

PREFACE

The Town of Callicoon 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 Callicoon, 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

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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

Unassigned chapter numbers do not appear in the Table of Contents but are available for assignment to new enactments. In this manner, new subject matter can be included alphabetically.

Pagination

A unique page-numbering system has been used in which each chapter forms an autonomous unit. The first page of each chapter is the number of that chapter followed by a colon and the numeral "1." Thus, Chapter 6 would begin on page 6:1. By the use of this system, it is possible to add or to change pages in any chapter, or

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add new chapters, without affecting the sequence of subsequent pages.

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 would be § 6-1, while the fourth section of Chapter 53 would be § 53-4.

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.

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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 the legislation adopting this Code and making such revisions will appear after final enactment. Sections so amended or revised are also indicated in the text by means of Editor's Notes referring to the chapter cited above.

General References; Editor's Notes

In each chapter containing material related to other chapters in the Code, a table of General References is included to direct the reader's attention to such related chapters. Editor's Notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

Appendix

Certain forms of local legislation are not of a nature suitable for inclusion in the main body of the Code but are of such significance that their application is community-wide or their provisions are germane to the conduct of municipal government. The Appendix of this Code is reserved for such legislation and for any other material that the community may wish to include.

Index

The Index is a guide to information. Since it is likely that this Code will be used by persons without formal legal training, the Index has been formulated to enable such persons to locate a particular section quickly. Each section of each chapter has been indexed. The Index will be supplemented and revised from time to time as new legislation is added to the Code.

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Instructions for Amending the Code

All changes to the Code, whether they are amendments, deletions or complete new additions, should be adopted as amending the Code. In doing so, existing material that is not being substantively altered 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 I, Administrative Legislation, or Part II, 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

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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 Callicoon 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. It is the profound conviction of General Code that this Code will contribute significantly to the efficient administration of local government. 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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Chapter 1

GENERAL PROVISIONS

[HISTORY: Adopted by the Town Board of the Town of Callicoon: Art. I, 8-10-1992 by L.L. No. 4-1992. Amendments noted where applicable.]

ARTICLE I

Adoption of Code

[Adopted 8-10-1992 by L.L. No. 4-1992]

§ 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 Callicoon shall be known collectively as the "Code of the Town of Callicoon," 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 Callicoon" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, Article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-2. Continuation of existing provisions.

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

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

All local laws and ordinances of a general and permanent nature of the Town of Callicoon 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 Callicoon 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 Callicoon 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 Callicoon.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Callicoon.
- E. Any local law or ordinance of the Town of Callicoon 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 Callicoon or any portion thereof.
- F. Any local law or ordinance of the Town of Callicoon 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 Callicoon 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 local law or ordinance amending the Zoning Map.
- L. Any legislation relating to the subdivision of land.
- M. Resolution of 11-13-1975 regarding construction code enforcement.
- N. Any legislation relating to the regulation of vehicles and traffic.
- O. Legislation regarding senior citizens' tax exemption.
- P. Any legislation adopted subsequent to April 9, 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 Callicoon 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 Callicoon by impressing thereon the Seal of the Town of Callicoon, 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 Callicoon" or any new local laws, ordinances or resolutions, when enacted or adopted in such form as to indicate the intention of the Town Board to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the Town Board deems desirable.

§ 1-8. Code book to be kept up-to-date.

It shall be the duty of the Town Clerk to keep up-to-date the certified copy of the book containing the Code of the Town of Callicoon required to be filed in the office of the Town Clerk for use by the public. All changes in said Code and all local laws, ordinances and resolutions adopted by the Town Board subsequent to the enactment of this local law in such form as to indicate the intention of said Board to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of copies of such changes, local laws, ordinances or resolutions until such changes, local laws, ordinances or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

§ 1-9. Sale of Code book; supplementation.

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

§ 1-10. Penalties for tampering with Code.

Any person who, without authorization from the Town Clerk, changes or amends, by additions or deletions, any part or portion of the Code of the Town of Callicoon or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Town of Callicoon to be misrepresented thereby or who violates any other provision of this local law shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both.

§ 1-11. Changes in previously adopted legislation.

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of Callicoon, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.
- B. In addition, the following changes, amendments or revisions are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.)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 Callicoon, 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.

¹. Editor's Note: Pursuant to § 1-11B, the following chapters, Articles and sections were added or amended: §§ 5-2D, 7-1, 21-1, 88-2, 92-1, 92-2, 97-3, 112-8, 112-9, 112-10, 121-6, 121-8, Ch. 121, Art II, §§ 137-8E, 137-10B, 146-9, 159-4, Ch. 165 and § 203-29B. In addition, the following original sections were deleted: Sections 5, 6 and 10 of Ch. 121. A complete description of each of these changes is on file in the office of the Town Clerk.

Chapter 5

APPEARANCE TICKETS

[HISTORY: Adopted by the Town Board of the Town of Callicoon 1-8-1979 by L.L. No. 1-1979. Section 5-2D added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

§ 5-1. Purpose.

The purpose of this chapter is to authorize public servants of the Town of Callicoon, Sullivan County, New York, to issue and serve appearance tickets in connection with the violation of state statutes and local laws, ordinances, rules and regulations of the Town of Callicoon which the public servants are authorized or required to enforce.

§ 5-2. Officers authorized to issue.

The following public servants of the Town of Callicoon are hereby authorized to issue and serve appearance tickets with respect to the violation of state statutes and local laws, ordinances, rules or regulations of the Town of Callicoon which such public servants are respectively required or authorized to enforce:

- A. Building Inspector, as follows: building, including but not limited to the New York State Uniform Fire Prevention and Building Code, zoning, planning, fire prevention and safety, sewage and health violations, including but not limited to the New York State Sanitary Code, and licensing of occupations or businesses as may be regulated by the Town of Callicoon.
- B. Constables, as follows: parking, public health, safety and welfare, including but not limited to all traffic and motor vehicle offenses.
- C. Zoning Officer, as follows: zoning and junkyard laws. [Added 7-13-1987 by resolution]
- D. Dog Control Officer.¹

§ 5-3. Service.

An appearance ticket other than for a parking violation shall be served personally.

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

Chapter 7

ASSESSMENTS

[HISTORY: Adopted by the Town Board of the Town of Callicoon: Art. I, 6-4-1973 by resolution; Art. II, 2-27-1986 by L.L. No. 1-1986. Section 7-1 amended at time of adoption of Code; see Ch. 1, General Provisions, Art I. Other amendments noted where applicable.]

GENERAL REFERENCES

Taxation — See Ch. 189.

ARTICLE I

Board of Assessment Review [Adopted 6-4-1973 by resolution]

§ 7-1. Reduction of members.¹

The Town Board will drop one member of the Board of Assessment Review for each year until the Board is a three-man Board.

ARTICLE II

Office of Assessor [Adopted 2-27-1986 by L.L. No. 1-1986]

§ 7-2. Reduction.

From and after the date of March 11, 1986, there shall be but one Assessor in the Town of Callicoon, Sullivan County, New York, which Assessor shall be appointed for a term of six years, pursuant to § 310 of the Real Property Tax Law for the State of New York.

§ 7-3. Termination of current officers.

The offices and terms of office of present elected Assessors will terminate on March 10, 1986.

§ 7-4. When effective.

