shall be given not less than twenty-four (24) hours of advance notice of the setting of the meter.

B. Owners of premises where meters are attached to the supply pipes will be required to protect the meter from frost or other injury at their own expense; and whenever it shall be necessary to attach a meter outside of the building, they shall pay the expense incurred in excavating for and boxing the same.

C. Where a water meter fails to register the correct quantity of water delivered through it or where it otherwise becomes out of order or in need of repair, notice thereof shall be given to the District. Another meter will be loaned and installed during the time required for testing and repair. When repairs are found necessary, the same shall be made by the District. When, in the opinion of the Superintendent of the District, a meter becomes unsuitable for use, it shall be replaced as directed by the Superintendent. **(12)**

D. All meters in pits will have suitable ladders and be made substantially tight, so as to be safe for ingress and egress from the pit, with suitable covers on the pit to protect the meter and the meter reader from injury. All pits that require pumping so that the meter can be read will be done by owner of the premises.

E. The owner will be charged the amount incurred for removal, shipping and testing of all meters which are requested to be removed and tested for accuracy and all meter readings in dispute, in the event that the meter is found to be correct.

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(12) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

F. All services shall be metered. Meters supplied by the District free of charge to the consumer (residences) shall be no larger than three-fourths-inch fittings. In cases where larger meters are necessary as in commercial use, then the consumer shall pay for the meter. Meters must be accessible to the town employees at all reasonable hours. **(13)**

G. Testing of Water Meters

1. Requirement and frequency of testing. To ensure reliable meter measurements and proper meter calibration, each property owner with a water meter service of one inch and larger must periodically test the meter pursuant to the testing interval set forth below. All such water meters shall be tested by an independent testing service, and calibrated or replaced in order to ensure proper and accurate water meter operation.

Meter Size (inches)	Required Testing Interval – Years or Gallons Whichever Comes First
1	Every 10 years or 5,000,000 gallons
1 ½	Every 10 years or 5,000,000 gallons
2	Every 10 years or 8,000,000 gallons
3	Every 10 years or 10,000,000 gallons
4	Every 8 years or 12,000,000 gallons
6 or larger	Every 8 years or 12,000,000 gallons

When, in the opinion of the Superintendent, the meter becomes unsuitable for use, it shall be replaced by another meter, at the sole cost, expense, and labor of the property owner.

2. Records of water meter testing. Proof of testing and any corrective action as required in § 177-28(G)(1) and a certified report of the results demonstrating the accuracy of the meter, shall be maintained by the property owner on the premises and a copy shall be filed with the Town of Ulster Water Department no later than 30 days after the required testing.

3. Violations. Each violation of any of the provisions of this section shall constitute a misdemeanor and shall be punishable by a fine not less than $250 and not more than $1,000 or by imprisonment not exceeding one year, or both, for each offense. Each day of a continuous violation shall be considered a separate offense. A director, officer, agent or employee of any corporation found guilty of violating any of the foregoing sections shall be subject to the penalties prescribed herein.

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(13) Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.

§ 177-29. Protection of excavations; insurance requirements.

A. Any plumber or firm obtaining a permit to make connections with the District system shall save harmless the said District from all suits, accidents and damages consequential thereof, for or by reason of any opening in any street, alley, or avenue made by him or by those employed by him for making any connection with said water District system or for any other purpose or object whatever; and

he shall also replace and restore the said street over such opening in as good a state and condition as he found it, or reimburse the District for the cost of the same when done by the District. He shall keep guards by day and lights by night and keep and maintain the same in good order and comply with all ordinances of the Town Board applicable thereto. Every plumber or firm, before commencing any work or installation, shall have executed and filed in the office of the Town Clerk, the following required insurance coverage:

(1) Public liability.

(b) Owner's protective (District named insured).

(c) Each in the following amounts: one hundred thousand dollars / three hundred thousand dollars ($100,000 / $300,000.).

(2) Property damage: fifty thousand dollars / one hundred thousand dollars ($50,000./$100,000.).

(3) Blasting coverage (if applicable): twenty-five thousand dollars / fifty thousand dollars ($25,000./$50,000.).

(4) License and permit bond: In the amount of five thousand dollars ($5,000.) guaranteeing that the holder will observe the laws of the municipalities involved and will hold the District harmless for any damage done.

B. The bonds, insurance and certificates herein required must be approved by the District's counsel as to form and sufficiency.

§ 177-30. Construal of provisions.

All of the foregoing rules, regulations and restrictions made and adopted by the Town Board shall be considered a part of the contract with and between any person who applies for and obtains a supply of water; and every person receiving the water so supplied shall be considered as having expressly consented to be bound hereby.

§ 177-31 –177-33. Water Rates in Bright Acres Water District, Cherry Hill/ Sawkill Road Water District, East Kingston Water District, Glenerie Water District, Halcyon Park Water District Ulster Water District. [Amended 12-29-1980 by L.L. No. 3-1980; 1-9-1986 by L.L. No. 1-1986, Amended 1-9-1986 by L.L. No. 3-1986] (14)

A. Meters will be read at the end of each quarter.

B. Rates shall be as provided in Chapter A194, Fees.

§ 177-34. Payment of water rents.

A. All water rents or other charges shall be payable at the office of the Water Department or office of the Town Clerk. **[Amended 1-9-1986 by L.L. No. 1-1986]**

B. All water rents, accounts or other charges shall be made against the owner or owners of premises connected with the water main; and such owner or owners shall be held responsible for all accounts and charges.

C. Water rents for all services shall be payable quarterly at the end of each quarter, on the first days of the months of April, July, October and January.

D. Due dates for all water and sewer bills shall be as follows: Jan. 31, April 30, July 31 & Oct. 31. A twenty percent (20%) penalty shall be applied to any unpaid balance. Delinquent payments due after October 31 of any year shall be relevy to the property owner's tax bill. [Resolution Adopted February 21, 2013]

E. Water rents for fractional parts of a quarter shall be prorated for the remainder of the quarter and be payable on the first day of the ensuing quarter.

§ 177-35. Willful acts injuring water apparatus or supply.

Any willful act whereby the District or any property, apparatus or appliances thereof shall be injured, or the supply of water in any way obstructed, impaired or made less pure, shall be deemed a violation of this chapter.

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(14) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art I.

§ 177-36. Penalties for offenses. [Amended 1-9-1986 by L.L. No. 1-1986] (15)

Any violation of the rules, regulations or provisions of this chapter is hereby declared to be an offense punishable by a fine not to exceed two hundred fifty dollars ($250.) or imprisonment not to exceed fifteen (15) days, or by both said fine and imprisonment. When a violation of any of the provisions of this chapter is continuous, each twenty-four (24) hours thereof shall constitute a separate and distinct violation.

§ 177-37. Word usage.

The term "District" shall be interpreted to mean any or all of the following: Bright Acres Water District, Cherry Hill/ Sawkill Road Water District, East Kingston Water District, Glenerie Water District, Halcyon Park Water District, Spring Lake Water District and Ulster Water District.

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(15) Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art I.

Chapter 181

VEHICLES AND TRAFFIC

[Provisions dealing with vehicles and traffic were being reviewed by the Town Board at the time of publication of the Code. Upon completion of such review and final enactment, they will be included here as Chapter 181.]

Chapter 190

ZONING

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[HISTORY: Adopted by the Town Board of the Town of Ulster 9-23-1991 as L.L. No. 9-1991. Article XVII adopted by the Town Board of the Town of Ulster 12-2-2016 as L.L. No. 2-2016. Amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets - See Ch. 7.
Building construction and fire prevention - See Ch. 61.
Condominium and cooperative conversions - See Ch. 67.
Fees - See Chs. 84 and A194.
Flood damage prevention - See Ch. 87.
Junkyards - See Ch. 101.
Mobile homes and travel trailers - See Ch. 114.
Noise - See Ch. 117.
Sewers - See Ch. 141.
Streets and sidewalks - See Ch. 157.
Subdivision of land - See Ch. 161.
Swimming pools - See Ch. 165.
Water - See Ch. 177.

ARTICLE I
General Provisions

§ 190-1. Title.

This chapter shall be cited as the "Zoning Local Law of the Town of Ulster, New York."

§ 190-2. Authority; purpose.

This chapter is enacted by authority of Article 16 of the Town Law of the State of New York and §10 of the Municipal Home Rule law, to protect and promote the public health, safety and general welfare, including the following purposes:

A. To guide growth and future development of the town.

B. To protect the natural and manmade environment of the town, and to encourage the orderly and beneficial development of land.

C. To protect and preserve the town's resources.

D. To promote compatibility between the uses of both land and buildings.

E. To afford residents and property owners reasonable expectation of future use on adjacent properties.

F. To limit costs to the town and taxpayers resulting from unplanned and difficult-to-service development.

G. To protect the character and integrity of established residential areas for area residents.

H. To supplement the existing town laws and regulations which control the use of land.

I. To promote equal opportunity for residential and commercial development

J. To promote affordable housing.

K. To promote and encourage the full and appropriate utilization of all properties in the town.

ARTICLE II
[Repealed and replaced with Local Law #2 of 2010, enacted 7-15-2010]
Terminology

§ 190-3. Word usage.

A. Unless the context clearly indicates otherwise, words used in present tense include future tense; words used as singular include plural; and words used in plural include singular.

B. The words "herein" and "requirement" mean “in and of this law.” "Person includes a corporation, partnership, association, club or any other group "Shall" is always mandatory; "building" includes a structure or any part thereof, “used” or "occupied" as applied to land or building is construed to include the words "intended, arranged for or designed to be used or occupied." The “town” is the Town of Ulster in Ulster County in New York State.

§ 190-4. Definitions.

ACCESSORY - The term applied to a structure or use which is clearly incidental and subordinate to, and customary in connection with, the principal structure or use. It must be located on the same lot. Any accessory structure attached to a principal structure is part of the main structure for bulk requirements.

ACCESSORY APARTMENT - A completely independent dwelling unit with separate cooking, eating, sanitation and sleeping facilities that is either in or added to an existing single-family dwelling or in a separate accessory structure on the same lot as an existing dwelling.

ADULT ARCADE - An establishment where, for any form of consideration, one (1) or more motion-picture projectors, slide projectors or similar machines are available and are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by emphasis upon the depiction or description of specified sexual activities or specified anatomical areas. For the purposes of this chapter, "adult arcade" is included within the definition of "adult motion-picture theater."

ADULT BOOKSTORE - An establishment or business, whether retail or wholesale, having more than 20% of its stock in trade (recordings, books, magazines, periodicals, films, video tapes/cassettes or other audio or viewing materials) for sale or rent for viewing or use only off the premises, which stock is distinguished or characterized by its emphasis on matter depicting, describing, or relating to sexual activities or sexual anatomical areas.

ADULT BUSINESS - Any establishment or business involved in the dissemination of material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, including but not limited to Adult Arcades, Adult Bookstores, Adult Theaters and Adult Entertainment Cabarets.

ADULT ENTERTAINMENT CABARET - An enclosed building or structure or portion of a building or structure used for presenting film or similar materials or performances by live persons having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

AGRICULTURAL OPERATION – Any management of any land for agriculture; raising of cows, horses, pigs, poultry and other livestock; horticulture or orchards; including the sale of products grown or raised directly on such land, and including the construction, alteration or maintenance of fences, agricultural roads, agricultural drainage systems and farm ponds.

AIRPORT - A place where aircraft can land and take off, usually equipped with hangers, facilities for refueling and repair, and various accommodations for pilots and passengers.

ALTERATION - Any change or rearrangement of the supporting members of an existing structure, such as bearing walls, columns, beams, girders and fire walls or any enlargement or diminution of a structure, whether horizontally or vertically, or the moving of a structure.

ASSITED LIVING FACILITY - Residences for the frail or frail elderly that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services, such as recreational activities, financial services, and transportation.

AUTOMOTIVE GARAGE AND SERVICE CENTER - Any building or portion thereof servicing and repairing automobiles; and including as an accessory use the sale and/or installation of lubricants, tires, batteries, mufflers, and similar vehicle accessories.

AUTOMOTIVE SALES AND SERVICE - The use of any building, land area, or other premise principally for the display, sale, rental, or lease of new or used automobiles (but may include light trucks or vans, trailers, or recreational vehicles), and including any vehicle preparation, warranty, or repair work conducted as an accessory use.

BED & BREAKFAST ESTABLISHMENT - Owner occupied one-family dwelling used for providing overnight accommodations that may include a morning meal to transient lodgers, containing not more than five bedrooms for such lodgers.

BUFFER - An area of specified dimension extending between the property line and a permitted structure or use which shall remain in a natural state or be improved with landscape materials and fences as may be required under approval. It shall not be used or encroached upon by any activities, and it shall provide adequate separation and protection from inharmonious or incompatible uses.

BUILDING - Any structure having a roof supported by columns or walls and intended as a shelter, housing or enclosure for any person, animal, process, equipment, goods or materials.

BUILDING HEIGHT - The maximum vertical distance from the elevation of the proposed finished grade to the highest part of a flat roof and to the mean height between the eaves and ridge for a gable, hip or gambrel roof. (Refer to § 190-21.)

BUILDING PERMIT - Means the written authorization issued by the Town Building Inspector to an applicant to perform certain work after complying with this and other laws as required.

BULK, NONCOMPLYING - See "non-complying bulk".

CAMPGROUND - A plot of ground on which two or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation and vacation purposes.

CANNABIS RETAIL DISPENSARY —A retail facility that sells at retail any cannabis product, the sale of which a license is required for an adult-use cannabis retail dispensary under the provisions of the New York State Marijuana Regulation and Taxation Act.

CEMETARY – Land used for the internment of human remains, including a burial park for earth internments, which may include a mausoleum for vault or crypt interments, operated for a not-for-profit organization.

CERTIFICATE OF COMPLIANCE - A written instrument issued by the Building Inspector showing compliance with this chapter as of the date of the last inspection, permitting the receiver of this certificate to occupy or use the premises.

COLLEGE or UNIVERSITY - An educational institution authorized by the State of New York to award associate, baccalaureate, or higher degrees.

COMMUNITY FACILITY - A structure or use owned and operated by a public or semipublic agency to provide a community service.

COMPREHENSIVE PLAN - The Town of Ulster Comprehensive Plan, prepared pursuant to § 272-a of the Town Law and adopted by the Town Board on July 2, 2007 including any amendment thereto hereafter adopted.

CONVENIENCE STORE - Establishments that deal in retail sales of convenience goods. primarily food products, household items, newspapers and magazines, candy and beverages, and a limited amount of freshly prepared foods such as sandwiches and salads for on or off-premises consumption and that may include the ancillary sale of gasoline and diesel for automobiles.

CONTRACTORS STORAGE YARD - A lot or portion of a lot or parcel used to store and maintain construction equipment and other materials and facilities customarily required in the building trade by the construction contractor.

COVERAGE - The percentage of the area of a lot covered by buildings and accessory structures.

DAY CARE, ADULT – A facility providing care for elderly and/or functionally impaired adults in a protective setting for part of a 24-hour day.

DAY CARE, CENTER FOR CHILDREN – A facility licensed or authorized and regulated by the State of New York Department of Social Services or other state agency having a jurisdiction where care is provided, for more than five hours per week, for three or more children away from their own homes for less than 24 hours per day in a facility which is operated for such purposes.

DESIGN HOUR - The measure of volume or capacity during a sixty-minute period, in order of rank for a calendar year. For the purpose of this chapter, the 30th rank-hour volume or capacity shall be deemed to be the “design hour” unless otherwise stated.

DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited to structures, excavations, commercial tree harvesting/clearing, mining, dredging, filling, grading, paving, drilling operations or placement of material or movable structures in a special flood hazard area.

DWELLING, ATTACHED - A one-family dwelling with ground floor outside access, attached to two or more one-family dwelling by common vertical walls.

DWELLING, DETACHED - A dwelling that is not attached to any other dwelling by any means.

DWELLING, DUPLEX (TWO-FAMILY) - A residential building on a single lot containing two single-family dwelling units totally separated from one another by an unpierced wall extending from the basement to roof.

DWELLING, MULTIFAMILY - A building containing four (4) or more dwelling units, including units that are located over one another.

DWELLING, RESIDENCE-ABOVE-THE-STORE - A dwelling unit situated above a non-residential use that is situated on the first floor of a multi-story building.

DWELLING, SINGLE-FAMILY DETACHED - A building containing one dwelling unit and that is not attached to any other dwelling by any means and is surrounded by open space or yards.

DWELLING, TOWNHOUSE (SINGLE-FAMILY ATTACHED)- A one-family dwelling in a row of at least three (3) such units in which each unit is located on a separate lot, has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

DWELLING, TRIPLEX (THREE-FAMILY) - A building containing three dwelling units, each of which has direct access to the outside or to a common hall.

DWELLING UNIT - One or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

EXCAVATION (COMMERCIAL) OF NATURAL RESOURCES - The removal of stone, sand, gravel, minerals or other natural material, except topsoil incidental to an approved site plan or subdivision, for the purpose of sale or any other commercial purpose, other than that which is incidental to excavation necessary under an approved site plan.

ELEEMOSYNARY USE – A charitable organization.

FAMILY - A group of persons living together as a single not-for-profit housekeeping unit, whether or not related.

FARMING - A parcel of land used mainly for the production of agricultural products. The commercial keeping of livestock, including horses, cattle or poultry, is a separate use.

FARMERS MARKET – The seasonal selling or offering for sale at retail of vegetables or produce, flowers, orchard products, cheese, maple syrup, honey, and similar agricultural products, where the vendors are individuals who have raised the vegetables or produce and have taken the same on consignment for retail sale. Such markets shall be sponsored by a not-for-profit organization.

FARMING OPERATION - The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a horse boarding operation. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

FARM STAND – A temporary structure designed or used for the display or sale of agricultural products primarily produced on the premises upon which such stand is located.

FENCE - An unroofed barrier or enclosing structure, including retaining wall over three (3) feet in height.

FLAG LOT - A lot shaped like a flag where the road frontage is less than the required width of the property to be developed. Minimum road frontage for residential use is twenty (20) feet. The front setback shall be measured from the terminus of the flag pole where it enters the flag lot.

FLEA MARKET – An occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public other than as allowed in a farmer's market. Flea markets are not permitted within the Town of Ulster.

FLOODWAY - The channel of a natural waterway and portions of the floodplain adjoining the channel, which are reasonably required to carry and discharge the flood flow of a natural waterway.

FLOOR AREA, NET - The sum of the horizontal area of a structure proposed to be used as a floor, and not including basements or attics, measured from the inner faces of exterior walls.

FLOOR AREA, GROSS – The sum of the gross horizontal areas of all enclosed floors of a building, including cellars, basements, mezzanines, penthouses, corridors, lobbies from the exterior face of exterior walls, or from the centerline of a common wall separating two buildings, but excluding any space with a floor-to-ceiling height of less than 6 feet 6 inches.

FOOT-CANDLE – A foot-candle is a quantitative unit measuring the amount of light falling on a surface, all points of which are one foot from a uniform point source of one candle.
FORESTRY OPERATIONS – The operation of timber tracts, sawmills, tree farms, forest nurseries, the gathering of forest products, or the performing of forest services.

FORESTRY - The operation of timber tracts, tree farms or commercial logging.

FRATERNAL ORGANIZATION – A group of people formally organized for a common interest, usually cultural, religious, or entertainment, with regular meetings, rituals, and formal membership requirements.

FRONTAGE - The linear horizontal distance measured along the full length of a street line abutting the lot.

FULL CUT-OFF FIXTURE – A lighting fixture constructed so that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the fixture, is projected below an imaginary horizontal plane passing through the lowest point on the fixtures from which light is emitted. Any structural part of the light fixture providing this shielding must be permanently affixed.

GASOLINE SERVICE STATION aka AUTOMOTIVE GASOLINE SALES - A business providing for the sale of gasoline which may include automotive repairs ~~or~~ a convenience store.

GREEN SPACE - That area of a lot, expressed as a percentage, which is to be kept in a vegetative or landscaped state, including gardens, ponds, floodway, wetlands, streams, shrub beds, lawns, woods or fields, in order to enhance the project both visually and environmentally.

GROUP HOME – A non-profit or for-profit boarding home for sheltered care of persons with special needs, which, in addition to providing food and shelter, may also provide some combination of personal care, social or counseling services, and transportation.

HEALTH CLUB - An establishment that provides facilities for aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities, and saunas, showers, massage rooms and lockers.

HOME OCCUPATION - An activity carried out for gain by a resident conducted entirely within the residence in which the resident resides that is clearly incidental and secondary to the primary use of the premises for residential purposes.

HOTEL or MOTEL – A facility offering transient lodging accommodations to the general public and which may include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services and recreational facilities. In a hotel rooms are accessed from an interior hallway wherein rooms in a motels have access to an exterior sidewalk of balcony.

INDUSTRY, HEAVY – Industry not classified under “light industry”, including primary production of lumber and wood products and mining with processing, but excluding animal slaughtering and rendering plants; incineration activities; smelters; ore refining; industrial kilns with input of over ten (10) MBTU's per hour; paper mills; and chemicals, petrochemicals and allied products which are prohibited.

INDUSTRY, LIGHT – A use engaged in the fabrication, predominantly from previously prepared materials, of finished products or parts, including processing, assembly, treatment, packaging, and incidental storage, sales, and distribution of such products, but excluding manufacturing, recycling, refuse and scrap metal facilities, waste-to-energy facilities and asphalt plants.

INSTITUTIONAL USE – A nonprofit or public use, such as a library, hospital, or government-owned or –operated building, structure, or land used for public purpose.

JUNKYARD - An area of land, with or without buildings, used for the depositing, collecting or storing, outside of a completely enclosed building, of used or discarded materials, such as wastepaper, rags or scrap material or used building materials, house furnishings, machinery, vehicles or their parts, and processing salvage, for sale or other use or disposition of the same. Outside storage of more than one (1) wrecked or broken down vehicle, or parts there from, for two (2) or more weeks in a 6-month period constitutes a "junkyard". "Junkyards" require a special permit and annual license under § 190-25G.

KENNEL - A commercial place or establishment for the care, boarding and/or breeding of four or more dogs.

LIGHT TRESPASS - Light produced by a fixture that illuminates a surface beyond the boundaries of the property on which it is located.

LIVESTOCK KEEPING - The keeping, fattening or breeding of various forms of farm, ranch and preserve animals including but not limited to alpacas, bison, buffalo, dairy and beef cattle, deer, equines, goats, hogs, llamas, poultry, rabbits, ratites, sheep and other farm animals raised as a source of income or as a novelty.

LOT - A designated parcel, tract or area of land established by a filed plat or subdivision or as otherwise permitted by law.

LOT AREA - The total horizontal area included within the property lines of a lot or multiple lots under common ownership restricted from separate conveyance, excluding any rights-of-way or other reservation. Underwater land may account for up to twenty percent (20%) of the required minimum "lot area" pursuant to this chapter. Land in a floodway [see (FHBM) Floodway Map latest revision] or regulated wetland [see Department of Environmental Conservation (DEC) Regulatory Wetland Map, latest edition] shall not constitute "lot area" except for farming, the keeping of livestock and green space.

LOT, CORNER - A lot at the junction of or abutting on two (2) or more intersecting streets where the interior angle of intersection does not exceed one hundred thirty-five degrees (135'). A lot abutting a curved street shall be deemed a "corner lot" if the tangents to the curve at the Points of the intersection of the side lots with the street line at an interior angle of less than one hundred thirty-five degrees (135').

LOT WIDTH – The minimum horizontal distance between the side lot lines measured at right angles to its depth, parallel to the front line, at the building line.

MANUFACTURING - The use engaged in the preparation and assembly, predominantly from previously prepared materials, of finished products, including packaging, storage and sales.

MANUFACTURED HOME - A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling unit when affixed to a permanent foundation or placed on a concrete slab and connected to the required utilities. Manufactured homes are built to the U.S. Department of Housing & Urban Development standards.

MANUFACTURED HOME PARK - A site with required improvements and utilities for long-term parking of mobile homes as dwelling units.

MARINA - A facility for the storing, servicing, fueling, berthing, and securing of boats and which may include eating, sleeping, and retail facilities for owners, crews and guests.

MINING – the extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial, or construction use; exclusive of manufacturing processes, at the mine location; the removal of such materials through sale or exchange, or for commercial, industrial or municipal use; and the disposition of overburden, tailings and waste at the mine location. Mining shall not include the excavation, removal and disposition of minerals from construction projects, exclusive of the creation of water bodies, or excavations in aid of agricultural activities.

MODULAR HOME – A home that is constructed to New York State Building Code standards, partially assembled in a factory and transported to a home site in a minimum of two sections, each of which are transported to building site separately, with installation of heating system and application of siding coming after erection of the home, and which is indistinguishable in appearance from conventionally built homes.

MUSEUM – A permanent facility in the service of society and of its development, open to the public, which acquires, conserves, researches, communicates and exhibits the heritage of humanity and its environment, for the purposes of education, study, and enjoyment.

NONCOMPLYING BULK - That part of a structure or land use that does not comply with one (1) or more of the bulk requirements herein.

NONCONFORMING USE - Any use of structures or land, which does not conform to the full intent and extent of this chapter.

NURSERY SCHOOLS - A private school or facility designed to provide daytime care or instruction for more than one (1) nonresident, preschool child, unrelated to the provider.

NURSERY, RETAIL - The growing, cultivation, storage, and sale of garden plants, flowers, trees, and shrubs and fertilizers as well as the sale of garden tools and similar ancillary and accessory products to the general public.

NURSERY, WHOLESALE - The growing, cultivation, storage, and sale of garden plants, flowers, trees, and shrubs to landscapers, developers, builders, and retail nurseries.

OFFICE – A building used primarily for conduction the affairs of a business, profession, service, industry, or government, or like activity.

OFFICE COMPLEX - A development on a tract of land that contains a number of separate office buildings, with accessory and supporting services, and open space designed, planned, constructed, and managed on an integrated and coordinated basis.

OFFICIAL MAP - The map established by the Town Board pursuant to § 270 of Town Law, showing streets, highways, parks and drainage systems, both existing and proposed.

PHOTOMETRIC PLOT - A photometric plot is a diagram depicting the location of all light poles and building mounted lighting fixtures that contribute to area lighting, and numeric foot-candle values for maintained lighting levels which may be represented in a point-by-point grid or an iso-lumen plot depicting contour lines of equal light level.

PRINCIPAL USE OR STRUCTURE - The primary use of land, as distinguished from a secondary or accessory use, and the building or structures in which such use is conducted.

RECREATION FACILITY - A recreational facility operated as a business and open to the public that may be conducted entirely indoors such as a roller skating rink, video arcade or bowling alley or partially out-of-doors such as miniature golf course, golf driving ranges, or batting cages.

RECREATIONAL VEHICLE - A vehicular-type portable structure without permanent foundation which can be towed, hauled or driven and is primarily designed as temporary living accommodation for recreational camping and travel use, and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes. A "recreational vehicle" is not a mobile home as defined herein.

RECYCLING YARD – A facility upon which used materials are separated and sorted for shipment to a manufacturing facility where these materials are transformed into new products.
A recycling yard may involve the mechanical transformation of materials through crushing, shredding or compacting but the chemical transformation of materials shall be prohibited.

RESIDENTIAL TREATMENT CENTER - A facility designed to house, treat, and educate children or young adults within an environment that is supervised 24 hours a day, 7 days a week.

RESTAURANT – Any establishment primarily offering sit-down dining for sale and consumption of food and drink on-premises.

RESTAURANT, TAKE OUT – Any establishment primarily offering, for sale, take-out food and drink for consumption off-premises including commercial food stands.

RETAIL BUSINESS – A use devoted principally to the sale of goods or commodities in small quantities directly to consumers.

RIDING ACADEMY – An establishment where horses are boarded and cared for and where instruction in riding, jumping, and showing is offered and where horses may be hired for riding.

SCHOOL OF LEARNING – Any building or part thereof that is designed, constructed, or used for education or instruction within a classroom environment in any branch of knowledge including, but limited to, business and trade schools, schools of art, dance theater and the martial arts as well as academic institutions.

SCREEN or SCREENING:

A. A strip at least ten (10) feet wide, densely planted or having natural growth, with shrubs or trees at least four (4) feet tall at the time of planting, of a type that will form a year-round dense screen at least six (6) feet high within three (3) years.

B. An opaque wall or barrier or uniformly painted fence at least six (6) feet high.

C. Any other island, barrier, emplacement, wall, fence, trees, planting or other artificial or natural dividing strip which is part of a conditional approval for a site plan or special permit use.

SELF-STORAGE FACILITY – A public facility for storage of personal, household or business property which is serviced by the owner of the stored property or an agent of the owner for periods of at least 30 days or greater. The term "self-storage facility" includes all similar uses and terms but shall not be construed to mean warehouse.

SENIOR CITIZEN HOUSING - A building or group of buildings, whether detached or connected, containing dwellings that are designed and operated for occupancy by persons who are elderly or disabled as defined under applicable state or federal programs designed for such persons of at least 62 years of age if no such program is applicable. Such housing may include common areas in multifamily dwellings owned and managed by a single management entity, together with normal and customary ancillary facilities or services for use by older persons.

SERVICE BUSINESS – A use devoted principally to the sale of services directly to consumers.

SETBACK - The minimum distance between a principal structure or use and the property line or street line of the lot.

SETBACK, FRONT - The minimum distance set back from the front property line or street line, whichever is greater.

SETBACK, REAR - The setback to the rear lot line.

SETBACK, SIDE - The setback to any property line other than a front or rear lot line.

SEWER SERVICE, APPROVED - The provision of a central sewage disposal system designed and constructed to standards approved by the Town Board for municipally operated systems. It may be privately owned and operated, provided that an irrevocable offer of dedication is made to the town in the event that public operation is required by corporate default.

SHIELDED, SHIELDING – Components that serve to obscure direct view of the light source, or to prevent skyglow and light trespass, and may be either opaque or translucent. Shielding

includes components internal and/or external to the fixture. Internal shielding includes reflective hoods, louvers, refractors, diffusers (either surrounding the lamp or as part of the enclosure, such as patterned or opal glass). External shielding includes attached opaque shields, architectural elements, and landscaping elements.

SHOPPING CENTER – A group of commercial establishments planned, constructed, and managed as a total entity, with customer and employee parking provided on-site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements, and landscaping and signage in accordance with an approved plan.

SIGN – Any material, structure or device or part thereof composed of lettered or pictorial matter or upon which lettered or pictorial matter is placed when used or located out of doors or outside or on the exterior of any building, including window display area, for display of an

advertisement, announcement, notice, directional matter or name, and includes sign frames, billboards, signboards, painted wall signs, hanging signs, illuminated signs, pennants, fluttering devices, projecting signs or ground signs, and shall also include any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of nay person or business when the same is placed in view of the general public.

(1) ACCESSORY SIGN- Any sign related to a business or profession conducted or to a commodity or service sold or offered upon the premises where such sign is located.

(2) ANIMATED OR INTERMITTENT SIGN – Any sign that uses movement or change of lighting to depict action or create special effect or scene.

(3) A-FRAME - A specific type of portable sign which is typically constructed with two opposing faces, connected at the top and separated at the bottom, sometimes referred to as a "sandwich board".

(4) AWNING - a roof-like covering of canvass, fiberglass or other material attached to a metal or other frame and supported entirely by a building or structure.

(5) BANNER- A temporary sign composed of lightweight material either enclosed or not enclosed in a rigid frame, secured or mounted so as to allow movement of the sign caused by movement of the atmosphere.

(6) BILLBOARD (OFF PREMISES ADVERTISING) -Any outdoor advertising board medium, structure or device which advertises, directs or calls attention to any business, article, substance, service or anything which is painted, printed, pasted or affixed to any building, structure, wall, fence, pole, railing, natural object or structure of any kind on real property or upon the ground itself and which advertises services, products or commodities not available on the premises on which the "billboard" is located.

(7) CANOPY SIGN – Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy.

(8) DIGITAL SIGN – A sign that has or appears to contain movement or that appears to change, caused by a method other than physically removing and replacing the sign or its components, whether the real or apparent movement or change is in the display, the sign structure itself, or any other part of the sign. A digital sign often incorporates a technology allowing the sign face to change the image without the necessity of physically or mechanically replacing the sign face or its components. A digital sign may include a

rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, electronic message centers, or other similar methods or technologies that permit a sign face to present different images or displays. **[Added 9/13/2021 by L.L. No. 2-2021]**

(9) FREESTANDING SIGN - Those signs that are affixed to the ground and not attached to the building.

(10) ICONIC SIGN - A sign which is a traditionally accepted pictorial symbol conveying the nature of the business, normally constructed in heavy relief or is three-dimensional.

(11) INTERIOR SIGN - Any sign, except address numbers that are affixed to or painted on the interior of a window or door or located within three feet of the inside face of the window or a door, which sign is designed to be visible from the exterior of the window or door.

(12) MOBILE SIGN - A sign not permanently affixed to a structure or to the ground or designed or intended to be moved from one location to another including signs on wheels or trailers, sandwich boards and similar non-permanent signs. (See also "temporary sign").

(13) MARQUEE SIGN – A sign of permanent construction that projects from a wall of a building above the entrance projecting from and supported by the building.

(14) MONUMENT SIGN – A freestanding sign either affixed to a base on the ground or mounted on short poles no greater than two (2) feet high.

(15) PENNANT – Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

(16) PERMANENT SIGN – Any sign intended and installed to be permanently in place at a given location by means of suitable fastening to a building or to a structure specifically erected to hold such sign (s) or to the ground.

(17) POLE SIGN – A freestanding sign that is mounted on a pole or other support so that the bottom edge of the sign is five (5) feet or more above grade.

(18) PROJECTING SIGN - A sign which is affixed to an exterior wall of a structure extending perpendicular or at an angle of more than 30' to the wall plane.

(19) ROOF SIGN - A sign which is erected, constructed or maintained on, partly above or as part of the roof or parapet of any building.

(20) SANDWICH BOARD - (see A-FRAME)

(21) TEMPORARY SIGN - TEMPORARY SIGN -A sign which is designed to advertise or announce a particular event or series of events, to solicit political support or to announce the availability for sale of a particular item or items which will be available for a limited period.

(22) WALL SIGN - A sign which is affixed to or painted on an exterior wall of a structure and in the same general plane as the wall.

(23) WINDOW SIGN – A sign permanently installed on a window for purposes of viewing from the outside of the premises. This term does not include merchandise located in the window.

SKYGLOW - The adverse effect of brightening the night sky due to man-made lighting, caused either by direct upward light emission, light reflected off illuminated surfaces, or scattering due to haze.

STREET, DEAD-END - A street or a portion of a street with only one (1) vehicular traffic access.

STREET LINE - The property or reservation line between the street and a lot. The reservation line is established at twenty-five (25) feet from the centerline of the travel way of a local street and at thirty (30) feet from the centerline of state and county roads, or other major road, unless the property line is at a greater distance.

STREET or ROAD - A street, improved to the satisfaction of the town or Planning Board, which is one (1) of the following: an existing town, county or state highway; a street shown on an approved subdivision final plat; or a street shown on an Official Map of the town, or is approved by the Town Board under § 280-a of the Town Law.

STREET or ROAD, ARTERIAL - A street that connects and distributes traffic to and from major roads, with access control, channelized intersections and restricted parking.

STREET or ROAD, LOCAL - A street that is intended to serve primarily as an access to abutting properties.

STREET or ROAD, MAJOR - A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to an arterial road. A fully improved "major road" is one that is complete both by virtue of required right-of-way and by physical construction to the standard of a "major road." All state or county roads are “major roads” for establishing a street line.

STRUCTURE - Anything constructed with a fixed location on the ground or attached to something already in a fixed location.

SUBDIVISION - The division of any parcel of land into two (2) or more sections with or without streets and includes re-subdivision.

SWIMMING POOL - Any constructed body of water or structure to contain water volume exceeding thirty-five (35) cubic feet, and related equipment pertaining thereto, whether or not operated for gain.

THEATER - A building or part of a building used to show motion pictures or for drama, dance, musical or other live performances.

THROUGH LOT - A lot which is not a corner lot and which has two street lines.

UNDERWATER - Land is "underwater" where it is so depicted in the United States Geological Map of the town or where it is within channel lines of a classified stream (DEC); or where the land is classified as "muck soils" by the United States Soil Conservation Service based on field investigations. Lands submerged or to be submerged by artificial impoundments are deemed "underwater" under this chapter.

VETERINARIAN CLINIC - A place where animals are given medical care and the boarding of animals is limited to short-term care incidental to hospital use.

VINEYARD - A plantation or farmland devoted to cultivating grape-bearing vines, grown mainly for winemaking, but also for raisins, table grapes and non-alcoholic grape juice.

WAREHOUSE - A building used primarily for the storage of goods and materials other than self-storage as defined herein.

WATER SERVICE, APPROVED - The provision of a central water supply system designed and constructed to standards approved by the Town Board for municipally operated systems. Such systems may be privately owned and operated, provided that an irrevocable offer of dedication is made to the town should public operation be required due to corporate default.

WAYFINDING SYSTEM - A comprehensive and coordinated signage system that provides coherent regulatory and directional signs.

A. Unless the context clearly indicates otherwise, words used in present tense include future tense; words used as singular include plural; and words used in plural include singular.

B. The words "herein" and "requirement" mean “in and of this law.” "Person" includes a corporation, partnership, association, club or any other group. "Shall" is always mandatory; "building" includes a structure or any part thereof, “used” or "occupied" as applied to land or building is construed to include the words "intended, arranged for or designed to be used or occupied." The “town” is the Town of Ulster in Ulster County in New York State.

ARTICLE III
Establishment of Districts

§ 190-5. Division of town into districts; compliance with chapter required.

For the purposes listed in Article 16 of New York State Town Law, except as may be superseded pursuant to § 10 of Municipal Home Rule Law, the Town of Ulster, New York, is divided into zone districts, separating residential and nonresidential uses. Within each district, and use, buildings and density of development shall comply with this chapter. This includes the requirement for building permits and certificates of compliance; approval of site development plans on nonresidential uses; approval of special permits for nonresidential uses as listed; approval of sign permits for commercial signs; and renewals of permits.