This Article, if adopted, shall be subject to a permissive referendum, in accordance with § 24 of the Municipal Home Rule Law, and shall take effect immediately upon filing with the Secretary of State in accordance with § 27 of the Municipal Home Rule Law.²

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

2. Editor's Note: No petition for referendum was filed, and this legislation was deemed duly adopted 2-27-1986.

Chapter 21

ETHICS, CODE OF

[HISTORY: Adopted by the Town Board of the Town of Callicoon 1-4-1971 by resolution. Section 21-1 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

§ 21-1. Purpose. ¹

Pursuant to the provisions of § 806 of the General Municipal Law, the Town Board of the Town of Callicoon, Sullivan County, recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our system. It is the purpose of this chapter to promulgate these rules of ethical conduct for the officers and employees of the Town of Callicoon, Sullivan County, New York. These rules shall serve as a guide for official conduct of the officers and employees of the Town of Callicoon, Sullivan County. The rules of ethical conduct of this code, as adopted, shall not conflict with but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.

§ 21-2. Definitions.

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

INTEREST — A pecuniary or material benefit accruing to an officer or employee, unless the context otherwise requires.

MUNICIPAL OFFICER OR EMPLOYEE — An officer or employee of the Town of Callicoon, Sullivan County, whether paid or unpaid, including members of any administrative board, committee or other unit thereof.

§ 21-3. Standards of conduct.

Every officer or employee of the Town of Callicoon, Sullivan County, shall be subject to and abide by the following standards of conduct:

- A. **Gifts.** He shall not directly or indirectly solicit any gift or accept or receive any gift having a value of \$25 or more, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or could reasonably be expected to influence him in the performance of his official duties or was intended as a reward for any official action on his part.

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

- B. Confidential information. He shall not disclose confidential information acquired by him in the course of his official duties or use such information to further his personal interest.
- C. Investments in conflict with official duties. He shall not invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction which creates a conflict with his official duties.
- D. Private employment. He shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.

§ 21-4. Distribution.

The Town Clerk of the Town of Callicoon, Sullivan County, shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the Town of Callicoon, Sullivan County. Each officer or employee employed or appointed thereafter shall be furnished a copy before entering upon the duties of his office of employment.

§ 21-5. Penalties for offenses.

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

Chapter 36

INVESTMENT POLICY

[HISTORY: Adopted by the Town Board of the Town of Callicoon 4-9-1990. Amendments noted where applicable.]

§ 36-1. Objectives.

The objectives of the investment policy of the Town of Callicoon are to minimize risk, to ensure that investments mature when cash is required to finance operations and to provide a reasonable and competitive rate of return.

§ 36-2. Authorized investment.

In accordance with this policy, the Supervisor of the Town of Callicoon, as its chief fiscal officer, is authorized to invest all funds, including proceeds of obligations and reserve funds, in:

- A. Certificates of deposit issued by a bank or trust company authorized to do business in New York State.
- B. Savings accounts.
- C. Interest-bearing checking accounts and non-interest-bearing accounts, as may be needed for day-to-day operation.

§ 36-3. Security of bank investments.

All bank investments shall be secured either by insurance of the Federal Deposit Insurance Corporation or by obligations of the United States Government, of the State of New York or of federal agencies, the principal and interest of which are guaranteed by the United States, or obligations of New York State local governments.

§ 36-4. Selection of bank.

In selecting the official bank for the Town of Callicoon and the bank or banks in which the Town of Callicoon's investments shall be made, the following factors shall be considered:

- A. The rate of return on the investments.
- B. The quality and convenience of services offered.
- C. The willingness of the institution to purchase the Town of Callicoon's obligations at favorable rates.
- D. The financial strength and stability of the institution.

Chapter 48

MUNICIPAL COURT

[HISTORY: Adopted by the Town Board of the Town of Callicoon: Art. I, 4-13-1992. Amendments noted where applicable.]

**ARTICLE I
Jury Duty
[Adopted 4-13-1992]**

§ 48-1. Compensation.

The policy of the Town of Callicoon shall be:

- A. Whereas it is the responsibility of citizens to serve on juries, the Town of Callicoon does not compensate for the performance of jury duty.

§ 48-2. Court Clerk.

The Town Clerk shall be the Court Clerk. The Town Clerk shall act as telephone contact between prospective jurors and the Town Court and shall be authorized to excuse jurors in accordance with § 517 of the Judiciary Law.

Chapter 49

OFFICERS AND EMPLOYEES

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

GENERAL REFERENCES

Code of Ethics — See Ch. 21.
Personnel policies — See Ch. 50.
Retirement — See Ch. 60.
Salaries and compensation — See Ch. 66.

ARTICLE I

Town Attorney

[Adopted 12-9-2002 by L.L. No. 1-2002]

§ 49-1. Authority.

This article is enacted pursuant to the authority of Municipal Home Rule Law, § 10(1)(ii)(d)(3), which authorizes towns to adopt a local law which may amend or supersede any provision of the Town Law in relation to the property, affairs for government of the Town or in relation to any of the enumerated subject matters in § 10, unless there is a state legislative restriction on such amendment or supersession.

§ 49-2. Residency requirements.

Section 23 of the Town Law is hereby amended and superseded to provide for the office of Town Attorney, and to provide that the Town Attorney, at the time of his/her appointment and throughout his/her term of office, need not be an elector of the Town so long as he/she is a resident of Sullivan County of the State of New York. A new sentence is hereby inserted at the end of § 23 of the Town Law to read and provide as follows: "The Town Attorney of the Town of Callicoon at the time of his/her appointment and throughout his/her term of office need not be an elector of the Town of Callicoon so long as he/she is a resident of Sullivan County of the State of New York."

Chapter 50

PERSONNEL POLICIES

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

GENERAL REFERENCES

Retirement — See Ch. 60.

Salaries and compensation — See Ch. 66.

ARTICLE I

Drug-Free Workplace

[Adopted 12-20-1993]

§ 50-1. Policy established.

In accordance with the Drug-Free Workplace Act of 1988, which requires federal governmental contractors to ensure a drug-free workplace, the Town Board of the Town of Callicoon has established the following policy:

- A. All employees are required to report to work in appropriate mental and physical condition. Reporting to work, or working, under the influence of a controlled substance (without a physician's prescription) is prohibited.
- B. The criminal use, manufacture or distribution of a controlled substance on either company or client property is prohibited.
- C. Employees are required to report any drug-related criminal conviction in accordance with the law. A written report of conviction must be made to the Town Supervisor within five days of the conviction.

§ 50-2. Disciplinary action.

Employees who violate this policy are subject to the following disciplinary action:

- A. The manufacture or distribution of controlled substances at the offices or on the property of the Town will result in termination.
- B. The use of a controlled substance at any workplace of the Town of Callicoon or on Town property (or while conducting Town business) is grounds for disciplinary action, which may include suspension or termination.
- C. The failure to report any drug-related criminal conviction, as outlined in § 50-1C above, will result in termination.

ARTICLE II

Sexual Harassment

[Adopted 4-11-1994]

§ 50-3. Employer liability.

Sexual harassment is an unlawful employment practice under the United States Civil Rights Act. Under regulations of the Equal Employment Opportunity Commission, an employer may be liable for certain acts of sexual harassment committed by their employees.

§ 50-4. Sexual harassment defined.

The Federal Equal Employment Opportunity Commission has defined "sexual harassment" as unwelcome sexual advances, request for sexual favors and other verbal or physical conduct of a sexual nature, when:

- A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- B. Submission or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- C. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

§ 50-5. Harassment not tolerated; disciplinary actions.

Sexual harassment in the workplace will not be tolerated. Any employee found guilty of sexually harassing another employee will be disciplined through applicable procedures and may be dismissed from the Town's employ.

§ 50-6. Grievances.

Employees who consider themselves to be the victim of illegal discrimination may file a grievance in writing with the supervisor within one year of the alleged discriminatory act. If the employee chooses to file a complaint with the supervisor, you do not lose your right to file with an outside enforcement agency such as the State Division of Human Rights or the Equal Employment Opportunity Commission.