§ 190-6. Districts established.

There is hereby established and the town is divided into zone districts as listed below:

SYMBOL	TITLE
HC	Highway Commercial District - Uses as specified
I	Industrial District - Uses as specified
LC	Local Commercial District - Uses as specified

OM	Office and Manufacturing District - Uses as specified
R-60	Residence District - 60,000 square foot minimum lot areas for single-family dwellings by right (other uses as specified)
R-30	Residence District - 30,000 square foot minimum lot areas for single-family dwellings by right (other uses as specified)
R-10	Residence District - 10,000 square foot minimum lot areas for single-family dwellings by right (other uses as specified)
RC	Regional Commercial District - Uses as specified
ROD	Redevelopment Overlay District
TNDOD	Traditional Neighborhood Development Overlay District

§ 190-7. Zoning Map; interpretation of boundaries.

A. Establishment. The areas and boundaries of the zone districts are established as shown on a map entitled the "Zoning Map of the Town of Ulster, New York," dated August 20, 1991, certified by the Town Clerk and maintained and filed in the Clerk's office, and referred to as the "Zoning Map." This map is incorporated by reference and declared to be a part of this chapter.

B. Interpretation of district boundaries. Where uncertainty exists about the physical location of any boundary of the districts shown on the Zoning Map, the Zoning Board of Appeals shall determine the location in accordance with the following rules:

(1) Boundaries shown as approximately following the center line of streets, highways or rights-of-way, follow such lines.
(2) Boundaries shown as approximately following platted lot lines (Ulster County Real Property Service Tax Map), follow such lines.
(3) Boundaries shown following town limits follow such.
(4) Boundaries shown following rail lines are to be midway between the main tracks.

(5) Boundaries shown following shorelines shall follow such shorelines even when naturally moved. When shown following center of a waterway then boundaries shall follow such center line.

(6) Boundaries shown parallel to or as extension of the features listed above shall be so construed. Distances not stated on a map are determined by the map scale.

(7) Where physical or cultural features existing on the ground differ from those shown on the map, the Zoning Board of Appeals shall interpret the boundaries.

C. The Zoning Map of the Town of Ulster, incorporated in this chapter by reference, is hereby amended to designate the entire area bounded by Enterprise Drive, Boices Lane, the CSX Railroad right-of-way and Old Neighborhood Road as a Redevelopment Overlay District (ROD).

ARTICLE IV
Minimum Requirements; Existing Uses; Effect of Regulations

§ 190-8. Minimum requirements.

This chapter states the minimum requirements, adopted for the promotion of the public health, safety and general welfare. Site plan approvals and building permits granted under prior authority shall have full force and effect, except that any subsequent amendments shall comply with this chapter.

§ 190-9. Existing uses; effect of regulations.

A. Bill of Rights for existing uses and structures. The Town Board hereby establishes a Bill of Rights for all existing uses and structures in any zone. Zoning prevents incompatible uses which destroy town residents' peaceful enjoyment of property. Zoning preserves all property values and recognizes the special status under law of the single-family dwelling. To that end:

(1) Existing single-family residences are always conforming uses in all districts.

(2) Any structure which is damaged or destroyed may be rebuilt and restored to its original dimensions as a matter of right. A building permit would be required.

(3) Existing single-family residences may be enlarged or extended subject only to the setback requirements of this chapter.

(4) An existing single-family residence and its accessory structures on an existing lot with an area or width less than that required in the district in which it is located may be added to or changed, subject only to the setbacks for that district. See also § 190-48C. **[Amended 5-17-1993 by L.L. No. 3-1993]**

(5) All existing uses and structures will be allowed to continue in all districts.

B. Following the effective date of this chapter, the following shall apply:

(1) No building or structure shall be erected or enlarged, nor shall any land or building be used, designed or arranged to be used, for any purpose, in any manner, except in complete compliance with this chapter.

(2) A setback for any building or use cannot be considered as setback for any other building or use on the same or any other lot,

(3) No lot shall be formed from part of a lot already occupied by a building or use unless such building or use, all setbacks and open spaces and the remaining lot comply with all requirements prescribed by this chapter and with the subdivision regulations. **(1)**

(4) Nothing contained in this chapter shall require any change in the plans, construction or designed use of a building complying with local laws in force prior to this chapter if a signed site plan has been filed with the Town Clerk or if a building permit or certificate of occupancy was duly issued prior to the effective date of this chapter and has not expired or been revoked.

(5) All structures having a valid certificate of occupancy or all lawfully existing uses are conforming with this chapter. All structures constructed prior to the effective date of the State Building Construction Code (September 1, 1967) do not require certificates of occupancy.

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(1) Editor's Note: See Ch.161, Subdivision of Land.

(6) No building permit or certificate of compliance shall be granted for any new or altered use unless the Building inspector shall find that the use shall conform to all requirements of the chapter, except as noted above.

ARTICLE V
Use and Bulk Requirements

§ 190-10. General requirements.

The general requirements affecting the use of buildings, structures and land are established and set forth in this Article, The requirements for bulk and arrangement of buildings and structures (i.e., lot area, setbacks and height, etc.) and the density of residential development and of materials and equipment occupying land in connection with nonbuilding or open uses are established and set forth by this chapter.

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§ 190-11. Lot and Bulk Table; Summary of Permitted Uses.

A. The Lot and Bulk Table and the Summary of Permitted Uses are established and are part of this chapter.**(2)**
B. Instructions for use of said table and summary.

(1) The Lot and Bulk Table has headings for each district. Every use must comply with minimum lot dimensions, minimum green space percentage, minimum setbacks, maximum building heights and maximum building lot coverage percentage.
(2) The Summary of Permitted Uses restricts uses to the certain districts, which are identified on the official Zoning Map. **(3)**
(3) The uses identified in the Summary of Permitted Uses are exclusive. No other uses are permitted without a zoning change. In addition, a use permitted in the Summary of Permitted Uses which violates any provision of § 190-15, Prohibited uses; restricted activities, is also prohibited. Section 190-15 has precedence over said summary.

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(2) Editor's Note: Said Table and Summary are included at the end of this chapter.
(3) Editor's Note: Said Zoning Map is on file in the office of the Town Clerk.

§ 190-12. Schedule of District Regulations.

The following schedules are incorporated by reference: R-10, R-30, R-60, LC, HC, RC, OM and I Districts. **(4)**

§190-12.1. TNDOD – Traditional Neighborhood Development Overlay District. [Local Law #5, enacted 7-6-2009]

In the TNDOD, Traditional Neighborhood Development Overlay District, the following regulations will apply.

A. District Intent and General Purpose.

(1) The Traditional Neighborhood Development Overlay District (TNDOD) is hereby established to encourage and facilitate redevelopment and adaptive reuse of the former "Tilcon Mining" property which extends from the City of Kingston into the Town of Ulster along the Hudson River waterfront to the hamlet of East Kingston. Approximately 163 acres of the 508 acre site are located in the Town of Ulster.

(2) These properties have been analyzed and considered as part of various waterfront planning efforts conducted by the City including, the City's Local Waterfront Revitalization Program (LWRP)(1992) and the City's Waterfront Development Implementation Plan (2000). In response to contemporaneous development proposals, the City has also conducted more focused planning analyses of these properties. This effort has included application of the policies and principles contained in the waterfront planning studies recited above to various specific development scenarios and the conduct of detailed environmental impact assessment of those development scenarios pursuant to the requirements of the New York State Environmental Quality Review (SEQR) Act.

(3) The result of these planning efforts is the Town and City's joint desire to create the opportunity for Traditional Neighborhood development at these locations that is consistent with the character and history of the City and the hamlet of East Kingston. Development of traditional neighborhoods along the riverfront will respect its natural resources and provide attractive, diverse, walkable and culturally vibrant communities with strong linkages to the rest of the urban area. The Town finds that proceeding in this manner constitutes good planning and is consistent with the Town's Comprehensive Plan adopted on July 2, 2007, and with the Town's goals and objectives as a Hudson River Greenway community and furthers the public health, safety and welfare of existing and future residents of the Town.

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(4) Editor's Note: Said schedules are on file in the office of the Town Clerk

(4) The TNDOD is intended to provide an option to development under the existing underlying zoning districts. The standards and procedures set forth for the TNDOD in this Section are intended to override and replace standards and procedures set forth elsewhere in this chapter unless such standards and procedures are specifically referenced or incorporated herein.

(5) This law is not intended to affect such uses as are allowed under the Town of Ulster Zoning law or any other law of the municipality, the State of New York or the United States of America as of the date of its adoption with respect to the area of a certain easement granted by Kingston Landing Development LLC to Tilcon, Inc. and recorded in the office of the Clerk of Ulster County at Liber 4109 at page 30; nor is this local law to be deemed to be an approval by the Town of any such use as is contemplated by the terms of said easement, it being the intention of the Town in adopting this law, that the rights of the parties to said easement and the rights of the Town with respect to the activities contemplated by said easement be unaffected hereby.

B. Specific Purposes. The TNDOD is intended to serve the following specific purposes:

(1) Encourage innovative, traditional neighborhood development which consists of compact, mixed-use neighborhoods where residential, commercial and civic buildings are within close proximity to each other and incorporates the principals set forth in Section 190-12.1.G.(6) below.

(2) Create pedestrian oriented neighborhoods for a diverse population to live, work, learn and play.

(3) Provide for the reclamation, redevelopment and/or adaptive reuse of former industrial sites.

(4) Strengthen the Town of Ulster's economic base.

(5) Facilitate and enhance meaningful public access to the Hudson River waterfront lands.

(6) Promote the preservation of large natural features such as woodlands and wetlands and creation of public open spaces within individual neighborhoods.

(7) Preserve and protect significant views to and from development sites.

(8) Encourage the incorporation of historic and civic elements into neighborhood design and build upon the Town's historical and architectural heritage.

(9) Encourage the provision and/or upgrade of necessary infrastructure resources relating to sewer, water, drainage and parking to facilitate development and improve the natural environment.

(10) Provision of housing opportunities for moderate income families and individuals including municipal employees, first time home owners and senior citizens.

C. Applicability. This District applies to that portion of the Town of Ulster's waterfront and adjoining upland areas comprising the former Tilcon Mining property. The precise District boundaries are designated on the official Town of Ulster Zoning Map.

D. Permitted Uses
Uses Permitted by Right: A building may be erected, reconstructed, altered, arranged, designed or used, and a lot or premises may be used, for any of the following purposes by right, subject to the conditions established.

(1) Residential housing, which may be owner occupied, operated as a rental property, or a combination of owner-occupied and rental, and, if offered for sale, to be owned in fee simple, condominium, cooperative or other forms of ownership, which housing may include any of the following, or any combination thereof.

(a) Dwellings: single family, two family and multiple family including Townhouses, studio and residential apartment units.

(b) Combination building: A building containing a combination of two or more dwelling unit types, which may include, without limitation, single family attached, townhouses, two story apartments, any of which may be arranged beside, above, or under, other types of unit types.

(c) Mixed use building: a building that combines one or more dwelling unit types permitted herein, including, without limitation, single family attached, townhouses and apartments, in combination with non-residential uses, which may include any or all non-residential use types permitted herein.

(2) Art galleries, workshops or retail shops associated with arts, crafts or fine arts.
(3) Live-Work facilities unit.
(4) Restaurants and drinking establishments.
(5) Health club; indoor recreation facility; outdoor recreation opportunities both public and private.
(6) Hotels, conference centers, banquet facilities, bed & breakfast establishments.
(7) Office, Business Office, Professional Office.
(8) Personal Service business.
(9) Theatres, concert halls, cinemas, museums.
(10) Cultural and educational institutions and facilities and places of religious worship.

(11) Retail and service uses typically providing goods and services to the immediate neighborhood, including, without limitation, groceries, specialty foods, bakeries, banks, delicatessens, laundromat/drycleaner and personal services.

E. Special Permit Uses: The following uses are subject to issuance of a special permit by the Planning Board in accordance with the provisions of §190-25 of this chapter:

(1) Annual membership clubs such as tennis, marinas or swimming clubs, incorporated pursuant to the provisions of the Not-For-Profit Corporation Law of the State of New York, catering exclusively to members and their guests and private playgrounds, swimming pools, tennis courts and recreation buildings not conducted as business enterprises. Such clubs shall not contain transient or permanent dwelling units.

(2) Mass transit. Historic and/or alternative modes of transport; structures that facilitate public access; and are set back from the waterfront.

(3) Flooding and erosion protective structures.

(4) Structures needed for public educational, recreational activities and boat launches.

F. Accessory Uses: Accessory Uses shall be limited to the following:

(1) Home occupations subject to the provisions of §190-14.A.

G. Subdivisions: Portions of the TNDOD site may be subdivided upon approval by the Planning Board, in accordance with Chapter 161, for the purposes set forth below. Any parcels created by such subdivision shall be subject to compliance with all provisions of this section and the approved Regulating Design Manual:

(1) Subdivision to create individual lots for single family homes, townhouses, multi-family housing, non-residential uses, parks and/or open space.

(2) Subdivision to create blocks or sections for future development which may be further subdivided for the purposes set forth in item (1) above.

H. Provisions for Moderate Income Housing

In any TNDOD, at least 10% of all housing units shall be designated as moderate income housing in accord with the definitions and standards contained herein.

(1) Standards

(a) All moderate income housing units shall be physically integrated into the design of the development. Each housing unit shall be constructed to the same quality standards as market-rate units. The exterior finishes shall be indistinguishable from all other units. The developer may, however, substitute different fixtures, appliances and interior finishes where such substitutions would not adversely impact the livability or energy efficiency of the unit.

(b) Moderate income housing units shall generally be distributed throughout the development in the same proportion as other

housing units. The Planning Board may use discretion in reviewing and approving distribution of units in consideration of the market objectives of the Applicant.

(c) To be eligible to purchase or rent a moderate income housing unit, the household's aggregate annual income must be between 80% and 120% of the Ulster County median family income for a family of a particular size as determined annually by the United States Department of Housing and Urban Development (HUD).

(2) Housing Plan

Prior to the initial application for approval of a subdivision, site plan or special permit within an approved TNDOD, the applicant shall submit a proposed Housing Plan to the Planning Board that demonstrates how the following objectives will be achieved:

(a) Among income-eligible households, preference to purchase or rent moderate income housing units shall be given to the following types of households in an order deemed appropriate by the Planning Board.

[1] Employees of the Town of Ulster, City of Kingston, or Kingston Consolidated School District.

[2] Volunteer members of the Ulster or Kingston Fire Department or First Aid and Rescue Squads.

[3] Elderly (62 or older) or disabled residents of the Town of Ulster and City of Kingston.

[4] Honorably discharged US veterans who are residents of the Town of Ulster or City of Kingston.

[5] All other residents of the Town of Ulster or City of Kingston.

(b) The Housing Plan shall include procedures and regulations regarding the following:

[1] Methods to determine sale and rental prices for moderate income units.

[2] Procedures to regulate resale prices of moderate income units.

[3] Proposed phasing of moderate income units in relation to phasing of the total development.

[4] Use of any other procedures deemed appropriate to comply with the intent of this section.

(3) Approval

(a) The Housing Plan shall be approved by the Planning Board, which may request recommendation from the City of Kingston Community Development Agency or similar housing agency, prior to approval of any site plan, subdivision or special permit within the TNDOD.

(b) The Planning Board shall include mention of such Housing Plan in the notice of any required public hearing on the application.

(c) As part of any approval of the Housing Plan, the Planning Board may require modifications to such Housing Plan to further the intent of this section.

(2) Administration

The Town Board shall designate a qualified agency or individual to administer the moderate income housing program and perform the following duties:

(a) Accept and review applications.

(b) Maintain eligibility priority list, annually certify and re-certify applicants;

(c) Establish lottery procedures for selecting applicants that have equal priority;

(d) Recommend annual maximum income limits; rental prices; resale values;

(e) Review certification from owner and lessors of rental units certifying that units are occupied by eligible families;

(f) Review all deed restrictions for moderate income units;

(g) Review all lease terms for moderate income units, and

(h) Promulgate rules and regulations as necessary.

I. Application for Use of the Traditional Neighborhood Development Provisions.

(1) Any property owner within the TNDOD may apply to the Town Board for use of the Traditional Neighborhood Development overlay provisions as an alternative to the uses and development standards permitted in the underlying districts, in accordance with the standards and procedures set forth herein. Such application shall be referred to the Town Planning Board for review and recommendations prior to action by the Town Board.

(2) Each application for use of the Traditional Neighborhood Development provisions be accompanied by a preliminary Regulating Design Manual, subject to approval by the Planning Board, which sets forth the requirements for density, bulk, height, parking, architectural, landscaping, and other design standards to be applied in the proposed traditional neighborhood development.

J. Criteria For Approval of a Traditional Neighborhood Development Design Plan.

In determining whether or not to approve use of the Traditional Neighborhood Development provisions, in accord with the procedures set forth in Paragraph G. below, the Town Board shall consider the extent to which, the plan meets the following criteria.

(1) Conforms to the applicable purposes and objectives of the Towns Zoning Law.

(2) Conforms to the applicable policies and purposes of the Town's adopted Comprehensive Plan.

(3) Conforms to the intent and specific purposes of this section.

(4) Contains a sufficient amount of acreage to allow for the creation of a Traditional Neighborhood Development that incorporates the Traditional Neighborhood Design principles listed below, but in no event less than 25 acres.

(5) Contains residential and nonresidential densities that are sufficient to create Traditional Neighborhood Development and neighborhoods while at the same time respecting the natural features and environmental sensitivity of the site, but in no event more than 10 dwelling units per gross acre allocated for residential use or a floor area ratio (FAR) of more than 2.0 for lands allocated for non-residential use.

(6) Incorporates accepted Traditional Neighborhood Design principles with respect to the roadway system, proposed land uses, the open space system and the scale and style of the building elements. For purposes of this provision, Traditional Neighborhood Design principles shall include:

(a) Provision of mixed use neighborhoods that are designed and sized to be walkable.

(b) A discernible center within each mixed-use neighborhood to serve as a community gathering place.

(c) Shops and stores within close proximity to neighborhoods sufficiently varied to satisfy ordinary household needs.

(d) A variety of places to work, including live/work units.

(e) A mix of dwelling types such that younger and older persons, single person households and families may be housed according to their needs.

(f) Small playgrounds or neighborhood parks within walking distance of all dwellings.

(g) Thoroughfares and roadways designed as a network, with emphasis on connecting adjacent thoroughfares wherever possible to provide drivers with options to disperse traffic.

(h) Traffic calming design to slow traffic, creating an environment appropriate for pedestrians, bicyclists and automobiles.

(i) Building frontages that create interesting, attractive pedestrian friendly streetscapes and confine parking to locations behind buildings to the maximum extent practicable.

(j) Preservation of sensitive natural resources and cultural areas as permanent open space.

(k) Provision for community uses or civic buildings.

(7) Incorporates meaningful public access to the Town's waterfront.

(8) Demonstrates the provision of adequate services and utilities, including access to public transportation.

(9) Architectural style of proposed buildings, including exterior finishes, color and scale that is consistent with the intent and purposes of this Section.

K. Traditional Neighborhood Development Plan – Review Procedures.

(1) Traditional Neighborhood Development Design Plan Application. An application for approval of a Traditional Neighborhood Development Plan shall be made as follows:

(a) Applicant. An application for approval of a Traditional Neighborhood Development Plan shall be made in writing to the Planning Board. Application shall be made by the owner(s) of the land(s) to be included in the project or by a person or persons having an option or contract or other

commitment to purchase or acquire the lands. In the event an application is made by a person or persons holding an option or contract to purchase the lands or other commitment to purchase or acquire the lands, such application shall be accompanied by written evidence that the applicant has authorization to submit and pursue such application.

(b) Applications. All applications for approval of a Traditional Neighborhood Development Plan shall be on forms and in such quantity as may be prescribed by the Planning Board. The application must include a Part 1 Full Environmental Assessment Form.

(c) Contents. An application for Traditional Neighborhood Development Plan approval shall include the following:

[1] A master site development plan for consideration by the Planning Board. The development plan may be prepared at a conceptual level but, at a minimum, must specify the number and type of uses proposed for development and depict their location as well as depict the parking areas to service the proposed uses and the means of traffic circulation, both automotive and pedestrian, between and among the uses.

[2] The development plan shall be accompanied by a proposed Regulating Design Manual as required under section F above.

[3] The development plan need not encompass all the details required for a site plan approval but shall set forth in reasonable detail the anticipated locations within the development and sizes of all major improvements such that the Planning Board can evaluate the plan for environmental, traffic and other impacts on the Town with a view toward attaching any conditions of approval which must be met at the time a detailed site plan is submitted for approval for the development or any portion thereof.

[4] The TND Plan shall include a phasing plan with estimated time periods for each phase and for completion of the entire development.

(2) Processing of Application. An application for approval of a Traditional Neighborhood Development Plan shall be processed by the Planning Board in accordance with the following procedure:

(a) Submission. An application for approval of a Traditional Neighborhood Development Plan shall be submitted to the Planning Board in accord with the timing and procedures set forth below.

(b) Escrow. Upon submission of an application, the Planning Board shall require the applicant to establish an escrow amount to be paid by the applicant to reimburse it for reasonable fees incurred by planning, engineering, legal and other consultants in connection with their review of the application. The escrow shall be periodically replenished as necessary. The applicant shall be provided with an ongoing, detailed account of all disbursements from the escrow. Upon termination of the review of the application by the Planning Board, any remaining funds in the escrow account shall be reimbursed to the applicant.

(c) Concurrent Site Plan Review. Concurrent with its Traditional Neighborhood Development Plan submission, an applicant may also submit a detailed site plan application for one or more phases of the Traditional Neighborhood Development Plan. Any site plan concurrently submitted must comply with the requirements of this section and of §190-145 of this Chapter.

(d) Public Hearing. The Planning Board shall conduct a public hearing on an application for approval of a Traditional Neighborhood Development Plan, which shall be held at the time and place prescribed by the Board. Notice of any public hearing shall be provided in the same manner as provided for Special Permit Uses set forth in §274-b of the New York State Town Law.

(e) General Municipal Law 239 Referral. If required, the Planning Board shall refer a full statement of the application to the Ulster County Planning Board as provided for by §239-m of the General Municipal Law.

(f) Decision. The Planning Board shall approve, approve with conditions or deny an application within 62 days after either:

[1] a SEQRA determination of non-significance, or
[2] the issuance of a SEQRA Statement of Findings, or
[3] a determination that the proposed action is consistent with a previous Statement of Findings.

The Planning Board's decision shall contain specific findings demonstrating the application's compliance with the criteria for approval set forth in Section E above. The Planning Board's decision may attach any reasonable conditions to assure conformance with the intent and objectives of these regulations.

(g) Filing. The decision of the Planning Board shall be filed in the office of the Town Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant. In the event of denial, the Planning Board's decision shall contain a written reasoned elaboration in support of the decision.

(h) Modification. Changes or modification to the approved Traditional Neighborhood Development Plan including but not limited to, modifications to the Regulating Design Manual, shall require review and approval by the Planning Board.

(i) Time Limits.:

[1] An application for site plan approval of the Traditional Neighborhood Development Plan or, a section thereof, shall be submitted within one year of the Planning Board's grant of Traditional Neighborhood Development Plan approval. Failure to submit an application for site plan approval within that period shall render the Traditional Neighborhood Plan approval null and void and of no force and effect.

[2] Construction work on the Traditional Neighborhood Development must commence within three (3) years from the date of any final site plan approval and all other required permits or approvals by involved agencies. If construction does not commence within said period, then the Traditional Neighborhood Development Plan approval shall become null and void and all rights shall cease.

[3] Individual approved sections of the Traditional Neighborhood Development shall be undertaken in the timeframe prescribed by the Planning Board in its approval resolution. Each section shall be substantially completed in no more than five (5) years.

[4] Construction of a Traditional Neighborhood Development Plan must be completed within the timeframe proposed by the applicant in its TND Plan and approved or modified by the Planning Board at the time of approval. If the Traditional Neighborhood Development is not completed within said time period, then the approval shall become null and void and all rights therein shall cease.

[5] For purposes of the above provisions the term "construction work" or "construction" shall mean disturbance of the project site and continued activity to install utilities, roads or other infrastructure or the process of erecting any structure in accordance with the final approved site plan. The term "final site plan approval" shall mean the signing of the site plan by the Planning Board Chairman with an endorsement by stamp or other writing indicating that the plan has received "final site plan approval" and indicating the date of such final approval.

[6] Upon written request by the applicant, any of the time limits prescribed above may be extended by the Planning Board for good cause. Among the examples of good cause are delays occasioned by lawsuits, poor market conditions, unforeseen site conditions and force majeure. The Planning Board shall not withhold such extension unless it finds that the applicant is not proceeding with due diligence or is otherwise violating the conditions upon which the approval was granted. Extensions shall not exceed three years unless the applicant submits a written request for further extension.

[7] Within the time limits prescribed above, and for any extension period granted by the Planning Board, the Traditional Neighborhood Development plan shall be

deemed to have obtained vested rights for purposes of completing the approved development improvements notwithstanding any changes to the Zoning Law.

K. Conflicts. To the extent any provision of this Article, including any provision of the approved Regulating Design Manual conflicts with any provision of any other Article in this Chapter, the provisions of this Article shall control.

(1) The Town Board hereby declares its legislative intent to supersede any provision of any local law, rule, or regulation or provision of the law inconsistent with this local law. The provisions of law intended to be superseded include all the Town Law 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. The courts are directed to take notice of this legislative intent and apply it in the event the Town has failed to specify any provision of law that may require supercession. The Town Board hereby declares that it would have enacted this local law and superseded such inconsistent provision had it been apparent.

L. Definitions. As used in this section, the following definitions shall apply:

(1) The term "construction work" or "construction" shall mean disturbance of the project site and continued activity to install utilities, roads or other infrastructure or the process of erecting any structure in accordance with the final approved site plan.

(2) The term "final site plan approval" shall mean the signing of the site plan by the Planning Board Chairman with an endorsement by stamp or other writing indicating that the plan has received "final site plan approval" and indicating the date of such final approval.

(3) The term "live/work unit" shall mean a two or three story individually deeded unit consisting of commercial or office space on the ground level with a living unit on the above floor or floors which can be owner occupied and/or leased for a permitted use as regulated as a mixed use building.

§190-12.2. ROD – Redevelopment Overlay District. [Local Law #1, enacted 1-5-2012]

In the ROD, Redevelopment Overlay District, the following regulations shall apply:

A. District Intent and General Purpose

(1) The Town Board recognizes that certain office, manufacturing and related facilities within the Town, which are no longer utilized by their original owners or for their original purposes, can constitute a valuable economic resource for the Town, but may require changes in use, configuration or development program to be sustainable.

(2) Through the review and approval of a redevelopment plan for a previously developed, large-scale site in the OM District, the Town Board can encourage the adaptive reuse of such a site that will generate a positive tax base, provide employment opportunities, enhance the image of the property and act to further the policies and objectives set forth in the Town of Ulster Comprehensive Plan.

(3) Due to the size and existing layout of such sites, flexible land use patterns, shared parking strategies and design criteria may replace the standard lot and bulk requirements (excepting height) of the OM District while insuring appropriate accessibility to public roads and open space.

(4) By the establishment of appropriate conditions following the completion of the environmental review process, the Town Board can create an approval structure for individual site plan and subdivision proposals that will comprise the redevelopment of such a site.

(5) The ROD is an overlay district intended to provide an alternative to redevelopment of the site under the existing underlying OM zoning district. The standards and procedures set forth in this Section are intended to over-ride and replace standards and procedures set forth elsewhere in this chapter unless such standards and procedures are specifically referenced or incorporated herein.

B. Applicability

The provisions of the ROD shall be applicable to single or contiguous sites under the same ownership or control in the OM District, as delineated on the Zoning Map of the Town of Ulster. Such site(s) must contain at least 100 acres and include existing buildings with an aggregate floor area of at least 500,000 square feet and be serviced by municipal sewage disposal and water supply systems. The criteria set forth above shall be applicable at the time of application for Designation of a Redevelopment Overlay District.

C. Permitted Uses and Subdivisions

Uses Permitted by Right: A site subject to the provisions of the ROD may be arranged, designed or used; only for the following purposes, by right, subject to site plan approval and any conditions established, by such approval. Uses otherwise permitted in the OM District are not permitted in the ROD unless either specifically set forth below or identified on the Table of Use Regulations (Overlay Districts ROD column):

(1) Research facilities, manufacturing and related uses including warehousing

(2) Professional and business offices and services

(3) Retail and personal service establishments

(4) Restaurants and drinking establishments

(5) Hotels and conference centers

(6) Health clubs and indoor recreation facilities

(7) Schools and institutions of higher education and related library facilities

(8) Customary accessory uses to other permitted uses.

(9) Residential uses subject to the following: **[Local Law #4, Amending this section. Enacted 12-28-2023]**

(a) Each dwelling unit shall have no more than two bedrooms. A one bedroom unit shall contain no less than 700 square feet of interior floor area and a two bedroom unit no less than 850 square feet.

(b) Residential uses permitted. All residential uses permitted in the OM district are in the ROD district except 1-family detached dwellings which are prohibited. Any dwelling unit shall have no more than two bedrooms. A studio unit shall contain no less than 450 square feet of interior floor area, a one bedroom unit shall contain no less than 700 square feet of interior floor area and a two bedroom unit shall contain no less than 850 square feet of interior floor area.

(c) No building or structure in the ROD District shall exceed a height of 75 feet above curb level, or five stories, whichever is less

(10) Utility Facilities and Structures (cell tower, solar panels, co-generation, etc.).

(11) Parking facilities and structures

(12) Temporary Uses: the Town Board may permit, at its sole discretion, certain uses not otherwise permitted, on a temporary basis. Such permission may be granted upon application by the site owner and, if granted shall include any conditions deemed appropriate including the duration for which the use shall be permitted.

(13) Uses legally existing at the time of the enactment of the ROD District shall be considered permitted by right as long as there is continuous occupancy of the use on the property.

Uses Permitted by Special Permit: Certain uses identified on the Table of Use Regulations as requiring a special use permit in the ROD District shall be subject to the standards and procedures set forth in Article XI hereof.

Subdivisions: The ROD site may be subdivided upon approval by the Planning Board, in accordance with Chapter 161, for the purposes set forth below. Any parcels created by such subdivision shall be subject to compliance with all provisions of this section and the approved Comprehensive Design Plan. (See Section F. below)

(1) Subdivision, resubdivision or lot line revisions to create individual parcels for permitted uses, parks and/or open space.

(2) Subdivision to create blocks or sections for future development which may be further subdivided for the purposes set forth in item (1) above.

D. Application for Designation of a Redevelopment Overlay District

(1) Any owner of property, or the owner's designated representative, within the OM District which complies with Section B above may apply to the Town Board for use of the Redevelopment Overlay District provisions in lieu of

the use, bulk parking, floor area ratio and related standards in the underlying OM District. Such application shall be in accord with the standards and procedures set forth herein and shall be referred to the Town Planning Board for review and recommendations prior to final action by the Town Board.

(2) Each application for designation of a ROD shall be accompanied by the following:

(a) A written analysis of the project's eligibility for the establishment of a ROD including site area and existing floor area.

(b) A location map showing the parcels requested to be included in the ROD. The map will overlay the proposed parcels on the most recent air photos of that site and

illustrate the site context by including the entire area within 500 feet of the site perimeter.

(c) A map showing the existing conditions on the proposed parcels including existing buildings, utilities, roads, easements, public access points, drainage, topography, all known environmental factors including soils, wetlands, endangered species, historic and archeological sites, etc. To the extent available this information shall be provided for all parcels shown on the location map.

(d) A written overview of the proposed project including a discussion of the disposition of existing buildings, proposed mix of uses on the site, compatibility of the proposed uses with each other and the general design philosophy for the site.

(e) A general Comprehensive Design Plan, which sets forth the overall area, location and height of proposed buildings, the likely mix of uses, the location of proposed access points and an overview of the location and hierarchy of the internal transportation circulation system, overall demarcation of open space and buffer areas, general approach to stormwater management, landscaping and lighting. The Comprehensive Design Plan shall present proposed design objectives and standards in both text and graphics.

E. Criteria for Approval of a Redevelopment Overlay District

In determining whether or not to approve establishment of a ROD district, the Town Board shall consider the extent to which, the application and supporting documents satisfy the following standards and criteria.

(1) Conforms to the applicable purposes and objectives of the Town's Zoning Law.

(2) Conforms to the applicable goals, policies and recommendations of the Town's adopted Comprehensive Plan.

(3) Conforms to the intent and specific purposes of this section.

(4) Satisfies the site area and total building floor area criteria set forth in Section B above.

(5) Demonstrates the provision of adequate public services, including emergency services and access to public transportation.

(6) Demonstrates the ability to provide adequate utilities including water supply, sewage disposal and storm water management.

(7) Establishes an architectural style of proposed buildings, including exterior finishes, color and scale that is consistent with the intent and purposes of this Section.

(8) The Comprehensive Design Plan shall establish a feasible program for redevelopment of the site, and shall consist of the following:

[1] A master site redevelopment plan which may be prepared at a conceptual level but, at a minimum, must specify the number and type of uses proposed for development and depict their location as well as depict the parking areas to service the proposed uses and the means of traffic circulation, both automotive and pedestrian, between and among the uses.

[2] The Comprehensive Design Plan need not encompass all the details required for site plan approval pursuant to Chapter 145 but shall set forth in reasonable detail the anticipated locations and sizes of all major

improvements such that the Planning Board can evaluate the plan for environmental, traffic and other impacts on the Town with a view toward attaching site plan related conditions of approval which must be met at the time a detailed site plan is submitted for approval for all or any portion of the site.

[3] The Comprehensive Design Plan shall include a phasing plan with estimated time periods for each phase and for completion of the entire development.

The Town Board shall consider the Comprehensive Design Plan developed in accordance with the procedures set forth herein in determining whether or not to approve establishment of a ROD District. The ROD District approval shall constitute the approval of the Comprehensive Design Plan as a guide for the development and approval of site plans in the ROD District. The Town Board in approving the ROD District shall consider the recommendation of the Town Planning Board. The process for the development of a Comprehensive Design Plan shall be an iterative process between the applicant and the Town Board utilizing the criteria to be considered by the Town Board in approving the plan as well as those factors applicable to the Planning Board under Chapter 145.

F. Processing of Application. An application for approval of a ROD shall be processed in accordance with the following procedure:

(1) Submission. An application for approval shall be submitted to the Town Board in accord with the timing and procedures set forth below.

(2) Escrow Account. Upon submission of an application, the Town Board shall require the applicant to establish an escrow account in an amount deemed sufficient to reimburse it for reasonable fees incurred by planning, engineering, legal and other consultants in connection with their review of application. The escrow account shall be periodically replenished as necessary. The applicant shall be provided with an ongoing, detailed description of the work performed and an accounting of all disbursements from the escrow. Upon termination of the review of the application, any remaining funds in the escrow account shall be reimbursed to the applicant. Any disputes regarding the Town's use of the applicant's escrow funds or the fees charged by the Town's consultants in reviewing the application shall be referred to the Town Supervisor for resolution. The Supervisor shall resolve any such dispute within 30 days after receiving it and provide a report of his findings.

(3) Public Hearing. The Town Board shall conduct a public hearing on an application for approval of a ROD, which shall be held at the time and place prescribed by the Board. Notice and conduct of any public hearing shall be in accordance with New York State Town Law. Whenever possible, the Board shall combine public hearings required under this section with other public hearings required by other federal, state and local laws.

(4) Referral as per General Municipal Law. If required, the Town Board shall refer a full statement of the application to the Ulster County Planning Board as provided for by §239-m of the New York State General Municipal Law.

(5) Decision. The Town Board shall approve, approve with conditions or deny a request for establishment of a ROD following either:

[1] A SEQRA determination of non-significance, or

[2] The issuance of a SEQRA Statement of Findings, or

[3] A determination that the proposed action is consistent with a previously issued SEQR Statement of Findings.

The Board's decision shall contain specific findings demonstrating the application's compliance with the criteria for approval set forth in Section E above and may include any reasonable conditions to assure conformance with the intent and objectives of this section.

(6) Filing. The decision of the Town Board shall be filed in the office of the Town Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant.

(7) Modification. Changes or modification to the approved Comprehensive Design Plan shall require review and approval by the Town Board following referral to the Town Planning Board which shall have 45 days in which to provide comments and recommendations.

G. Time Limits.

(1) An initial application for site plan approval of the entire site, or a section thereof, shall be submitted within one year of the establishment of the ROD. Failure to submit an application for site plan approval within that

period shall render the Comprehensive Design Plan approved with the ROD null and void and of no force and effect.

(2) Construction work must commence within three (3) years from the latest date of any final site plan approval or other required permit or approval by involved agencies. If construction does not commence within said period, then the site plan approval shall become null and void and all rights to the site plan approval shall cease.

(3) The Comprehensive Design Plan must be completed within the timeframe proposed by the applicant in its application or as modified at the time of approval. If the Plan is not completed within said time period, then the approval of the portions of the Comprehensive Design Plan shall become null and void and all rights to the Site Plan Approval for such portions therein shall cease.

(4) For purposes of the above provisions the term "construction work" or "construction" shall mean disturbance of the project site and continued activity to install utilities, roads or other infrastructure or the process of erecting or rehabilitating any structure in accordance with the final approved site plan. The term "final site plan approval" shall mean the signing of the site plan by the Planning Board Chairman with an endorsement by stamp or other writing indicating that the plan has received "final site plan approval" and indicating the date of such final approval.

(5) Upon written request by the applicant, any of the time limits prescribed above may be extended by the Planning Board for good cause. Among the examples of good cause are delays occasioned by lawsuits, poor market conditions, credit market freezes, unforeseen site conditions and force majeure. The Planning Board shall not withhold such extension unless it finds that the applicant is not proceeding with due diligence or is otherwise violating the conditions upon which the approval was granted. Extensions shall not exceed three years unless the applicant submits a written request for further extension.