ARTICLE III
Civil Rights Employment
[Adopted 10-10-1994]

§ 50-7. Implementation.

- A. The Town of Callicoon will take positive action to ensure equal employment opportunity without regard to age, race, religion, creed, color, national origin, sex, disability, marital status and other nonmerit factors in compliance with state and federal law.
- B. The Town of Callicoon will employ all necessary procedures to ensure that this employment policy continues to be fully supported and expects that all elected or appointed department heads, in all activities, undertake a personal commitment to assure themselves that the principles of equal employment opportunity are fully implemented in every action

they take. Every officer and employee is required to comply with all applicable laws and regulations prohibiting discrimination in employment. The Town Board does hereby find that violation of such laws and regulations prohibiting discrimination by any officer and employee shall be deemed to have occurred outside the scope of his or her authority of office. This subsection shall not relieve the Town of its obligation to provide a legal defense for all officers and employees in accordance with law.

- C. Furthermore, every contractor doing business with the Town of Callicoon shall be required to provide to the Town of Callicoon a contractor's assurance on equal opportunity.¹ If a contractor shall be found by any government agency to have violated the laws against discrimination, such finding shall be grounds for termination of any existing contract, understanding or agreement and disqualification of such contractor for any future contract unless or until such contractor shall demonstrate compliance and provide a contractor's assurance on equal employment. The Town Clerk and Town Attorney are directed to implement this policy in preparation of all bid, purchase and other contractual documents.

§ 50-8. Complaint procedures.

Any employee or applicant for employment who believes that he or she has been the subject of discrimination for any reason prohibited by law or by this plan may file a complaint in accordance with the procedure hereinafter set forth:

- A. Time to file a complaint. A written complaint shall be filed with the supervisor or designee within one year after the date the act of discrimination shall have occurred.
- B. Duties of the supervisor or designee upon receipt of the complaint.
 - (1) The supervisor or designee shall, within 10 days after receipt of the complaint, forward a copy of the same to the attorney for the Town and the respondent named in the complaint.
 - (2) The respondent shall answer the complaint within 10 days after the receipt of the same, unless the time to answer shall be extended by the supervisor or designee.
 - (3) The supervisor or designee shall investigate the complaint and answer and if there is probable cause to believe the alleged act of discrimination occurred, shall attempt to conciliate and resolve any issues that may exist.
- C. If the Town of Callicoon shall, after investigation and/or after conciliation, determine that there is not probable cause to believe that the alleged act of discrimination occurred, the complaint shall be dismissed.
- D. The initial investigation and determination of probable cause shall be made within 45 working days after the filing of the answer to the complaint.
- E. Hearing.
 - (1) If there shall be probable cause to believe the alleged act of discrimination occurred and the issues shall not have been resolved by conciliation as aforesaid, the Town of

1. Editor's Note: A copy of the contractor's assurance on equal opportunity can be found at the end of this chapter.

Callicoon shall schedule a hearing within 15 days after the conciliation process shall have terminated on notice to complainant, respondent and attorney for the Town.

- (2) The hearing shall be held before a hearing officer having knowledge of equal employment opportunity laws and regulations, appointed by the Town of Callicoon. A stenographic transcript shall be taken of the hearing. Formal rules of evidence shall not apply. All parties may be represented by counsel or other representatives.
- (3) Upon conclusion of the hearing, the hearing officer shall recommend a proposed disposition to the supervisor or designee which may include a direction to hire or promote such individual, pay wages or other benefits, or any other appropriate action not in violation of law, or a dismissal of the complaint.
- (4) The supervisor or designee shall aid and assist any employee or applicant for employment who shall have a complaint to ensure that such employee or applicant obtains a full and fair hearing with respect to any complaint and may participate as an advocate at such hearing or proceeding consistent with his determination of the merits of the complaint.

§ 50-9. Nonretaliation.

Any person who files a complaint or assists or aids in filing a complaint, whether or not successful, will not be subject to retaliation in any manner whatsoever.

§ 50-10. Applicability.

The procedure for resolving complaints of discrimination are provided for all applicants for employment, all managerial-confidential employees and all other employees of the Town of Callicoon who have not used a contractual or statutory remedy available to them. Even if this procedure is used by any person, the obligation of such person to make a timely complaint under contractual or statutory provisions will not be extended.

ARTICLE IV
Minimum Standard Workday
[Adopted 10-24-1994]

§ 50-11. Standards set.

At the request of New York State and local retirement system, the Town Board hereby sets the minimum standard workday in the Town of Callicoon at not less than six hours per day. In the case of elected and/or appointed officials where duties of the office deem it necessary to meet with the public outside normal working hours, such time shall be included in determining actual hours worked.

ARTICLE V
Workplace Violence Prevention
[Adopted 10-8-2012 by Res. No. 22-2012]

§ 50-12. Purpose.

The Town of Callicoon maintains a zero-tolerance standard of violence in the workplace. The purpose of this policy is to provide employees with guidance that will maintain an environment at and within Town property, operations and events that is free of violence and the threat of violence.

§ 50-13. Policy established.

Violent behavior of any kind or threats of violence, either implied or direct, are prohibited on any Town-owned properties and/or at Town-sponsored events. Such conduct by any employee will not be tolerated. An employee who exhibits violent behavior may be subject to disciplinary action up to and including dismissal and may be subject to criminal prosecution. Violent threats or actions by a nonemployee may result in criminal prosecution. The Town of Callicoon will investigate all complaints filed and will also investigate any violation of this policy. Retaliation against a person filing a complaint regarding this policy, or violent behavior or threats of violence made, is also prohibited.

§ 50-14. Definitions.

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

COURT ORDER — Any order by a judicial court of law that specifies and/or restricts the behavior of an individual. Court orders may be issued in matters involving domestic violence, stalking or harassment, among other types of protective orders, including but not limited to temporary restraining orders.

INTIMIDATION — Making others afraid or fearful through threatening behaviors.

THREAT — The implication or expression of intent to inflict physical harm or actions that a reasonable person would interpret as a threat to physical safety or property.

WORKPLACE VIOLENCE — Behavior in which an employee, former employee or visitor to the workplace inflicts or threatens to inflict damage to property, serious harm, injury or death to others at the workplace.

ZERO TOLERANCE — A standard that establishes that any behavior, implied or actual, that violates this policy will not be tolerated.

§ 50-15. Prohibited behavior.

Violence in the workplace may include, but not be limited to, the following list of prohibited behaviors directed at or by a co-worker, supervisor or member of the public:

- A. Direct threats or physical intimidation.
- B. Implications or suggestions of violence.
- C. Stalking.
- D. Possession of any illegal weapons or weapons used for the purpose of causing harm to an employee or visitor on Town property or at Town events.
- E. Assault of any form.

- F. Physical restraint or confinement.
- G. Dangerous or threatening horseplay.
- H. Loud, disruptive or angry behavior that is not part of the typical work environment.
- I. Blatant or intentional disregard for the safety and/or well-being of others.
- J. Commission of a violent misdemeanor or felony on Town property.
- K. Any other act that a reasonable person would perceive as constituting a threat of violence.
- L. Domestic violence brought to the workplace.

§ 50-16. Domestic violence.

Domestic violence, while often originating in the home, can significantly impact the workplace safety of victims, employees and visitors. For purposes of this article, "domestic violence" is defined as abuse committed against an adult or fully emancipated minor. Abuse is the intentional reckless attempt to cause bodily injury, sexual assault, threatening behavior, harassment, stalking, or making annoyance calls to a person who is in any of the following relationships:

- A. Spouse or former spouse.
- B. Domestic partner or former domestic partner.
- C. Cohabitant or former cohabitant and/or other household members.
- D. A person with whom the victim is having or has had a relationship.
- E. A person with whom the victim has a child.