(6) Within the time limits prescribed above, and for any extension period granted by the Planning Board, the Comprehensive Design Plan shall be deemed to have obtained vested rights for purposes of completing the approved development improvements notwithstanding any changes to the Zoning Law.

H. Conflicts.

(1) To the extent any provision of this law, including any provision of the approved Comprehensive Design Plan conflicts with any provision of any other Article in this Chapter, the provisions of this law shall control.

(2) The Town Board hereby declares its legislative intent to supersede any provision of any local law, rule, or regulation or provision of the law inconsistent with this local law. The provisions of law intended to be superseded include all the Town Law 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. The courts are directed to take notice of this legislative intent and apply it in the event the Town has failed to specify any provision of law that may require supercession. The Town Board hereby declares that it would have enacted this local law and superseded such inconsistent provision had it been apparent.

I. Definitions
The definitions contained in Section 190-4 of this Chapter shall apply to this section.

§ 190-13. Customary accessory uses; table reference.

A. In addition to those uses identified in the Summary of Permitted Uses, there are Tables of Customary Accessory Uses for Residential Districts and for Nonresidential Districts.**(5)** Accessory uses, listed "as by right," are permitted in the district only when located on the same plot or site as the principal use to which they are accessory. Accessory uses are not permitted within any required setback unless specifically provided for in § 190-18, Setback requirements- exceptions. **[Amended 5-17-1993 by L.L. No. 3-1993]**

B. Customary accessory uses listed as requiring a special permit are permitted only after review and approval by the Town Board, following the procedures in Article XII.

§ 190-14. Customary accessory uses.

Customary accessory uses shall be as follows:

A. Residential districts:

** **(5) Editor's Note: See § 190-14.**

TABLE 1
Customary Accessory Uses in
Residential Districts

Permitted accessory uses by right. (A building permit and site plan are required for certain structures and uses per § 190-50.)

1. Customary accessory uses, including private structures, such as a greenhouse, barn, tool shed, garage, tennis court and pool.

2. One (1) noncommercial vehicle for sale, owned by the resident of a dwelling situated on the same lot, may be located within the required front setback for a period not to exceed sixty (60) days in any calendar year. **[Amended 5-17-1993 by L.L. No.3-1993]**

3. Parking of recreational vehicles, travel trailers, school buses, trucks of over two (2) tons' capacity, boats or boat trailers on the property other than in the required front setback. No vehicle may be used for residential occupancy, except for occasional guest parking and only if sanitary facilities are available within the principal residence.
4. Accessory to a place of worship, a parish house, rectory or study.

5. Storage of goods, materials or products accessory to any use which is permitted in the district and located on the same lot, except in the required setback, and properly screened from adjacent residential properties. **[Amended 5-17-1993 by L.L. No. 3-1993]**

6. Accessory to in a single-family residence, excluding multifamily or attached dwellings, one (1) accessory apartment. Minimum floor area shall be at least four hundred (400) square feet but may not exceed one thousand two hundred (1,200) square feet, which may include separate bath and cooking facilities. One (1) additional off-street parking space must be provided. The legal owner of the lot must occupy either the principal dwelling or the apartment. An accessory apartment shall not increase the minimum area requirement of the single-family residence to which it is attached.

7. Temporary structures for storing equipment and supplies used in conjunction with construction pursuant to an approved site plan or subdivision for up to two (2) years or until a certificate of compliance has been issued, whichever is sooner.

8. The keeping of domestic animals in a fashion that will not result in a hazard to the public health or safety nor create a public nuisance.
9. Home occupations conducted entirely within the residence. **[Amended 5-17-1993 by L.L. No. 3-1993]**

Accessory uses by special permit of the Town Board:

1. Customary home occupations (other than listed in No. 9 above). **[Amended 5-17-1993 by L.L. No. 3-1993]**

B. Nonresidential districts:

TABLE 2
Customary Accessory Uses in Nonresidential Districts

Permitted accessory uses by right. (A building permit and site plan review and approval are required for certain structures and uses per § 190-50.)

1. Customary accessory uses, including structures such as a greenhouse, barn, tool shed, garage, water supply facility, sewage disposal facilities upon DEC approval, electrical substations and heating fuel storage tank. Also included are central heating, air-conditioning and process steam plants when incidental to the principal permitted use.

2. To a permitted residence, the parking of not more than one (1) unregistered, dismantled or vehicle in accordance with required setback. One (1) vehicle for sale by resident may be located between the street and front building line.

3. To a permitted residence, parking a recreational vehicle, boat or boat trailer in other than the required front setback. No vehicle may be used for

   residential occupancy, except for occasional guest parking and only if sanitary facilities are available in the principal residence.

4. Accessory to a place of worship, a parish house, rectory or study.

5. Exterior storage of goods, materials or products, accessory to a permitted use in other than setback and properly screened.

6. Temporary structures for storing equipment and supplies used in conjunction with construction pursuant to an approved site plan or subdivision for up to two (2) years or until a certificate of compliance has been issued, whichever is sooner.

7. The keeping of domestic animals in a fashion that will not result in a hazard to the public health or safety nor create a public nuisance.
8. Clinics, cafeterias and recreational facilities for the exclusive use of company employees, officers and their guests.
9. Home occupations- **[Amended 5-17-1993 by L.L. No. 3-1993]**
10. Accessory parking and loading.

§ 190-15. Prohibited uses; restricted activities.

A. Prohibited uses. The uses set forth on the Summary of Permitted Uses are the only permitted uses **(6)** in the case of a question as the proper classification of a particular use, the definitions and categories used in the Manual of Standard Industrial Classifications, United States Department of Commerce, latest edition, will control. In the event of a dispute, the Zoning Board of Appeals shall interpret this provision. International Dictionary (unabridged) will be used. Certain uses are Common meanings as are ascribed in the latest edition of Webster's considered so incompatible to the town that they are prohibited under all circumstances. Those uses are sanitary landfills, incinerators, liquid waste dumps, nuclear facilities, chemical plants, slaughterhouses and any use which poses a clear and present danger to the environment.

B. Restrictions on creation of dangerous and objectionable activities. The following are violations of § 190-49 of this chapter:

(1) The following nonresidential activities are measured on the property at the point of use and shall not exceed the following limits:

(a) Explosives. Activities involving the commercial storage or manufacture of materials or products which decompose by detonation, are prohibited except those under the jurisdiction of the appropriate licensing agency. Materials subject to explosive detonation may be stored and processed as special permit uses in the Office and Manufacturing and Industrial Districts. They shall observe setback requirements which shall be in addition to the Requirements established in the appropriate table of distances under the Industrial Code of the State of New York.

(b) Fire hazards. All commercial activities involving flammable and explosive materials shall have adequate fire-fighting and fire suppression equipment

****** (6) Editor's Note: Said Summary is included at the end of this chapter**

and devices standard in the industry, including Insurance Services Organization or National Fire Protection Association Codes. The routine maintenance and testing of such equipment shall be a condition of any permit for bulk storage of flammable or explosive materials. All storage shall comply with the provisions of state and local laws as a condition of any special permit issued under this chapter.

(c) Radioactivity or electrical disturbance. No activity shall be permitted which emits to the natural environment dangerous radioactivity at any point. No activity is permitted which produces electrical or electromagnetic disturbance, other than from domestic household appliances and communication equipment subject to control of Federal Communications Commission or other appropriate agency, adversely affecting other property or uses.

(d) Smoke. Nonresidential uses or heating plants of more than one (1) MBTU per hour: No emission is permitted at any point from any chimney or flue, or otherwise, of visible smoke of a shade darker than No. 1 on the Ringelmann Smoke Chart, as published by the United States Bureau of Mines (Powers Micro-Ringelmann Chart, McGraw Hill Publishing Company may be used). This provision applicable to visible gray smoke shall also apply to visible smoke of other colors with equivalent opacity. Other forms of air pollution (commercial and industrial sources). No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution is permitted which can cause damage to health, to animals or vegetation or to other forms of property or which cause any excessive soiling of paint. No emission of any solid or liquid particles in concentration exceeding three-tenths (0.3) grain per cubic foot of the conveying gas or air at any point is permitted. For measuring particles in gas resulting from combustion, standard corrections will be applied to a stack temperature of five hundred degrees Fahrenheit (500' F.) and fifty percent (50%) excess air.

(e) Liquid or solid waste. No discharge is permitted at any point into any public or private sewage disposal system stream or into or upon the ground of any materials in any way or nature or temperature which may contaminate any water supply or otherwise cause the emission of dangerous or objectionable elements, except in full accord with applicable standards published by the New York Department of Health, Department of Environmental Conservation or Ulster County Health Department. No accumulation of solid or liquid waste conducive to vermin, rodents or insects shall be permitted.

(2) The following dangerous and objectionable elements are measured at or beyond the property line of the creator. These are limited as follows:

(a) Noise. The creator must abide by all current local laws or ordinance controlling noises. **(7)**

(b) Vibration. Except during authorized construction activities, no vibration which is discernible to the human sense of feeling for more than a three-minute duration in any one (1) hour from 8:00 a.m. to 8:00 p.m. or for more than thirty (30) seconds duration in any one (1) hour from 8:00 p.m. to 8:00 a.m. is permitted. Railroad trains are exempt from this regulation. Vibrations shall not exceed one tenth (0.1*)* g nor be beyond the safe range of Table 7 of the Bureau of Mines Bulletin No. 442, Seismic Effects of Quarry Blasting on Nearby Structures.

(c) Odors. No emission shall be permitted of odorous gases or other odorous materials in such quantities to be offensive at points of measurement. Any process which may involve the creation of any odors shall be provided with secondary safeguards in the event that the primary safeguards fail. The standard in determining quantities for offensive odors is Table 3 of the Air Pollution Abatement Manual, latest revision by Manufacturing Chemists Association of Washington, DC.

(d) Glare. No direct glare is permitted, either from lights or from high temperature processes, such as combustion or welding, that are visible at the points of measurement. For the purposes of measurement, "glare" includes directly visible sources of light and ignition or diffuse light of an intensity greater than two thousand (2,000) lux per square centimeter [e.g. a two-hundred-watt incandescent lamp equals sixty (60) lux per square centimeter].

§ 190-16. Modification of bulk requirements.

A. The Town Board hereby authorizes the Planning Board, as part of the approval of a subdivision plan, to modify the applicable bulk requirements of this chapter under § 281 of the Town Law. **(8)** This may be done upon written application by the applicant or on its own motion. Height requirements may not be modified. Flag lots are permitted.

****** (7) Editor's Note: See Ch. 117, Noise.**

(8) Editor's Note: Section 281 was renumbered to § 278 by L.1992, c.727, effective 7-1-1993.

B. If the application of this procedure results in a subdivision plat showing lands available for park, recreation, open space or other municipal purposes, then the Planning Board may establish conditions for ownership, use and maintenance of such lands as necessary to assure the preservation of lands for their intended purposes as a condition of final plan approval. All such conditions shall be subject to an approval by the Town Board before final plat approval by the Planning Board. Where the applicant does not dedicate land to recreation use, then a fee as set forth in the standard schedule of fees shall be paid to the town in lieu of the land.

§ 190-16.1 Adult Business Regulations [Local Law #1, enacted 3-2-1998]

A. FINDINGS AND PURPOSE

(1) Findings:

The Town Board hereby finds that certain business activities categorized as adult uses by their nature have serious, objectionable characteristics related to their operation which can lead to a significant impact on the surrounding community. The Board further finds that the unrestrained proliferation and/or concentration of such businesses is inconsistent with existing development and future plans for the Town of Ulster in that they often result in influences on the community which increase the crime rate and undermine the economic, moral and social welfare of the community. The deleterious effects of these businesses change the economic, social and moral character of the existing community and adversely affect existing businesses and community and family life. These findings are based on studies and findings regarding such uses which have been undertaken by and incorporated in legislation enacted by other communities, including the City of Kingston and Town of Islip, New York; Austin, Texas; Indianapolis, Indiana; and Los Angeles, California, as well as the opinions expressed by local residents and business owners.

(2) Purpose:

The purpose of this section is to prevent the unrestricted proliferation of adult businesses and to ensure that the effects of such businesses will not adversely affect the health, safety and economic well-being of the community by enacting criteria for the establishment of adult business uses in the Town.

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B. DEFINITIONS:

ADULT ARCADE - An establishment where, for any form of consideration, one (1) or more motion-picture projectors, slide projectors or similar machines are available and are used to show films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by emphasis upon the depiction or description of specified sexual activities or specified anatomical areas. For the purposes of this chapter, "adult arcade" is included within the definition of "adult motion-picture theater."

ADULT BOOKSTORE - An establishment or business, whether retail or wholesale, having more than 20% of its stock in trade (recordings, books, magazines, periodicals, films, video tapes/cassettes or other audio or viewing materials) for sale or rent for viewing or use only off
the premises, which stock is distinguished or characterized by its emphasis on matter depicting, describing, or relating to sexual activities or sexual anatomical areas.

ADULT ENTERTAINMENT CABARET - An enclosed building or structure or portion of a building or structure used for presenting film or similar materials or performances by live persons having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT BUSINESS - Any establishment or business involved in the dissemination of material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, including but not limited to Adult Arcades, Adult bookstores, Adult theaters, and Adult Entertainment Cabarets.

SPECIFIED ANATOMICAL AREAS

A. The following areas of the body that are less than completely and opaquely covered:

(1) Human genitals or pubic region.

(2) The cleavage of the human buttocks.

(3) That portion of the human female breast encompassed within an area falling below the horizontal line one would have to draw to intersect a point immediately above the top of the areola (the colored ring around the nipple). This definition shall include the entire lower portion of the breast but shall not be interpreted to include any portion of the cleavage of the breast exhibited by a dress, blouse, shirt, leotard, bathing suit or other wearing apparel, provided that the areola is not so exposed.

B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES:

A. Human genitals in a state of sexual stimulation or arousal.

B. Acts of human masturbation, sexual intercourse or sodomy.

C. Fondling or other erotic touch of human genitals, pubic region, buttocks or female breasts.

C. SPECIAL PERMIT REQUIRED FOR AN ADULT BUSINESS

(1) Uses defined in Paragraph B above shall only be permitted in the OM Office Manufacturing District, upon issuance of a special permit in accord with §190-41, and subject to the standards set forth in Paragraph D below.

(2) Any special permit issued under this section shall be subject to renewal annually by the Town Board in the month in which the original permit was issued. Such renewal shall only be granted upon a determination by the Town Board that all requirements of this section and specific conditions of approval are being complied with and that no factors which would have affected the original approval have changed.

D. LOCATION AND STANDARDS FOR ADULT BUSINESSES

(1) Adult Businesses are Permitted only in the OM District, subject to the following standards and all other relevant requirements of this Zoning Law:

(a) Such use shall not be located within 1,000 feet of a residential zoning district or municipal boundary.

(b) Such use shall not be located within 1,000 feet of a school, religious institution, day care facility, hospital, community center or public park.

(c) Such use shall not be located within 1,000 feet of another adult business.

(d) Such use shall not be located in any building or on any lot of which any portion is used for residential purposes.

(2) No adult business shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from the exterior of the building in which the use is located. This provision shall apply to any display, decoration, sign, show window, screen or other opening.

(3) Loudspeakers or similar audio equipment used to describe or discuss specified anatomical areas or sexual activities shall not be audible from the exterior of the building in which it is located.

E. DISTANCE MEASUREMENT

For the purposes of this chapter, distance measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest part of the portion of the building or structure used as an adult entertainment establishment to the nearest property line of the premises of a church, school, public park or public recreation area or to the nearest boundary or a residential zoning district.

F. EXCLUSIONS

The provisions of this section shall not apply to licensed or accredited schools or museums, private artists studios or galleries not open to the general public or activities in a private residence by the occupants thereof.

§ 190-16.2 Cannabis Retail Dispensaries [Local Law #2, enacted 5-16-2024]

A. Purpose. The purpose of this Section is to provide zoning district locations and regulations governing cannabis retail dispensary establishments in accordance with New York State's Cannabis Law, as amended or changed. It is the express purpose and intent of this section to minimize the adverse impacts cannabis retail dispensaries may have on adjacent properties and to provide standards for the placement, design, siting, safety, security, monitoring, modification, and discontinuance of cannabis retail dispensaries. This section outlines reasonable conditions that will protect the public health, safety, and welfare of the Ulster community. This section is intended to encourage appropriate land use and reasonable safeguards to govern the time, place, and manner of cannabis retail dispensary operations.

B. Authorization to Approve or Deny Special Use Permits to Establish Cannabis Retail Dispensaries. A Special Use Permit from the Town of Ulster Town Board shall be

required before any property may be used as a cannabis retail dispensary. The power to approve, approve with conditions, or deny such application is vested in Town of Ulster

Town Board having jurisdiction as set forth above in Article XI of Chapter 190 of the Town of Ulster Town Code, except that those applications that may be processed administratively as set forth in paragraph D, below.

C. Districts Where a Special Use Permit May Be Issued. Subject to the granting of a Special Use Permit, Cannabis Retail Dispensary establishments may be permitted only in the following zoning districts.

1) Highway Commercial (HC)
2) Retail Commercial (RC)

D. Changes in Operator or Site. Changes in owner or operator of an existing cannabis retail dispensary or minor building or site modifications of a legally existing cannabis retail dispensary may be reviewed and a revised conditional use permit may be approved administratively by the Building and Zoning Department. If it is determined that the change in operator will result in a substantial change in operation or site plan, the application can be referred to the Town of Ulster Town Board for a revised Special Use Permit and/or revised site plan approval, subject to a public hearing if required by law or at the discretion of the Town of Ulster Town Board.

E. Cannabis Retail Dispensary Standards, Requirements and Considerations. In addition to the standards set forth in Article XI of Chapter 190 of the Town of Ulster Town Code, the following standards, requirements and/or considerations shall be addressed in any application for a Special Use Permit and/or site plan approval associated with a retail cannabis dispensary:

1) Minimum Distances. For the purposes of this law, distance shall be measured on a straight line from the nearest boundary line(s) of the specified use or zoning district to the nearest point of the building footprint or tenant space footprint of the proposed cannabis retail dispensary.

a) A cannabis retail dispensary shall not be located within 500 feet, front door to front door, of any residential use building.
b) A cannabis retail dispensary shall not be located within 1,000 feet of any recreational facility, school, place of worship, park, public playground, child-care facility, children’s camp, or similar use(s), as determined by the Code Enforcement Officer.

c) A Cannabis retail dispensary shall not be located within 1,500 feet of any other Cannabis retail dispensary.

2) Hours of Operation. Cannabis retail dispensaries may be open for business between the hours of 9:00 AM and 9:00 PM Monday through Saturday and between the hours of 10:00 AM and 6:00 PM on Sundays. Hours of operation must be provided in the application submission to the Town.
3) The cannabis retail dispensary shall provide for adequate and proper security at the premises to deter and prevent illegal activities from taking place on or near the applicant's premises and avoid conduct that has an adverse effect on the health, safety and/or welfare of the surrounding neighborhood.
4) No marijuana or marijuana product shall be smoked, eaten, or otherwise consumed or ingested on the premises where sold. All dispensaries permitted under this section shall comply with all state and local laws, rules and regulations governing the smoking of tobacco.
5) No drive-through service shall be permitted at a cannabis retail dispensary.
6) No outside storage of marijuana, marijuana products, or related supplies is permitted.
7) The applicant must provide an odor control plan that provides for proper and adequate ventilation and demonstrates that any odors associated with the cannabis products stored on site shall be effectively confined to the premises or so treated in order to avoid any negative impacts to neighboring properties or tenant spaces.
8) Any Special Use Permit issued under this Section shall contain a condition that the cannabis retail dispensary shall not operate, and the Special Use Permit shall not be valid, until the applicant has obtained all required licenses and permits issued by the State of New York and any of its agencies.
9) In case of conflict between any of the provisions contained in Article XI of Chapter 190 of the Town of Ulster Town Code and any other law, rule or regulation, the stricter, more restrictive provision shall govern and apply.
10) Subject to applicable law, the Special Use Permit application to the Town of Ulster Town Board must include a copy of all information submitted to the State of New York in application for a license to operate under the New York State Cannabis Law, as amended or changed.

F. License and Permit Revocation Violations and Penalties for Offenses.

1) License and Permit Revocation

a) A revocation of the Cannabis Retail Dispensary license by New York State shall render the Special Use Permit null and void and of no further force and effect, and result in the immediate closure of the dispensary.
b) Any violation of this Section and/or conditions of approval shall be grounds for revocation of the Special Use Permit issued under this Section.

2) Violations and Penalties for Offenses

a) Notice of violation(s) of this Section shall be provided to the business operator in writing directing the conditions requiring correction. The notice shall provide a time limit, as determined reasonable by the Code Enforcement Officer, to resolve the observed or reported violations.

b) Failure to take corrective action shall be punishable in accordance with the provisions set forth in Article XIII of Chapter 190 of the Town of Ulster Town Code.

ARTICLE VI
Supplementary Setback, Height and Use Requirements

§ 190-17. General requirements.

A. No building or structure may be closer to a property line than the minimum setback.

B. Every building requiring a permit shall be on a lot abutting a suitably improved street as provided in § 280-a of the Town Law. Open development areas may be established by the Town Board under § 280-a of the Town Law. All structures shall be located on lots for safe and convenient access for services, fire protection and off-street parking. Any variance of these requirements shall be obtained from the Zoning Board of Appeals pursuant to § 280-a of the Town Law.

§ 190-18. Setback requirements; exceptions.

A. The following structures accessory to a commercial or industrial use are permitted within a front setback:

(1) Gate house.

(2) Landscaping.

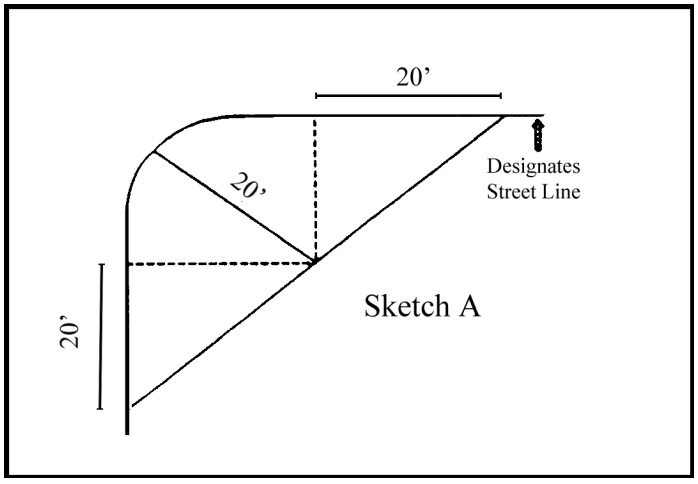
(3) Watchman's post.

(4) Approved signs.

(5) Lighting.

(6) Flag pole.

B. Residential garage exemptions. The Zoning Board of Appeals may permit a private garage accessory to a residence to be located within the front setback where there would be difficulties in constructing a safe and convenient drive from the street, provided that the garage shall not adversely affect the future use of adjacent properties.



C. The parking of recreational vehicles in residential districts is not permitted in the required front setback. However, such vehicles may be parked within any side or rear setback, but no closer than ten (10) feet to any property line, unless screened by a hedge, fence or wall, provided that such vehicles are not occupied as living units other than for temporary periods and provided that sanitary facilities are available for use. **[Amended 5-17-1993 by L.L. No. 3-1993]**

D. Only where a hazard to traffic may exist according to Town Superintendent of Highways, no shrubs, hedge or other natural growth, fence or wall three (3) feet higher than the street shall be located along the property line of a corner lot within forty (40) feet of the intersection per Sketch A. Nor shall the same area be blocked by the overhanging of leaves or branches from a tree lower than eight (8) feet above the street level.

E. A fence or freestanding wall no more than four (4) feet high is permitted on the property line within the required front setback. A fence or wall no more than eight (8) feet high is permitted on any property line behind the front setback. Any fence or wall over that height is permitted parallel to the side and rear lot lines, provided that it is set back from the property line a distance of at least two-thirds (2/3) its height. Finished faces must face outward.

F. An accessory building to a residence may be constructed or located along the common side lot line or rear lot line, provided that a written agreement for such structure is filed by the adjoining property owners with the Building Inspector prior to the issuance of a building permit.

G. The Zoning Board of Appeals may reduce all side and rear setback requirements for nonresidential uses or where existing lot shapes are irregular or where multiple lots exist and are developed as a single site. A buffer may be required. In the case of multiple-use office and/or industrial building development which is served by an industrial service street, the Zoning Board of Appeals may also modify the lot area, the lot width and the front setback requirements, but to an extent no greater that fifty percent (50%) of the minimum requirements. In those cases, the following requirements apply:

(1) The front setback is established from a street line designated on an approved plan or subdivision plat.

(2) Buildings shall be located so as to have adequate access for emergency vehicles [not less than twenty-two (22) feet wide and a fifty-five-foot outside turning radius]. No reduction is permitted in a required buffer or setback associated with existing residential district lots or boundaries.

H. Fences, walls, posts, ornaments, furniture, pavement, curbing, planters, trellises, approved signs, landscaping and other customary yard accessories are permitted within all setbacks, subject to height and visibility limitations.

I. Accessory parking in nonresidential districts shall be permitted within the required front setback of the district. Such parking shall not be located within ten (10) feet of the street line unless, during site plan approval, the Town Board determines that parking closer than ten (10) feet to the street line is necessary for proper site development and will not impede safe access to and from the site. Parking shall not be permitted within twenty-five (25) feet of any property located within a residential district, except that this distance may be reduced to a minimum of ten (10) feet upon approval of a site plan which includes landscaping, fences, walls and/or berms to create a satisfactory buffer. **[Added 5-17-1993 by L.L. No. 3-1993]**

§ 190-19. Measurement of setbacks.

A. All required front setbacks shall be measured from the lot line or the designated street line, whichever is the greatest distance from the center line of the travelway abutting the lot. Where lots are situated on other than a public street or where the line is not a designated street line, the lot line is measured parallel to the center line at a distance from the center line of twenty-five (25) feet along town roads or easements or rights-of-way and a distance of thirty (30) feet for state and county roads (see definition of "flag lot" for flag lot setback.)

B. More than one (1) single- or two-family home may be placed on a lot in a residential district so long as each residence is located so that it would conform to all area and setback requirements of the district if a separate lot were created for each residence. Site plan approval shall be required prior to issuance of a building permit. **[Added 5-17-1993 by L.L. No. 3-1993]**

§190-20. Corner lot and through lot setbacks. [Amended 4-17-2006 by L.L. No. 1-2006]

A. A front setback is required on a corner lot for each street line. The plat and/or plans shall show which of the remaining setbacks are to be side and rear respectively.

B. On a through lot, front setbacks are required on both streets. Each front setback shall be measured from the street line as defined in this chapter.

A front setback is required on a corner lot for each street line. The plat and/or plans shall show which of the remaining setbacks are to be side and rear respectively.

§ 190-21. Permitted height exceptions. [Amended 5-17-1993 by L.L. No. 3-1993]

A. The height limitations of this chapter shall not apply to the following structures, subject to the conditions set forth:

(1) Flagpoles, antennas (except satellite and microwave dishes), transmission towers and cables, spires and cupolas, chimneys, elevators, stairs or bulkheads.
(2) Water tanks, cooling towers, ventilators, air-pollution abatement devices, air-conditioning equipment and electrical substations where such structures are located on the roof of a building and the area of which does not exceed, in total, more than fifty percent (50%) of the roof area and the height of which does not exceed ten percent (10%) of the building height.

B. The highest elevation of any structure included in § 190-21A(2) above shall be set back a distance from the nearest property line at least equal to one (1) foot for each foot of height.

C. A building permit for any proposed structure listed in § 190-21A(l) above whose height exceeds one hundred (100) feet shall not be issued unless a special permit for such structure has been approved by the Town Board as provided in Article XI.

§ 190-22. Front setbacks in existing residential developments.

No proposed one- or two-family dwelling need have a setback greater than the average setback of the lawfully existing dwellings within two hundred (200) feet of the proposed dwelling site.

§ 190-23. Spacing of buildings.

Spacing between buildings shall be governed by the New York State Uniform Fire Prevention and Building Code.

§ 190-24. Waiver of setbacks.

Side or rear setbacks, for other than residential uses, are not required where such setbacks abut the right-of-way of a railroad, limited access highway (provided that the nearest travel way is more than fifty (50) feet from such property line) or overhead utility transmission line at least fifty (50) feet in width. The Planning Board may require minimum setback distances necessary to protect the public safety and general welfare.

§ 190-25. Special permit uses; conditions and approval standards.

A. Mobile homes on individual lots. All applicants for mobile homes must file under and abide by the town's current Mobile Home Law **(9)** in effect at the time of application.

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(9) Editor's Note: See Ch. 114, Mobile Homes and Travel Trailers.

B. All swimming pools must be in compliance of the town's current local law on swimming pools. **(10)**

C. Hotels and motels. No more than one (1) motel or hotel unit is permitted per one thousand four hundred (1,400) square feet of lot area, exclusive of building area or reserve area for on-site sanitary system where applicable. Rooms shall not be connected in groups of more than two (2); each unit shall be restricted to occupancy by not more than four (4) adults at any time; units shall not be equipped with independent cooking facilities of any type unless specifically identified and listed on a separate certificate of compliance.

D. Commercial excavation and processing of natural resources (mineral).

(1) Restrictions. Excavation or extraction of natural resources applies to volumes greater than fifty (50) cubic yards per month. The proposed operation shall not contribute to soil erosion by water or wind, nor shall it adversely affect soil fertility, air or water quality, drainage or lateral support of abutting properties. Excavations and processing shall not be conducted within two hundred (200) feet of any dwelling, inhabited as of the date of the issuance of the special permit or residential district boundary. Such distance may be made greater by the Town Board for the protection of the public health, safety or general welfare.

(2) Rehabilitation plan. Prior to issuance of a special permit, a plan for rehabilitation and reclamation, showing existing and proposed contours, shall be submitted. Such plans shall provide for reclamation within a prescribed time period to a degree necessary to meet site work conditions for permitted use for the district in which located. The applicant shall post a performance bond with the town in sufficient amount to reclaim the maximum area covered by the permit issued by the DEC. Such bond shall include the cost of regrading, rock removal, relocation, spreading of topsoil, seeding and mulching, in accordance with United States Department of Agriculture technical release 55, and replanting of trees on the basis of one (1) six-foot tree per one thousand (1,000) square feet of reclamation area.

(3) Excavation and processing of natural minerals does not include the manufacture of asphalt or heating of materials in kilns or other apparatus having a heat input of greater than fifty (50) MBTUs per hour. Excavation

********** **(10) Editor's Note: See Ch. 165, Swimming Pools.**

shall include operations for reclamation of mined land by fill and cover with no putrescible material under continuous supervision of the Town of Ulster.

E. Commercial extraction and processing of natural resources (forestry). Use of property for commercial forestry or clearing of more than one (1) acre in any twelve-month period of existing trees with a trunk diameter of six (6) inches measured one (1) foot above ground shall be subject to special permit of the Town Board unless incorporated as part of an approved site or subdivision plan. Forestry shall be conducted following an approved plan prepared by a licensed forester of New York State or other qualified person. A bond or other surety shall be provided to the town prior to issuance of the special permit for the total cost of any required reclamation and restabilization of access trails in any tree harvesting operation. These regulations do not restrict normal tree maintenance or noncommercial firewood cutting.

F. Multiple dwellings (including attached and condominiums).

(1) Restriction on number of dwelling units. The number of dwelling units of a multiple dwelling shall not exceed the number of one- or two-family dwellings otherwise permitted under the residential zone classification using the following equivalency: each zero bedroom (efficiency unit) shall equal three-tenths (0.3) single-family dwelling; each one-bedroom unit shall equal four-tenths (0.4) single-family dwelling, each two-bedroom unit shall equal six-tenths (0.6) single-family dwelling; and each three-bedroom unit shall equal one (1) single-family dwelling. The number of units permitted is determined by dividing the gross area of the site by the minimum lot area as listed in § 190-11 for that district. The term "bedroom" in the formula refers to each additional room or each two hundred (200) square feet of excess space outside of space allocated for kitchen, dining, living, bath and storage areas of less than thirty (30) square feet The maximum density of development shall not exceed eight (8) units per acre. The Town Board may approve a greater density where the additional units are for low- to moderate income housing purposes.

(2) Each multiple-dwelling site shall have an area to include active or passive recreation facilities on the basis of two thousand four hundred (2,400) square feet of recreation area or open space per multiple-dwelling unit. Parking areas, interior roads and driveways are not countable towards such space. Open space must be legally accessible to residents, free of hazards

and with a minimum width of twenty-five (25) feet. The Town Board may require a recreation fee be paid in lieu of on-site recreation facilities per § 190-16.

(3) Each multiple-dwelling site shall have access to a suitability improved road. Any access shall have a minimum of twenty-four (24) feet width curbed driveway and generally located no closer than one hundred (100) feet to any existing one- or two,-family residence. The multiple-residence structures shall comply with the setbacks as in § 190-11, but no unit shall be closer than one hundred (100) feet to any existing single-family residence. Multiple-residence special permits. Special permits for multiple residences are processed in accordance with Article XI. Preliminary site plans shall be sufficiently complete in order for the Town Board to process properly the special permit. (NOTE: Attached dwellings may be permitted under § 281 of the Town Law.)

G. Junkyards.

(1) A junkyard shall be completely surrounded by a fence eight (8) feet high for screening and with suitable gates (normally closed and locked except during time of operation). The fence shall be erected no closer than fifty (50) feet to a public road and fifteen (15) feet to other property lines. All materials stored or deposited on the property shall be kept, at all times, within the enclosed area. All work on such material shall be done within the enclosure. Where the topography, natural growth or other considerations accomplish the enclosure requirement, the Town Board may approve less fencing.

(2) The height of material stored in the enclosure may not exceed an elevation of one (1) foot lower than the fence top. No storage or fence is permitted in a required setback which setback shall be landscaped per Article X.

(3) Use of the junkyard for depositing of garbage or organic refuse is not permitted. Open burning of any material in the enclosure is not permitted.

(4) The special permit for junkyards shall be renewable annually in the same manner as the initial application. Renewal shall not be unreasonably withheld. Failure to comply with the original permit conditions may be considered grounds for disapproval.

(5) A license may be required under Ulster Code Chapter 101, Junkyards, in addition to these regulations.

H. Mobile home parks. Mobile Home Parks are controlled under the Ulster Code Chapter 114, Mobile Homes and Travel Trailers.

I. Senior Citizen Housing . **[Added 1-22-2003 by L.L. No. 1-2003]**

(1) Permitted Uses. The following uses are permitted within a site designated for senior citizen housing, upon approval of a special permit.

(a) Multiple, attached or detached dwelling units for occupancy by senior citizens and their immediate families. Such occupancy does not include nursing homes, group residences rooming or boarding houses.

(b) Accessory structures/uses. The following accessory structures and uses are permitted.

(i) Any facilities necessary to meet the proper maintenance, security, storage and utility needs of the development or its residents.

(ii) Ancillary uses providing services or amenities only for site residents, such as but not limited to recreation rooms, lounges, self-service laundries; exercise rooms and similar facilities.

(2) Occupancy. Occupancy of dwelling units in senior citizen housing shall be limited to the following:

(a) A person who has attained the age of 62 years.

(b) A husband or wife who is residing with his or her spouse who qualifies as a senior citizen.

(c) A live-in care giver residing with a qualified senior citizen, provided that said caregiver is 18 years of age or older.

(d) The surviving spouse who was residing with a qualified senior citizen at the time of his/her death.

(e) Exception. Notwithstanding, the provisions above one unit in a senior citizen housing site may be occupied by a project superintendent or manager and his/her family.

(3) Development Standards. Senior citizen housing shall be subject to the following standards as well as other applicable standards of this law:

(a) Minimum lot area: 10 acres

(b) Dwelling size: No dwelling shall contain more than two bedrooms.

(c) Minimum yards: same as the District in which the site is located except that no building shall be located within 50 feet of an existing residential structure on another lot,

(d) Maximum height: two stories or 35 feet.

(e) Maximum density; The number of dwel1ing units on a site shall be established in accord with the formula set forth in §190-25.F.(1) for the district in which the site is located.

(f) Minimum parking: two spaces for every three dwelling units. In addition to parking actually provided, an additional area capable of creating a total of one parking space per dwelling unit shall be
indicated on the approved site plan and graded and planted with grass. The Planning Board may require, in the future, that such area be paved to meet demonstrated parking demand.

(g) Buffer Zones: An area at least 25 feet wide shall be established along the boundary of all properties in residential use which shall be landscaped or maintained as natural vegetation and shall not contain driveways or off street parking or other paved surfaces. The only exception shall be entrance drives from the street and sidewalks not exceeding 5 feet in width.

(4) Preference for Town of Ulster Domiciliary

Preference or priority for occupancy shall be given to applications by senior citizens who have maintained their domicile in the Town of Ulster for a continuous period of three (3) years immediately preceding the application and which continues until occupancy is approved.

J. Bed and Breakfast Establishments: Bed and breakfast establishments shall only be permitted on conforming lots of at least one acre in the district in which they are located. Such establishments shall provide one parking space for each guest room, plus two for the principal residential use, which shall be screened from adjacent residential uses. One sign shall be permitted with an area not to exceed three square feet per face, except in non-residential areas where the standards of Article VIII shall apply. In residential districts, the owner of the establishment shall reside on the same property.

K. Boardinghouses and Rooming Houses are subject to the following requirements:

(1) No rooming house or boardinghouse which furnishes rooming or boarding accommodations for hire within the same shall exist or be maintained within the Town without a special permit, which shall be issued by the Town Board of the Town of Ulster, as hereinafter provided.

(2) No special permit shall be issued hereunder and any special permit heretofore or hereafter issued shall be subject to revocation, unless the applicant or holder of such permit fully complies with the following requirements:

(a) The applicant shall be the individual owner of such premises.

(b) At the time of the issuance of such special permit and at all times when said premises are used as a rooming house or boardinghouse, the owner thereof shall maintain his residence in and shall actually reside in said premises or there shall be a permanent resident of the Town of Ulster who shall be the resident agent responsible for the management of the rooming house or boardinghouse.

(c) The maximum number of roomers or boarders shall be 12 and the maximum number of rooms shall be 10.

(d) There shall be no more than two people occupying a room as a roomer or boarder, and such room shall have a minimum of 80 square feet of floor space per occupant.

(e) All rooming houses and boardinghouses shall be heated by a central heating plant or permanently installed electric baseboard panel heating. No portable heating units are allowed.

(f) No cooking or storage of foodstuffs shall be permitted in any room other than a kitchen.

(g) In all parts of such building, artificial lighting shall be provided by means of electric current and each electric circuit shall be provided with a circuit breaker or fuse which shall meet the requirements of the New York Board of Fire Underwriters. Each new application shall be accompanied by a New York Board of Fire Underwriters' certificate. This certificate shall not be more than one year old. Thereafter, on renewal applications, a current New York Board of Fire Underwriters' certificate shall be required at least once each five years. Any fees involved in obtaining this current New York Board of Fire Underwriters' certificate shall be borne by the applicant.

(h) No sinks or toilet facilities shall be installed or used in any sleeping room.

(i) Bathroom facilities shall be maintained for the owner-occupant separate and apart from bathroom facilities for the roomers and boarders.

(j) The owner or resident agent of every rooming house and boardinghouse shall change supplied bed linens and towels therein at least once each week or prior to the letting of any room to any occupant. The owner or resident agent shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.

(k) All garbage and kitchen wastes in every rooming house and boardinghouse shall be immediately deposited in suitable covered receptacles which shall be disposed of as needed in such a way as not to be or become offensive or unsanitary.

(l) All sleeping rooms shall be numbered with raised figures not less than three inches in height placed on the outside of the door to each room, and no two rooms shall bear the same number.

(m) Each and every floor on which rooms are occupied by roomers and boarders shall be equipped with a fire extinguisher in good

working condition readily accessible for use at all times and approved by the Building Department of the Town of Ulster.

(n) No room shall be occupied by roomers or boarders in the third floor or attic of any dwelling unless the building complies fully with the New York State Multiple Residence Law. In a wood-frame dwelling, no room shall be occupied by roomers or boarders in the third floor or attic.

(o) Off-street parking must be provided on the premises at the rate of one space per occupant based on maximum possible occupancy, plus one space for each employee.

(p) All rooming houses and boardinghouses with special permits shall be subject to inspections at all reasonable hours by properly authorized representatives of the Town of Ulster. Failure to comply with this provision shall constitute grounds for immediate revocation of the permit.

(q) Every rooming house and boardinghouse and every part of the premises shall be at all times kept clean and free from dirt, filth and rubbish and in a sanitary condition. Cleaning and renovation shall be secured as may be ordered by the Building Department of the Town of Ulster.

(r) No sign shall be erected that identifies or advertises the use of the rooming house or boardinghouse for such purpose.

(s) Said use shall conform and be maintained in harmony with the overall character and appearance of the surrounding neighborhood.

(t) No rooming house or boardinghouse permitted pursuant to this subsection shall be located less than 1,200 feet from an existing rooming house or boardinghouse.

(u) No rooming house or boardinghouse permitted pursuant to this subsection shall be located less than 1,200 feet from an existing bed and breakfast.

(3) Any person maintaining such a rooming house or boardinghouse shall keep upon such premises a register showing the names of all persons residing or living in or upon said premises, as well as the room occupied by each, and shall exhibit the same to any member of the Police Department or the Building Department of the Town of Ulster or their deputy at any reasonable time upon demand, and the failure

to so exhibit the same shall constitute a violation and be punished in accordance with § 190-67.

(4) For rooming houses and boardinghouses only, there shall be an annual special permit fee of $200 per building plus a charge per room of $20 for each room over four rooms per building which is used as an accommodation for hire. The fee for any special permit required by the provisions of this chapter shall be at the levels fixed from time to time by resolution of the Town Board of the Town of Ulster or by local law.

(5) No special permit shall be issued or renewed for a longer period than one year, and all permits shall expire one year following the date of issuance. All applications, properly filled out, must be filed with the Planning Board of the Town of Ulster at least 30 days prior to the expiration of the previous special permit or 30 days before the applicant intends to commence operations. The fee for the issuance of a special permit hereunder or for subsequent renewals thereof is hereby established for the whole or part of the calendar year.

(6) Every applicant of a rooming house or boardinghouse shall submit with his application to the Planning Board the following information which is to be filed both with the Town Clerk and the Building Department of the Town of Ulster:

(a) The name, address and phone number of the owner of the rooming house or boardinghouse.

(b) The name, address and phone number of the permanent resident of the Town of Ulster who shall be the resident agent responsible for the management of said rooming house or boardinghouse.

(c) A description of the property by street number, the number of apartments in each rooming house or boardinghouse, the number of rooms in each apartment, the number of rooms for sole occupancy and the maximum possible occupancy.

(d) The number of persons occupying each room and/or apartment.

(e) A plan or diagram of the lot containing the rooming house or boardinghouse and of each floor in the building, showing all dimensions, doors, windows, closets, water closets, bathrooms, staircases and means of exit.

(f) Proof of annual inspection by the Ulster County Department of Health.

§ 190-25.1 Home occupations in residential districts. [Added 5-17-1993 by L.L. No. 3-1993]

Home occupations, as defined in § 190-4, shall be subject to the following regulations and standards as permitted accessory uses in residential districts:

A. Application procedure.

(1) A home occupation, other than an occupation prohibited in § 190-25.IB below, in which all activities are performed exclusively by family members living in the residence to which the occupation is accessory may be conducted without submission of any application, subject to the standards set forth in § 190-25. IC below.

(2) An application for a home occupation in which one (1) or two (2) nonresidents are employed shall be submitted to the Building Inspector for his approval upon determination that the use complies with the standards set forth in § 190-25.1C below. Site plan approval is not required in such case, although a building permit may be required by the Town Building Code. If the Building Inspector determines that the proposed use will not
comply with the standards of § 190-25.lC, the applicant may apply to the Town Board for a special permit as provided in § 190-41.

B. Prohibited occupations. Some uses that are commercial in nature are generally not compatible with a residential area and shall be prohibited as home occupations in residential districts. Such uses are as follows:

(1) Animal hospital, kennel or other animal care facilities.

(2) Automotive or heavy equipment repair or body shop.

(3) Restaurant, tavern or retail store.

(4) Rug or furniture cleaning on premises.

(5) Clinic or hospital.

(6) Boarding home or group care facility.

(7) Other uses which are similar in kind, nature, extent and scope as the preceding uses.

C. Standards applying to home occupations. Subject to the following provisions, it is the intent and policy of the town that home occupations are permitted as a matter of right to promote the full and appropriate utilization of all properties in the town. Accordingly, home occupations are permitted as accessory uses upon complying with the following standards:

(1) There shall be no indication of the home occupation from the exterior of the building, except for a small sign of less than three (3) square feet on the premises. Modification of the structure shall not alter its primary residential character.

(2) A home occupation shall be conducted only within the residence except upon approval of a special permit by the Town Board.

(3) The floor area designed for and allotted to the home occupation shall not exceed fifty percent (50%) of the ground floor area of the dwelling unit.

(4) No more than two (2) persons who are not residents of the dwelling unit shall be employed in the home occupation.

(5) No products, materials or equipment used in the home occupation shall be stored or displayed outside the residence.

(6) At least two (2) but not more than four (4) off-street parking spaces shall be provided for a home occupation, in addition to those required for the principal residential use. Such space may be provided in the driveway but not elsewhere in any required front yard.

(7) The home occupation shall not result in significantly more traffic, noise, vibration, odor, smoke, glare or electrical interference beyond that normally generated by permitted uses in the same zoning district.

(8) The home occupation shall not utilize substantially more water or generate substantially more sewage or waste than would a permitted residential use in the same district.

(9) The above standards may be modified in the R-30 and R-60 Districts upon a determination by the Town Board that, due to the size of the property, the distance from the use to the property line, the presence of existing vegetation and topographic features and the capacity of the access roads, the proposed home occupation will not have any greater effect on the surrounding residential area than if the standards were strictly adhered to. Upon such determination, the Town Board may issue a special use permit
setting forth specific waivers granted to the standards and any other conditions deemed appropriate. Such approval shall be reconsidered at the same time any future site plan or subdivision application for the property is submitted and may be revoked if such action would change the basis upon which the original determination of approval was made.

ARTICLE VII
[Repealed and replaced with Local Law #3 of 2010, enacted 7-15-2010]
Supplementary Off-Street Parking and Loading Requirements

§ 190-26. General requirements.

A. Applicability. All structures and land uses hereafter erected, enlarged, moved, created, changed in intensity or substantially altered shall be provided with the amount of off-street parking and loading space required by the terms of this article to meet the needs of persons occupying or using such structures or land. If a use is approved for which no parking requirement is specified, the Planning Board or Town Board, shall prescribe such standards.

B. Areas computed as parking spaces. Areas that may be computed as the required off-street parking spaces include a garage, carport or other area available for parking other than streets, exit and entrance lanes, fire lanes or driveways. However, a driveway for one- and two-family residence may count as parking space.

C. Location and ownership. Required parking spaces may be provided on the site or elsewhere, provided that all spaces are located within five hundred (500) feet walking distance or two hundred (200) feet for residential uses. No off-site parking spaces for nonresidential uses shall be located adjacent to an existing permitted residence. Parking spaces shall be in the same ownership as the user to which assigned or are subject to a legal right in a form approved by the Town Attorney guaranteeing that they remain available to the user. The owner and heirs and assigns shall maintain the number of spaces during the existence of the user or until such spaces are provided elsewhere.

§ 190-27. Design Standards.

A. General. All off-street parking areas shall be in imperviously paved parking lots or courts with curbs, island separators, appropriate lighting, proper drainage and convenient pedestrian and vehicular access. The Planning Board may allow a portion of parking areas to consist of pervious paving systems [e.g. Ecogrid or Geogrid, etc.] where it deems such systems to be practical. All parking spaces shall be marked so as to provide for safe and orderly parking. A *double striped line* closed at the aisle end; shall delineate parking stalls and parking stall widths shall be measured to the center of the *double striped lines*.
Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.

B. Dimensions of Stalls and Aisles. The minimum dimensions of stalls and aisles shall be as follows:

Angle of Parking	Parking Stall Width (feet)	Stall Depth (feet)	Aisle One-Way (feet)	Two-Way (feet)
90º	9.0	18	Not allowed	24
60º	9.5	20.2	18	21
45º	9.5	19.6	15	18
30º	9.5	16.5	12	18
Parallel	9.5	22	12	18
Note: Stall widths for employee parking may be reduced by one-half (1/2) foot when located in a separate area from the public parking.				

C. Handicap Parking. Accessible parking spaces shall be provided for any place of public accommodation or any commercial facility, pursuant to the Americans with Disabilities Act of 1990; and shall be designed in accordance with the rules and regulations of the aforesaid Act, as amended, in accordance with the following table:

Total Parking Spaces in Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
1,001 and over	20, plus 1 for each 100 over 1,000
Note: All such spaces shall be posted with regulatory signs conforming to the New York State Department of Transportation Manual of Uniform Traffic Control Devices restricting their use to handicapped persons and shall be laid out so as to not compel handicapped individuals to wheel or walk behind parked vehicles.	

D. Drainage and grade. All open parking areas shall be properly drained. Drainage shall meet the requirements of the Town of Ulster MS4 Regulations and/or a Stormwater Management Pollution Prevention Plan (SWPPP) approved by the Town's consulting engineer. Parking area grades should not exceed five percent (5%); parking drive grades should not exceed eight percent (8%).

E. Access. In no case shall parking areas be designed to require or encourage cars to back into a public street in order to leave the lot. Entrances and exits to and from off-street parking areas shall be located so as to minimize interference with street traffic. Unobstructed access to and from a suitably improved street shall be provided for all uses. Such access shall consist of at least one (1) twelve-foot lane for parking for twenty (20) or less spaces and at least two (2) twelve-foot lanes for parking for over twenty (20) spaces. Entrance and exit signs may be required. Access drives shall be paved for a distance of at least fifty (50) feet from the public roadway.

F. Driveway separation from intersection. No entrance or exit for off-street parking area for more than four (4) spaces, nor any loading area, shall be located closer than seventy-five (75) feet from the intersection of two (2) designated streets. The minimum distance shall be increased to one hundred (100) feet from a signalized intersection or an intersection with a left-turn.

(75) feet from the intersection of two (2) designated streets. The minimum distance shall be increased to one hundred (100) feet from a signalized intersection or an intersection with a left-turn.

G. Planting strips. The Planning Board may require landscaping in parking areas. The following are minimum provisions for landscaping in parking areas:

(1) No more than 20 parking spaces shall be permitted in a continuous row and no dimension of any parking area may exceed 200 feet without being interrupted by a landscape island having a width of not less than five (5) feet.

(2) Parking spaces that are parallel to a building shall be separated from the building by a planter with at least five (5) feet interior width.

H. Screening. In general, no parking area shall be located within ten (10) feet of any side or rear property line. Parking areas shall be screened from any residence where visible. Where a lot in a business district abuts a lot in a residence district, there shall be provided along such side or rear lot line in the business district abutting a residence district a wall, fence, compact evergreen hedge or a landscape strip of trees or shrubs so designed as to form a visual screen not less than six (6) feet in height at the time of planting. Parking areas with five (5) or more spaces in a residential zone shall be screened from all property lines including any bordering roads, but screening shall not obstruct sight distance.

I. Lighting requirements. The artificial average maintained light level within the site shall not exceed two (2) foot-candles for an outdoor off-street parking areas and eight (8) foot-candles elsewhere. Energy-efficient lighting, such as LED and solar lighting fixtures are encouraged.

(1) Lighting fixtures. All outdoor lighting shall be constructed with full shielding designed to direct the lighting downward below an imaginary horizontal plane passing through the lowest point on the fixtures from which light is emitted. When a non-residential off-street parking area is abutting residential properties, additional shielding shall be required to reduce glare so that the *light source* is not visible from nearby residences.

(2) Maximum permitted pole height: Total pole and fixture height should be a maximum of twenty (20) feet, measured from grade at the base. Poles, concrete bases, and fixtures should be appropriate in scale for the buildings and lot. Less height, closer spacing, and lower wattage may be required and taller poles may be considered in some situations.

(3) Parking lot lighting curfew: On all non-residentially developed lots which contain a minimum of 4 parking lot light poles, parking lot lighting levels for off-street parking areas must be reduced by at least 50% of full operational levels within 30 minutes after all employees have left the premises. Lighting levels may be reduced by turning off 50% of the parking lot lights or by dimming parking lot lighting levels to no more than 50% of the levels used during business or activity hours, or by some combination thereof. Given that a certain minimum lighting level is recommended for safety and security purposes, this provision does not require parking lot lighting levels to be reduced to less than 0.2 foot-candles as measured horizontally at the
surface on which the light pole is mounted.

J. Joint facilities. Required parking spaces, open or enclosed, may be provided in an area designated to serve two (2) or more establishments whether or not on the same lot, provided that the total number of spaces is not less than the required number for all such establishments.

§ 190-28. Schedule of off-street parking requirements.

Off street parking spaces shall be provided in accordance with the following schedule:

§ 190-28. Schedule of Off-Street Parking Regulations	
Land Use	**Number of Parking Spaces Required**
Adult use	1 space per 75 sf^2 of GFA
Athletic field	20 per athletic field, or 1 per 2 seats, whichever is greater
Assisted living facility	1 space per dwelling unit, plus 1 space for each employee
Automotive gasoline/convenience store	1 space per 200 sf^2 of GFA*, plus one per fueling station
Automotive garage and service center	1 space per 600 sf^2 of GFA*, plus one per service bay
Automotive sales and service center	1 space per 5,000 sf^2 of outdoor display area, plus 1 space per 600 sf^2 of GFA of sales and service buildings
Banks and lending institutions	1 space per 200 sf^2 of GFA
Bank, with drive thru (including ATM)	1 space per 200 sf^2 GFA, plus 5 stacking spaces per service window
Bed & breakfast establishment	1 space for every guest room, plus 2 spaces for resident dwelling
Bowling alley	4 spaces per bowling lane
Bus stop/taxi stand/transport terminal	1 space per 100 sf^2 of waiting room space
Carwash, full service	Stacking for 25 vehicles or 10 per approach lane, whichever is >
Carwash, self service	2 stacking spaces per washing bay, plus 2 drying spaces per bay
Catering facility	1 space for every three seats
Convenience store	1 space per 200 sf^2 GFA
Day care, center for children or adult	1 space per 4 persons of maximum licensed capacity
Dormitory	1 per every 2 dormitory rooms, plus one for resident manager
Dwelling, 1-family, 2-family, 3-family	2 spaces per dwelling unit
Dwelling, manufactured home	2 spaces per dwelling unit
Dwelling, multi-family or senior unit	2 spaces per dwelling unit, plus ½ space per unit for guests
Dwelling, townhouse	2 spaces per dwelling unit, plus ½ space per unit for guests
Farm stands	1 per 250 sf^2 of retail sales area
Funeral homes	1 space per 5 seats in largest chapel, plus 1 space per employee
Golf course and clubs	4 spaces for each tee
Golf driving range	2 spaces for each tee, plus 1 space per employee on largest shift

Golf, miniature	1 space for each tee, plus 1 space per employee on largest shift
Grocery store	1 space per 200 sf^2 of GFA
House of worship	1 space for every 4 seats
Home occupation	1 space for home occupation, plus 2 spaces for dwelling
Hospitals	1 space for every 3 beds
Hotels & motels	1 space per rental unit, plus 1 space for each 2 employees
Industry, Light or Heavy	1 space for each 500 sf^2 of GFA or 2 per employee whichever is >
Laboratories	1 space for each 500 sf^2 of GFA or 2 per employee whichever is >
Laundromat (service business)	1 space per 2 washing machines
Libraries	1 space per employee, plus 1 space per 1,000 sf^2 GFA
Manufacture, small, medium, large	1 space for each 500 sf^2 of GFA or 2 per employee whichever is >
Marina	1 space per 2 boat slips, plus 1 space per employee
Museums and galleries	1 space per employee, plus 1 space per 1,000 sf^2 GFA
Nursing home	1.5 spaces per 1000 sf^2 of GFA
Nursery, retail or wholesale	1 space for each 300 sf^2 of retail sales area
Office, medical or dentist	3 spaces per doctor or dentist, plus 1 for each 2 employees
Office, professional	1 space for each 500 sf^2 GFA or 2 per employee whichever is >
Places of assembly	1 space for every 3 seats
Recreation facility	1 space for each 3 persons of capacity
Restaurants/drinking establishments	1 space for every 3 seats
Restaurant - drive thru	1 space per 250 $sf^{2\ of}$ GFA, plus 5 stacking spaces in drive-thru lane
Restaurant – take out	1 space per employee, plus 1 space per 250 sf^2 GFA
Retail business	1 space per 250 sf^2 of GFA
School of learning	1 per teacher, employee and classroom, plus loading areas
Self-storage facility	1 space per 20 rental units, plus 2 for office
Service business (personal service)	1 space per 200 sf^2 of GFA
Unspecified uses	*As defined by Institute of Traffic Engineers - Parking Generation*
Tire repair and service establishment	1 space per 600 square feet
Theaters (indoor and indoor complex)	1 space for every 3 seats
Vacation campground	1 space per campsite plus 1 space per employee
Veterinary clinic	1 space for each exam room, plus 1 space per employee
Warehouse	1 space for 700 sf^2 of GFA, plus 1 space per employee
Wholesale	1 space for 700 sf^2 of GFA, plus 1 space per employee

*** GFA - Gross Floor Area -** See Section 190-4. Definitions.

Note: Where calculation in accordance with the foregoing list results in requiring a fractional space, any fraction less than 1/2 shall be dropped and any fraction 1/2 or more shall require one space. Where circumstances require, the Planning Board may modify the parking requirements provided in this section. For other uses that are not specifically cited above, the Planning Board shall determine the number of off-street parking spaces required using the *Institute of Traffic Engineers - Parking Generation 3rd Edition* or most current edition available at the time the Site Plan or Special Permit Application.

§ 190-29. Off-street loading areas.

For any nonresidential use of a structure with four thousand (4,000) square feet or more of gross floor area, there shall be one (1) loading area reserved exclusively for that purpose. Up to twenty-four (24) feet of minimum loading area length may be constituted by common drive areas. The minimum requirements may be reduced where necessary, provided that there is proper circulation and traffic safety and where such change would not create future difficulties by way of use of structures for any other use permitted by right on that site.

A. Location and access. Unobstructed access, at least fourteen (14) feet wide to and from a street shall be provided. Such access may be combined with access to parking areas. Loading areas shall be screened from residential districts.

B. Joint facilities. Permitted or required loading areas, open or enclosed, may be provided in spaces designated to serve two (2) or more adjacent establishments, provided that the total number of required areas is not less than the aggregate of all such requirements.

C. Access near street intersections. No entrance or exit from a loading area shall be closer than seventy-five (75) feet to where two (2) streets intersect or one hundred (100) feet if signalized or contains a left turn lane on the same street as the proposed loading area site entrance.

§ 190-29.1. Reduction of parking requirements.

A. Reduction of parking requirements. The Planning Board or Town Board, upon the receipt of an *off-street parking study* prepared by a qualified traffic engineer or transportation planner and the review and recommendations of the Town Planner or Consulting Traffic Engineer, may grant a conditional reduction of the total number of required off-street parking spaces subject to the following conditions:

(1) The *off-street parking study* demonstrates that:

(a) The required number of parking spaces exceed the actual peak parking hour demand by more than ten percent (10%) and that such reduction would not induce parking on a public street or result in traffic congestion. In this case, the Planning Board or Town Board may reduce the total number of required parking spaces by 10%; or

(b) The operating schedules of two or more proposed uses are such that a parking lot may be shared by such uses that will be generating a demand for parking spaces primarily during periods when the other use or uses is not or are not in operation.

In this case, the Planning Board or Town Board may reduce the total parking spaces required for that use with the least requirement by up to fifty percent (50%).

(2) Conditions of parking reduction approval.

(a) The site plan shall designate an area or areas sufficient to accommodate the total number of required off-street parking spaces should it be determined that additional off-street parking spaces based upon actual use. The plan shall illustrate the layout for the total number of off-street parking spaces and the layout with the proposed reserved off-street parking spaces.

(b) Where it is determined the reserved off-street parking spaces are necessary, due to traffic congestion or overflow parking, the owner within three (3) months' notice from the Town Building Department shall provide such spaces.

§ 190-29.2. Parking Lot Design Standards.

The Planning Board is authorized to adopt regulations providing for standards used in the design of parking areas including striping of stalls; provision of vehicle stops and control movements and specifications for the surfacing of parking spaces. These regulations are subject to Town Board approval.

§ 190-29.3. Reserved .

§190-29.4 U.S. Route 9W Corridor Enhancement Plan.

A. Intent. The U.S. Route 9W Corridor, within the Town of Ulster, is one of the largest commercial retail centers within Ulster County, New York. While this commercial retail strip is economically vibrant with a wide array of restaurants, retail centers and service businesses - it is visually unappealing. The unappealing aspects of the U.S. Route 9W corridor are defined by a proliferation of overhead utilities, willy nilly placement of signs and the lack of any uniformity in building or site design. These conditions are, in part, the result of strip retail development that occurred prior to the adoption of a Zoning Law or Sign Regulations for the Town of Ulster. The Town of Ulster Planning Board and Town Board have succeeded in enhancing the aesthetics of this strip retail corridor in recent years (on a site-by-site basis) through the Site Plan review process. Through this process, sidewalks and trees have been planted along the corridor, pole signs replaced with monument signs; and the layout, design and appearance of retail centers were enhanced. Even with these modest successes there is a need for a concerted effort to create an enhancement plan for the corridor – one that helps to give the U.S. Route 9W Corridor some form of order and a unique identity, which will help differentiate it from other commercial retail corridors in the region.

The *U.S. Route 9W Corridor Enhancement Plan* is intended to provide guidance for creating an aesthetically pleasing and functional commercial corridor within the Town of Ulster. The Enhancement Plan includes a master plan for sidewalks and street lights, recommendations for street trees and landscaping along with recommendations for sign control. More specifically, the Enhancement Plan is intended to:

1. Stimulate improvements to existing structures and encourage new development within this commercial corridor.

2. Improve the appearance of this regional business district to sustain interest in and the viability of this corridor as a hub of retail, office and other commercial activity.

3. Provide a consistent methodology for review of proposed projects.

4. Create a sidewalk system throughout the corridor that facilitates the safe movement of pedestrians.

5. Foster an exchange of ideas among developers, Town officials and residents in an effort to improve the quality of design in all projects both public and private.

The *U.S. Route 9W Corridor Enhancement Plan* is an outgrowth of recommendations within the Town's Comprehensive Plan. The *U.S. Route 9W Corridor Enhancement Plan* applies to actions requiring Site Plan Review pursuant to Chapter 145 of the Town of Ulster Code within the following zoning districts: LC, HC, RC and OM.

B. Objectives. The Planning Board, in its decision-making, shall utilize the general design principals contained within the *U.S. Route 9W Corridor Enhancement Plan*, which is attached hereto as Schedule A, for any development subject to Site Plan Review within all Commercial Zoning Districts.

C. U.S. Route 9W Corridor Enhancement Plan Adopted. To encourage high quality and aesthetically pleasing design of commercial properties within the Town's U.S. Route 9W Corridor, the Town of Ulster Town Board hereby *appends* the document entitled "U.S. Route 9W Corridor Enhancement Plan," dated February 14, 2014 to this Chapter as Schedule A. This document shall provide general guidelines and principles appropriate to the site design of commercial properties as well as the architectural features of commercial buildings, along with visual examples of attractive and effective application of such design principles for use in the development of site plan applications, building elevations and as a basis for the Planning Board's review and comments regarding such applications.

D. Conflicting Provisions. If any provisions of these U.S. Route 9W Corridor Enhancement Plan are inconsistent with one another, or if they conflict with provisions found in other adopted codes, ordinances, or regulations of the Town of Ulster, New York, the more restrictive provision will control unless otherwise expressly provided.

ARTICLE VIII
Supplementary Sign Requirements

§190-30. Purpose; permit required; exceptions

A. Purpose. The town finds that the reasonable regulation of signs will promote aesthetics and contribute to traffic safety. This article intends to promote those objectives and to encourage the placement of a well-designed permanent signs and to limit the use and location of temporary signs.

B. Permit required. No sign (except those exempted by this section) shall be erected, rebuilt, enlarged or altered except as shown on an approved site plan or sign plan.

C. Exempt signs. The following are exempt from this Article.

(1) Signs or bulletin boards customarily incident to places of worship.

(2) Signs conforming to the Manual of Uniform Traffic Control Devices, New York State Department of Transportation, shown on an approved site plan, or posted pursuant to order of traffic control agencies.

(3) Signs posting private property.

(4) Nonpermanent signs for temporary events, including but not limited to political, charitable and special events. Such signs shall not be placed on any utility pole, street sign pole, hydrant or tree within the right-of-way of a public street or on private property without the specific authorization of the property owner. Placements of these signs shall not exceed ninety (90) days. The names and address of the sponsor who is responsible for removal must be placed thereon.

(5) Unlighted signs advertising property for sale or rent, one for each street frontage per property, not to exceed 6 square feet per face in a residential district and 32 square feet per face in a non-residential district, set back at least 10 feet from the property line.

(6) Any other signs required by law or governing agency.

(7) Resident identification signs and alarm notification signs not exceeding four (4) square feet and signs permitted for home occupation as per §190-25.1.C.

§190-31. Prohibited signs

The following signs are prohibited:

A. Flashing signs, except for time and/ or temperature, including any device on which artificial light is not stationary and constant in intensity and color during all times of use.

B. Signs representing or depicting to any degree official traffic signs or signals per the New York State Vehicle and Traffic Law or any sign which projects over a street.

C. Signs which emit noise, sounds or smoke.

D. Animated signs, whether by mechanical or electrical processes.

E. Signs of a prurient nature or advertising businesses, commodities or services of a prurient nature or unlawful business.

F. Signs, banners, or pennants made of cardboard, paper, cloth or similar impermanent material, except for temporary events per §190-30C(4).

G. Billboards in residential districts. Existing billboards may be continued, repaired and replaced, provided that such signs are maintained in a safe condition. Sign surfaces shall be maintained in a sightly fashion and uniform color when not on display.

§190-32. Permit application procedure

A. Sign Permits

No sign shall hereafter be erected, structurally altered, enlarged or relocated within the Town, unless a permit has been obtained from the Building Inspector. Such permit shall only be issued following submission, review and approval of an application in accordance with the requirements set forth below, and payment of the required fee in accord with the schedule established by the Town Board. A permit shall not be required for the repainting or refurbishing of an existing sign which conforms to the standards set forth herein.

B. Permit for Sign on Premises with a Nonconforming Sign

No permit shall be issued for any type of new sign if any other sign exists on the

premises which has been determined to be nonconforming as set forth in §190-34 below. This regulation shall not apply if the nonconforming sign was approved as per an application for sign approval under this Zoning Law or during site plan approval as per Chapter 145 of the Town Code.

C. Application

(1) A scale drawing of the sign which shows design, content, and its proposed location on the site or building.

(2) A drawing, with appropriate notes, describing the construction of the sign and, where appropriate, the method of attachment to the building.

(3) A description or sample of the predominant material of which the proposed sign will be made.

(4) A description of the proposed method, if any, of sign illumination.

D. Review

(1) Wall or Projecting Signs.

The Building Inspector shall review all applications for wall or projecting signs and approve, disapprove, or approve with modifications the permit therefore within 15 days of receipt of the application.

(2) Freestanding Signs.

Applications for freestanding signs shall be reviewed by the Building Inspector for compliance with the dimensional standards and then referred to the Planning Board. The Planning Board shall review such sign to determine its impact on adjacent properties, visual quality or the area and on site distance in relation to traffic circulation. It shall then approve, approve with modifications or disapprove said sign and state its reasons therefore in writing to the applicant. Where applicable, review of freestanding signs shall be coordinated with review of site plans as provided in Chapter 145 of the Town Code.

E. Certificate of Compliance

Upon erection of a sign for which a permit has been issued, the applicant shall notify the Building Inspector. Within 30 days the Building Inspector shall inspect the sign and issue a certificate of compliance if the sign has been erected in accord with the approved sign permit. If the sign does not comply, the Building Inspector shall advise the applicant and require necessary modifications to be completed within 30 days. If such modifications are not made, the permit shall be revoked and the sign removed. All illuminated signs shall be UL approved and shall include a visible nameplate listing the manufacturer, installer and date of installation.

§ 190-33. Sign Standards.

A. Dimensional Standards for Permitted Permanent Signs

	ZONING DISTRICT	
	LC, HC,OM and I	RC
WALL SIGNS **[Amended 11-18-2002 by L.L. No. 3-2002]**		
Whichever is less:		
Building Frontage Formula (per facade)	1 sq. ft./2 lineal ft.	1 sq. ft./1 lineal ft.
or Maximum sign area (per facade)	50 sq. ft.	100 sq. ft.
FREE STANDING SIGNS		
Permitted only if establishment is set back from property line at least:	15 ft.	45 ft.
MONUMENT		
Maximum sign area per face	50 sq. ft.	75. sq. ft.
Maximum height (including base)	8 ft.	8 ft.
Minimum setback from property line	5 ft.	10 ft.
POLE OR POST WITH ARM		
Maximum sign area per face	50 sq. ft.	150 sq. ft.
Maximum height above finished grade	20 ft.	20 ft.
Minimum setback from property line	5 ft.	10 ft
PROTECTING SIGN		
Maximum sign area per face	12 sq. ft.	16 sq. ft.
Maximum projection from building face	4 ft.	5 ft.
Minimum clearance from ground	8 ft.	8 ft.
Maximum height above ground	15 ft.	15 ft.

WINDOW SIGNS – PERMANENT		
% of total window area of principal façade	15%	20%
AWNING SIGNS		
Maximum projection over sidewalk	7 ft	7 ft.
Letter size	6 in.	10 in.
Lettering location	valance only	On or above valance
Width of lettering area across awning	8 ft. or 50% of Valance (whichever is more)	8 ft. or 50% of valance (whichever is more)

SIGNS IN RESIDENCE DISTRICTS

If accessory to a permitted non-residential use, signs in residence districts shall comply with the standards of the LC District. If associated with a home occupation permitted by right, signs shall conform to the standards in §190-25.1.

B. Sign Standards **[Amended 9-13-2021 by L.L. No. 2-2021]**

(1) Wall Signs

(a) Wall signs shall not project more than 15 inches from the wall to which they are affixed.

(b) Wall signs shall not extend above or beyond the face of the wall to which they are attached in any direction.

(2) Projecting Signs

(a) The distance between the faces of projecting signs shall not exceed fifteen inches.

(b) No part of a projecting sigh shall extend within two feet of a curb line or the edge of vehicular pavement.

(3) Freestanding

(a) No part of any freestanding sign or its support shall be located within ten

feet of any building or edge of vehicular pavement except that a sign may extend over a portion of an internal driveway or parking lot if no part of such sign is lower than 14 feet.

(b) Every freestanding sign shall display the street address of the property on which it is located.

(4) Roof Signs

Roof signs shall only be permitted on roofs with a pitch in excess of 4 vertical to 12 horizontal and only upon an approval by Planning Board based on a finding that no other suitable location for signage exists on the building or property. If permitted, such sign shall not exceed 20 square
feet in area and shall be located only on the lower half of the pitch or suspended from the eaves.

(5) Iconic Signs

Iconic signs, such as barber poles, eyeglasses, mortar and pestle, etc., which are traditional representations in nature, shall be permitted as long as they comply with the pertinent regulations pertaining to size and location herein.

(6) Window Signs

Temporary interior signs affixed to or within three (3) feet of the inside of a display window announcing special sales or events shall be permitted in any business district provided that such signs shall not cover more than

fifty percent (50%) of the window area to which they are affixed and shall be removed within thirty (30) days.

(7) Changeable Letters

Signs may include provisions for changeable letters as long as the standards set forth herein are maintained.

(8) Sign Illumination

(a) Only white light may be used to externally illuminate a sign, except in the case of neon tubing.

(b) The illumination from any sign shall not cause any reflection or glare upon a public street, highway, sidewalk or adjacent property.

(c) All external sources of illumination (e.g., spot, flood, quartz halogen, fluorescent) must be hidden from view by shrubbery or some other appropriate material.

(9) Signs for More Than One Business on a Site
Where two (2) or more business establishments occupy a common site or building, the following criteria shall apply:

(a) One common freestanding sign (monument, post & arm, or pole style), identifying the site is permitted. Size and setback shall conform to the requirements for freestanding signs in the district in which the site is located.

(b) Freestanding signs may not be displayed by individual establishments. The types of signs displayed by each individual establishment shall adhere to a master sign plan. Each establishment may display two (2) signs other than freestanding signs.

(c) A Master Sign Plan is required of establishments that share a zoning lot, parcel or are part of a shopping center. The Plan is intended to create visual unity among the signs within the site area. It shall include specifications to which all signs within the site shall conform, including but not limited to the following: sign type, style, height, colors, lettering or graphic style, materials, shape, lighting and location.
Before any individual sign permits for the site are approved, the Master Sign Plan must be reviewed and approved by the Planning Board. Signs on the site that exist prior to the effective date of this regulation, shall be deemed non-conforming signs and are exempted from the requirements of the Plan for a period of five (5) years, after which these signs shall conform to the Plan or be removed.

(10) Off-site Directional Signs

It is in the interest of the Town and the general public to provide convenient, safe and direct access for motorists to services and businesses which are not located on state highways. Therefore, off-site directional signs may be erected on private property subject to approval by the Planning Board and the following standards:

(a) A directional sign shall be permitted only for a legally established business, industrial or institutional use located in the Town of Ulster which is in compliance with all zoning and other applicable local laws, derives the major portion of its patronage from motorists who do not reside in the immediate area and is not located on a state highway.

(b) Directional signals shall be located between 200' to 800' from the intersection of the street on which the use is located. Only one such sign per road shall be permitted for an individual use from each direction.

(c) Signs shall be no larger than 18" x 23" and shall be of standard size, color, material, height and design as approved by the Town Highway Superintendent. Signs shall not be illuminated.

(d) An application shall be submitted to the Planning Board requesting permission to erect one or more directional signs at specified locations. The Planning Board shall review such application to determine if the proposed sign complies with the general standards herein and will not cause adverse impacts at the proposed location due to sight distance limitations or traffic circulation.

(e) Signs shall only be mounted on sign posts installed in accord with Town standards. Sign posts shall be designed to accommodate up to four signs.

(f) A copy of the approved application shall be transmitted to the Building Department.

(11) Digital Standard

Digital signs are allowed in the LC, HC, RC, and OM zoning districts subject to the following conditions:

(a) There may be no more than one programmed Digital Sign on a lot. There may be no more than one automated or interactive Digital sign for each business on a lot.

(b) A digital sign, other than a digital billboard, may not allow the display or message to change more frequently than once every eight seconds, with a transition period of one second or less. Messages may not contain the appearance of motion or animation. Transitions between messages may contain the appearance of motion or animation.

(c) A digital sign must have installed an ambient light monitor, which shall continuously monitor and automatically adjust the brightness level of the display based on ambient light conditions consistent with the terms of this article. Certification must be provided to the Town demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Re-inspection and recalibration may be periodically required by the Town in its reasonable discretion, at the owners expense, to ensure that the specified brightness levels are maintained at all times.