§ 50-17. Reporting acts or threats of violence.

An employee or visitor who is the victim of acts or threats of violence, or believes he/she has been threatened with violence, or witnesses an act or threat of violence shall take the following steps:

- A. If an emergency exists and the situation is one of immediate danger, the employee or visitor shall contact police by dialing 911 and may take appropriate steps to protect himself/herself from immediate harm such as leaving the area.
- B. If the situation is not one of immediate danger, the employee or visitor shall report the incident to the supervisor or the most senior officer as soon as possible to complete the Town of Callicoon workplace violence incident report form.
- C. If an employee has reason to believe that he/she or others may be victimized by a future violent act in the workplace or as a direct result of employee service for the Town, the employee must report the possible act of violence to the most senior officer and complete the Town of Callicoon workplace violence incident report form. The senior officer will inform the Supervisor who may, in turn, notify local law enforcement.
- D. Employees who filed and have a signed order of protection, restraining order (temporary or

permanent) against an individual who, due to a potential act of violence, would be in violation of the order if the individual was near, on or in Town-owned property or at Town-sponsored events shall immediately supply a copy of the signed order to the Supervisor who shall provide a copy to the Town Board as well as local law enforcement.

§ 50-18. Incident investigation.

- A. Acts of violence or threats of violence will be investigated immediately in order to protect employees and visitors from danger, unnecessary anxiety concerning their safety and welfare, and the loss of productivity. The Supervisor will initiate an investigation into reported violations of the Workplace Violence Prevention Policy. Simultaneously, the Supervisor will refer the matter to local law enforcement for a review of potential violations of civil and/or criminal law.
- B. Procedures for investigating incidents of workplace violence include:
 - (1) Visiting the scene of an incident as soon as possible.
 - (2) Interviewing injured and threatened employees and witnesses.
 - (3) Examining the workplace for security risk factors associated with the incident, including any reports of inappropriate behavior by the perpetrator.
 - (4) Determining the cause of the incident.
 - (5) Taking mitigating action to prevent the incident from recurring.
 - (6) Recording the findings and mitigating actions taken.
- C. In appropriate circumstances, the Town of Callicoon will inform the employee or individual making the report the results of the investigation. The Town of Callicoon will maintain confidentiality but may disclose information to law enforcement in order to protect individual safety. The Town of Callicoon will not tolerate retaliation against any individual who reports workplace violence.

§ 50-19. Mitigating measures.

Incidents which threaten the security of employees shall be mitigated as soon as possible following their discovery. Mitigating actions may include:

- A. Notification of law enforcement when a potential criminal act has occurred.
- B. Provision of emergency medical care where appropriate.
- C. Post-traumatic counseling for employees desiring such assistance.
- D. Filing an order of protection through legal counsel where appropriate.
- E. Assurance that all incidents are handled in accordance with the Town of Callicoon Workplace Violence Prevention Policy.

§ 50-20. Training and instruction.

The Town of Callicoon shall be responsible for ensuring that all employees are provided training and instruction on general workplace security practices and job-specific workplace security practices.

- A. Training and instruction shall be provided to all employees as follows:
 - (1) To all current employees when the policy is first implemented.
 - (2) To all employees given new job assignments for which specific workplace security training for those assignments has not been previously provided.
 - (3) To any new employee.
 - (4) To affected employees whenever the Supervisor is made aware of new or previously unrecognized hazards.
- B. Workplace security training and instruction shall include but not be limited to the following:
 - (1) Prevention measures to reduce the threat of workplace violence, including the procedures for reporting workplace security hazards.
 - (2) Methods to diffuse hostile or threatening situations.
 - (3) Escape routes.
 - (4) Explanation of this specific Workplace Violence Prevention Policy.
- C. In addition, specific instruction shall be provided to employees regarding workplace security hazards unique to the employee's job assignment.

PERSONNEL POLICIES

50 Attachment 1

**BID PROPOSAL PROVISION ON
EQUAL EMPLOYMENT OPPORTUNITY**

The undersigned bidder will return the bid proposal with the contractor's assurance on equal opportunity duly signed.

A finding by any government agency that the undersigned has discriminated against any individual shall be grounds for termination of the contract to which this bid relates and ineligibility for any future contract with the Town of Callicoon, unless a certificate of compliance with any decision, ruling or order is obtained.

DATED: _____

SIGNATURE OF BIDDER

PERSONNEL POLICIES

50 Attachment 2

**CONTRACTOR'S ASSURANCE
ON EQUAL OPPORTUNITY**

The undersigned contractor has received a copy of the Town of Callicoon Civil Rights Employment Policy.

The undersigned assures the Town of Callicoon that it will comply with all applicable laws and regulations prohibiting discrimination in employment on the grounds of race, religion, creed, color, national origin, sex, disability, marital status and other nonmerit factors.

The undersigned understands and agrees that the contract, understanding or agreement to which this assurance relates can be terminated upon a finding by any governmental agency that the undersigned is in violation of applicable discrimination laws and that such finding will also disqualify the undersigned for future contracts with the Town of Callicoon.

The undersigned certifies to the Town of Callicoon that there is no pending or outstanding decision, ruling or order against it finding the undersigned in violation of the laws against discrimination.

DATED: _____

SIGNATURE OF BIDDER

Chapter 52

PLANNING BOARD

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

GENERAL REFERENCES

Subdivision of land — See Ch. 185.

Zoning — See Ch. 203.

ARTICLE I

Alternate Members

[Adopted 11-10-2008 by L.L. No. 2-2008]

§ 52-1. Title; applicability.

- A. The title of this article is "Alternate Planning Board Members Act."
- B. This article shall apply to the appointment, terms, functions, and powers of alternate members appointed to serve on the Planning Board in the Town of Callicoon.

§ 52-2. Findings.

It is sometimes difficult to maintain a quorum on the Planning Board because members are ill, on extended vacation or find they have a conflict of interest situation on a specific matter before such Board. In such instances, official business cannot be conducted, which may delay or impede adherence to required timelines. The use of alternate members in such instances is hereby authorized pursuant to the provisions of this article.

§ 52-3. Definitions.

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

ALTERNATE MEMBER — An individual appointed by the Town Board to serve on the Town Planning Board when a regular member is unable to participate on an application or matter before it, as provided herein.

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

PLANNING BOARD — The Planning Board of the Town of Callicoon as established by the Town Board of the Town of Callicoon by local law or ordinance, pursuant to the provisions of § 271 of the Town Law.

§ 52-4. Purpose.

The Town of Callicoon hereby enacts this article to provide a process for appointing alternate members of the Planning Board. These individuals would serve when a member is absent or unable to participate on an application or matter before the Board.

§ 52-5. Appointment; terms; designation to substitute; applicability of law.

- A. The alternate members of the Planning Board shall be appointed by the Town Board for a term of three years.
- B. The Chairperson of the Planning Board may designate an alternate to substitute for a member when such member is unable to participate on an application or matter before the Board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the initial Planning Board meeting at which the substitution is made.
- C. All provisions to state law relating to Planning Board eligibility, vacancy in office, removal, compatibility or office and service on other boards, as well as any provisions of a local law/local ordinance relating to training, continuing education, compensation and attendance, shall also apply to alternate members.

§ 52-6. Supersession of statute.

This article is hereby adopted pursuant to the provisions of § 10 of the New York State Municipal Home Rule Law and § 10 of the New York State Statute of Local Governments. It is the intent of the Planning Board, pursuant to § 10 of the New York State Municipal Home Rule Law, to supersede the provisions of § 271 of the Town Law relating to the appointment of members to town planning boards.

Chapter 54

PROCUREMENT POLICY

[HISTORY: Adopted by the Town Board of the Town of Callicoon 3-9-1992. Amendments noted where applicable.]

§ 54-1. Evaluation of applicability of statutory provisions.

Every prospective purchase of goods or services shall be evaluated to determine the applicability of § 103 of the General Municipal Law. Every town officer, board, department head or other personnel with the requisite purchasing authority (hereinafter "purchaser") shall estimate the cumulative amount of the items of supply or equipment needed in a given fiscal year. That estimate shall include the canvass of other town departments and past history to determine the likely yearly value of the commodity to be acquired. The information gathered and conclusions reached shall be documented and kept with the file or other documentation supporting the purchase activity.

§ 54-2. Bid required for certain purchases. [Amended 8-20-2010 by Res. No. 16-2010]

All purchases of supplies or equipment which will exceed \$20,000 in the fiscal year or public works contracts over \$35,000 shall be formally bid pursuant to § 103 of the General Municipal Law.

§ 54-3. Requests for proposals.

- A. All estimated purchases of: [Amended 8-20-2010 by Res. No. 16-2010]
- (1) Less than \$20,000 but greater than \$7,500 require a written request for a proposal (RFP) and written/fax/electronic quotes from three vendors.
 - (2) Less than \$7,500 but greater than \$3,000 require an oral request for the goods and oral/fax/electronic quotes from two vendors.
 - (3) Less than \$3,000 are left to the discretion of the purchaser.
- B. All estimated public works contracts of: [Amended 8-20-2010 by Res. No. 16-2010]
- (1) Less than \$35,000 but greater than \$20,000 require a written RFP and written/fax/electronic proposals from three vendors.
 - (2) Less than \$20,000 but greater than \$7,500 require a written RFP and written/fax/electronic proposals from two contractors.
 - (3) Less than \$7,500 are left to the discretion of the purchaser.
- C. Any written RFP shall describe the desired goods, quantity and the particulars of delivery. The purchaser shall complete a list of all vendors from whom written/fax/oral/electronic

quotes have been requested and the written/fax/oral/electronic quotes offered. [Amended 8-20-2010 by Res. No. 16-2010]

- D. All information gathered in complying with the procedures of this guideline shall be preserved and filed with the documentation supporting the subsequent purchase or public works contract.
- E. Electronic submission of quotes shall follow the guidelines as set forth in General Municipal Law § 103 and shall be received by the Town Clerk of the Town of Callicoon at the e-mail address designated by the Town Clerk in the RFP. [Added 8-20-2010 by Res. No. 16-2010]

§ 54-4. Award to bidders.

The lowest responsible proposal or quote shall be awarded the purchase or public works contract unless the purchaser prepares a written justification providing reasons why it is in the best interest of the town and its taxpayers to make an award to other than the low bidder. If a bidder is not deemed responsible, facts supporting that judgment shall also be documented and filed with the record supporting the procurement.

§ 54-5. Inability to obtain required number of proposals.

A good faith effort shall be made to obtain the required number of proposals or quotations. If the purchaser is unable to obtain the required number of proposals or quotations, the purchaser shall document the attempt made at obtaining the proposals. In no event shall the inability to obtain the proposals or quotes be a bar to the procurement.

§ 54-6. Exemption of proposal requirement.

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

- A. Acquisition of professional services.
- B. Emergencies.
- C. Sole source situations.
- D. Goods purchased from agencies for the blind or severely handicapped.
- E. Goods purchased from correctional facilities.
- F. Goods purchased from another governmental agency.
- G. Goods purchased at auction.¹

§ 54-7. Annual policy review.

This policy shall be reviewed annually by the Town Board at its organizational meeting or as

1. Editor's Note: Former Subsection H, exempting goods purchased for less than \$250, and former Subsection I, exempting public works contracts for less than \$500, which immediately followed, were repealed 8-20-2010 by Res. No. 16-2010.

soon thereafter as is reasonably practicable.

Chapter 60

RETIREMENT

[HISTORY: Adopted by the Town Board of the Town of Callicoon: Art. I, 10-7-1968; Art. II, 4-10-1995 by L.L. No. 4-1995. Amendments noted where applicable.]

ARTICLE I

Retirement System

[Adopted 10-7-1968]

§ 60-1. Election to participate in state system.

The Town Board of the Town of Callicoon of the State of New York elects to participate as an employer in the New York State Employees' Retirement System and approves of the inclusion of its officers and employees in such system in accordance with any and all of the laws governing such participation as set forth in the Retirement and Social Security Law, as presently or hereafter amended, together with any administrative rule, regulation or directive governing the same, including full-time allowance for prior service, as permitted therein.

ARTICLE II

Retirement Incentive Program

[Adopted 4-10-1995 by L.L. No. 4-1995]

§ 60-2. Program provided.

The Town of Callicoon hereby elects to provide all its targeted eligible employees with a retirement incentive program authorized by Chapter 12, Laws of 1995.

§ 60-3. Commencement date.

The commencement date of the retirement incentive program shall be June 1, 1995.

§ 60-4. Open period.

The open period during which targeted eligible employees may retire and receive the additional retirement benefit shall be 90 days in length.

§ 60-5. Funding.

The employer will fund the Targeted Retirement Incentive Program provided under Chapter 12, Laws of 1995, by paying to the New York State and Local Employees' Retirement System, in five annual payments, the amount of which shall be determined by the Retirement System Actuary, the first payment which is due December 15, 1996.

Chapter 62

RETURNED CHECKS

[HISTORY: Adopted by the Town Board of the Town of Callicoon 6-20-1994. Amendments noted where applicable.]

§ 62-1. Service charge.

Pursuant to § 85 of the General Municipal Law of the State of New York, the Town of Callicoon will add a service charge of \$10 to any account owing the Town of Callicoon where a check or other written order tendered as payment of such account is returned for insufficient funds. Whenever the account owing to the Town of Callicoon is for a tax, special ad valorem levy or special assessment the service charge must be included on whatever list or delinquent account is prepared for the enforcement of the lien.

§ 62-2. Collection of service charge; future payments.

The service charge must be collected in the same manner prescribed by law for the collection of the account for which the check was tendered, and the Town of Callicoon, or any of its departments and agencies, may require future payments to be tendered in cash or by certified or cashier's check.

Chapter 66

SALARIES AND COMPENSATION

[The annual compensation of the Town Board is as set by local law. The salaries and compensation of other town officers and employees are determined annually by the Town Board by resolution or motion. Information concerning current salary and compensation figures is on file in the office of the Town Clerk, where it is available for examination during regular office hours.]

Chapter 79

WATER DISTRICT

[HISTORY: Adopted by the Town Board of the Town of Callicoon 6-13-1983 by resolution. Amendments noted where applicable.]

§ 79-1. Acceptance of Youngsville Water District Bylaws.

The Town of Callicoon accepts the Youngsville Water District Bylaws.