(d) Maximum brightness levels for Digital Signs shall not exceed 10,000 nits or “Candelas per Square Meter" or (cd/m2) when measured from the signs face at its maximum brightness, during daylight hours. The maximum brightness levels for Digital Signs shall not exceed 750 nits or Candelas per Square Meter" or (cd/m2) when measured from the signs face at its maximum brightness, between sunset and sunrise, as those times are determined by the National Weather Service.

(e) Written certification from the sign manufacturer must be provided at the time of application for a sign permit certifying that the light intensity of the sign has been preset not to exceed the illumination levels established by this section, and that the preset intensity level is protected from end user manipulation by password protected software or other approved method.

(f) Digital Signs may not display messages about goods or services that are not sold and delivered or provided on the premises where the sign is located. The foregoing notwithstanding, a Digital Sign may

display messages about public emergencies and public events.

(g) The digital sign must be located no closer than 300 feet from a property either zoned for residential use or built as a residential property (including, but not limited to, single-family home, two-family home, multifamily residence, townhouse, condominium), whether or not the property is currently being used for residential purposes.

(h) Brightness of digital signs shall be measured as follows:

[1] At least 30 minutes following sunset, a foot-candle meter shall be used to obtain an ambient light reading for the location. This is done while the sign is off or displaying black copy. The reading shall be made with the meter aimed directly at the sign area at the pre-set location.

[2] The sign shall then be turned on to full white copy to take another reading with the meter at the same location.

[3] If the difference between the readings is 0.2 foot candles or less, the brightness is properly adjusted.

[4] Other Requirements. The use, size and location of digital signs must comply with all other relevant regulations and laws of the Town.

(i) If the digital signs malfunctions, the display must automatically go dark.

(j) The Planning Board shall have complete discretion to waive or vary any aspect of this section.

(k) The color scheme of the digital sign must be presented to the Planning Board for its review.

C. Temporary signs

The following signs of a temporary nature must receive a permit from the Building Inspector before being displayed in any zoning district, except those specified under the Exempt Signs section (§190-30.C.). The permit shall note the date of the first day the sign may be displayed and the date it must be removed.

1. A mobile sign, whether or not on wheels, for a period not to exceed 30 consecutive days or any 60 days within the same calendar year. Such sign shall be subject to all provisions of these regulations, including those as to size, location, illumination and construction as if it were permanent.

2. A temporary sign, not exceeding 32 square feet in area, which is erected by a municipal, charitable, political or non-profit organization for a period not to exceed 30 days.

3. A single temporary sign not exceeding 32 square feet in area, which announces anticipated occupancy of a site or building or identifies the contractor, architects, engineers, etc. on a building under construction, for a period not to exceed six (6) months.

4. An A-frame (sandwich board) sign with a face area of no more than six square feet. Such sign may not be placed within the right-of-way of a public street or within any driveway or parking space and shall be removed daily between the hours of 10:00 PM and 6:00 AM. In addition to other fees established by the Town Board, a security deposit shall be deposited with the Building Inspector to insure removal of temporary signs upon expiration of the permit period. If any temporary sign is not removed by the expiration of the time limit on the application, the Building Inspector, after seven (7) days written notice to the permit holder to remove such sign (s), and after failure of the permit holder to do so, will cause said signs to be removed, and the security deposit will be forfeited to help defray the cost of removal. The seven (7) day written notice provided herein shall be computed from the date of mailing said notice. Said notice shall be directed to the permit holder at the address provided on the permit application.

D. Billboards

New off-site signs including those known as billboards are not permitted in any district except as provided in §190-33.B.(10) and §190-34.C.

§190-34. Pre-existing and non-conforming signs. [Adopted on 8-07-2014 as local law #3 of 2014]

Any existing sign which was legally in place prior to date of adoption of this chapter is subject to the following:

A. Where a sign was constructed prior to adoption and was conforming to the then existing regulations or was granted a variance and where the existing sign is in good condition, posing no safety hazards, it shall be construed to be a conforming sign.

B. Signs determined to be nonconforming may be continued, re-lettered, maintained or decorated, but shall not be physically enlarged or rebuilt.

C. A billboard existing as of January 1, 2002, may be replaced on the same site, if located in an HC, OM, RC or I District, by a billboard of the same or less height and area.

D. Any sign which, for a period of ninety (90) consecutive days, has not correctly advertised a bona fide business, service, lessor, owner, product or activity conducted or product available on the premises where such sign is displayed shall be considered abandoned and non-conforming and shall be removed within 30 days of notice by the Building Inspector.

E. Other Agency Review. Replacement of a nonconforming sign or billboard; or erection of new billboard within any portion of the Town within the Catskill Park "blue line" shall be subject to any and all applicable restrictions on signs within the Catskill Park as promulgated and administered by the New York Department of Environmental Conservation. Replacement of a nonconforming sign or billboard or erection of new billboard within any portion of the Town adjacent to the New York State Thruway shall be subject to any and all applicable restrictions on signs adjacent to the Thruway as administered by the New York State Thruway Authority.

F. **[Adopted on 9-9-2021 as Local Law 2 of 2021]**
Pre-existing Digital Signs. A Digital Sign is installed with a sign permit prior to the effective date of the amendment to this chapter, is permitted to remain until the sign is replaced, provided however, such sign shall conform to the requirements of the subsection if these requirements can be complied with without replacing the sign. A pre-existing Digital Sign is required to comply with all sign regulations that were in effect at the time the sign permit was issued.

ARTICLE IX

Site Development Plan Review

§ 190-35. Site plan review requirement.

A separate site plan review may be required for certain uses and structures under Chapter 145, Site Plan Review, of the Code of the Town of Ulster.

ARTICLE X

Landscaping and Environmental Requirements

§ 190-36. Adoption by Board.

The Town Board may adopt landscaping and environmental requirements for use by the Planning Board.

§ 190-37. Landscaping, erosion and sedimentation controls.

The minimum landscape requirements and erosion and sedimentation requiring site plan approval are for a general guide only and may be waived, varied or increased where, due to special circumstances, changes are necessary to ensure compatibility and conformity with other standards or criteria of this chapter.

§ 190-38. Applicability and effect of State Environmental Quality Review Act.

The provisions of the New York State Environmental Quality Review Act (SEQRA) apply to all applications under this chapter. Where an application involves an action which is not Type II or exempt under the terms of 6 NYCRR 617, SEQRA procedures shall be observed and may be conducted simultaneously with site plan review and approval. Time periods specified in this chapter shall not

commence running until SEQRA is completed by issuance of a negative declaration or upon acceptance by the lead agency of the Draft Environmental Impact Statement. Fees for processing SEQRA are in addition to fees charged under this chapter.

§ 190-39. Maintenance of landscape and screening material.

Where landscape and screening materials are specified and listed on a site plan or where required by terms and conditions of approval or grant of a variance or special permit use or other requirement, it shall be maintained following the approved plans or conditions. When landscaping or screening is not provided as approved on plans or properly maintained, it is a violation of this chapter and is enforceable pursuant to Article XIII.

§ 190-40. Flood damage prevention requirements.

The requirements of the Flood Damage Prevention Local Law **(12)** apply to all uses in this chapter.

ARTICLE XI
Special Permit Uses

§ 190-41. Approval required.

The special permit uses listed in Article V (use and bulk tables) are permitted only upon approval by the Town Board following the procedures and standards of this chapter. Special permit uses are prohibited unless there is a valid special permit use approval filed with the Town Clerk. Where those uses are approved subject to the terms and conditions, those uses are conforming uses, provided that all terms and conditions are complied with.

§ 190-42. Application for approval; fees.

Application for approval of a special permit use shall be made on forms prescribed and issued by the Town Board. The special permit application and site plan application may be combined and processed concurrently. If no site plan approval is required for a special permit use, application for approval of the special permit use shall include a copy of a previously approved site plan. Fees for special permit use application are specified in the standard schedule of fees of the Town of Ulster. **(13)**

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(12) Editor's Note: See Ch. 87, Flood Damage Prevention.
(13) Editor's Note: See Ch. 84, Fee

§ 190-43. Approval or denial; timetable; public hearing.

Special permit uses may be established upon compliance with conditions required by this chapter. The Town Board may approve appropriate conditions to the proposed use for the project to be consistent with this chapter, or upon adverse findings, or by virtue of the SEQRA process finding significant adverse impacts which have or cannot be mitigated, the Board may deny the use. The Board must state in the record the findings of fact and reasons for denial. The Board may set concurrent public hearings for consideration of an application for special permit use which also requires site plan approval. The Town Board may set a public hearing for a special use permit upon receipt of the report and recommendation of the Planning Board. The public hearing shall be held within forty-five (45) days of receipt of properly filed materials. The Town Board must decide the matter within forty-five (45) days after close of hearing. Time periods may be extended by mutual consent of the Board and the applicant.

§ 190-44. Filing of decision; copy.

The Board shall file the decision with the Town Clerk and a copy mailed to the applicant. Where the Town Board has approved the special permit use, the application for site plan approval may be processed by the Planning Board.

§ 190-45. Appeal.

Any person aggrieved by a decision of the Town Board may apply to the Supreme Court of New York State for review by Article 78 proceeding within thirty (30) days after the decision is filed with the Town Clerk.

§ 190-46. General conditions and standards.

Before approving any special permit use, the Town Board shall determine the conformity of such use and the proposed development with conditions and standards as set forth in this chapter. Conditions

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(14) Editor's Note: See Ch. 84, Fee

prerequisite to approval of special permit uses may be general or specific. In various provisions of this chapter, specific standards are enumerated for certain uses which are minimum conditions for the use. General standards are outlined below:

A. The proposed use shall be located, sized and of a character that will harmonize with the orderly development of the area in which located. It shall not be detrimental to the site or adjacent properties. Buffers, open spaces or restrictions on operations may be established as a requirement for approval.

B. The location, size, nature and intensity of operations of the use, site layout and access to streets shall ensure the safety for pedestrians and vehicles to and from the use. The assembly of persons shall not create a hazard. Traffic impact shall not result in less than Service Level D, based on Highway Capacity Manual Report 225, or other acceptance by the New York State Department of Transportation.

C. The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of landscaping shall not hinder or discourage the development and use of adjacent land and buildings for permitted uses of the district.

ARTICLE XII
Nonresidential Nonconforming Uses and Noncomplying Bulk

§ 190-47. Applicability. (14)

This Article applies to lots, nonresidential structures and nonbuilding uses existing on the effective date of this chapter. The lawful use of any such premises may be continued even though nonconforming or noncomplying with the requirements of this chapter, except as outlined below. They may be sold or transferred without restriction.

§ 190-48. General requirements and exceptions.

A. Any lot held in single and separate ownership prior to the adoption of this chapter and whose area and/or width and/or depth are less than the specific minimum requirements of this chapter for the district in which it is located may be considered as complying with such minimum lot requirements; and no variance shall be required, provided that: **[Amended 7-18-2005 by L.L. No. 3-2005]**

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(15) Editor's Note: see § 190-9A, Bill of Rights.

(1) Such lot does not adjoin any other lot or lots, held by the same owner, which lots may be used to create a conforming lot or a lot more nearly conforming to the requirements of the district in which it is located.

(2) Such lot has an area of at least:

(a) 5,000 square feet in an area served by both central water supply and sewage disposal systems.
(b) 15,000 square feet in an area served by either a central water supply or central sewage disposal system.
(c) 25,000 square feet in an area not served by either a central water supply or central sewage disposal system.

(3) The minimum required yard or setback dimensions for an undersized

nonconforming lot shall be those required for the zoning district that is the next least restrictive, in terms of such requirements, than the zoning district in which said lot is located. The less restrictive requirements shall apply only when it is demonstrated that the undersized nonconforming lot cannot meet the requirements of the district in which it is located, for the purpose of site development.

(4) All other bulk requirements for that district are complied with.

(5) In any district where residences are permitted, such undersized nonconforming lots may be used for not more than one single- family dwelling.

(6) A lot of nonconforming size may be subdivided only if each and every lot created from such lot is purchased by the owner or owners of the adjoining properties to increase the size of said owner's or owners' property or properties.

B. Two (2) or more adjoining subdivision lots which do not meet the bulk requirements of the district in a subdivision having Planning Board approval prior to the effective date of this chapter shall be exempt from the area and width requirements, provided that such lots meet all other applicable agency requirements. This provision is intended to supplement, amend and supersede, to the extent applicable, any inconsistent provision of § 265-a of the Town Law. Other subdivisions shall be subject to the exemption periods in § 265-a of New York State Town Law.

C. Changes to structures of non-complying bulk. Normal maintenance, repair, alteration, moving, reconstruction or enlargement is permitted on a structure with non-complying bulk, provided that such change does not extend beyond
that part of the structure which causes the noncompliance or create any new non-complying bulk.

D. Changes to structures of nonconforming uses. Structures for nonconforming uses (nonresidential) may be maintained or repaired if this does not extend the degree of nonconformity. These structures may be altered or enlarged only when required to do so by an order of a court or through a duly granted variance
or by other laws or regulations or in order to adapt the structure to a conforming use, or pursuant to § 190-48E herein.

E. Change of use. Any nonconforming use may be changed to another nonconforming use, on application to and approval of the Town Board, or to any use which the Town Board finds to be less nonconforming. Such change of use will not be subject to bulk requirements of this chapter.

F. Discontinuance. A nonconforming use which ceases for a continuous period of two (2) or more years or is changed to a conforming use shall thereafter be
occupied and used only for a conforming use. However, a use which has ceased or suspended operations involuntarily, due to circumstances beyond the control

of the owner or operator, may be reestablished within a period of five (5) years from the date of discontinuance, **[Amended 5-17-1993 by L.L. No. 3-1993]**

G. Damage or destruction of noncomplying structure. Any damaged noncomplying structure may be repaired or rebuilt to its original dimensions, provided that a building permit is obtained within two (2) years after such damage.

H. Damage or destruction of nonconforming use. Any damage to a structure in which a nonconforming use is situated may be repaired or rebuilt to its original dimensions, provided that a building permit is obtained within two (2) years after such damage.

I. Residences. Any non-complying residence damaged or destroyed may be restored to its original dimensions.

J. Nonconforming open-storage yards and junkyards.

(1) Any nonconforming open-storage yard in a residential district may continue for one (1) year from the effective date of this chapter, at which time it shall be terminated. If, in that one-year period, all material is relocated within a completely enclosed structure which complies with this chapter, termination will not be required.

(2) A nonconforming junkyard may continue for one (1) year after the effective date of this chapter, at which time it shall be terminated unless, within the one-year period, this nonconforming use complies with all requirements under §190-25G of this chapter, as well as all other current laws or ordinances regulating junkyards.

K. Extensions and enlargement of nonconforming uses may be permitted by the Town Board after hearing, as a special use permit, subject to the terms and conditions outlined in Article XI.

ARTICLE XIII
Administration and Enforcement

§ 190-49. Enforcement officers; notice of violation; discontinuance of noncompliance.

The Building Inspector shall administer and enforce this chapter and is authorized and empowered to issue appearance tickets to obtain compliance with its provisions and to cite violations. Assistants may be appointed by the Town Board. A town Police Officer shall also be empowered to issue tickets and enforce the provisions of this chapter. The person or entity, responsible for violations and/or the owner of the property must be notified, in writing, of the nature of the violation and of the ordered necessary corrective action. He/she shall order discontinuance of illegal use of land or structures; removal of illegal structures or illegal additions or alterations; or discontinuance of work or shall take any other action necessary to ensure compliance with this chapter. A copy of all violations shall be forwarded to the Town Board.

§ 190-50. Building permits required; compliance with bulk and setback requirements.

No structure with a floor area greater than one hundred (100) square feet shall be erected, moved, added to or structurally altered without a building permit issued by the Building Inspector or an assistant and in conformity with all provisions of this chapter. Unless specifically exempted, all structures shall comply with bulk and setback requirements of this chapter.

§ 190-51. Application for building permit

All applications for building permits shall include plans, drawn to scale, showing the dimensions, shape and location of the lot; the dimensions and location on the site of any existing buildings; and the

dimensions and location on the site of the proposed buildings or alterations. It shall include other information required by law and the New York State Uniform Fire Prevention and Building Code and by the Building Inspector. It shall also include existing and proposed uses of the property; the number of families or housekeeping units to be accommodated; the physical condition existing on the property; and other matters as may be necessary to determine conformity with this chapter. One (1) copy of the plans shall be returned to the applicant after the Inspector has marked the copy as approved or denied and has attested to this by his/her signature on the copy. The original and one (1) copy similarly marked shall be retained by the Inspector and made available for public inspection.

§ 190-52. Expiration of building permit.

If the proposed work has not been started or completed according to Ulster Code Chapter 61, Building Construction and Fire Prevention, § 61-6C, then the permit will expire or may be extended according to said chapter.

§ 190-53. Certificates of compliance.

A. It shall be unlawful to use or occupy or permit the use or occupancy of any structure or premises which are hereafter created, erected, converted, moved or altered, in whole or in part, until a certificate of compliance has been issued by the Building Inspector showing that the project conforms to the requirements of this zoning chapter. Where a nonconforming or noncomplying use or structure has a permit to alter or rebuild or be extended, the certificate of compliance must state how the project differs from the provisions of this chapter.

B. A temporary certificate of compliance may be issued by the Inspector for a period up to six (6) months during alterations for partial occupancy or usage of the premises pending its completion, provided that the certificate states conditions and safeguards as will protect the occupants and the public. A record shall be maintained of all certificates of compliance, and a copy shall be furnished upon request of any person.

C. A certificate of compliance shall also be required for any nonbuilding use of land including commercial excavations, commercial tree clearing and harvesting or other special permit uses of land to certify compliance with these regulations.

[NOTE: No certificate of occupancy is required for structures built prior to September 1,1967 unless altered or enlarged. (New York State Uniform Fire Prevention and Building Code)]

§ 190-54. Street excavation permit required.

A separate permit for a street excavation or a driveway curb cut is required in accordance with a Town of Ulster local law governing such activity. **(15)**

§ 190-55. Sewer permits.

A separate permit is required for service connections to a municipally operated sewer system under the Town of Ulster law which governs sewerage disposal. **(16)**

§ 190-56. Water permits.

A separate permit is required for service connections to a municipally operated water supply system under a Town of Ulster local law governing such systems. **(17)**

§ 190-57. Mobile home permits or mobile home park permits.

Separate permits are required for placing mobile homes on private lots or for establishing mobile home parks under existing Town of Ulster local law governing mobile homes **(18)** and New York State laws. Permits for mobile home parks are renewable annually and must comply with the aforementioned rules and regulations.

§ 190-58. Junkyard operating license.

Notwithstanding provisions of this chapter, separate licenses may be required for the operation of junkyards, in accordance with Town of Ulster local laws **(19)** and laws of New York State.

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(16) Editor's Note: See Ch. 157, Streets and Sidewalks, Art. III.
(17) Editor's Note: See Ch. 141, Sew
(18) Editor's Note: See Ch. 177, Water.
(19) Editor's Note: See Ch. 114, Mobile Homes and Travel Trailers.
(20) Editor's Note: See Ch. 101, Junkyards.

ARTICLE XIV
Zoning Board of Appeals

§ 190-59. Creation; organization; Chairman; appointment; terms.

A. The Town Board shall appoint a Zoning Board of Appeals of five (5) members as provided for in the New York State Town Law, § 267. The Town Board will annually designate the Chairman from such membership. The failure to do so will permit the Zoning Board to choose a Chairman from such membership. One (1) member to be appointed for one (1) year, one (1) for two (2) years, one (1) for three (3) years, one (1) for four (4) years and one (1) for five (5) years. A member, having served a full five-year term, may not be reappointed until a year or more has elapsed.

B. Any member of the Zoning Board of Appeals who fails to attend three (3) or more meetings of the board in any calendar year shall be subject to removal from the Zoning Board of Appeals by resolution of the Town Board as provided by Town Law § 267(9).

§ 190-60. Powers and duties.

This Board shall have the powers and duties prescribed by law and this Zoning Chapter, provided that none of the provisions shall limit any power of the Board that is specifically conferred to it by the New York State Town law. The Board shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of this chapter. It shall also hear and decide all matters referred to it or upon which it is required to pass by this chapter, as follows:

A. Interpretation. Determination of the meaning of the text of this chapter or any condition or requirement made under the provisions of this chapter shall be made solely by the Zoning Board of Appeals.

B. Variances.

(1) Where there are practical difficulties or unnecessary hardships in complying to the strict letter of this chapter, the Board of Appeals shall have the power to vary or modify the application of any provision of this chapter relating to the use or construction or alteration of buildings or structures or the use of the land. The spirit of this chapter must be observed to protect the safety and general welfare of the public and so that substantial justice is accomplished.

(2) In all cases where the Appeals Board grants a variance from the strict application of this chapter's requirements, the Board may attach applicable conditions and safe-guards in order that the result of its action may be as nearly consistent with the spirit and intent of this Zoning Chapter.

(3) Any person aggrieved by a decision of this Zoning Board of Appeals may apply to the Supreme Court of New York for review by an Article 78 proceeding in accordance with § 267, Subdivision 7, of the Town Law.

§ 190-61. Rules of procedure.

A. The Appeals Board may adopt rules for procedure in handling any subject

matter under its jurisdiction, subject to Town Board approval. Such regulations shall include provisions for the conduct of meetings, the notification of parties, the form of applications and the filing of its decisions.

B. Every decision of the Appeals Board shall be recorded in accordance with a standard format adopted by this Board and shall fully set forth the circumstances of the case and shall contain a record of findings on which the
determination was based. Decisions shall be made by resolution and each resolution shall be filed in the Town Clerk's office by case number. A copy of each decision shall be forwarded to the Town Board and a copy mailed to the applicant with a statement of the filing date.

C. All appeals and application made to the Appeals Board shall be in writing and shall be accompanied by a fee as determined in the standard schedule of fees for the Town of Ulster.**(20)**

ARTICLE XV
Amendments

§ 190-62. Power of Board to amend; procedure.

This chapter or any part thereof may be amended, supplemented or repealed, from time to time, by the Town Board on its own motion or upon recommendation of the Planning or Appeals Boards or by petition. Prior to public hearing, every proposal to change this chapter shall be

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(21) Editor's Note: See Ch. 84, Fees

referred to the Planning Board for a report. The Town Board shall take no action on the change without the report from the Planning Board unless the Planning Board fails to file this report within sixty (60) days following the referral.

§ 190-63. Amendment petitions.

Petitions to amend this chapter shall be in writing and shall contain a description and location of the property affected along with other information the Town Board may require. The petition for Zoning Map changes shall include names and addresses of all owners of real property with five hundred (500) feet of the affected property and any other contiguous property belonging to the petitioner. All petitions for amending this chapter or the Zoning Map changes must be accompanied by a fee in accordance with the fee schedule.**(21)**

§ 190-64. Public hearing.

The Town Board shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given in accordance with the provisions of the Town law.

§ 190-65. Notification.

The Town Clerk shall transmit to the appropriate offices or officials a copy of the official notice of a public hearing not later than ten (10) days prior to the date of the hearing, as provided by the New York State Town law and the General Municipal Law.

ARTICLE XVI
Interpretation and Application

§ 190-66. Interpretation.

In interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for promotion of the public health, morals, safety and general welfare. Whenever the requirements of this chapter are at variance with other lawfully adopted regulations or laws, the most restrictive or that imposing the highest standards shall apply.

§ 190-67. Penalties for offenses.

Violations of this chapter shall be subject to a fine not exceeding two hundred fifty dollars ($250.) per violation and imprisonment of up to fifteen (15) days. Each successive week in which a violation occurs or continues shall constitute a separate additional violation. Upon determination by the Building Inspector that a violation exists, written notice shall be sent to the

last known owner of record of the property, as determined by the assessment records, informing said owner of the violations of specific provisions of this chapter and stating that action is to taken by said owner to remove such violation within seven (7) days or proceedings to compel compliance with this chapter will be instituted. Where violations present imminent hazard to public safety, the Inspector may issue a stop work/safety order and direct the premises to be secured from public access. A violation of a safety order may subject a person to arrest and detention. Any person who attempts to interfere with the legal performance of the Inspector shall be prosecuted in accordance with the Penal Law. Any violation of this chapter may also be enjoined pursuant to law.

§ 190-68. Repealer.

This chapter hereby repeals any existing ordinances, local laws and regulations of the Town of Ulster to the extent that they are inconsistent herewith, except the Site Plan Review law, Chapter 145 of the Code of the Town of Ulster. However, the portion of the Site Plan Review Law called "§ 145-5D, Dimensional standards," is superseded by this chapter. The Planning Board is, in all instances herein referred to, advisory only to the Town Board, and the Planning Board is not empowered to adopt or enforce any rules or regulations except in compliance with and as provided by the legal procedures set forth in the New York Town Law. The Planning Board and Zoning Board of Appeals herein have only such jurisdiction as is mandated by the aforesaid New York Town Law and as specifically granted to said Boards in the Zoning Law of the Town of
Ulster, New York. The Town Board of the Town of Ulster retains all final jurisdiction of all other matters and shall amend and supersede, to the extent applicable, any inconsistent provisions of Article 16 of the Town Law.

TOWN OF ULSTER, NEW YORK

TABLE OF USE REGULATIONS

KEY

R- Use permitted by right (site plan approval required)
S- Use requiring a special use permit and site plan approval
R(E) - Use permitted by right, exempt from Site Plan Approval

R- Recommended additions to comply w with the language and intent of Section 190-12-2
S- Recommended additions subject to Special Permit Approval by Tow n Board

	R-60	R-30	R-10	LC	HC	RC	OM	I	Overlay Districts TND	ROD	ROD 2/15/2012	Notes
A. Agricultural uses									§190-12.1	§190-12.2		
Agricultural operations	R	R	R	R	R	R	R	R				
Farming operations	R	R		R	R	R	R	R				
Forestry operations	S				S	S	S	S				See §190-25 E
Horse stables	S					S	S					
Livestock keeping (commercial)	R						R					
Riding academies	S					S	S					
Vineyard	S					S	S	S				
B. Residential uses												
Assisted living facility	S			S	S	S	S					
Bed & breakfast establishment	S	S	S	S	S				R			See §190-25 J
Dwelling, 1-family (detached)	R(E)	R(E)	R(E)	R(E)	R(E)	R(E)	R(E)		R			
Dwelling, 2-family (duplex)	R(E)	R(E)	R(E)	S	S	S	S		R			
Dwelling, 3 family (triplex)	R	R	R									
Dwelling, live-work facility									R			
Dwelling, multi-family (4 or more units)	S					S	S		R		R	See §190-25F&12.2C9
Dwelling, residence above non-residential				S	S	S	S		R	R	R	See §190-12.1 & 12.2
Dwelling, townhouse (1-family attached)	S	S	S						R			
Group Home	S	S	S									
Manufactured homes (single-family)	S						S					See §190-25 A
Manufactured home parks	S	S	S				S					See §190-25 H
Nursing homes				S	S	S	S					
Senior citizen housing	S	S	S									See §190-25 I
C. General Community Facilities												
Cemeteries	S	S	S				S	S				
College or university	S	S	S	S	S	S	S		R	R	R	
Conservation preserves	R	R	R	R	R	R	R					
Country clubs	R	R	R	R	R	R	R					
Cultural institution									R			
Eleemosynary	R	R	R	R	R	R	R					
Flooding and protective structures									S			
Golf course and clubs	R	R	R	R	R	R	R					
Government buildings	S	S	S	S	R	R	R				R	
Home occupation	R(E)	R(E)	R(E)						S			See §190-14A & 25.1
Hospitals				R	R	R	R				S	
House of worship	S	S	S	R	R	R	R		R			
Library	S	S	R	R	R	R	R					
Mass transit									S			See §190-12.1 E
Membership clubs, private not-for-profit									S			See §190-12.1
Museums and galleries					R	R	R		R		R	
Parking facilities and structures											R	See §190-12.2
Places of assembly				S	S	S	S					
Recreation facility	S	S	S		S	S	S		R	R	R	
School of learning	S	S	S	S	S	S	S			R	R	
D. Business Uses												
Adult Business							S					See §190-16.1
Art galleries and workshops					R	R	R		R		R	
Automotive garage and service center				S	R	R	R	R				
Automotive gasoline sales/convenience store				S	R	R	R					
Automotive sales and service				S	R	R	S					
Banks and lending institutions				R	R	R	R		R		R	
Bowling alleys					R	R	R				R	
Cafeterias & catering facilities				R	R	R	R				R	Accessory to ROD
Campground	S				S	S	S					
Cannabis Retail Dispensaries					S	S						See §190-16.2
Carwash					R	R	R					
Conference centers and banquet facilities									R		R	

TOWN OF ULSTER, NEW YORK
TABLE OF USE REGULATIONS

KEY

R- Use permitted by right (site plan approval required)
S- Use requiring a special use permit and site plan approval
R(E) - Use permitted by right, exempt from Site Plan Approval

R- Recommended additions to comply with the language and intent of Section 190-12-2

S- Recommended additions subject to Special Permit Approval by Town Board

	R-60	R-30	R-10	LC	HC	RC	OM	I	Overlay Districts TND	Overlay Districts ROD	Overlay Districts ROD	Notes
											2/15/2012	
D. Business Uses									§190-12.1	§190-12.2		
Concert hall									R			
Convenience store				R	R	R						
Day care, adult					R	R	R				R	Accessory in ROD
Day care, center for children	R	R	R	R	R	R	R				R	Accessory in ROD
Farmers market				R	R	R						
Funeral homes	S			S	R	R	R					
Health club				R	R	R	R		R	R	R	
Hotels & motels					S	S	S		R	R	R	See §190-25 C
Kennel	S			S	S	R	R				S	Within existing building
Laboratories				R	R	R	R	R			R	
Nursery, retail				R	R	R	R	R				
Nursery schools	S	S	S	S	S	S	S				R	Accessory in ROD
Nursery, wholesale	R			R	R	R	R	R				
Office complex				S	R	R	R				R	
Office, medical or dentist				R	R	R	R		R		R	
Office, professional				R	R	R	R		R	R	R	
Pet boarding facilities				R	R	R	R				S	Within existing building
Pet *grooming* facilities				R	R	R	R				R	
Restaurant and eating & drinking establishments				R	R	R	R		R	R	R	
Restaurant within office complex						R	R				R	
Retail business				R	R	R	R		R	R	R	
Service business				R	R	R	R		R	R	R	
Shopping centers					R	R	R					
Sound Stage					R	R	S					
Theaters (indoor)				S	R	R			R			
Theaters (indoor with complex)						R	R					
Veterinarian clinics	S			R	R	R	R	R			S	
E. Industrial Uses												
Airports and air facilities							S					
Contractors storage yard					S	S	S	R				
Excavation and processing, commercial							S	S				See §190-25 D
Industry, light				S	S	R	R	R			R	
Industry, heavy								R			R	
Industrial park							R	R			R	
Junkyards							S	S				See §190-25 G
Manufacture, small (1-9 employees)				S	S	R	R	R		R	R	
Manufacture, medium (10-40 employees)					S	S	R	R		R	R	
Manufacture, large (41 employees and up)						S	R	R		R	R	
Marinas, boat launch and boat repair	S	S	S	R			R		S			
Mining					S	S	S	S				
Recycling yards							S	S				
Research office complex (w/limited manufacturing)					R	R	R	R		R	R	
Self-storage facility					R	R	R	R			R	Within existing building
Temporary use subject to Town Board Approval											R	
Trucking companies					S	S	S	S			S	
Utility company structure *	S	S	S	S	S	S	R/S*	R/S*		R	R	
Warehouses					R	R	R	R		R	R	
Wholesale business				R	R	R	R	R			R	
F. Customary Accessory Uses												
In residential zoning districts												See §190-14 A
In non-residential zoning districts												See §190-14 B
Swimming pools												See §190-25 B & Chapter 165

In the event there is a conflict between the permitted or special permit uses listed in the Table of Permitted Uses and the permitted uses described in §190-12.1 §190-12.2, the text in the sections shall prevail.

Prepared by Shuster/Planit 2/15/2012 , Updated by TOU 9/19/2019

Town of Ulster, New York

Table of Lot and Bulk Requirements

Zoning District	MIN. Lot Requirements			MIN Setback Requirements			Max. Bldg. Height (feet)	Max. Bldg. Lot Coverage (percent)	Minimum Green Space (percent)
	Minimum Area (square feet)	Minimum Width (feet)	Lot Area Per Dwelling (square feet)	Front (feet)	Side (feet)	Rear (feet)			
R-60 Residential									
	60,000	120	60,000	40	30	30	35	N.A.	40
R-30 Residential									
(1) Central water or sewer	30,000	100	30,000	30	20	25	35	N.A.	25
(2) No central water or sewer	40,000	100	40,000	30	20	25	35	N.A.	25
R-10 Residential									
(1) Municipal water & sewer	10,000	75	10,000	30	10	15	35	N.A.	15
(2) Central water & sewer	15,000	90	15,000	30	15	15	35	N.A.	15
(3) Central water or sewer	20,000	100	20,000	30	15	15	35	N.A.	15
(4) No central water or sewer	40,000	100	40,000	30	20	25	35	N.A.	25
Local Commercial									
	N.A.	N.A.	Same as R-10	30	10	10	35	50	5
Highway Commercial									
	N.A.	N.A.	Same as R-10	30	10	10	60	50	5
Regional Commercial									
	N.A.	N.A.	Same as R-10	50	10	10	60	50	5
Office & Manufacturing									
	N.A.	N.A.	Same as R-10	40	10	10	75	50	10
Industrial									
	N.A.	N.A.	N.A.	75	50	50	60	50	10

Notes: N.A. = not applicable Revised 5/17/10

* Zoning Districts R-60, R-30, R-10, LC, HC, and RC, utility company structures cannot be larger than 3,500 square feet in total size. In Zoning Districts OM, and I, utility company structures with a total area of 3,500 square feet or less remain allowed as of right. Utility company structures with a total area of more than 3,500 square feet require a special permit of the Town Board. In no event shall a utility company structure be permitted in any Zoning District of the Town of Ulster if said utility company structure requires an "Air Quality Permit" issued by the New York State Department of Environmental Conservation.

[Amended The Table of Use Regulations *_Utility Company Structures_ by the Town Board of the Town of Ulster 9-19-2019 as LL No. 3-2019]

ARTICLE XVII

Chickens

[Adopted by the Town Board of the Town of Ulster 11-3-2016 as LL No. 2-2016; Enacted 12-2-2016]

§ 190-70. Purpose and Intent.

In recent years, there has been an upsurge of interest in keeping of chickens in the Town of Ulster. The locavore movement, promoting the development and consumption of local foodstuffs, is a factor in proposing an amendment to the Town Code. Additionally, it is advocated that the sustainable production of eggs and poultry at home will economically contribute to assuring food safety and quality. The Town Board has received substantial public interest in requesting an evaluation of poultry in certain zoning districts. The Town Board finds that the keeping of domestic chickens may have a measurably positive impact upon the health and welfare of Town residents. Regulation of such practice is necessary to insure that the keeping of chickens will not negatively impact surrounding properties or landowners.

§ 190-71. Definitions.

CHICKENS – The term chicken shall, for the purpose of this local law, refer exclusively to domestic hens and shall intentionally exclude roosters, which are not allowed. No other fowl but the domestic chicken is to be permitted or included in the category of fowl addressed by this local law.

§ 190-72. Partial Repeal of Prior Inconsistent Code Provisions.

A. The definition of "Chickens" is to be added to Chapter 190 of the Town Code. The existing code definition of "Agricultural Operation" and "Farming Operation" shall continue unchanged.

B. This local law is intended to regulate the raising of chickens, as defined herein, within certain zoning districts of the Town of Ulster under certain conditions. Chapter 190 of the Town Code shall accordingly be augmented to permit such activity by incorporation of the terms of this local law.

§190-73. Requirements Applicable to Keeping and Raising Chickens Other Than Those Located in a Town of Ulster farm operation.

A. Permit. The keeping and raising of chickens within the R10 and R30 zoning districts of the Town of Ulster (excepting a farm operating within the Town) shall be authorized only upon obtaining a no cost permit from the Town of Ulster Code Enforcement Officer. Said permit shall be

made upon an application form to be promulgated by the Town Board, and upon satisfactory inspection(s) by the Town of Ulster Code Enforcement Officer to verify compliance with the requirements of this local law. The permit shall be valid for one year only, and an annual permit fee, to be set by the Town of Ulster Town Board, shall be assessed and paid by each successful applicant. The permit shall be valid for five years, and shall be applicable only to the applicant.

B. Zoning Exclusion. Only applicants residing at residential properties located in the R10 and R30 zoning districts shall be subject to this local law.

C. Area Requirements.

a. All chickens must be kept at all times in a secure pen or enclosure, constructed and maintained to prevent the chickens from running at large. The pen must be resistant to rodents and to predators, and provide chickens with adequate protection from inclement weather. The pen or enclosure is to be constructed of materials that are reasonably complementary to existing structures within the view shed of the pen or enclosure, in order to forestall complaints by neighbors or persons within the viewing vicinity of the pen or enclosure.

b. Only one pen or enclosure shall be permitted on any residential property. All pens or enclosures must be located at least twenty (20) feet from side and rear property or lot lines, and at least thirty (30) feet from any neighboring residence. No pen or enclosure shall be permitted in a front yard, but only in the rear of the lot, meaning that all pens or enclosures must be located to the rear of the rear wall of the applicant's home. On a corner lot, the applicant must locate the pen to the rear of the rear wall of the applicant's home.

c. The location and design of the pen or enclosure must be approved by the Code Enforcement Officer before the applicant shall be permitted to keep chickens on the premises. If the applicant's lot is insufficient in area to meet the setback requirements of this local law, the applicant shall not be entitled to a permit to keep chickens on the premises.