§ 79-2. Youngsville Water District Bylaws. [Amended 7-11-1994; 6-11-2009 by Res. No. 9-2009]

Youngsville Water District user regulations shall be as follows:

- A. The Superintendent, or someone delegated by him, shall have access, at reasonable hours, to parts of buildings where district water is delivered for the purpose of inspecting the condition and use of all plumbing and reading meters.
- B. All persons taking district water must maintain their service pipe from the edge of the right-of-way (usually the curb cock) to and including the water meter in good repair and protected from freeze-up at their own risk and expense. Each person shall take such steps as may be necessary to prevent waste of water. Service may be discontinued by the district to prevent waste of water as a result of leaks in the user's service.
- C. The Water District will be responsible for maintaining all mains, hydrants, curb cocks and lines within the bounds of the public right-of-way (approximately 25 feet from the center line of the highway). The district will not pay for frozen water pipes. The district will, however, provide users with a history of freeze-up problems with a bypass which allows water to run with a minimum of waste. The bypass will be paid for by the district, but the installation expense will be the responsibility of the homeowner. The bypass is meant to be installed before the meter, therefore making the district responsible for the water used. As an alternative to the bypass, the customer may let the water run inside the house, but the water will then run through the user's meter and be the responsibility of the user.
- D. It is unlawful for any person to use water from the Youngsville Water District which does not pass through a meter.
- E. The water district will own all meters and will be responsible for all repairs if the meter seal is intact. A penalty of \$25, in addition to the yearly rate, must be paid if the seal on a meter has been tampered with. If the meter is deliberately broken or altered, the user must pay for its replacement. If the meter must be moved, the Water District Superintendent must be notified so he may reseal the meter.
- F. No person shall turn on water at the curb or service the line without a permit to do so from the Water District Superintendent. No person shall turn off water at the curb or service line without reporting same to the Water District Superintendent.

- G. The fee for new installation shall be \$150, plus the cost of excavating by the Water District, or by the user's own contractor, under the supervision of the Water District Superintendent. All persons must apply for a permit from the Superintendent before making such installation. All pipes must be 3/4 inch soft copper and must be buried at least five feet deep under any roadway.
- H. Until such time as a user is provided with a working meter, a flat fee of \$200 (as per resolution dated June 11, 2009) will be levied on all dwellings. All dwellings using district water must be metered. If a user refuses metering or reading of the meter, a fine of \$250 may be imposed and/or service discontinued.
- I. Water bills shall be issued on or about November 30, February 28, May 31 and July 31 of each year and shall be due on or before August 31 of the same year. There shall be a penalty of 10% on any payment made more than 60 days after the date such water bill is due.
- J. Any person violating any of the rules and regulations of the Youngsville Water District shall pay and forfeit a fine in the amount of \$25 for each and every violation thereof. Each day that such violation shall continue unabated shall constitute a separate and distinct violation.
- K. Rates (as revised by Town of Callicoon Town Board resolution dated June 11, 2009):
 - (1) For the first 25,000 gallons: \$200.
 - (2) Per 1,000 gallons over 25,000: \$8.
- L. A late charge of 10% shall be assessed upon any bill not paid within 60 days of the due date.
- M. Unpaid water charges are transmitted to Sullivan County to be levied with the next year's county and Town taxes.

Chapter 88

ADULT ENTERTAINMENT

[HISTORY: Adopted by the Town Board of the Town of Callicoon 2-2-1976. Section 88-2 added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

§ 88-1. Prohibited acts.

It shall be unlawful for any person conducting, maintaining or operating a cabaret, bar and or lounge, dance hall or discotheque establishment or any place of public assembly within the Town of Callicoon to suffer or permit any waitress, barmaid, entertainer or other person who comes in contact with or appears before or is likely to come in contact with or appear before patrons of the establishment or for any person to appear in the presence of such patrons with breasts uncovered in such a manner that the portion of the breast below the top of the areola is not covered with a fully opaque covering or the lower part of the torso uncovered or so thinly covered or draped as to appear uncovered or to appear or suffer to permit any person to appear in any scene, sketch or act of entertainment with breasts or the lower part of the torso uncovered or so thinly draped as to appear uncovered.

§ 88-2. Penalties for offenses. ¹

Any person violating any of the provisions of this chapter, upon conviction thereof, shall be punished by a fine of not to exceed \$250 for each offense or by imprisonment for a period of not more than 15 days, or by both such fine and imprisonment.

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

Chapter 92

BINGO

[HISTORY: Adopted by the Town Board of the Town of Callicoon 7-9-1958.¹ Section 92-1 amended and 92-2 added at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

§ 92-1. Authorization.²

It shall be lawful for any authorized organization, as defined in § 476 of Article 14-H of the General Municipal Law, upon obtaining the required license, to conduct the game of bingo within the territorial limits of the Town of Callicoon, subject to the provisions of this chapter, Article 14-H of the General Municipal Law and Article 19-B of the Executive Law and the following restrictions:

- A. No person, firm, association, corporation or organization, other than an authorized organization licensed under the provisions of this chapter, shall be permitted to conduct such games.
- B. No bingo game 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.
- C. The entire net proceeds of any game shall be exclusively devoted to the lawful purpose of the organization permitted to conduct the same.
- D. No single prize shall exceed the sum or value of \$250.
- E. No series of prizes on any one occasion shall aggregate more than \$1,000.
- F. No person, except a bona fide member of such organization, shall participate in the management or operation of such game.
- G. No person shall receive remuneration for participation in any such game.
- H. The unauthorized conduct of a bingo game and any willful violation of any provision of this chapter shall constitute and be punishable as a misdemeanor.
- I. 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 bingo games from other than a supplier licensed under the Bingo Control Law³ or from another authorized organization.

1. Editor's Note: This ordinance was also passed by a majority of the voters of the town on this date.

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

3. Editor's Note: See Article 14-H of the General Municipal Law.

J. Limited-period bingo shall be conducted in accordance with the provisions of this chapter and the rules and regulations of the Commission.

§ 92-2. Sunday games. ⁴

The conduct of games of bingo shall be permitted on Sundays.

⁴. Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Chapter 97

BUILDINGS, UNSAFE

[HISTORY: Adopted by the Town Board of the Town of Callicoon 1-8-1979 by L.L. No. 2-1979. Section 97-3 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 121.

§ 97-1. Purpose.

Unsafe buildings pose a threat to life and property in the Town of Callicoon. 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 as well as a point of congregation by vagrants and transients. A dilapidated building may also serve as a place of rodent infestation, thereby creating a health menace to the community. 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 Callicoon by requiring such unsafe buildings to be repaired or demolished and removed.

§ 97-2. Title.

This chapter shall be known as the "Unsafe Buildings Law of the Town of Callicoon."

§ 97-3. Definitions. [Amended 8-10-1992 by L.L. No. 4-1992; 3-13-1995 by L.L. No. 2-1995]

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

BUILDING — Any building, structure or portion thereof used for residential, business or industrial purposes.

BUILDING INSPECTOR — The Building Inspector of the Town of Callicoon or such other person appointed by the Town Board to enforce the provisions of this chapter.

DANGEROUS OR UNSAFE BUILDING — A building or structure which is structurally unsound, unsanitary or not provided with adequate ingress or egress or which constitutes a fire hazard or which has become unsafe by reason of damage by fire, the elements, age or general deterioration or which, in relation to an existing use, constitutes a hazard to public health, safety or welfare by reason of inadequate maintenance, dilapidation, obsolescence or abandonment or which is otherwise dangerous to human life. The definition of "dangerous or unsafe building" shall include any debris, rubble or parts of buildings which remain on the ground or on the premises after demolition, reconstruction, fire or other casualty.

§ 97-4. Investigation and 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 to and an object of attraction to minors under 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.

§ 97-5. Order of 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.

§ 97-6. Notice; contents. [Amended 8-10-1981 by L.L. No. 1-1981]

The notice shall contain the following:

- A. A description of the premises.
- B. A statement of the particulars in which the building is unsafe or dangerous.
- C. An order outlining the manner in which the building is to be made safe and secure or demolished and removed.
- D. A statement that the securing or removal of such building shall commence within 30 days of the service of the notice and shall be completed within 60 days thereafter unless, for good cause shown, such time shall be extended.
- E. A date, time and place for a hearing before the Town Board in relation to such dangerous or unsafe building, which hearing shall be scheduled not less than five business days from the date of service of the notice.
- F. A statement that, in the event of neglect or refusal to comply with an 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.