D. Minimum Standards for Condition of Pen or Enclosure.

a. No more than six (6) chickens may be housed or kept on the property at any time. No roosters shall be permitted. The pen or enclosure must be regularly cleaned and serviced so as to keep it clean, dry and odor free at all times in order to

minimize possible nuisance to neighboring properties consistent with the New York State Property Maintenance Code. The pen or enclosure must be maintained in a sanitary condition at all times. All feed for chickens must be kept within a building in rodent-proof containers, and may not be kept outside.

b. Storage of chicken manure shall be permitted no closer than thirty (30) feet to any property line, and must be located to the rear of the rear wall of the applicant's dwelling. Storage of chicken manure is discouraged, unless such waste is properly and sanitarily composted. If the presence of chicken manure shall lead to unsanitary conditions such as the attraction of pests, insects, or rodents, such condition must be rectified to the reasonable satisfaction of the Code Enforcement Officer, or the permit to keep chickens may be revoked.

§ 190-74. Inspection of Chicken Pen or Enclosure by the Code Enforcement Officer

All applicants for a permit to authorize the keeping of chickens in the R10 and R30 zoning districts of the Town of Ulster shall agree, as an incident of the application process, to allow the Town of Ulster Code Enforcement Officer to enter upon the premises of the applicant at any reasonable time during daylight hours to inspect the pen or enclosure to verify compliance with the requirements of this local law. It is specifically understood, and a condition of the application, that the applicant shall allow such inspection without the necessity of prior notice. Because all pens or enclosure housing chickens are to be located in exterior lot areas inspected and authorized by the Code Enforcement Officer, it shall be deemed permissible for the Code Enforcement Officer to enter upon the premises of any party maintaining a pen or enclosure sheltering chickens.

§ 190-75. Miscellaneous Provisions.

A. The slaughter of chickens shall take place inside an enclosed structure, or in an area of the permit holder's lot which is certain to be shielded from the view of the street or neighboring homes.

B. In the event that any conflicting State or County law, regulation, or similar legislation shall address the keeping of chickens in a Village setting, the requirements of this local law shall supersede such legislation unless such legislation is more restrictive, in which case the State or County law or regulation shall apply.

§ 190-76. Severability.

If any clause, sentence, paragraph, section, article or part of this Local Law shall be adjudicated

in 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, and such invalidity shall not be deemed to affect the remaining portions thereof.

§ 190-77. Penalties.

A. A permit to keep chickens shall be revoked by the Code Enforcement Officer in the event that two (2) substantiated violations of this local law shall be received and verified by the Code Enforcement Officer.

B. Upon receipt of a complaint of a violation of the permit, the Code Enforcement Officer shall inspect, investigate, and verify such violation. The findings of the Code Enforcement Officer shall be made in writing and delivered or mailed to the permit holder. Such notice shall identify the violation, and shall require the immediate remediation of the violation by the permit holder. The Code Enforcement Officer shall inspect and verify compliance with the permit within five (5) days of the delivery of such notice of violation. If the permit holder fails to remediate the violation, the permit shall be revoked. Revocation for cause of any permit to raise or keep chickens shall result in a disallowance of new or renewal permit by that party for at least one year.

C. If the violation of the permit continues unabated, the Code Enforcement Officer or Town Attorney may file a complaint in the Town Court to prohibit such violation, and may request the Court to invoke the following penalty provisions. Any person violating this local law will be guilty of an offense and upon conviction thereof shall be punishable by a fine of not more than $250.00 for each offense. Each day's continuation of the offense shall be considered a separate offense.

Chapter 191
Town of Ulster Zoning Board of Appeals By-Laws

§ 191-1. General Governing Rules

§ 191-2. Officers.

§ 191-3. Meetings.

§ 191-4. Voting.

§ 191-5. Appeals and Procedures.

§ 191-6. Hearing.

§ 191-7. Referrals.

§ 191-8. Decisions.

§ 191-9. Adoption and Amendment of Bylaws.

[HISTORY: Adopted by the Zoning Board of Appeals of the Town of Ulster February 6, 2013. Adopted by the Town Board of the Town of Ulster 5-6-2013.]

GENERAL REFERENCES

Site plan review - See Ch. 145. Subdivision of land - See Ch. 161. Zoning - See Ch. 190.
Site plan review regulations - See Ch. A196.

§ 191-1. General Governing Rules.

A. The Zoning Board of Appeals of the Town of Ulster shall be governed by the provisions of all applicable state statutes, local laws, ordinances and these bylaws.

B. The term "Board" as used in these rules shall mean the duly appointed Zoning Board of Appeals of the Town of Ulster.

C. The Board shall become familiar with all the duly enacted ordinances and laws of the town under which it may be expected to act as well as with the applicable state statutes.

D. The Board shall become familiar with the community goals, desires and policies as expressed in the Town of Ulster Comprehensive Plan, as adopted by the Town of Ulster Town Board on July 2, 2007, and in rendering decisions shall be guided by such plan, and grant the minimum relief which shall insure that the goals and policies of the plan are preserved and substantial justice is done.

§ 191-2. Officers.

A. The officers of the Zoning Board of Appeals shall consist of a Chairman, a Vice Chairman and a Secretary, each of whom shall serve for a term of one year.

1. Election of Officers.

a. The Chairman shall be designated by the Town Board at their annual organizational meeting, or in the event that the Town Board shall not designate a Chairman, the members of the Zoning Board of Appeals shall elect, by simple majority, a Chairman from its own members. The Chairman must be a duly appointed member of the Zoning Board of Appeals.

b. The Vice Chairman must be a duly appointed member of the Zoning Board of Appeals, and shall be elected by the members of the Zoning Board of Appeals.

c. The Secretary may be a non-member of the Zoning Board of Appeals, and shall be elected by the members of the Zoning Board of Appeals.

2. Duties of Officers.

a. The duties and powers of the officers of the Zoning Board of Appeals shall be as follows:

Chairman:

1. To preside at all meetings;
2. To call special meetings in accordance with these By-Laws;
3. To sign all official documents of the Zoning Board of Appeals in accordance with the requirements of these By-Laws;
4. To see that all reports, documents, and actions of the Zoning Board of Appeals are properly made, executed, filed or taken, as the case may be, in accordance with law and the actions and regulations of the Planning Board;

Vice Chairman:

1. During the absence, disability or disqualification of the Chairman, the Vice Chairman shall exercise or perform all the duties and be subject to all the responsibilities of the Chairman.

Secretary:

1. The Secretary, subject to direction of the Board and the Chairman, shall keep minutes of all Zoning Board of Appeals proceedings showing the vote of each member, upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of all Zoning Board of Appeals examinations and other official actions.

§ 191-3. Meetings.

A. Regular Meetings. The regular meetings of the Board shall be held on the first Wednesday of each month at 7:30 p.m. in the Ulster Town Hall.

B. Annual Meetings. The annual reorganizational meeting of the Board shall be the first regular meeting of the year.

C. Special Meetings. Special meetings of the Board may be called by the Chairman. At least forty-eight (48) hours written notice of the time, place and business of the meeting shall be given each member of the Board.

D. The Chairman shall call a special meeting within ten (10) days of receipt of a written request from any three members of the Board, which request shall specify the matters to be considered at such special meetings.

E. Cancellation of Meetings. Whenever there are no appeals or applications for variance or other business at a regular meeting, the Chairman may dispense with such meeting by written notice to all members not less than forty-eight (48) hours prior to the time set for such meeting.

F. Proceeding. The order of business at regular meetings shall be as follows:

1. roll call;
2. reading and approval of minutes of preceding meeting;
3. action on held cases;
4. public hearing;
5. other business;
6. adjournment.

G. All meetings of such board of appeals shall be open to the public to the extent provided in article 7 of the Public Officers Law.

§ 191-4. Voting.

A. Quorum. A quorum shall consist of a majority of the members of the Board.

B. No hearing or meeting of the Board shall be held, nor any action taken, in the absence of a quorum; however, those members present shall be entitled to request the Chairman to call a special meeting for a subsequent date. All subsequent hearings shall be re-advertised in accordance with the requirements of the applicable law.

C. Voting. All matters pending before the Board shall be decided by roll call vote

D. Decisions on any matter before the Board shall require the affirmative vote of a majority of the Board unless otherwise specified herein.

E. A tie vote or favorable vote by a lesser number than the required majority shall be considered a rejection of the application under consideration.

F. No member of the Board shall sit in hearing or vote on any matter in which he is personally or financially interested. Said member shall not be counted by the Board in establishing the quorum for such matter.

G. No member shall vote on the determination of any matter requiring public hearing unless he has attended the public hearing thereon; however, where such member has familiarized himself with such matter by reading the record, he shall be qualified to vote.

H. Filing Requirements. Every rule, regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Board shall be filed in the office of the Town Clerk within five business days and shall be a public record.

§ 191-5. Appeals and Procedures.

A. Appeals.

The Board shall hear and decide appeals from and review any order, requirement, decision, interpretation, or determination made by an administrative official charged with the enforcement of any ordinance or local law adopted pursuant to Article 16 of the Town Law. It shall also hear and decide all matters referred to it or upon which it is required to pass under any other law. Such an appeal may be taken by any person aggrieved, or by any officer, department, board or bureau of the town.

B. Filing of Appeals.

1. An appeal shall be taken within sixty (60) days after the filing of any order, requirement, decision, interpretation or determination of the administrative officer charged with the enforcement of such ordinance or local law.

2. The applicant must file a notice of appeal with the administrative official from whom the appeal is taken and with the board of appeals and the notice of appeal must specify the grounds therefor and the relief sought.

3. The administrative official from whom the appeal is taken shall be responsible, at the direction of the board of appeals, for providing the applicant with proper forms including environmental quality review forms, if applicable, and for instructing the applicant in the manner for completing and filing said forms. All information thereon shall be completed before an appeal is considered filed.

4. The administrative official from whom the appeal is taken shall forthwith transmit six (6) copies of all the papers constituting the record upon which the action appealed from was taken to the board.

5. The cost of sending or publishing any notices relating to such appeal or a reasonable fee relating thereto shall be borne by the appealing party and shall be paid to the Board prior to the hearing of the appeal.

C. Amendments to Appeals.

Appeals may be amended fifteen (15) days prior to the public hearing thereon.

D. Notice to Applicant.

The applicant shall be notified by letter within five (5) days of the hearing on his application or of his failure to complete his application properly.

E. Assistance to the Board.

The Board shall have authority to call upon any department, agency or employee of the town for such assistance as shall be deemed necessary and as shall be authorized by the town board. Such department, agency or employee shall be reimbursed for any expenses incurred as a result of such assistance by the applicant.

F. Stay upon Appeal.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such ordinance or local law, from whom the appeal is taken, certifies to the Board, after the notice of appeal shall have been filed with the administrative official, that by reason of facts stated in the certificate a stay, would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed 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 administrative official from whom the appeal is taken and on due cause shown.

G. Compliance with State Environmental Quality Review Act.

The 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 as codified in Title 6, Part 617 of the New York Codes, Rules and Regulations.

§ 191-6. Hearing.

A. Time of Hearing. The Board shall schedule a hearing of all appeals or applications within a reasonable time (62 days for a special use permit) of the filing of the appeal or application.

B. Notice of Hearing — Zoning Appeals. The Board shall give notice of the hearing at least five (5) days (Section 267, Subdivision 7, Town Law) prior to the date thereof by publication in the official town newspaper.

C. Notice of Hearing — Official Map Appeals. The Board shall give public notice of the hearing at least ten (10) days prior to the date thereof by publication in a newspaper of general circulation in the town, in accordance with Section 279 of the Town Law, for appeals from the town official map.

D. Notice of Hearing—Appeal to Build on Unimproved or Unmapped Street. The Board shall give notice of the hearing at least five (5) days prior to the date thereof by publication in the official town newspaper. See Section 280-a, Subdivision 3, of the Town Law.

E. Notice of Hearing— Special Use Permits. The Board shall give notice of the hearing at least five (5) days prior to the date thereof by publication in the official town newspaper. See Section 274-b(6) of the Town Law.

F. Form of Notice. Such notice shall state the location of the building or lot, the general nature of the question involved, the date, time and place of the hearing and the nature of the relief sought.

G. Proceedings. The order of business at a hearing shall be as follows:

1. roll call;
2. the Chairman shall give a statement of the case and read all correspondence and reports received thereon;
3. the applicant shall represent his case;
4. those opposed shall present their arguments;
5. rebuttal by both sides;
6. additional cases;
7. adjournment of hearings;
8. call to order of regular meeting.

H. General Rules. Any party may appear in person or by agent or by attorney.

I. The Chairman, or in his absence, the Vice Chairman, may administer oaths and compel the attendance of witnesses.

J. The proceedings for appeals, special use permits and other variances before the Board shall be tape recorded, unless the Chairman or the Vice Chairman deems it necessary to have a transcript of the proceeding prepared by a stenographer.

§ 191-7. Referrals.

A. Zoning Referrals.

All matters requiring referral as specified by any ordinance enacted under Article 16 of the Town Law shall be so referred to the proper agency for its recommendations. Within thirty (30) days (or as specified in the particular ordinance) after receipt of a full statement of such referred matter, said agency shall report its recommendations thereon to the Board, with a full statement of the reasons for such recommendations. If such agency fails to respond within the prescribed time the Board may act without such report. The Board shall not act contrary to any said agency's recommendations without first fully setting forth in the official record the reasons for such contrary action. The Chairman shall read all such reports at the hearing on the matter under it.

B. County Zoning Referrals.

Prior to taking action on any matter which would cause change in the regulations or use of land or buildings on real property as specified in Section 239-m of the General Municipal Law, the Board shall make referrals to the county planning agency. Within thirty (30) days after receipt of a full statement of such referred matter, the planning agency to which referral is made, or an authorized agent of said agency, shall report its recommendations thereon to the Board, accompanied by a full statement of the reasons for such recommendations. If such planning agency disapproves the proposal, or recommends modification thereof, the Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action. The Chairman shall read the report of the county planning agency at the public hearing on the matter under review. If such planning agency fails to report within such period of thirty (30) days or such longer period as may have been agreed upon by it and the referring agency, the Board may act without such report. However, if the Board receives the report of the county planning agency after thirty (30) days, but prior to the final action by the Board, then the Board shall not act contrary to the recommendation by the county planning agency, except by a vote of a majority plus one of all of the members thereof.

§ 191-8. Decisions.

A. Time of Decisions.

Decisions by the Board shall be made within sixty-two (62) days from the date of the final hearing. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Board.

B. Filing of Decision and Notice.

The decision of the board of appeals on the appeal shall be filed in the office of the town clerk within five business days after the day such decision is rendered, and a copy thereof mailed to the applicant.

C. Form of Decision.

The final decision on any matter before the Board shall be made by written order signed by the Chairman. Such decision shall state the findings of fact which were the basis for the Board's determination. After such determination, the Board may reverse or affirm, wholly or partly, or may modify the order or requirement of the administrative official appealed from. The decision shall also state any conditions and safeguards necessary to protect the public interest.

D. Basis for Decisions.

In reaching said decision, the Board shall be guided by standards specified in the Town Law of the State of New York and the applicable ordinance, as well as by the community goals and policies, specified in a comprehensive plan and by the findings of the Board in each case.

E. Findings — General Contents.

The findings of the Board and the supporting facts shall be spelled out in detail regardless of whether it is based on evidence submitted or on the personal knowledge of the Board. The Board shall show in its findings that it has:

1. Made a thorough review of the question including:

   a. Consideration of all information or evidence;
   b. Hearing all parties in question;
   c. Taking into account any intimate knowledge it has of the subject; and

2. Made a personal inspection of the parcel in question and from this examination certain findings were ascertained.

F. Conflicts with Other Laws or Regulations.

In reviewing any application on any matter, the standards in any applicable local law or ordinance or state statute shall take precedence over the standards of these rules whenever a conflict occurs. In all other instances, the more restrictive rule shall apply.

G. Expiration of Permits.

Unless otherwise specified, any order or decision of the Board for a permitted use shall expire if a building or occupancy permit for the use is not obtained by the applicant within one hundred eighty (180) days from the date of the decision; however, the Board may extend this time an additional one hundred eighty (180) days for good cause shown.

H. Rehearing.

A motion for the zoning board of appeals to hold a rehearing to review any order, decision or determination of the board not previously reviewed may be made by any member of the board. A unanimous vote of all members of the board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing the board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the board finds that the rights vested in persons acting in good faith in reliance upon the reviewed order, decision or determination will not be prejudiced thereby.

I. Filing of Decisions.

Decisions of the Board shall be filed in the office of the Town Clerk and shall be a public record. The date of filing of each decision shall be entered in the official records and minutes of the Board.

J. Use Variances.

The Board, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, authorizing a use of the land which otherwise would not be allowed or would be prohibited by the terms of the ordinance or local law.

K. Finding of Facts for Use Variance.

No such variance shall be granted by a Board without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board

that for each and every permitted use under the zoning regulations for the particular district where the property is located:

1. The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
2. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
3. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
4. That the alleged hardship has not been self-created.

L. Granting of Use Variance.

1. The Board, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

2. The Board shall, in the granting of use variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

M. Area Variances.

The Board shall have the power, upon an appeal from a decision or determination of an administrative official charged with the enforcement of such ordinance or local law, to grant area variances from the area or dimensional requirements of such ordinance or local law.

N. Findings of Fact for Area Variances.

In making its determination, the Board shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

2. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

3. Whether the requested area variance is substantial;

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

5. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.

O. Granting of Area Variances.

1. The Board, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

2. The Board shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

P. Granting of Special Use Permits.

The Board shall have the power to grant special use permits authorizing a particular land use which is permitted by the Zoning Ordinance subject to requirements imposed by said ordinance to assure that the proposed use is in harmony with the Zoning Ordinance and will not adversely affect the neighborhood if such requirements are met.

Q. Application for Area Variance.

Notwithstanding any provision of law to the contrary, where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the Board for an area variance pursuant to section two hundred sixty-seven-b of the Town Law, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations.

R. Conditions attached to the issuance of special use permits.

The Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit.

§ 191-9. Adoption and Amendment of Bylaws.

A. Adoption.

Upon adoption of these Bylaws by the Board, and approval by the Town Board, the Secretary shall file a copy of these Bylaws with the Town Clerk.

B. Amendment.

These Bylaws may be amended by an affirmative vote of not less than three (3) members of the Board, provided that such amendment be presented in written form at a regular or special meeting at which the vote was taken, and approval by the Town Board.

C. Filing.

All amendments adopted shall be filed in the same manner as provided for the rules in Section 191-9 (A).

TOWN OF ULSTER PLANNING BOARD BY-LAWS

Chapter 195

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[HISTORY: Adopted by the Town Board of the Town of Ulster 12-16-2010.]

GENERAL REFERENCES
Site plan review - See Ch. 145.
Subdivision of land - See Ch. 161.
Zoning - See Ch. 190.
Site plan review regulations - See Ch. A196.

Article I - Meetings

§ 195-1. Annual Meetings.

The annual meeting of the Town Planning Board shall be the first regular meeting in the month of January of each year hereafter. Such meeting shall be devoted to the election of officers for the ensuing year, and such other business as shall be scheduled by the Town Planning Board.

§ 195-2. Regular Meeting.

Regular meetings of the Planning Board shall be held at Town Hall at 7:00 p.m. on the third Tuesday of each month hereafter. At such meetings, any and every matter properly brought to the attention of the Planning Board shall be considered.

§ 195-3. Special Meetings.

Special meetings of the Town Planning Board shall be held at a time and place designated by the Chairman. Verbal or written notice thereof shall be given to all members not less than twenty- four hours in advance thereof.

§ 195-4. Quorum.

At any meeting of the Town Planning Board, a quorum shall consist of three (3) members of the Board. No action shall be taken in the absence of a quorum, except that those members present shall be entitled to call a Special Meeting at a subsequent date.

§ 195-5. Proceedings.

A. At any regular meeting of the Planning Board, the following shall be the regular order business:
    1. Roll Call
    2. Reading and approval of minutes of the preceding meeting
    3. Communications
    4. Public Hearings
    5. Reports and action on old business
    6. New business
    7. Adjournment

B. Each action of the Planning Board required by law, rules or regulations shall be embodied in a formal resolution duly entered in full upon the Minute Book after an affirmative vote.

Each resolution so adopted shall specifically authorize, if necessary, the use and imprint of the official signature of this Planning Board as hereinafter defined.

§ 195-6. Rules and Procedure.

All meetings of the Planning Board shall be conducted in accordance with Robert's Rules of Order.

ARTICLE II: OFFICERS

§ 195-7. Officers.

The officers of the Town Planning Board shall consist of a Chairman, a Vice Chairman and a Secretary, each of whom shall serve for a term of one year.

§ 195-8. Election of Officers.

A. The Chairman shall be designated by the Town Board at their annual organizational meeting, or in the event that the Town Board shall not designate a Chairman, the members of the Planning Board shall elect, by simple majority, a Chairman from its own members. The Chairman must be a duly appointed member of the Planning Board.

B. The Vice Chairman must be a duly appointed member of the Planning Board, and shall be elected by the members of the Planning Board.

C. The Secretary may be a non-member of the Planning Board, and shall be elected by the members of the Planning Board.

§ 195-9. Duties of Officers.

The duties and powers of the officers of the Town Planning Board shall be as follows:

A. Chairman:
   1. To preside at all meetings;
   2. To call special meetings in accordance with these By-Laws;
   3. To sign all official documents of the Town Planning Board in accordance with the requirements of these By-Laws;
   4. To see that all reports, documents, and actions of the Planning Board are properly made, executed, filed or taken, as the case may be, in accordance with law and the actions and regulations of the Planning Board;

B. Vice Chairman:

1. During the absence, disability or disqualification of the Chairman, the Vice Chairman shall exercise or perform all the duties and be subject to all the responsibilities of the Chairman.

C. Secretary:

1. The Secretary, subject to direction of the Board and the Chairman, shall keep minutes of all Planning Board proceedings showing the vote of each member, upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of all Planning Board examinations and other official actions.

ARTICLE III: VOTING AND CONFLICTS OF INTEREST

§ 195-10. Voting.

At all meetings of the Planning Board, each member properly appointed and attending shall be entitled to cast one vote. Voting shall be by roll call vote. A majority vote of the board shall be necessary for the adoption of any proposed action, resolution or other voting matter.

§ 195-11. Conflicts of Interest.

Any application, petition, or request brought before the Town Planning Board for action pursuant to any rule, ordinance, or regulations, shall state the name and nature of interest of any municipal officer of employee herein, as defined in General Municipal Law § 809. Any member of the Town Planning Board having any such interest in any matter brought before the Board, shall either absent or disqualify himself from any consideration, discussion or vote upon such matters. Such absence or disqualification shall be noted in the minutes of the Planning Board by the secretary, who shall also note that no vote was cast by such member on said matter.

ARTICLE IV: VACANCIES

§ 195-12. Vacancies.

Should any vacancy occur among the members of this Planning Board by reason of death, resignation, disability or otherwise, immediate notice thereof shall be given to the Town Clerk, Town Supervisor, and Planning Board Chairman by the Secretary.

§ 195-13. Vacancy of Officers.

Should such vacancy occur among the officers of the Planning Board, the vacancy shall be filled by election at the next regular meeting of this Planning Board, the officer so elected to serve the unexpired term of the office in which such vacancy shall occur. However, should the office of Chairman of the Planning Board become vacant, the Vice Chairman shall serve as Acting Chairman until such time as the Town Board shall appoint a new Chairman.

ARTICLE V: APPLICATION PROCEDURES

§ 195-14. Receipt of Applications.

The Town of Ulster Building Department is hereby authorized to receive applications, petitions, and communications on behalf of the Town Planning Board. The Town of Ulster Building Department shall immediately notify the secretary of the Planning Board, and transmit to said secretary, any forms, letters or other materials. The secretary shall request the chairman of the Planning Board to call a special meeting of the Planning Board if any official action on such forms, letters or materials is required before the next regularly scheduled meeting.

§ 195-15. Date of submission.

The Planning Board shall not entertain any application or other action which has not been submitted to the Town of Ulster less than fourteen (14) days prior to the Planning Board meeting. Notwithstanding, the board may, by motion or general resolution, take up any matter at such meeting not inconsistent with law, provided the topic shall have been included in the agenda posted prior to such meeting on the town signboard and/or town web site.

§ 195-16. Date of official submission.

An application for subdivision or site plan or an application under the State Environmental Quality Review Act shall not be considered received by the Planning Board, until the date of the meeting, at which said topic application is placed on the Board's agenda. In the event subsequent changes are made to applications before the Board, on either plans or application data, the date of official receipt shall be the date of the first meeting, at which such revised and complete application is presented to the Planning Board.

§ 195-17. Filing of Appeals.

Appeal must be made within thirty (30) days of the action appealed from. The applicant must file a notice of appeal with the Secretary of the Planning Board and with the Town Clerk. Such notice shall be made on a form provided for this purpose.

ARTICLE VI: OFFICIAL SIGNATURE

§ 195-18. Official Signature.

The official signature of the Town Planning Board shall be endorsed upon all papers and documents requiring the same by reason of the requirements of law or the rules and regulations of the Town Planning Board. Such signature shall be endorsed upon such papers only pursuant to the direction of the Town Planning Board embodied in a resolution so directing, and shall be personally signed by the Chairman.

ARTICLE VII: ATTENDANCE AND TRAINING

[HISTORY: Adopted by Town Board of the Town of Ulster 12-19-2013, as Local Law 7 of 2013, A Local Law to Provide Minimum Requirements for Meeting Attendance and Training for Members of the Town of Ulster Planning Board and the Town of Ulster Zoning Board of Appeals. This Local Law amends Article VII: Attendance and Training]

Section I. Title

This article shall be titled “A Local Law to Provide Minimum Requirements for Meeting Attendance and Training for Members of the Town of Ulster Planning Board and the Town of Ulster Zoning Board of Appeals”.

Section II. Definitions

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

PLANNING BOARD
Planning Board of the Town of Ulster

TOWN
Town of Ulster

TOWN BOARD
Town Board of the Town of Ulster.

TOWN CLERK
Town Clerk of the Town of Ulster

ZONING BOARD OF APPEALS
Zoning Board of the Town of Ulster

Section III: Findings and Purpose

The Town Board finds that appropriate attendance at meetings and training of Planning Board members is essential.

The State of New York has recognized the importance of both meeting attendance and training in its recent amendments to the Planning Board statutes (§§271 and 267, respectively, of the Town Law)

It is the purpose of this article to encourage Planning Board members to attend their respective Board meetings and to obtain training to enhance their ability to carry out their duties under law. The Town Board is prepared to pay the costs associated with meeting attendance and such training as provided for in the town's budget.

It is also the purpose of this article to establish required minimum meeting attendance along with training and continuing education course requirements for such members.

Town of Ulster Town Code Section 37-5 (D), in addition to all resolutions, local laws, and parts thereof, which are inconsistent with this Local Law, are hereby repealed.

§ 195-19. Attendance.

Section IV: Minimum Attendance at Meetings: All members of the Planning Board shall be required to attend a minimum of 75% of the Board meetings scheduled within a calendar year.

Non-compliance with minimum requirements relating to attendance at meetings shall be deemed a proper cause for removal from office by the Town Board.

§ 195-20. Training.

Section V: Minimum Training Requirements: All members of the Planning Board shall be required to attend a minimum of four (4) hours in relevant training courses within one year from the date of their initial appointment to such Board, attend training sessions of not less than four hours every one year thereafter and provide proof of attendance to the Town Clerk.

- Non-compliance with minimum requirements relating to training shall be deemed a proper cause for removal from office.
- The costs of such seminars, workshops or continuing education courses so designated shall be a town charge. Members shall also be reimbursed for travel and meal expenses according to town policies. Such training sessions shall be approved in advance by the Town Board.

Section VI: Approved Training Courses: Training sessions which relate to the duties of members of the Planning Board may include programs offered by the New York State Department of State, New York State Association of Towns, New York State Department of Environmental Conservation, the Ulster County Planning Department, the New York State Planning Federation, and other such entities, as well as in-house updates of seminars. The Town Board, after discussion with the Chairpersons of the Planning Board, shall annually designate such seminars, workshops, or continuing education courses which may be offered within a reasonable distance and which may be helpful to or of assistance to the Planning Board in carrying out its functions in a timely, fair, and lawful manner.

Section VII: Lack of training not to affect validity of members' actions: Notwithstanding the foregoing, the failure of a member of the Planning Board to attend the required percentage of meetings or obtain such training shall not affect said person's appointment to serve on such Board, to entertain applications, and to vote on such applications, or the validity of such member's actions.

Section VIII Procedure for removal of members: The Chairperson of the Planning Board shall notify the Town Board in writing on or about December 1 in any year of any member who fails to comply with the minimum requirements for meeting attendance an/or training in any calendar year. In the event a member of the Planning Board has failed to complete the minimum attendance and/or training requirements set forth in Sections IV and V, respectively, then the Town Board may remove such member for cause as herein provided:

> NOTICE: Such member shall be mailed a written notice specifying the nature of the failure of such member to meet the minimum requirements of Sections IV and V, above

PUBLIC HEARING. Such notice shall specify a date, not less than 10 or more than 30 days from the date of mailing such notice, when the Town Board shall convene and hold a public hearing on whether or not such member should be removed from service on such Board. Such notice shall also specify the time and place of such hearing.

PUBLIC NOTICE. Public notice of such hearing shall be published in a paper of general circulation within the town at least 10 days prior to the date of the public hearing.

CONDUCT OF HEARING. The public hearing on the charges shall be conducted before the Town Board. The member shall be given an opportunity to present evidence and call witnesses to refute the charges. A record of such hearing shall be made. The decision of the Town Board shall be reduced to writing, together with specific findings of the Town Board with respect to each charge against such member. Findings shall be filed in the Town Clerk's office and mailed to the member within five business days of such filing by certified mail, return receipt.

ACTION BY THE TOWN BOARD. Following the hearing and upon a finding that such member has not met the minimum meeting attendance and/or training established by this article, the Town Board may:

REMOVE such member from the Planning Board by majority vote of the entire Town Board;

ISSUE a written reprimand to such member without removing such member from such Board; or

IF THE TOWN BOARD shall find that the reasons for failing to meet the minimum meeting attendance and/or training requirements are excusable because of illness, injury or other good and sufficient cause, the Town Board may elect to take no action.

Section IX. Removal for cause: Nothing contained herein shall be deemed to limit or restrict the Town Board's authority to remove a member from the Planning Board for cause (I.e., for other than the reasons enumerated herein). The procedural provisions of Section VIII, Procedure for removal of members, shall govern any hearing to remove a member for cause.

Section X. Applicability: This article shall apply to all members of the Planning Board regardless of the date of their appointment to such Board. Prospective members of the Planning Board shall be notified of the requirements of this article prior to their appointment to such Board.

ARTICLE VIII: HEARINGS

§ 195-21. Time of Hearing.

The Board shall schedule a public hearing on all applications as required by law within forty-five (45) days of the date of receipt of said application.

§ 195-22. Notice of Hearing.

The Board shall give notice of hearing at least five (5) days prior to the date thereof, by publication in the official paper.

§ 195-23. Form of Notice.

Such notice shall state the location of the building or lot, the general nature of the question involved, the date, the time and place of hearing and the telephone number and the name of the Secretary of the Planning Board where additional information may be obtained.

§ 195-24. General Rules.

Any party may appear in person or by agent or by an Attorney. The Chairman may permit the review and the action upon applications where no representative is present in the event that such application may be reasonably completed or reviewed or to avoid the lapse of the statutory time period.

ARTICLE IX: REFERRALS TO OTHER AGENCIES

§ 195-25. County Referrals.

Prior to taking action on any matter that would cause any change in the regulations or use or land or building on real property, as specified in § 239-m of the General Municipal Law, the Board shall make referrals to the Ulster County Planning Department as provided by law. If within thirty (30) days after receipt of such referred matter, the Planning Agency to which the referral is made, or authorized agency of said body disapproves the proposal or recommends modifications thereof, the Board shall not act contrary to such disapproval or recommendation, except by a vote of majority plus one (1) of all members thereof, and after the adoption of a

resolution fully setting forth the reasons for such contrary action. The Chairperson shall read or summarize the report of the County Planning Department, at the public hearing on the matter under review. If the Planning Department fails to report within such period of thirty (30) days, the Planning Board may act without such report.

§ 195-26. Engineering Referrals.

Applications may be referred to the following agencies for written report:

1. Building Inspector: site inspection.
2. Town Highway Superintendent: recommendations on town road widening or driveway access and drainage information.
3. Town Engineer: for engineering matters pertaining to storm water runoff, public utility design or connections to public utilities.
4. Sewer Superintendent: for connections for facilities connecting to the town sanitary sewer system.
5. Town Planning consultant: for general review and conformance to local codes and regulations.
6. County Highway Department: for applications requiring access or which are adjacent to county roads or drainageways.
7. New York State Department of Transportation: for projects bordering on or having access to state highways.
8. County Health Department: for projects requiring individual wells or septic systems or under the jurisdiction of New York State Public Health law.
9. Department of Environmental Conservation: for state environmental quality review, freshwater wetlands, or water body projects or actions under Part 617, the Environmental Conservation Law.
10. Town water department: for projects having connections to or utilizing town water.
11. Town Fire Inspector and/or Volunteer Fire Companies.

ARTICLE X: FINDINGS

§ 195-27. Findings Contents.

Findings of the Board and supporting facts shall be spelled out within the resolution or by reference to other matters retained in the files of the planning office that will evidence the following:

ARTICLE X: FINDINGS

§ 195-27. Findings Contents.

Findings of the Board and supporting facts shall be spelled out within the resolution or by reference to other matters retained in the files of the planning office that will evidence the following:

1. The Board has made an intelligent review of the question.
2. It has considered all the information or evidence.
3. It has heard all parties in question.
4. Any intimate knowledge it has of the subject under question has been taken into account.
5. That it has made, where feasible, personal inspection of the parcel in question and from the foregoing examinations its findings were ascertained.

§ 195-28. Conflicts with other laws and regulations.

In reviewing an application on any matter the standards in any applicable local law or ordinance or state statute shall take precedence over the standards of these rules whenever a conflict occurs. In all other instances the more restrictive rules shall apply.

ARTICLE XI: ALTERNATE PLANNING BOARD MEMBERS

§ 195-29. Alternate Members.

The Town Board may appoint up to two (2) alternate members, with each such position having a term of one (1) year, for purposes of substituting for a member(s) in the event such member(s) is absent or unable to participate because of a conflict of interest. All provisions relating to members of the Planning Board, including training, continuing education, attendance and compensation, apply to alternate members.

§ 195-30. Substitution.

The Chairman shall determine when an alternate member shall substitute for a member on any particular application or matter before the Board. Once designated, the alternate member shall possess all the powers and responsibilities of the member being substituted for to make determinations. The minutes of the Planning Board shall reflect the meeting at which the substitution is made.

§ 195-31. Supersession.

Pursuant to Section 22 of the New York Municipal Home Rule Law, the provisions of this article are intended to supersede any inconsistent provisions of state or local law, including those of the following sections of New York State Town Law governing Planning Boards: Town Law Section 271(15).

ARTICLE XII: AMENDING BY-LAWS

§ 195-32. Amending By-Laws.

These by-laws may be amended by a duly adopted Local Law of the Town of Ulster Town Board.

ARTICLE XIII: FORMER BY-LAWS

§ 195-33. Former By-Laws.

These by-laws shall supersede any and all by-laws previously adopted by the Town of Ulster Planning Board.

FEES
CHAPTER A194

§ A194-1. Schedule of fees established.

§ A194-2. (Reserved).

§ A194-3. Additional expenses.

§ A194-4. Filing.

§ A194-5. Applicability.

[HISTORY: Fee schedule amended by Town of Ulster L.L. No. 6-2014 to supersede all prior schedules formerly adopted; see Ch. 1, General Provisions, Art 1.]

GENERAL REFERENCES
Fees - See Ch. 84.

§ A194-1. Schedule of fees established.

A. Town Clerk

Copies of Town Code:

(1) Complete Code Book: fifty dollars ($50)

(2) Zoning regulations: zoning books - ten dollars ($10), zoning maps - six dollars ($6), subdivision books - five dollars ($5).

Town Clerk fees:

(1) Accident report: twenty-five cents ($0.25) per page.

(2) Bingo, per occasion: eighteen dollars and seventy-five cents ($18.75).

(3) Boat fees:

(a) Seasonal permit: fifty dollars ($75) per trailer.

(b) Daily permit: eight dollars ($10) per trailer.

(4) Copies, per sheet: twenty-five cents ($0.25).
Large format copies per sheet: 24x36 B&W two dollars ($2), 24x36 Color three dollars ($3).
Large format copies per sheet: 30x40 B&W three dollars ($3), 30x40 Color four dollars ($4).

FEES

(5) Dog licenses:

(a) Spayed/neutered: six dollars ($6) per dog

(b) Non-Spayed/Non-neutered: sixteen dollars ($16) per dog

(c) Enumeration fee: five dollars ($5)

(d) Late fee for licenses obtained 60 days after due date: five dollars ($5)

(e) Replacement Tags: three dollars ($3)

(6) Entertainment permits/ event permits, per scheduled occasion: one hundred dollars ($100).

(7) Freedom of Information Act:

(a) Per page copy fee: twenty-five cents ($0.25).

(b) For extensive searches of archive records: twenty-two dollars ($22) per hour.

(8) Games of chance, per year: twenty-five dollars ($25).

(9) Going out of business: five hundred dollars ($500).

(10) Hawkers and peddlers:

(a) Per day: twenty-five dollars ($25)

(b) Three days: fifty dollars ($50)

(c) Per month: one hundred dollars ($100)

(d) Per year: three hundred dollars ($300)

(11) Junkyard permit fee: one thousand dollars for startup ($1,000)
two hundred dollars ($200) per year renewal.

(12) Marriage license: Forty dollars ($40).

(13) Marriage License Officiant: Twenty five dollars ($25).

(14) Mobile home permits (on private land for originals and replacements): fifty dollars ($50).

(15) Mobile home parks, per lot permitted: ten dollars ($10).