§ 97-7. Service of notice.

Said notice shall be served:

- A. 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 Tax Collector) or of the County Clerk or, if no such person can be reasonably found, by mailing such owner by registered mail a

copy of such notice directed to his last known address as shown by the above records;

- B. 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
- C. By securely affixing a copy of such notice upon the unsafe building.

§ 97-8. Refusal to comply with order; survey. [Amended 8-10-1981 by L.L. No. 1-1981; 3-13-1995 by L.L. No. 2-1995]

In the event of the refusal or neglect of the person so notified to comply with said order of the Town Board, the Town Board shall appoint the Building Inspector and an engineer, and the person so notified shall appoint a practical builder or engineer to make a survey of the unsafe building and submit a written report thereon. If the person so notified shall refuse or neglect to appoint such a surveyor within 40 days after service of said notice, the two surveyors appointed by the Town Board shall proceed and make the report. A signed copy of such report shall be affixed securely to such building. A copy of the notice served as provided herein shall be filed in the office of the County Clerk of the County of Sullivan.

§ 97-9. Refusal to comply. [Amended 8-10-1981 by L.L. No. 1-1981; 3-9-1992 by L.L. No. 2-1992; 3-13-1995 by L.L. No. 2-1995]

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 an emergency, as provided in § 197-11 hereof, any contract for demolition and removal of a building shall be awarded in compliance with § 103 of the General Municipal Law.

§ 97-10. 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.

§ 97-11. Emergencies.

Where it reasonably appears that there is present a clear and imminent danger to the life, safety or health of any person or property unless an unsafe building is immediately repaired and secured or demolished, the Town Board may, by resolution, authorize the Building Inspector to immediately cause the repair or demolition of such unsafe building. The expenses of such repair or demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected as provided in § 97-10.

§ 97-12. Compensation of engineer. [Amended 3-13-1995 by L.L. No. 2-1995]

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

Chapter 100

FARMING

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

GENERAL REFERENCES

Subdivision of land — See Ch. 185.

Zoning — See Ch. 203.

ARTICLE I

Right to Farm

[Adopted 5-8-2000 by L.L. No. 1-2000]

§ 100-1. Title.

The title of this article is "Town of Callicoon Right to Farm Law."

§ 100-2. Legislative intent and purpose.

- A. The Town Board recognizes farming is an essential enterprise and an important industry which enhances the economic base, natural environment and quality of life in the Town of Callicoon. The Town Board further declares that it shall be the policy of this Town to encourage agriculture and foster understanding by all residents of the necessary day-to-day operations involved in farming so as to encourage cooperation with those practices.
- B. It is the general purpose and intent of this article to maintain and preserve the rural traditions and character of the Town, to permit the continuation of agricultural practices, to protect the existence and operation of farms, to encourage the initiation and expansion of farms and agribusiness, and to promote new ways to resolve disputes concerning agricultural practices and farm operations. In order to maintain a viable farming economy in the Town of Callicoon, it is necessary to limit the circumstances under which farming may be deemed to be a nuisance and to allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction.

§ 100-3. Definitions.

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

AGRICULTURAL PRACTICES — Those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of such practices include, but are not limited to, operation of farm equipment, proper use of agricultural chemicals and other crop production methods, and construction and use of farm structures.

AGRICULTURAL PRODUCTS — Those products as defined in § 301(2) of Article 25AA of

the State Agriculture and Markets Law, including but not limited to:

- A. Field crops, including corn, wheat, rye, barley, hay, potatoes and dry beans.
- B. Fruits, including apples, peaches, grapes, cherries and berries.
- C. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
- D. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
- E. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, llamas, ratite, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur-bearing animals, milk and milk products, eggs, furs, and poultry products.
- F. Maple sap and sugar products.
- G. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.
- H. Aquaculture products, including fish, fish products, water plants and shellfish.
- I. Short rotation woody crops raised for bioenergy.
- J. Production and sale of woodland products, including but not limited to logs, lumber, posts and firewood.

FARMER — Any person, organization, entity, association, partnership, limited liability company, or corporation engaged in the business of agriculture, whether for profit or otherwise, including the cultivation of land, the raising of crops, or the raising of livestock.

FARMLAND — Land used in agricultural production, as defined in Subdivision 4 of § 301 of Article 25AA of the State Agriculture and Markets Law.

FARM OPERATION — Defined in § 301(11) in the State Agriculture and Markets Law.

§ 100-4. Right-to-farm declaration.

- A. Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within this Town at all times and all such locations as are reasonably necessary to conduct the business of agriculture. For any agricultural practice, in determining the reasonableness of the time, place, and methodology of such practice, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge, research and improved technologies.
- B. Agricultural practices conducted on farmland shall not be found to be a public or private nuisance if such agricultural practices are:
 - (1) Reasonable and necessary to the particular farm or farm operation;
 - (2) Conducted in a manner which is not negligent or reckless;
 - (3) Conducted in conformity with generally accepted and sound agricultural practices;

- (4) Conducted in conformity with all local, state, and federal laws and regulations;
 - (5) Conducted in a manner which does not constitute a threat to public health and safety or cause injury to health or safety of any person, and
 - (6) Conducted in a manner which does not reasonably obstruct the free passage or use of navigable waters or public roadways.
- C. Nothing in this article shall be construed to prohibit an aggrieved party from recovering from damages for bodily injury or wrongful death due to a failure to follow sound agricultural practice, as outlined in this section.

§ 100-5. Notification of real estate buyers.

- A. In order to promote harmony between farmers and their neighbors, the Town requires landholders and/or their agents and assigns to comply with § 310 of Article 25AA of the State Agriculture and Markets Law and provide notice to prospective purchasers and occupants as follows: "It is the policy of this state and this community to conserve, protect and encourage the developments and improvements of agricultural land for the production of food, and other products and also for its natural and ecological value. This notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors." This notice shall be provided to prospective purchasers of property within an agricultural district or on property with boundaries within 500 feet of a farm operation located in an agricultural district.
- B. A copy of this notice shall be included by the seller or seller's agent as an addendum to the purchase and sale contract at the time an offer to purchase is made.

§ 100-6. Resolution of disputes.

- A. Should any controversy arise regarding any inconveniences or discomfort occasioned by agricultural operation which cannot be settled by direct negotiation between the parties involved, either party may submit the controversy to a dispute resolution committee as set forth below in an attempt to resolve the matter prior to the filing of any court action and prior to a request for a determination by the Commission of Agriculture and Markets about whether the practice in question is sound pursuant to § 308 of Article 25AA of the State Agriculture and Markets Law.
- B. Any controversy between the parties shall be submitted to the committee within 30 days of the last date of occurrence of the particular activity giving rise to the controversy or the date the party became aware of the occurrence.
- C. The committee shall be composed of three members from the Town selected by the Town Board, as the need arises, including one representative from the farm community, one person from Town government and one person mutually agreed upon by both parties involved in the dispute.
- D. The effectiveness of the committee as a forum for the resolution of disputes is dependent

upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy.

- E. The controversy shall be presented to the committee by written request of one of the parties within the time limits specified. Therefore after, the committee may investigate the facts of the controversy but must, within 25 days, hold a meeting at a mutually agreed place and time to consider the merits of the matter and within five days of the meeting render a written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present what each considers to be pertinent facts. No party bringing a complaint to the committee for settlement or resolution may be represented by counsel unless the opposing party is also represented by counsel. The time limits provided in this subsection for action by the committee may be extended upon the written stipulation of all parties in the dispute.
- F. Any reasonable costs associated with the function of the committee process shall be borne by the participants.

§ 100-7. Severability.