(16) Pavilion permit:

April 1st to September 30th

(a) For resident: small pavilion – Weekend: one hundred ten dollars ($110), Weekday: fifty - five dollars ($55); large pavilion – Weekend: two hundred – twenty dollars ($220). Weekday: one hundred ten dollars ($110).

(b) Nonresident: small pavilion – Weekend: one hundred sixty-five dollars ($165) Weekday: eighty dollars ($80); large pavilion – Weekend: three hundred dollars ($300) Weekday: one hundred-sixty dollars ($160)

October 1st to October 31st

(a) Small pavilion - Weekend: fifty dollars ($50), Weekday: twenty-five dollars ($25); large pavilion - weekend: one hundred dollars ($100); Weekday: fifty dollars ($50)

(17) Tax bills - The fee for mailing of the notice of unpaid taxes, shall be a charge against the parcel, shall be pursuant to section 987 of Real Property Tax Law $2.00.

(18) Film Location Fee – per film two hundred fifty ($250)

B. BUILDING DEPARTMENT

Building Permits:

(1) Residential – 1 and 2 family

VALUE OF CONSTRUCTION	FEE
$0 to $2,000	$12.00; permit must be obtained
$2,001 to $25,000	$18.00, plus $6.00 for each additional $1,000 or fraction over $2,000 to and including $25,000
Over $25,000 to $50,000	$150.00 for first $25,000, plus $5.00 for each additional $1,000 or fraction thereof to and including $50,000
Over $50,000	$270.00 for the first $50,000 plus $4.00 for each additional $1,000 or fraction thereof

Along with the Building Permit fee, a Certificate of Occupancy ($50) OR Certificate of Compliance ($25) fee will be paid.

(2) Commercial and Multi-family

New Construction:

The Building permit fee will be calculated on the gross floor square foot area (based on exterior building dimensions including all walls and common-areas).

FEES

GROSS SQ. FT OF BUILDINGS/STRUCTURES	FEE PER SQUARE FOOT
Up to 5,000	$0.65 per sq. ft. or a min. of $450
Over 5,000 up to 20,000	$3,250 plus $0.55 per sq. ft. over 5,000
Over 20,000 up to 50,000	$11,500 plus $0.45 per sq. ft. over 20,000
Over 50,000	$25,000 plus $0.35 per sq. ft. over 50,000

An escrow account will be established to cover consultant's costs as required.
See *Escrow Amounts*.

Alterations or modification under construction:

$0.35 per sq. ft. of gross floor area. Minimum of $350

(1) Improvement Plan Inspection Fee:

Commercial and Multi-family residential: Where special site conditions require full-time inspection, the additional cost will be paid by the applicant.

(2) Other inspections and fees related to building construction:

(a) Requested inspections outside of normal business hours: fifty dollars ($50) per hour [minimum charge: two (2) hours in addition to the permit fee].

(b) Additional plan review required by changes, additions or revisions to approved plans: forty dollars ($40) per hour.

(c) If an application for a building permit is not approved, the applicant shall be entitled to a refund of fifty percent (50%) of the fee paid. There is no refund on approved and issued permits.

(d) Building permit extension of one year: **RESIDENTIAL** twenty dollars ($20) or ten percent (10%) of the original building permit fee, whichever is larger. **COMMERCIAL** fifteen percent (15%) of the original building permit fee.

(3) Certificate of Occupancy: **If building permit is in effect:** fifty dollars ($50) for one- or two- family dwellings. For all others, the charge is fifty percent (50%) of building permit fee. **If a building permit is not in effect due to it having expired**: and the work is

partially or completely done, then in addition to the Certificate of Occupancy fee and Building Permit fee , there will be an additional compliance fee of two hundred dollars ($200) for a one- or two- family dwelling and one thousand dollars ($1000.) for all other uses.

(4) Temporary Certificates of Occupancy:

(a) First temporary Certificate of Occupancy: two hundred fifty dollars ($250) plus performance bond on remaining work required under site plan approval.

(b) Second and subsequent temporary Certificates of Occupancy: two hundred fifty dollars ($250).

(c) No more than three (3) Temporary Certificates will be issued.

(5) Flood Plain permits:

(a) Flood development permit: three hundred fifty dollars ($350).

(6) Copy Certificate of Occupancy title search:

Residential Property	$ 75.00
Commercial Property	$100.00

(7) Demolition permit:

Residential Property	$175.00
Commercial Property	$500.00 plus $ .20 per square foot + CC Fee

(8) Blasting & Excavating Fee: one hundred fifty dollars ($150) per parcel. Permit expires 30 days after issuance

(9) Other Permits (includes inspection & issuance of a certificate of compliance):

(a) Fences – Fifty dollars ($50)
(b) Alternative Heating Appliance – One hundred twenty five ($125)
(c) Tents – Residential: No charge
Commercial: $10 per day with no more than 15 days within a calendar year

(d) Fire/Burglar Installation Permit Fee for other than a 1 or 2 family residence is $100 per install or remodel/alteration

(e) Fuel tank removal:
Residential Property $ 75.00
Commercial Property $125.00

(f) Roofs – based on cost of construction + CC Fee
(Residential/Commercial)

(10) Fire Inspections: As mandated by the Uniform Fire Prevention & Building Code
For each visit, fee based on gross square footage of floor area.

SIZE OF STRUCTURE	**FEE PER SQUARE FOOT**
Up to 2,000 sq. ft.	$30.00
Over 2,000 sq. ft. but not over 5,000 sq. ft	$30.00 plus $0.0125 per sq. ft. for area over 2,000 sq. ft.
Over 5,000 sq. ft. but not over 10,000 sq. ft.	$67.50 plus $0.0100 per sq. ft. for area over 5,000 sq. ft.
Over 10,000 sq. ft. but not over 25,000 sq. ft.	$117.50 plus $0.0075 per sq. ft. for area over 10,000 sq. ft.
Over 25,000 sq. ft.	$230.00 plus $0.0060 per sq. ft. for area over 25,000

In the event the Fire Inspector is required to inspect a premise a third time to ensure compliance with the Code an additional fee of $100 is to be charged.

In the event the Fire Inspector is required to inspect a premise a fourth time to ensure compliance with the Code an additional fee of $125 is to be charged.

In the event of non-compliance with the Fire Inspector's recommendations after a fourth visit the property owner will be subject to fines and expenses imposed by the Town Justice Court.

(11) Sign Fees:

(a) Permanent signs:

(1) Replacement Sign panels - Twenty-five dollars ($25) per sign face, + CC Fee

(2) All others twenty-five dollars ($25) base fee, plus five dollars ($5) per square foot of new sign face + CC Fee

(b) Temporary and/or portable signs:

(1) Maximum size: thirty-two square feet (32 sq ft); permit must be obtained by property owner.

(2) Seventy-five ($75) a month & in compliance with Town Code.

(12) Certificate of Compliance (CC) for non-occupied structures - $25.00.

(13) Penalty Fees: An additional fee in the amount of $250.00 for residential construction work or $500.00 for commercial construction shall accompany an application for a building permit which is submitted to the Town of Ulster Building Department after the work contemplated by the applicant has commenced. [LL# 1 of 2014 - Adopted on 2-6-2014]. Additionally, a fee of $250. for residential work and $500. for commercial work shall be applied for failure to call for required inspections.

(14) Landlord Registration Fees:

(a) The one time Registration Fee is $45.00 per unit.

(b) The Biannual Inspection Fee is as follows:

3 – 9 Units	$100.00 plus	$50.00 per unit
10 – 20 Units	$200.00 plus	$50.00 per unit
Over 20 Units	$350.00 plus	$50.00 per unit

(15) Commercial Solar Facilities and Battery Storage Facilities:

(a) Planning Board Application Fees:
Solar Facility – One Thousand Dollars ($1,000) per MW of Capacity
Battery Facility – One Thousand Dollars ($1,000) per MW of Capacity

(b) Building Permit Application Fees:
Solar Facility – Nine Thousand Dollars ($9,000) per MW of Capacity
Battery Facility – Four Thousand Five Hundred Dollars ($4,500) per MW of Capacity

C. PLANNING BOARD FEES [Note: Refunds of site plan fees shall be limited to plans withdrawn prior to Planning Board review.]:

(1) Site plans, residential (attached; multiple dwellings; duplex, etc.): sixty dollars ($60) per dwelling unit applied for, plus one hundred dollars ($100) per one thousand (1,000) gross square feet of nonresidential structure.

(2) Site plans, commercial/office/individual:

(a) Four hundred dollars ($400), plus a fee based on the gross square footage of the floor area and of affected site area as follows:

SIZE OF STRUCTURES IN SQUARE FEET	**FEE PER SQUARE FOOT**
Up to 2,000	$ 0.30
Over 2,000 up to 5,000	$600 plus $0.25 over 2,000
Over 5,000 up to 20,000	$1,250 plus $0.20 over 5,000
Over 20,000 up to 50,000	$4,000 plus $0.15 over 20,000
Over 50,000	$7,500 plus $0.10 over 50,000

(b) Site plan for signs only: fifty dollars ($50), plus sign permit fee of twenty dollars ($20) each, plus five dollars ($5) per sq. ft. of sign face.

(c) Site Plan for exterior color change only: one hundred fifty dollars ($150)

(d) Parkland and Recreation fee: Projects with 40 Units or Less: Two Thousand dollars ($2,000) per dwelling unit, Projects with more than 41 units Four Thousand dollars ($4,000) per dwelling unit**. [Adopted as Local Law 1 of 2023 by the Town of Ulster Town Board on 2/16/2023, A Local Law Known and Cited as Parkland and Recreation Fees]**

Parkland and recreation fees are cumulative in nature. Projects may not be built in phases so as to reduce the parkland and recreation fee. For example, a 57 dwelling unit housing project will incur a parkland and recreation fee of $148,000.00 (40 x $2,000.00, plus $17 x $4,000.00). Any additional dwelling unit for the same project will be at the rate of $4,000.00 per dwelling unit.

(3) Site plan renewal/extension: twenty percent (20%) of application fee.

(4) Special Use Permit: one hundred dollars ($100) plus Site Plan fees.

(5) SEQR review [additional fee]:

(a) SEQR, Type II and unlisted actions: included in site plan fee except when a positive SEQR declaration is reached, in which case the fees are the same as for a Type I action.

(b) Type I action: application fee of three hundred dollars ($300.) plus actual expense of review (time and materials), subject to the fee limitation in 6 NYCRR Part 617.13.

2% of total cost for residential;
½ of 1% of total cost as provided in 6 NYCRR 617.13

(6) Subdivisions:

(a) Sketch plan review: One hundred dollars ($100) for each submission to Planning Board.

(b) Lot line revision for adjustments and deletions; Two Hundred Dollars ($200) per lot line adjusted or deleted.

(c) Preliminary plat, major subdivision: Three hundred dollars ($300) base fee, plus two hundred dollars ($200) per each newly created lot.

(d) Preliminary plat, minor subdivision: Three hundred dollars ($300), plus one hundred ($100) per lot.

(7) Workshop: A fifty ($50) dollar cancellation fee will be charged to all persons making appointments to the monthly workshop sessions. This fee is to be received at the scheduling of workshop appointments and will be returned to the individual at the time of the appointment. If the appointment is not kept the fee will be retained by the Town.

D. ZONING BOARD OF APPEALS

RESIDENTIAL

(1) Area Variance: one hundred dollars ($100)

(2) Use Variance: one hundred fifty dollars ($150)

(3) Sign variances: one hundred fifty dollars ($150)

(4) 280-variances: three hundred dollars ($300)

(5) Interpretation: fifty dollars ($50)

(6) Appeals from decisions of administrative officer: two hundred fifty dollars ($250)

Cost of public hearing included in the fee.

COMMERCIAL

Area or Use Variance: three hundred dollars ($300)

Cost of public hearing included in the fee.

All Variance requests require a Public Hearing

E. ESCROW AMOUNTS

(1) Upon application to the Town Board, Building Department, Planning Board or Zoning Board of Appeals for any action or approval provided by law, the applicant shall deposit with the Town an amount determined by the approving agency to be sufficient to cover the reasonable and necessary costs of engineering,

planning, legal and other consulting fees incurred by the Town in connection with the inspection and review of the application, including all costs necessary to comply with the State Environmental Quality Review Act. The approving agency may require the deposit of additional amounts from time to time thereafter if necessitated by further professional consulting fees in connection with the inspection and review of an application. If such additional amount is not deposited with the Town within 20 days after the applicant is notified in writing of the requirement for such additional deposit, the approving agency may suspend its inspection and review of the application. The amount of the deposits and costs set forth herein shall be audited by the Town Supervisor.

(2) Any portion of the deposit that is not expended during the inspection and review of the application shall be returned to the applicant upon final approval by the Town.

(3) Should the actual consulting fees exceed the deposit made to the Town for the application, the applicant shall reimburse the Town for the difference prior to the final approval of the application. No final approval shall be granted to the applicant unless all professional consulting fees charged in connection with the inspection and review of the application have been reimbursed to the Town.

(4) The deposits made to the Town hereunder shall be placed in an account deemed appropriate by the Town Board.

F. WATER RATES

Bright Acres Water District, water rates: first 9,000 gallons or any portion thereof in each quarter: $83.00; 9,001 - 20,000 gallons for $8.18 per 1,000 gallons or any portion thereof: 20,001 – 50,000 gallons for $8.76 per 1,000 gallons or any portion thereof: 50,001 gallons and above for $11.00 per 1,000 gallons or any portion thereof.

Cherry Hill Water District, water rates: first 5,000 gallons or any portion thereof in each quarter: $29.00; 5,001 gallons and above for $5.99 per 1,000 gallons or any portion thereof.

Glenerie Water District, water rates: first 5,000 gallons or any portion thereof in each quarter: $29.00: 5,001 gallons and above for $4.82 per 1,000 gallons or any portion thereof.

Halcyon Park Water District, water rates: first 5,000 gallons or any portion thereof in

each quarter: $29.00; 5,001 – 20,000 gallons for $4.25 per 1,000 gallons or any portion thereof: 20,001 – 50,000 gallons for $5.05 per 1,000 gallons or any portion thereof: 50,001 gallons and above for $5.93 per 1,000 gallons or any portion thereof.

East Kingston Water District, water rates: first 5,000 gallons or any portion thereof in each quarter: $29.00: 5,001 gallons and above for $5.56 per 1,000 gallons or any portion thereof.

Spring Lake Water District, water rates: first 5,000 gallons or any portion thereof in each quarter: $34.75. Over 5,001 gallons and above for $9.06 per 1,000 gallons or any portion thereof.

Ulster Water District, water rates: first 5,000 gallons or any portion thereof in each quarter: $29.00. For over 5,000 gallons: $4.07 per 1,000 gallons up to 200,000 gallons. Over 200,000 gallons: $5.11 per 1,000 gallons or any portion thereof.

Inter – District Rates:

Sales from Ulster Water District -	$4.10 per 1000 gallons or any portion thereof
Sales from Cherry Hill Water District -	$4.40 per 1000 gallons or any portion thereof

G. WATER TAP PERMIT:

(1) Fees:

SIZE OF TAP (inches)	FEE
¾	$ 450.00
1	550.00
1 ¼	600.00
1 ½	650.00
2	750.00
4	1,000.00
6	1,500.00
8	4,000.00
10	6,000.00
12	8,000.00

(2) The tapping of water mains or distribution pipes, the furnishing of the corporation cocks, the curb cock and the box shall be provided by the district. The cost of the above-mentioned material shall be included in the permit fee for a three-fourths inch tap. All materials for a larger tap shall be provided by owner of the property.

(3) Water usage studies: If prior years' records have to be removed from storage to compile request, a fee of twenty-five dollars ($25.) per hour with a two-hour minimum will have to be paid in advance via estimate to actual settled at conclusion of project.

(4) Turning water on after being turned off at the curb stop: forty dollars ($40).

(5) Replacement of residential meters after pipe burst: two hundred twenty-two dollars ($222), or value of meter. Replacement of frost plate for residential meters: fifty dollars ($50), or value of frost plate, plus value of water lost as estimated by the district superintendent.

(6) Reapplication for water after water has been shut off at the corporate cock: not less than one hundred dollars ($100).

(7) Quarterly commercial minimum meter charge: all districts

METER SIZE	MINIMUM GALLONS
1”	23,000
1 ½”	38,000
2”	75,000
3”-7”	100,000
8” and above	200,000

(8) Bulk water sales for distribution, use or consumption outside the water district: fifteen dollars ($15) per thousand (1,000) gallons.

(9) Sprinkler Systems: Four Hundred Dollars ($400.00) per year or One Hundred Dollar($100.00) per quarter.

(10) Outside district: district rate plus twenty five percent (35%).

H. SEWER RATES

Ulster Sewer Improvement Area: Five thousand (5,000) gallons or any portion thereof in each

quarter: $22.00. For over five thousand (5,000) gallons: $3.00 per one thousand (1,000) gallons or any portion thereof.

Washington Ave Sewer District: Five thousand (5,000) gallons or any portion thereof in each quarter: $84.00. For over five thousand (5,000) gallons: $16.44 per one thousand (1,000) gallons or any portion thereof. Each property that is not serviced by municipal water shall

be charged one hundred and fifty ($150.00) in each quarter or for the actual use as above if the private well that services the property has a meter accessible to the Sewer District.

Spring Lake Sewer District – Phase 1: Five thousand (5,000) gallons or any portion thereof in each quarter: $56.75. For over five thousand (5,000) gallons: $11.31 per one thousand (1,000) gallons or any portion thereof.

I. SEWER PERMIT, Ulster Sewer District, Washington Ave. District and Whittier:

(1) Residential: one hundred fifty dollars ($150).
(2) Commercial: four hundred fifty dollars ($450).
(3) Industrial: two thousand five hundred dollars ($2,500).
(4) Wastewater discharge permit: six thousand dollars ($6,000).

J. TRANSFER STATION

PERMITS:

Per year	$70.00
Second permit	$55.00
Half year	$50.00 (pro-rated on a half-year basis after July 1)
Single day	$20.00

For Town of Ulster Residents over the age of 62 only, the following fees apply:

Per Year	$50.00
Second Permit	$40.00
Half Year	$40.00 (pro-rated on a half-year basis after July 1)
Single Day	$12.50

PUNCH CARDS:

Punch Card of Twenty (20)	$80.00

FEES

Punch Card of Ten (10)	$40.00
Punch Card of Five (5)	$20.00

Permits, Punch cards may be purchased with cash, check or money order at the Town Clerk's Office. **Permits and Punch cards may be purchased at the Transfer Station by check or money order only**.

CHARGEABLE ITEMS:

REFRIGERATORS, AIR CONDITIONERS AND DEHUMIDIFIERSARE NOT ACCEPTED.

- Appliances — 5 Punches or $ 20.00
- Bedding
  - Twin and full mattress — 3 Punches or $ 12.00 Box
    spring — 3 Punches or $ 12.00
    Queen or larger — 4 Punches or $ 16.00
    Box spring — 4 Punches or $ 16.00
- Couch — 4 Punches or $ 16.00
- Dresser/chest — 1 Punches or $ 4.00 per drawer space
- Folding chair — 1 Punches or $ 4.00
- Household trash — 1 Punches or $ 4.00 per 30-35 gallon bag
- Love seat — 3 Punches or $ 12.00
- Living room chair — 3 Punches or $ 12.00
- Non-upholstered chair — 2 Punches or $ 8.00
- Tires (car and pickup **only)** — 2 Punches or $ 8.00

BRUSH AND CLEAN LUMBER:
Must be 6" or less in diameter and 6' or less in length

- Pickup truck load — 2 Punches or $ 8.00
- 1-ton truck or larger — 4 Punches or $ 16.00

PROPANE GAS TANK:

- 20 pound – shut off valve must be removed — 1 Punches or $ 4.00

FEES

COMPOST (Remove if not in biodegradable paper bags)

- Grass clippings and leaves, etc. No charge

THE FOLLOWING ITEMS ARE NOT ACCEPTED:

- Construction materials/debris
- Demolition materials/debris
- Hazardous waste
-

THE FOLLOWING ITEMS ARE ACCEPTED AT NO CHARGE (Permit required)

- Recyclable glass (only clear, green or brown)
- Bottles
- Jars
- Recyclable plastic
- Cans
- Lids
- Cardboard (MUST BE FLATTENED)
- Brown
- Gray
- Brown bags
- Magazines and junk mail
- Various types of colored printed materials
- Phone books
- Newspapers
- Electronics
- Scrap metal (MUST BE SEPARATED – STEEL/ALUMINUM/COPPER)
  Metal items only (less than 2 cubic feet.)

END OF FEE SCHEDULE

A19418

§ A194-2. (Reserved). (1)

§ A194-3. Additional Expenses.

The fees established pursuant to this chapter shall be deemed to be minimum fees, and any additional expenses actually incurred by the town for professional consultations, hearing notices and other non-ministerial 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 issuance of certificates of occupancy or inspection or the filing of any applicable local law with the Secretary of State.

§ A194-4. Filing.

This chapter shall be filed with the Town Clerk.

§ A194-5. Applicability.

The fees required pursuant to this schedule shall apply to all applications filed hereafter and all pending applications that have not received final approval.

Editor's Note: (1) Editor's Note: Former § A194-2. Schedule may be modified, was repealed 12-18-2006 by LL #2 of 2006.

Effective date: This schedule will be effective immediately upon filing with the Town Clerk.

SITE PLAN REVIEW REGULATIONS

Chapter A196

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General Provisions

§ A196-1. Approval of site plans; scope.

§ A196-2. Construal of provisions.

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ARTICLE II
Application Review and Approval Procedures

§ A196-6. General procedure.

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§ A196-8. Contents of complete site plan application.

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§ A196-10. Revisions; Town Board action.

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General Requirements and Design Standards

§ A196-12. General requirements.

§ A196-13. Location of design standards.

§ A196-14. Off-street parking.

§ A196-15. Access drives and off-street loading areas.

§ A196-16. Drainage.

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SITE PLAN REVIEW REGULATIONS

§ A196-18. Setbacks and building separation.

§ A196-19. Waste disposal.

§ A196-20. Landscaping.

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ARTICLE IV
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§ A196-23. Incompatible signs.

§ A196-24. Application.

§ A196-25. Review of application.

ARTICLE V
Sewers and Water

§ A196-26. Sanitary sewage disposal systems.

§ A196-27. Central water system.

§ A196-28. Street excavations.

ARTICLE VI
Terminology

§ A196-29. Word usage.

§ A196-30. Definitions.

[HISTORY: Adopted by the **Planning Board of** the **Town of Ulster 3-19-1987. Sections A196-8E, A196-14C, A196-24A and A196-26C(l) amended during codification; see Ch. 1, General Provisions, Art. 11. Other amendments noted where applicable.]**

GENERAL REFERENCES
Building construction and fire prevention - See Ch. 61.
Flood damage prevention - See Ch. 87.
Garbage, rubbish and refuse - See Ch. 95.
Mining - See Ch. 111.
Mobile homes and travel trailers - See Ch. 114.
Fire lanes - See Ch. 123, Part 1.
Sewers - See Ch. 141.
Site plan review - See Ch. 145.
Streets and sidewalks - See Ch. 157.
Subdivision of land - See Ch. 161.
Swimming pools - See Ch. 165.
Water - See Ch. 177.
Zoning - See Ch. 190.
Fees - See Ch. A194.

ARTICLE I
General Provisions

§ A196-1. Approval of site plans; scope.

Pursuant to §§ 274 and 274-a of New York State Town Law, and Local Law No. 4 of 1986,(1)the Planning Board of the Town of Ulster is authorized and empowered to review site plans subject to final approval, approval with modification or conditions, or disapproval of plans by the Town Board. These regulations pertain to approval of site plans, the issuance of building permits and the certificates of occupancy, approval of sign permits and renewals of permits.

§ A196-2. Construal of provisions.

The Site Plan Review Local Law No. 4 of 1986(2) shall be held to be the minimum requirements, adopted for the promotion of the public health, safety and general welfare. Site plan approvals and building permits granted under prior authority shall have full force and effect, except that any amendment thereof shall thereafter comply with the requirements of these regulations.

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(1) **Editor's Note: See Ch. 145, Site Plan Review.**
(2) **Editor's Note: See Ch. 145, Site Plan Review.**

§ A196-3. Amendments.

These regulations or any portion thereof may be amended, supplemented, or repealed at any time by the Planning Board after public hearing and upon referral and approval by the Town Board. The Town Board may provide for modifications of requirements by resolution to the Planning Board.

§ A196-4. Severability.

Should any section or provision of the regulations contained herein or as amended hereafter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the regulations as a whole or any part thereof other than the part so declared to be invalid.

§ A196-5. Waivers.

Where the Planning Board finds, that due to the special circumstances of a particular site, the provision of certain required improvements is not requisite in the interest of the public health, safety and general welfare, or is inappropriate because of the inadequacy or lack of connecting facilities, it may waive such requirements, subject to appropriate conditions. In granting such waivers, the Planning Board may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so waived.

ARTICLE II
Application Review and Approval Procedures

§ A196-6. General procedure.

Whenever any site plan approval is required, or amendment thereof, or a sign permit is required and before any building permit or certificate of occupancy is issued, or any construction is begun, the applicant or authorized agent shall apply for the approval of such site plan or sign permit in accordance with the following procedure:

A. For site plans or amended site plans:
Pre-application meeting with Planning Department and sketch plan review by Planner and Building Inspector.

1. Preparation of site plan application and maps by licensed design professional.

2. Submission of complete application (see checklist Appendix D) (3) not less than ten calendar days prior to the regular Planning Board meeting.

3. Distribution and review of application (Town Engineer; Sewer and Water Superintendent; Town Highway Superintendent as applicable).

4. Publication of notice of public hearing not less than five (5) days prior to meeting.

5. Transmittal of plans for county (Section 239, Review) and state environmental quality review processing for Type I actions.

6. Public hearing and formal findings (Local Law No. 4 of 1986, Section 6) (4) including required conditions; modifications or recommendation to deny [within forty-five (45) days of close of hearing].

7. Modification or correction of plans and signing by Planning Board Chairman.

8. Formal referral from Planning Department to Town Board for final action [minimum of ten (10) days prior to regular Town Board meeting].

9. Review at regular Town Board meeting to approve; modify and approve; or disapprove the site plan [within thirty (30) days of Planning Board decision and report].

B. For sign permits:

1. Pre-application meeting with Planning Department and sign plan review by Planner and Building Inspector.

2. Preparation of sign permit application and plans (licensed design professional seal for structural plans).

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(3) Editor's Note: Appendix D is on file in the office of the Town Clerk, where it may be examined during regular office hours.

(4) Editor's Note: See Ch. 145, Site Plan Review, § 145-6.

3. Submission of complete application (see Checklist Appendix D) (5) not less than ten calendar days prior to the regular Planning Board meeting.

4. Transmittal of plans for county (Section 239, Review).

5. Planning Board review and formal findings (Local Law No. 4 of 1986, Section 6)(6) including required conditions; modifications or recommendation to deny [within forty-five (45) days of submission of complete application].

6. Modification or correction of plans and signing by Planning Board Chairman.

7. Formal referral from Planning Department to Town Board for final action [minimum of ten (10) days prior to regular Town Board meeting].

8. Review at regular Town Board meeting to approve; modify and approve; or disapprove the sign permit [within thirty (30) days of Planning Board decision and report].

§ A196-7. Pre-application review.

Before preparing the detailed proposal, the applicant should make an appointment with the Town of Ulster Planning Department and Building Inspector to familiarize themselves with the requirements of these and other regulations; the town policies affecting development; the Town Master Plan; procedures of the Planning Board and Town Board; and other information that may be pertinent to the application. This is also an opportunity to identify and schedule other agency referrals including Ulster County Health Dept; Ulster County Planning Board; New York State Department of Transportation; Ulster County Highway Department; Department of Environmental Conservation; town departments and other related town permit requirements that may be applicable to certain applications. Additionally, the procedural requirements for state environmental quality review, which pertains to all site plan and sign permits will be outlined.

§ A196-8. Contents of complete site plan application.

The complete site plan application consists of the following eight (8) specific items:

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(5) Editor's Note: Appendix D is on rile in the office of the Town Clerk, where it may he examined during regular office hours.

(6) Editor's Note: See Ch. 145, Site Plan Review, § 145-6.

1. Two (2) copies of the application form (Appendix D to these regulations) **(7)** with original affidavits of ownership executed and notarized.

2. One (1) copy of the inspection report of the Town Building Inspector [within the last thirty (30) days] identifying outstanding violations on the site (if any).

3. Seven (7) paper prints of the site plan with applicable information (Appendix D, Site Plan Specifications) for distribution to:

    1. Ulster County Planning Board (For Section 239 review if required).

    2. Town Sewer/Water Department (if in water or sewer district).

    3. Town Highway Department.

    4. Public hearing posting.

    5. Planning Board.

4. Two (2) copies of completed Environmental Assessment Record Part 11 and short or long form assessment pursuant to State Environmental Quality Review Act (SEQR).**(8)**

5. Certified check payable to the "Town of Ulster," to include application fee as provided in Chapter A194, Fees. **(9)**

6. Two (2) copies of conceptual building plans and elevations.

7. All required state or county permits or written evidence that applications have been submitted and are pending.

8. Where applicable under SEQR, final EIS and statement of findings by lead agency.

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(7) Editor's Note: Appendix D is on file in the office of the Town Clerk, where it may be examined during regular office hours.
(8) Editor's Note: See Art 8 of the Environmental Conservation Law.
(9) Editor's Note: Amended during codification; see Ch. 1, General Provisions, Art. II.

§ A196-9. Public hearing; review by Planning Board.

A. Upon receipt of a complete site plan application [at least ten (10) calendar days prior to the regular meeting of the Planning Board], the application shall be referred to agencies noted, and a consolidated public hearing list shall be filed with the Town Board and be published in the official newspaper at least five (5) days prior to the hearing. The notice shall state the name of the application; name of the applicant; the street location; tax lot number; description of the project and proposed use; number of square feet; number of parking spaces; SEQR status; date of plan and hours of inspection.

B. Public hearings are not required for sign permits; and site plans for Type II actions under SEQR.

C. The Planning Board shall review the site plan and SEQR data, any reports of town agencies and staff; correspondence from public agencies; other permit requirements; correspondence from the general public; and information presented at a public hearing. The Board may also consider personal knowledge of the site or area under review in preparing and publishing formal findings (Local Law No. 4 of 1986, Section 6) **(10)** and recommendations to the Town Board. The findings and recommendation of the Board shall be filed with the Town Clerk within forty (40) days of the close of the hearing (if a hearing is held), otherwise, within forty-five (45) days of the receipt of the complete application. Where it is determined in the course of hearing, that material errors exist in the application or that it is incomplete, the Planning Board may adjourn the hearing for up to forty-five (45) days to permit the applicant to correct/complete the application.

§ A196-10. Revisions; Town Board action.

A. In the event that the Planning Board findings include requirements for modifications or conditions, the applicant may submit to the Planning Department corrected/modified site plans or sign permit incorporating the changes in the Planning Board decision. If no changes are required or proposed, the applicant shall file four (4) paper print copies of the site plan with the Planning Department not less than ten (10) calendar days prior to the Town Board meeting, which plans

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(10) Editor's Note: See Ch. 145, Site Plan Review, § 145-6

shall be annotated and included in the formal referral. Any changes shall be annotated by a triangle and revision number keyed to the plan list of revisions. Where the revisions fulfill the requirements in the Planning Board decision, the referral to the Town Board shall so note. The full application and referral will include SEQR findings as may be required by NYCRR Part 617.

B. In the event that the Planning Board findings include requirements for modifications or conditions, the applicant may submit to the Planning Department corrected/modified site plans or sign permit incorporating the changes in the Planning Board decision. If no changes are required or proposed, the applicant shall file four (4) paper print copies of the site plan with the Planning Department not less than ten (10) calendar days prior to the Town Board meeting, which plans shall be annotated and included in the formal referral. Any changes shall be annotated by a triangle and revision number keyed to the plan list of revisions. Where the revisions fulfill the requirements in the Planning Board decision, the referral to the Town Board shall so note. The full application and referral will include SEQR findings as may be required by NYCRR Part 617.

C. The Town Board shall act to approve, modify and approve, or disapprove within thirty (30) days after the Planning Board's decision, report and recommendation shall have been filed, or the time to do so shall have elapsed. In the event that the Town Board shall not have acted within said thirty (30) days, the decision and report of the Planning Board shall be deemed to have been approved and constitute final action on the application. Four (4) paper prints and one (1) sepia print of the site plan/sign permit, containing all revisions/changes/ modifications/conditions, as determined by the Planning Department shall be endorsed as approved by the authorized officers of the Planning Board and the Town Clerk and acknowledged by signature of the applicant of receipt of the approved plan. One (1) paper print shall be filed with the Town Clerk; one (1) sepia print and one (1) paper print shall be filed in the Planning Department; one (1) paper print shall be filed with the Building Inspector; and one (1) paper print returned to the applicant. Additional prints may be submitted for signature and returned to the applicant if requested.

§ A196-11. Amendments; expiration of approval.

A. Changes and amendments to an approved site plan shall be processed in the same manner as the original site plan, however, minor and insignificant or technical changes may be incorporated as determined by the Building Inspector and Planning Department. A copy of all changes will be provided to the Planning Board and Town Board for information and record.

B. The site plan approval shall be deemed to have expired without further action by the town unless:

1. Construction of development shown on said map shall be actually commenced within twelve (12) months of the first filing, as evidenced by the issuance of the building permit therefore; and

2. Construction of the development shown on said map shall be fully completed as to all buildings, structures, streets and other improvements shown on said map within three (3) years of the start of construction.

C. The Town Board may extend the effective period of approval on written application not less than forty-five (45) days prior to the expiration date upon showing of good cause. Where changes in applicable laws or regulations have occurred. Any such extension may be conditioned upon meeting all current requirements of the town as may be determined in issuance of the building permit.

ARTICLE III
General Requirements and Design Standards

§ A196-12. General requirements.

A. Sites to be developed shall be of such a character that they can be safely used for building purposes without danger to health or peril from fire, flood or other menace. In particular, site development will comply with the following objectives:

1. Conformance with the provisions of local law No. 4 of 1986 (11) and all other laws and regulations applicable to the proposed use within the Town of Ulster.

2. Adequate and safe vehicular circulation between the site and the street network.

3. Mitigation of adverse impacts on adjacent uses.

4. Interior site circulation, parking and loading facilities with particular attention to vehicular and pedestrian safety.

5. Compatibility with and protection of adjacent uses, particularly residential uses through landscaping, screening, buffering, planting and setbacks.

6. Central water, sewer and drainage facilities for industrial, multiple residence and commercial uses including district improvements/extensions financed in accordance with Articles 12 and 12-A of the local Finance Law.

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(11) Editor's Note: See Ch. 145, Site Plan Review

7. Capacity of existing water mains, sewer lines, pumping stations, treatment facilities and stormwater drainage facilities, and downstream disposition and easements.

8. Aesthetics and compatibility of signs.

9. Adverse effects of smoke, noise, glare, vibration, odors or noxious and offensive use and hours of operations.

10. Presence of dangerous or hazardous activities

B. Site development shall conform to the Official Map of the town (as may hereafter be adopted) and should be in harmony with the Town Development Plan.

C. Existing features which would enhance the attractiveness of the site or the community as a whole, such as trees, watercourses, ponds, historic places and similar irreplaceable assets shall be preserved insofar as possible through harmonious design of site.

D. Site plans shall comply with the specific requirements of the Site Plan Review Local Law No. 4 of 1986, Section 5 et seq.(12) based on the design standards of this Article for site plan approval. Sign permits shall comply with the design standards of § A196-25.

§ A196-13. Location of design standards.

In reviewing and acting on site plans and sign permits, the Planning Board shall be guided by the design standards set forth in the following sections by topics as noted:

A. Section A196-14, off-street parking layout and designs.

B. Section A196-15, access drives and loading areas.

C. Section A196-16, drainage system design.

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(12) Editor's Note: See Ch. 145, Site Plan Review, § 145-5 et seq

D. Section A196-17, floodplain area restriction.

E. Section A196-18, setbacks/building separation.

F. Section A196-19, waste disposal,

G. Section A196-20, site landscaping.

H. Section A196-21, site lighting.

§ A196-14. Off-street parking.

A. Number of parking spaces.

1. The minimum number of accessory off-street parking spaces provided, either open or enclosed, shall conform to the requirements of Local Law No. 4 of 1986 (13) as follows, except that the Town Planning Board, in conjunction with site plan approval, may permit a reduction in the number of developed parking spaces where adequate accessible reserve areas are set aside and are available for overflow parking.
   (a) Multiple dwellings: one and five-tenths (1.5) spaces per dwelling unit (including motels).

   (b) Retail stores, shops, schools, hospitals, institutions, community facilities or other uses not specifically identified herein: one and zero-tenths (1.0) space per three hundred (300) gross square feet.

   (c) Offices, laboratories, industrial plants: one and zero-tenths (1.0) space per four hundred (400) gross square feet exclusive of permanently dedicated warehouse and storage.

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(13) Editor's Note: See Ch. 145, Site Plan Review

(d) Restaurants and theaters (including all C-5 occupancies): one and zero-tenths (1.0) space for each four (4) seats or person capacity (New York State Uniform Fire Prevention and Building Code).

2. In parking areas for commercial uses with ten (10) or more spaces, at least five percent (5%) of the required parking spaces, or a minimum of two (2) spaces, shall be designed and located to accommodate the special needs of the handicapped. Parking areas with less than ten (10) spaces shall provide one (1) handicapped parking space. Parking areas for other than commercial uses shall provide for handicapped spaces as shown in Table 1-1102, New York State Fire Prevention and Building Code. All such spaces shall be posted with regulatory signs conforming to the New York State Department of Transportation Manual of Uniform Traffic Control Devices restricting their use to handicapped persons and shall be laid out so as to not compel handicapped individuals to wheel or walk behind parked vehicles.

B. Location. Areas which may be considered as open or enclosed off-street parking spaces include any private garage, carport or other area available for parking, other than a street, entrance and exit lanes or a driveway, except that no vehicle shall be parked or stored in any required fire lane, which shall be posted with regulatory signs to that effect. In general, no parking space shall be closer than ten (10) feet to any side or rear property line, except when the adjacent property is in commercial or industrial uses; nor closer than five (5) feet to any building in commercial use. Parking spaces for vehicle display shall comply with the requirements of this section, excepting size of space and striping.

C. Size of spaces. Minimum parking stall width shall be nine (9) feet, and twenty (20) feet in length, except that the Planning Board may reduce stall widths for employee parking areas to eight and one-half (81/2) feet. Parking spaces reserved for the handicapped shall be twelve (12) feet in width. A minimum of twenty-four (24) feet of unobstructed backing and turning space shall be provided. Adequate provisions for storage of plowed snow will be shown on the site plan. **(14)**

D. Access. Unobstructed access to and from a street shall be provided for nonresidential uses. Such access shall consist of at least one (1) twelve-foot lane for parking areas with twenty (20) or fewer spaces, and at least two (2) twelve-foot lanes for parking areas with over twenty (20) spaces. Access to roads shall include an adequate turnaround area to preclude the need for backing out onto the right-of-way.

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(14) Editor's Note: Amended during codification; see Ch. 1, General Provisions, Art 11.

E. Drainage and surfacing. All open parking areas shall be properly drained, and all such areas shall be provided with a dustless surface, except that stabilized grassed areas may be used at the discretion of the Town Board, where specifically identified on the site plan. Parking area grades should not exceed five percent (5%); parking drive grades should not exceed eight percent (8%).

F. Joint facilities. Required parking spaces, open or enclosed, may be provided in spaces designated to serve jointly two (2) or more establishments whether or not located on the same lot, provided that the number of required spaces in such joint facilities shall not be less than the total required for all such establishments.

G. Combined uses. When any lot contains two (2) or more uses having different parking requirements, the parking requirements for each use shall apply to the extent of that use. Where one (1) or more such uses will be generating a demand for parking spaces primarily during periods when the other use or uses is not or are not in operation, the Planning Board may reduce the total parking spaces required up to fifty percent (50%) of the parking spaces required for that use with the least requirement.

H. Location and ownership. Required accessory parking spaces shall be provided upon the same lot as the use to which they are accessory or elsewhere, provided all spaces therein are located within four hundred (400) feet walking distance of such lot, two hundred (200) for residential uses. Such spaces shall be in the same ownership as the use to which they are accessory or shall be subject to restriction, in form approved by the Town Attorney, binding the owner and his heirs and assigns to maintain the required number of spaces available either throughout the existence of the use to which they are accessory or until such spaces are provided elsewhere.

I. Access near street intersections. No entrance or exit for any off-street parking area with more than four (4) parking spaces, nor any loading berth, shall be located closer than seventy-five (75) feet from the intersection of any two (2) designated street lines. The minimum dimension shall be one hundred (100) feet from any intersection for any signalized intersection, or an intersection providing for a designed left-turn storage lane on the same intersection leg as the proposed access drive.

J. Screening. Parking areas for nonresidential uses, with more than four (4) spaces adjacent to a residential area should be screened from all property lines including any roads bordering the property. All parking areas or any loading berth shall be screened from any residence area where visible, but such screening shall not obstruct sight distance. The Planning Board may require landscaping between nonresidential use parking areas to

prevent massing of such areas and to protect the character and compatibility of adjacent uses. Parking fields exceeding thirty (30) spaces shall be provided with landscape islands to prevent massing of asphalt area.

K. Lighting requirements. Lighting systems for commercial and industrial uses and parking areas should be so designed as to prevent any light source to be directly visible from beyond the property and artificial light levels within the site should not exceed two (2) foot-candles (average maintained) for parking areas; ten (10) foot-candles (average maintained) elsewhere; or twenty-five (25) foot-candles for exterior storage areas. Light levels should be calculated using Illuminating Engineering Society Handbook Volume II, 1982. Alternately, the total fixture lumens times published coefficient of utilization for the subject fixture, divided by the lighted area may be used as "average maintained" light level.

L. Striping and layout. Each parking space should be marked with a minimum four-inch-wide bounding line; or double bounding line with one (1) foot separation; not less than fifteen (15) feet in length. Paint shall be highway service of yellow or white color. The Planning Board may permit parallel or angled parking only where enforced one-way movements are established, and such spaces should be sized and laid out in accordance with the AIA publication, Architectural Graphic Standards, current edition. Parking areas shall be curbed with standard concrete curb, six-inch reveal, constructed of three thousand five hundred (3,500) pounds per square inch concrete. The Board may permit use of rolled asphalt curb where positive curb stops are provided. In general, the use of precast curb of eight (8) feet or less in length is not authorized where snow plowing will be utilized. Parking space shall be laid out so that no vehicle can park closer than fifty (50) inches to any structure, including a designed eighteen-inch overhang.

§ A196-15. Access drives and off-street loading areas.

A. Access drives serving commercial and industrial sites shall be designed to limit the interruption of traffic flow or reduction of capacity of the adjacent public streets and highways. Unless otherwise specified by the New York State Department of Transportation or Ulster Department of Public Works, distance between curb access: The minimum dimension (in feet) between curb cuts serving as unsignalized access drives shall be determined by multiplying the posted road speed by two point three five (2.35). The Planning Board may require that cross-easements, common drives and industrial service roads be incorporated in site access plans to combine traffic flows from adjacent developments. Generally, the design of access drives utilizing signalization shall

conform to the protocol in Highway Capacity Manual 1985, to achieve a minimum service level of "C" at all intersection legs. If existing service level is "C" or lower, no further reduction in service level shall be permitted.

B. Layout of access drives shall, at the minimum, conform to the Policy and Standards for Entrances to State Highways, including entrances to town and county roadways, and internal service roads. Standard lane width is twelve (12) feet. Access drives of commercial and industrial sites shall be constructed of asphaltic concrete materials for a minimum of one hundred (100) feet from the travelway of the intersecting street or highway to prevent carrying of loose stone or debris to the intersection. Curbing for access drives shall be constructed of three thousand five hundred (3,500) pounds per square inch poured concrete with not less than six (6) inches nor more than nine (9) inches of reveal. Laid granite curb may be substituted with Planning Board approval. Asphaltic curb shall not be used for access drives.

C. Minimum visibility at an access drive should provide seven (7) seconds of stopping sight distance along the street line based on the posted speed limit. Obstruction visibility to the road is not permitted in the triangle formed by a leg of twenty (20) feet on the access road; thirty-five (35) feet on the street line, between a height of twenty-four (24) inches and seventy-two (72) inches. No entrance or exit from any site shall be located closer than seventy-five (75) feet from the intersection of any two (2) designated street lines, except that the minimum dimension shall be increased to one hundred (100) feet for any signalized intersection, or an intersection providing for a left-turn storage lane on the same intersection leg as the proposed access drive.

D. Loading berths. For any nonresidential use of a structure with four thousand (4,000) square feet of gross floor area or greater, there shall be one (1) loading berth with a minimum dimension of ten (10) feet by fifty (50) feet with a clear height of fifteen (15) feet. Up to twenty-four (24) feet of the minimum loading berth length may be constituted by common drive areas, except for fire lanes. The Planning Board may modify the minimum requirements, where necessary, to ensure the proper circulation and traffic safety and where such change would not create future difficulties by way of use of structures for any other use permitted at the site.

E. Joint facilities. Permitted or required loading berths, open or enclosed, may be provided in spaces designed to serve jointly two (2) or more adjacent establishments, provided that the number of required berths in such joint facilities should not be less than the aggregate of all such requirements.

§ A196-16. Drainage.

A. All site development shall include provisions for stormwater management that compensate for changes in the runoff characteristics due to development so that at the point(s) of discharge from the property, there is no adverse change in time of concentration or peak flow in cubic feet per second, based on a twenty-five-year design storm (three-inch-hour). Alternately, the project may provide for off-site drainage improvements adequate to permit changed drainage flows through to an unrestricted drainage outlet.

B. Site development shall include adequate stormwater systems to permit stormwater flows from the watershed to transit the property without obstruction or hazard to upstream or downstream areas. The capacity and flow characteristics of storm flow through property should be determined in accordance with the United States Department of Agriculture, Soil Conservation Service Technical Release 55 (Urban Hydrology), dated January 1975 or later release, or other generally accepted practice approved by the Planning Board.

C. Where appropriate, drainage easements to the Town of Ulster for purposes of entering and maintaining stream flow conditions through sites shall be provided on the site plan and recorded easements submitted to the Town Attorney and Highway Superintendent prior to issuance of a certificate of occupancy. A note shall be included on each site plan that "all stormwater drainage system appurtenances and retention areas shall be maintained in fully functional and safe condition by the owner, and that the building permit or certificate of occupancy shall be subject to revocation upon failure to install or maintain all elements of the storm water drainage system shown on the approved site plan."

D. Drainage system and stormwater management shall be subject to design review by the Town Engineer and Highway Superintendent. While each site design must be tailored to the specific site, the general principles are as follows:

    1. The natural hydraulic cycle of the site shall be disturbed as little as practical in site development.

    2. Producing aquifer recharge areas (existing private or municipal well supplies) shall be subject to special protection by restriction of potential urban runoff contamination or mitigations to retain the full aquifer safe yields.

3. Where drainage structures are required, they will be constructed of durable (forty- year) material and will be designed to require minimal maintenance.

4. Drainage system design will formally assess hazards of inundation due to blockage, collapse or siltation, when part of a residential site development.

5. Drainage systems shall be designed to be compatible with the aesthetics of the site and shall not be subject to collection of stagnant water, odor production or otherwise constitute a noxious or attractive nuisance.

6. Stormwater retention ponds should be designed to facilitate maintenance (provide side slopes flat enough to allow ease of exit for persons and equipment) and discourage entry by unauthorized persons.

§ A196-17. Floodplain restrictions.

A. The areas of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHBM), No. 360866, dated May 28, 1976, and in a scientific and engineering report entitled "The Flood Insurance Study for the Town of Ulster, of Ulster County, New York," with accompanying Flood Insurance Rate Maps and Flood Boundary - Floodway Maps, and any revision thereto, are declared prerequisite to any site plan, building permit or other approval under these regulations. A copy is on file in the office of the Town Clerk.

B. Property within the floodway or flood fringe area shall be evaluated in accordance with the criteria of Local Law No. 1, 1985 Flood Damage Prevention,**(15)** and no site plan shall be issued unless a valid development permit for the portions of the site subject to flooding shall also have been issued stating that all technical evaluations, all relevant factors, standards specified in other section of the Flood Damage Prevention Local Law have been met.

C. No part of any lot shall be construed as part of the minimum lot area required by Local Law No. 4 of 1986 **(16)** unless all of the following have been considered and are not adversely affected by any part of the proposed development.

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(15) Editor's Note: See Ch. 87, Flood Damage Prevention.

(16) Editor's Note; See Ch. 145, Site Plan Review.

(1) The danger that materials may be swept onto other lands to the injury of others.

(2) The danger of life and property due to flooding or erosion damage.

(3) The susceptibility of the proposed facility and 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 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.

(11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.

D. Land underwater (the hydraulic cross section of the twenty-five-year storm level) or within the flood channel shall not constitute minimum lot area for the purposes of Local law No. 4 of 1986. **(17)**

§ A196-18. Setbacks and building separation.

A. The dimensions established in Local Law No. 4 of 1986, Section 5D, **(18)** are the minimum requirements for site layout and building separation. All dimensions are in

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(17) Editor's Note: See Ch. 145, Site Plan Review.

(18) Editor's Note: See Ch. 145, Site Plan Review, § 145-5D

lineal feet; gross square feet (outside wall); height as total elevation between finish grade and corresponding highest point of building structure (or projection of roof line, etc. to corresponding wall, but excepting chimneys otherwise complying with New York State Fire Prevention and Building Code and tower-type antennae).

(1) Other measures are as follows:

(a) Seats: As shown on fixed seating plan or per fifty (50) gross square feet of floor area;

(b) Sales area: All gross square feet not:

[1] Permanently committed to warehouse by fixed walls or separations; or

[2] In a mall, restricted to pedestrian circulation between stores.

(2) For specific uses not listed in Local Law No. 4 of 1986, parking requirements should be determined from Institute of Traffic Engineers Handbook to meet the 30th design hour demand including employee parking.

B. Minimum lot area shall be computed based on the total horizontal area by survey within the site to be developed less area:

(1) Otherwise encumbered precluding construction of the principal use on the site.

(2) Land underwater [based on the twenty-five-year stormwater level (SCS/USDA Technical Release 55 - Future Conditions)] or within a flood channel as specified in

(3) Area for which all access requirements of § A196-14 cannot be met.

(4) Land not safe for human habitation due to noxious fill, septage, hazardous waste, unstable fill, landslide, erosion or the like.

C. No site plan for any use shall be approved unless adequate provision is made for clean potable water supply and for disposal of sanitary or process waste. Full compliance with

New York State pollution elimination discharge permit system shall be evidenced. For the purposes of Local Law No. 4 of 1986,[19] "Central water" shall mean a public or private water supply system meeting the DEC requirements for public water service and having a full-rated fire flow capacity for the use proposed. "Central sewer system" shall mean connection to a public sewer district facility, or a private treatment or pretreatment facility permitted by the New York State Department of Environmental Conservation, and suitable for public operation.

D. Setbacks

(1) A setback is the minimum horizontal dimension between the surveyed property boundary or street line of the site and any part of a building or structure, including walls or footings, fixed canopies, pump islands, eaves or fascia, sign attached to a building, uncovered porch, steps or stoop or walkway more than ten (10) inches above grade.

(2) Certain building occupancies require greater setbacks to comply with specific site requirements/New York State Uniform Fire Prevention and Building Code as follows:

(a) Fire lanes: Minimum clear dimension shall be twenty (20) feet for structures to twenty-two (22) feet in height; and thirty (30) feet for structures over twenty- two (22) feet in height. Fire lanes must be continuous and shall be provided with a minimum outside radius of curvature of fifty-five (55) feet. Refer to Local Law No. 2 of 1982 for marking and signs. [20]

(b) Flammable storage, including aboveground fuel oil, tanker parking and storage: minimum of fifty (50) feet up to one hundred fifty (150) feet as specified in New York State Fire Prevention and Building Code Section 917.17.

(c) Open uses including drive-in theaters, health club, swimming pools, etc.: minimum setback of thirty (30)feet to any property line (any part of non- building use).

(d) Within the same site, building separation between rated fire walls shall not be less than the height of the higher building wall (opposite the adjacent building). Refer to procedure for

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(19) Editor's Note: See Ch. 145, Site Plan Review

(20) Editor's Note: See Ch. 123, Parking, Stopping and Standing, Part 2.

determination of "height" for other than flat- roof structures, in Subsection A.

(e) Freestanding sign setback shall not be less than ten (10) feet, plus one (1) foot for each two (2) feet in height over twenty (20) feet.

(3) Height restrictions: Notwithstanding Local Law No. 4 of 1986, Section 5D(3),(21) no structure will exceed a height accessible to local fire district apparatus and available reserve fire service pressure (NFPA 101) for the uppermost habitable floor.

§ A196-19. Waste disposal.

A. Provision for safe and sanitary storage of anticipated waste products, including liquid, solid and process waste, shall be shown on the site plan. Waste containers should be effectively screened from public view and adjacent property. Interior flammable waste storage shall meet all fire code requirements and shall be sprinklered.

B. Solid waste disposal plan. The applicant shall provide the town with a plan for lawful disposal of all waste products from the proposed site including written commitments to accept waste by licensed haulers, site of ultimate disposal, frequency of waste removal and, when applicable, New York State Department of Environmental Conservation incineration or burning permit. The Board may, in special instances, require a permanent bond or security assuring the continued adherence to the solid waste disposal plan.

§ A196-20. Landscaping.

A. The minimum landscape requirements and erosion and sedimentation controls for any use requiring site plan approval a general guide and may be varied by the Planning Board or Town Board where due to special characteristics of the project site, proposed use, surrounding area or building and structures, such changes are necessary to ensure compatibility and conformance with other standards or criteria of Local Law No.4 of 1986. (22)

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(21) Editor's Note: See Ch. 145, Site Plan Review, § 145-5D(3)

(22) Editor's Note: See Ch. 145, Site Plan Review

B. Maintenance of landscape materials: Where landscape and screening materials are shown and listed upon a site plan, or where required by the terms and conditions of any approval, or other requirement of any board, agency, commission or official of the town pursuant to these regulations or other rules and regulations of the town, such materials shall be maintained or replaced in conformity to the approved plans or conditions. When such landscaping and screening are not in conformity with approved plans or are not properly maintained, repaired or erected, it shall be deemed a violation of Local Law No. 4 of 1986. **(23)**

C. Landscaping materials:

(1) In areas where landscape materials are used to define paths of traffic movement, the following guidelines should be used:

(a) Plant materials should consist of upright juniper or yew, barberry, firethorn, evergreen euonymus or equivalent approved by the Planning Board.

(b) Plants should be selected to achieve not more than three (3) feet mature height. Planting height shall be eighteen (18) inches to twenty-four (24) inches.

(c) Plants should be spaced to create a compact hedge border at time of planting.

(d) As an alternate, street trees may be used. Trees should be spaced no less than twenty (20) feet on center and have branching begin at a height no less than ten (10) feet and no greater than twelve (12) feet.

(e) Planting beds should be covered with the following material:

i. Licorice mulch or approved equivalent, four (4) inches minimum depth.
ii. Stone aggregate at three (3) inches minimum depth.
iii. Where pedestrian cross traffic is evident, a paving material should be used such as paving block set in sand with tight joints or Epoxy-Rok or equivalent.

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(23) Editor's Note: See Ch. 145, Site Plan Review.

(2) In areas where landscape materials are used to complete parking areas, the following guidelines should be used:

(a) Planting islands at the end of or within parking bays should contain the following materials:

[1] Honey locust or equivalent columnar variety, planted twenty (20) feet on center.

[2] Trees with low-growing branches, gum or moisture, seeds or pods shall be avoided.

[3] Branching of trees should begin at a height no less than ten (10) feet and no greater than twelve (12) feet.

(b) Areas under shade trees should be planted with horizontal juniper or other ornamental evergreens of comparable growth habit; plant material should have an eighteen-inch to twenty-four-inch spread and should be spaced eighteen (18) inches on center.

(c) Planting beds shall be covered as in Subsection C(l)(e) above

(3) Where landscape materials are used to define the point of entrance to a commercial facility, the following guidelines should be used:

(a) Plant materials should consist of a carefully designed variety of evergreen shrubs selected from the following: upright yew, azalea, Japanese andromeda, euonymus, rhododendron, laurel or other evergreen varieties as approved by the Planning Board.

(b) Design may be a natural or formal setting; however, plant height shall not interfere with required sight distances.

(c) Planting beds shall be covered as in Subsection C(l)(e) above.

(4) Where landscape materials are used to complement areas intended for pedestrian activity, the following guidelines should be used:

(a) Pedestrian areas should be paved with concrete or paving block set in concrete.

(b) In order to minimize large areas of paving, landscape features, such as two-foot to three-foot earth mounds and planters, should be used.

(c) Plant materials should consist of a variety of evergreen and deciduous shrubs and trees selected from the following:

Evergreen	**Deciduous**
Spreading yew	Japanese red maple
Mugho pine	Crabapple
Laurel	Cherry
Euonymus	Dogwood
Azalea	Azalea
Juniper	Forsythia
Japanese andromeda	Lilac
White pine	Other varieties approved by the Planning Board
Rhododendron	
Other varieties approved by the Planning Board	

(d) Planting beds should be covered with a licorice mulch or approved equivalent at four (4) inches minimum depth.

(5) Where landscape materials are used for screening purposes, the following guidelines should be used

(a) When sufficient space is available, a dense screen of evergreen plant materials should be used.

(b) Materials may include: white pine, spruce and hemlock.

(c) Plant materials shall be at least four (4) feet in height when planted and should be spaced to form an opaque screen either in a single row or in multiple rows with alternate spacing.

(d) Where limited space is available, stockade or other approved fence may be used in conjunction with climbing or espaliered plant materials.

(6) Where landscape materials are used to complement areas within a state and county highway right-of-way, the following guidelines should be used:

(a) The area should be covered with sod or, as an alternative, stone aggregate at a minimum three (3) inches depth may be substituted.

(b) Evergreen and/or deciduous materials should be placed according to size approved by appropriate highway jurisdiction.

(7) General requirements for landscaping shall include:

(a) Plant materials shall be nursery grown (a copy of the state certificate of source shall be provided to the town's Building Inspector) and selected according to hardiness and ability to withstand highway salt conditions.

(b) Spaces to receive plant materials should have a minimum inside width of six (6) feet, except that where vehicle overhang is permitted, a ten-foot inside width should be required.

(c) Loose materials such as wood mulch and stone aggregate should be spread within a landscaped space at a level not to exceed one and one-half (11/2) inches below top-of-curb.

(d) Areas that will receive continued pedestrian movement shall be paved.

(e) Landscape plans shall be designed by an appropriate licensed professional, who shall certify as to plant hardiness, and inventory of materials as place on completion of landscaping.

§ A196-21. Lighting.

A. General. The following general standards should be followed on site plans for exterior lighting systems:

1. The style of light and light standard should be keyed to the architectural style of the principal building.

2. The maximum height of freestanding lights should be the same as the principal building but in general not exceed twenty-five (25) feet.

3. All lights should be arranged or fitted with shields to restrict the maximum apex angle of the cone of illumination to prevent glare towards adjacent roadways or property.

4. Lights along property lines shall be fitted with backspin prevents to prevent illumination of adjacent residential properties.

5. PAR-type spotlight fixtures are not permitted on any part of the development visible from the street or from a residential property.

6. Light standards in commercial parking areas should be protected from damage by non-mountable curb or other physical barrier.

7. Lighting must be provided for internal drive intersections and at turns on fire lanes. General site lighting shall be extinguished not more than thirty (30) minutes after facility closing. Security lighting shall be designated on the site plan.

8. Steps, walkways, sidewalks or trails shall be illuminated if access is permitted the general public. Steps, stairs and ramps will have a minimum of one-half (1/2) foot- candle (ground level) at any point.

B. Illumination maximums. Lighting systems for commercial and industrial uses and parking areas should be so designed as prevent any light source to be directly visible from beyond the property and artificial light levels within the site should not exceed two (2) foot-candles (average maintained) for parking areas; ten (10) foot-candles (average maintained) elsewhere; or twenty-five (25) foot-candles for exterior storage areas. Light levels should be calculated using Illuminating Engineering Society Handbook Vol. II, 1982. Alternately, the total fixture lumens times published coefficient of utilization for the subject fixture, divided by the lighted area may be used as "average maintained" light level.

ARTICLE IV
Signs

§ A196-22. Sign permit required.

No sign shall hereafter be erected, re-erected, constructed, placed, enlarged or altered, except as shown on an approved site plan or sign plan and sign permit therefor. All signs should comply with the size, setback and illumination requirements herein and require a sign plan or sign permit. Necessary signs conforming to the Manual of Uniform Traffic Control Devices, New York State Department of Transportation, shown on an approved site plan or posted pursuant to order of traffic control agencies, shall be exempt from the requirement for sign permits.

§ A196-23. Incompatible signs.

The following signs are deemed incompatible with development in the Town of Ulster:

A. Flashing signs, including any device on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use.

B. Signs representing or depicting to any degree official traffic signs or signals as specified in the New York State Vehicle and Traffic Law.

C. Signs which emit noise, sounds or smoke.

D. Animated signs, whether by mechanical or electrical processes, including signs with banners, streamers, spinners or other paraphernalia attached to or associated with such signs.

E. Signs of a prurient nature or advertising businesses, commodities or services of a prurient nature or any unlawful business or undertaking.

F. Illuminated signs outlining any part of a building, such as a gable, roof, side wall or corner.

G. Signs made of cardboard, paper, canvas or similar impermanent material, except as may be permitted for temporary events including but not limited to political campaigns.

H. Signs which project over a street or sidewalk.

I. Signs displayed within windows except that promotional signs in otherwise conforming retail commercial uses are allowed only to thirty percent (30%) of the total glazed area. Such window signs may not be separately illuminated from the remaining window area. A separate permit for window signs is not required provided they are accessory to existing retail uses otherwise conforming to these regulations and the sign remains in conformity to the Town of Ulster local law.

§ A196-24. Application.

A. An application for a sign permit shall be made to the Building Inspector on forms prescribed for that purpose, and shall contain the information specified in the regulations for signs and lighting systems. All applications shall be accompanied by a fee as provided in Chapter A194, Fees. Where the sign application involves construction, a building permit is also required. Applications for site plans and sign plans may be entertained simultaneously under the single site plan fee. **(24)**

B. Upon approval of the sign permit, the sign plan together with the approved application for the sign permit shall be transmitted to the Building Inspector. The Building Inspector shall, upon completion of a building permit application, if applicable, issue a sign permit, a copy of which shall be filed with the approved site plan.

§ A196-25. Review of application.

The Planning Board, in its review of the site plan, shall provide for specific limitation on the size of the approved signs, type and characteristics of illumination, number and location, taking into consideration the uses on the site and the reasonable requirement for advertising to the vehicular or pedestrian public. In addition to the findings required for approval of site plans specified in Local Law No. 4 of 1986,**(25)** the Town Planning Board/Town Board shall consider the following supplemental criteria in granting any sign permit:

A. Signs must be clearly accessory to the use or uses upon the same lot, and such signs and lighting must be shown to be essential to the conduct of the principal use upon the lot.

B. The size and content of the sign should be the minimum essential for legibility and for the provision of information to patrons seeking the particular use described on such sign. Changeable letters are permitted, provided that the other requirements of this section are complied with.

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(24) Editor's Note: Amended during codification; see Ch. 1, General Provisions, Art. II.

(25) Editor's Note: See Ch. 145, Site Plan Review.

C. The sign content should not hawk or peddle and must clearly provide only the information necessary to identify the use upon the lot.

D. The sign should not be confused with any traffic signal or other safety device, nor be composed of elements depicting in exaggerated size, or grotesque style, the use upon the lot.

E. The sign should be located on the site so as not to interfere with or create hazardous conditions for pedestrian and vehicular traffic.

ARTICLE V
Sewers and Water

§ A196-26. Sanitary sewage disposal systems.

A. All site plans for which sanitary facilities are required for employees, patrons or residents shall include facilities for disposal of sanitary or other liquid process wastes in accordance with New York State Pollution Elimination Discharge Permit System (NY SPDES) or NYS Department of Health Regulations. There shall be no combination storm-sanitary sewers permitted within the Town of Ulster.

B. Sewer system permits are required prior to issuance of the building permit for any site development, in accordance with Local Law No. 4 of 1980. **(26)** Permits are issued by the Town Sewer Superintendent and are subject to separate fee and posting of bonds as specified in the local law (Appendix A to these regulations). **(27)**

C. Supplemental design requirements for all site development are as follows:

1. Sewer lines for commercial, industrial and multiple residence uses shall be of cast iron soil pipe ASTM A74 or PVC/ABS Schedule 80/SDR 35 or equal. No variation is permitted, except by written permission of the Sewer Superintendent, filed with the site plan. **(28)**

2. Maximum distance between manholes should not exceed two hundred fifty (250) feet.

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(26) Editor's Note: See Ch. 141, Sewers.
(27) Editor's Note: See Ch. 141, Sewers.
(28) Editor's Note: Amended during codification; see Ch. 1, General Provisions, Art II.

3. Sewer lines shall be inspected prior to backfill and shall be pressure tested in the presence of sewer department personnel in strict accordance with the protocol of Section 505 of Local Law No. 4 of 1980. **(29)**

4. Individual building sewer laterals shall be a minimum of six-inch diameter Schedule 80 saddle-type (or as approved in writing by the Sewer Superintendent). Additionally, the sewer superintendent may permit a reduction of pipe size to four (4) inches in diameter at the property line where no food service or process waste is permitted.

D. Outside-of-town sewer districts, alternative sewage disposal systems meeting New York State Department of Environmental Conservation and Department of Health regulations may
be approved for site development in lieu of municipal service, provided that such systems shall be constructed to the same standards as municipal sanitary systems; Local Law No. 4 of 1980; **(30)** and the standards of Subsection C.

§ A196-27. Central water system.

A. Potable water supply shall be included in all site plans for multiple residence, commercial and industrial facilities, except where specifically waived by the Board for certain unheated, unoccupied storage buildings. Water supply systems shall conform to the requirements of the New York State Department of Health and Department of Labor. Within town water districts, the public water supply shall be used unless specifically waived by the Town Board.
B. In general, non-potable water systems should be provided for fire protection as required by the New York State Uniform Fire Prevention and Building Code. Required fire flows shall be calculated using NFPA-13.
C. Water service and connection to the Town of Ulster Water Districts shall require separate application and permit by the Town Water Superintendent in accordance with Local Law No. 1 of 1986 (Appendix B to these regulations. **(31)**
D. Supplemental design requirements for all site plans (includes municipal and private water supplies) are as follows:

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(29) Editor's Note: See Ch. 141, Sewers, § 141-33.
(30) Editor's Note: See Ch. 141, Sewers.
(31) Editor's Note: See Ch. 177, Water.

1. Water lines in excess of two-inch diameter shall be constructed of cement lined ductile iron pipe. Joints shall meet AWWA Specification C106-75 or hubless specification CISPI 301-78. Gate valves shall be left opening meeting Specification FS WW-V-58F-1977.

2. Hydrants shall be right-hand opening, American Darling or equal. Hydrants shall generally be provided within three hundred (300) feet of multiple residence exterior walls or as directed by the District Fire Commissioners for commercial and industrial uses.

3. Disinfection of mains shall be accomplished following the protocol in New York State Uniform Fire Prevention and Building Code Section 902.11(a) -24 hour-. Bacteria test by an independent laboratory shall be conducted following flushing of chlorine solution.

4. Water lines shall be tested for leakage prior to issuance of certificate of occupancy, in accordance with Section 907.2a of the New York State Uniform Fire Prevention and Building Code.

5. Commercial and industrial service connections shall be serviced through an exterior meter pit (L4c)cal Law No. 1 of 1986, Section 26)(32) fitted with backflow preventers.

6. Where sprinkler systems are required, the minimum service connection shall be six (6) inches.

§ A196-28. Street excavations.

Notwithstanding any other provision of these regulations, a separate permit for street excavation is required in accordance with Local law No. 4 of 1985.(33) The following note shall appear on all site plans showing construction within a street right-of-way: 'No construction or excavation shall be commenced within any public right-of-way until the required permit is obtained from the issuing jurisdiction and performance and indemnity bond posted. The applicant saves the Town of Ulster harmless for any and all damages arising from work performed pursuant to this site plan."

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(32) Editor's Note: See Ch. 177, Water, § 177-28.

(33) Editor's Note: See Ch. 157, Streets and Sidewalks, Art. III.

ARTICLE VI
Terminology

§ A196-29. Word usage.

Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the singular number include the plural; and words in the plural number include the singular. The word "herein" means "in these regulations"; and the word "requirements" means the requirements of these regulations. A "person" includes a corporation, a partnership or an unincorporated association of persons such as a club; "shall" is always mandatory, a "building" includes a "structure"; a "building" or "structure" includes any part thereof; "used" or "occupied," as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied." The "town" is the Town of Ulster in the County of Ulster, State of New York; the "Town Board,' "Planning Board" and "Building Inspector" are respectively the Town Board, Planning Board and Building Inspector of the town.

§ A196-30. Definitions.

ALTERATION - Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders or interior partitions, as well as any change in doors or windows, or any enlargement to or diminution of a building or structure, whether horizontally or vertically, or the moving of a building or structure from one location to another.

BUFFER - An area of specified dimension extending between the property line and a permitted building or use which should remain in its natural state or be improved with landscape materials as may be required by the approval authority. The buffer shall not be used or otherwise encroached upon by any activities on the lot so as to provide for adequate separation and protection from otherwise inharmonious or incompatible uses.

BUILDING - Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.

CENTRAL SEWER SERVICE - The provision of a central sewage disposal system designed and constructed to the same standards approved by the Town Board for municipally operated systems.

CENTRAL WATER SERVICE - The provision of a central water supply system designed and constructed to the same standards approved by the Town Board for municipally operated systems meeting the rated fire flow requirements of the proposed site to be serviced.

DESIGN HOUR - The measure of volume or capacity during a sixty-minute period, in order of rank for a calendar year. For the purpose of these regulations, the 30th rank hour volume or capacity shall be deemed the design hour unless otherwise stated.

DEVELOPMENT - For the purposes of the Flood Damage Prevention Local Law,**(34)** any man-made change to improved or unimproved real estate including, but not limited to building's and other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or placement of material/movable structures within a special flood hazard area.

FENCE - An unroofed barrier or enclosing structure, including retaining walls.

FLOODWAY - The channel of a natural stream or river and portions of the floodplain adjoining the channel, which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream or river.

FLOOR AREA - The sum of the horizontal area of every floor of a building, measured from the exterior faces of exterior walls or from the center line of party walls separating the two (2) buildings, including: basement space; attic space, whether or not a floor has been laid, over which there is structural headroom of seven and one-half (71/2) feet or more; and roofed porches and breezeways. Regardless of the internal arrangement of a building, it shall be deemed to have at least one (1) floor for each twenty (20) feet of height or a major fraction thereof. However, a "floor area" does not include:

A. A cellar space (except that cellar space devoted to a retail sales use shall be included for the purpose of calculating loading and parking requirements).

B. Terraces, unroofed open porches and steps.

C. Enclosed off-street parking spaces and loading berths

FRONTAGE - The linear horizontal distance measured along the full length of a street line abutting the lot.

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(34) Editor's Note: See Ch. 87, Flood Damage Prevention.

LOT COVERAGE - The percentage of the area of minimum lot area covered by buildings, and, accessory structures.

MASTER PLAN - A Comprehensive Plan, prepared by the Planning Board pursuant to § 272-a of the Town Law which indicates the general locations recommended for various functional classes of public works, places and structures and for general physical development of the town and includes any unit or part of such plan separately prepared and any amendment to such plan or parts therein.

MINIMUM LOT AREA - The total horizontal area included within the property lines of a lot excluding any street or access/vehicular right-of-way, and land underwater (twenty- five-year storm level).

MOBILE HOME - A structure, whether or not used or occupied for a residence, transportable in one or more sections, which is at least eight (8) feet in width and thirty- two (32) feet in length, which is built on a permanent chassis and designed to be used as a dwelling unit, with or without a permanent foundation when connected to the required utilities.

MOBILE HOME PARK - A site with required improvements and utilities for the long-term parking of mobile homes which shall include services and facilities for the residents.

MULTIPLE RESIDENCE - A building containing two (2) or more dwelling units.

OFFICIAL MAP - The map established by the Town Board pursuant to § 270 of the Town Law, showing streets, highways and parks and drainage systems, both existing and proposed.

RESIDENTIAL AREA - An area of three (3) or more homes bounded on at least one (1) side by a local town road.

SCREEN or SCREENING:

A. A strip at least ten (10) feet wide, densely planted (or having equivalent natural growth) with shrubs or trees at least four (4) feet high at the time of planting, of a type that will form a year-round dense screen at least six (6) feet high within three (3) years; or

B. An opaque wall or barrier or uniformly painted fence at least six (6) feet high; or

C. Any other islands, barriers, emplacements, walls, fences, trees, plantings, shrubbery or other artificial or natural dividing strip or marker of any kind wherever located on the site, conditioned or required in any building permit, certificate of occupancy, or site plan approval.

SETBACK - The minimum (measured along a straight line) distance between any building, structure and the property line, street line or right-of-way line (whichever is greater) of the lot.

SETBACK, FRONT - The setback to the street or front lot line.

SETBACK, SIDE - The setback to any property line other than a front or rear lot line.

SIGN AREA - The area within the shortest line that can be drawn around the outside perimeter of the face of a sign, including all decoration but excluding supports, if any. In computing total sign area, the area of the faces of all signs shall be counted, and any neon tube, string of incandescent lights or similar device shall be considered as having a minimum dimension of three (3) inches.

SIGNS - Any surface or device containing a display, the purpose of which is to bring the subject thereof to the attention of the public through the communication of a visual message. Any sign (other than a permitted sign in a window) is a structure for the purposes of these regulations.

STREET, DEAD-END - A street or a portion of a street with only one (1) vehicular traffic outlet.

STREET LINE - The line between the street right-of-way and a lot. The right-of-way shall be established by reference to the Town Subdivision Regulations and Town Official Map.

STREET OR ROAD, LOCAL - A street which is intended to serve primarily as an access to abutting properties.

STREET OR ROAD, MAJOR - A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street. A fully improved major road is one which is complete both by virtue of required right-of-way and by physical construction to the standards of a major road.

SETBACK, SIDE - The setback to any property line other than a front or rear lot line.

SIGN AREA - The area within the shortest line that can be drawn around the outside perimeter of the face of a sign, including all decoration but excluding supports, if any. In computing total sign area, the area of the faces of all signs shall be counted, and any neon tube, string of incandescent lights or similar device shall be considered as having a minimum dimension of three (3) inches.

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STREET OR ROAD, MAJOR - A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street. A fully improved major road is one which is complete both by virtue of required right-of-way and by physical construction to the standards of a major road.

STREET or ROAD - A street, improved to the satisfaction of the Planning Board which is one of the following- an existing town, county or state highway or street; a street shown on an approved subdivision final plat; or a street shown on the Official Map of the town.

UNDERWATER LAND - land is underwater where it is so depicted in the United States Geological Map of the town or where it is within channel lines of a classified stream (Department of Environmental Conservation), or where the land is classified as "muck soils" by the United States Soil Conservation Service based on field investigations. Land submerged, or to be submerged by artificial impoundments (to the extent of the twenty- five-year storm) shall be deemed “underwater” for the purposes of these regulations.

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