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

§ 100-8. Provisions to be additional to other regulations.

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

§ 100-9. When effective.

This article shall be effective immediately upon filing with the New York Secretary of State.

Chapter 112

DOGS AND CATS

[HISTORY: Adopted by the Town Board of the Town of Callicoon 11-13-2000 by L.L. No. 2-2000.¹ Amendments noted where applicable.]

ARTICLE I Dog Control

§ 112-1. Purpose.

The Town of Callicoon finds that the running at large and other uncontrolled behavior of dogs has caused physical harm to persons, damage to property and created nuisances within the Town. Harboring of large numbers of dogs by owners has 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 and regulations upon the keeping and running at large of dogs and the seizure thereof within the Town.

§ 112-2. Statutory 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.

§ 112-3. Title.

The title of this article shall be the "Dog Control Law of the Town of Callicoon."

§ 112-4. Definitions.

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

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

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

¹. Editor's Note: This local law also repealed former Ch. 112, Dogs and Other Animals, which consisted of Art. I, General Provisions, adopted 6-15-1973, as amended and Art. II, License Fees, adopted 11-8-1982 by L.L. No. 1-1982.

HARBOR — To provide food or shelter to any dog.

KENNEL — The keeping of six to 10 dogs which are more than six months of age.

NONRESIDENTIAL KENNEL — The keeping of five or more dogs or cats which are more than six months of age for any of the following purposes:

- A. Boarding for commercial purposes;
- B. Breeding for commercial purposes;
- C. Harboring of wayward dogs or cats, and;
- D. Harboring for purposes of providing training.

OWNER — Any person who harbors or keeps any dog. In the event any dog found in violation of this article shall be owned by a person under 18 years of age, the owner shall be deemed to be the parent or guardian of such person (or the head of the household in which said person resides).

§ 112-5. Restrictions.

- A. It shall be unlawful for any owner of any dog to permit or allow such dog, in the Town of Callicoon, to:
 - (1) Be at large;
 - (2) Engage in habitual loud howling, barking, crying or whining or to conduct itself in such a manner so as to unreasonably and habitually annoy any person;
 - (3) Cause damage or destruction to property, or commit a nuisance by defecating or urinating upon the premises of a person, other than the owner of such dog;
 - (4) Chase or otherwise harass any person in such a manner as reasonably to cause intimidation or to put such person in reasonable apprehension of bodily harm or injury; and
 - (5) Habitually chase, run alongside or bark at motor vehicles or bicycles;
- B. It shall be unlawful for any owner, in the Town of Callicoon, to:
 - (1) Harbor more than two dogs in a Settlement or Business Development District; or
 - (2) Harbor more than five dogs in a Rural or Rural Business or Conservation District.
- C. It shall be unlawful for any nonresidential kennel, in the Town of Callicoon:
 - (1) Not to have all animals housed in a building, built to Town specifications, insulated at no less than R-13 rating, and with potable water supply and heat source within the building;
 - (2) Not to have all animals, when not in the kennel building, not within a penned yard;
 - (3) Not to have the penned yard consist of a chain link fence, no less than eight feet high, and maintained to the Town's approval;

- (4) Not to have the penned yard naturally screened so as not to be visible from the highway;
- (5) Not to have all animals within the kennel building from 6:00 p.m. to 9:00 a.m.;
- (6) Not to have the kennel building cleaned and disinfected on a daily basis; and;
- (7) To have more than 25 dogs and more than 25 cats housed or kept at any time.

§ 112-6. Enforcement.

This article shall be enforced by any dog control officer, peace officer, when acting pursuant to his special duties, or police officer in the employ of or under contract with the Town of Callicoon, or the Town Code Enforcement Officer or other designated Town officer.

§ 112-7. Conditional use permit required for kennels.

No kennel or nonresidential kennel shall be authorized unless the Town of Callicoon Planning Board has issued a conditional use permit authorizing such kennel.

§ 112-8. Seizure; impoundment, redemption; adoption.

- A. Any dog found in violation of the provisions of § 112-5 of this chapter may be seized pursuant to the provisions of Section 118 of the Agriculture and Markets Law.
- B. Every dog seized shall be properly cared for, sheltered, fed and watered for the redemption periods set forth in § 118 of the Agriculture and Markets Law.
- C. Seized dogs may be redeemed by producing proof of licensing and identification pursuant to the provisions of Article 7 of the Agriculture and Markets Law and by paying the impounding fees set forth in § 118 of said Article and by paying all other reasonable costs incurred by the Town in enforcing this article attributable to said seized dog or dogs.
- D. If the owner of any unredeemed dog is known, such owner shall be required to pay the impoundment fees and other costs set forth in Subsection C of this section, whether or not such owner chooses to redeem his or her dog.
- E. Any dog unredeemed at the expiration of the appropriate redemption period shall be made available for adoption or euthanized pursuant to the provisions of § 118 of the Agriculture and Markets Law.
- F. All expenses incurred by the Town in connection with the proceedings to enforce this article shall be assessed against the property upon which the dog is harbored and shall be levied and collected in the same manner as provided in Article 15 of the Town Law for the levy and collection of a special ad valorem levy.
- G. Neither the Town, its officers or employees, agents or officers of a duly incorporated society for the prevention of cruelty to animals, nor the persons or agencies authorized by the Town Board to enforce the provisions of this article shall be liable in damages or otherwise for the seizure, detention, adoption or euthanizing of any dog found without appropriate identification outside the residence of the owner.

§ 112-9. Complaints.

Any person who observes a dog in violation of this article may file a complaint under oath with a Justice of the Town of Callicoon specifying the nature of the violation, the date thereof, a description of the dog and the name and residence, if known, of the owner of such dog. Such complaint may serve as the basis for enforcing the provisions of this article.

§ 112-10. Appearance tickets.

Any person specified in § 112-6 above as having enforcement powers of this article, having reasonable cause to believe that a person has violated this article, shall issue and serve upon such person an appearance ticket for such violation.

§ 112-11. Penalties for offenses.

- A. Any person convicted of a violation of this article shall be liable for a mandatory civil penalty of \$50 for a first violation, \$150 for a second violation and \$300 for a subsequent violation.
- B. Any person convicted of a second or subsequent violation of this article shall be deemed to have committed a violation and in addition to being subject to a mandatory fine, may be imprisoned for a period not exceeding 15 days.

ARTICLE II
Cat Control

§ 112-12. Purpose.

The Town of Callicoon finds that the running at large and other uncontrolled behavior of cats has caused physical harm to persons, damage to property and created nuisances within the Town. Harboring large number of cats by owners has 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 and regulations upon the keeping and running at large of cats and the seizure thereof within the Town.

§ 112-13. Statutory authority.

Pursuant to the authority granted by the Municipal Home Rule Law of the State of New York, any provisions of the Agriculture and Markets Law of the State of New York which limit the authority of the Town Board to enact the provisions of this article in effect on the effective date of this article, are hereby superseded to the extent such provisions are inconsistent herewith.

§ 112-14. Title.

The title of this article shall be the "Cat Control Law of the Town of Callicoon."

§ 112-15. Definitions.

CAT — Any cat of either sex and of any age.

HARBOR — To provide food or shelter to any cat.

HOMELESS OR ABANDONED CAT — Any cat found outdoors which does not wear a form of identification required by § 112-16D hereof.

KENNEL — The keeping of five to 10 cats which are more than six months of age in a Settlement or Business Development District.

OUTDOORS — Any unsecured portion of premises in which a cat can move at will.

OWNER — Every person having a right of property in a cat and every person who has a cat in his or her keeping or who harbors a cat or the adult member of a family in which a minor owner of a cat resides.

§ 112-16. Regulations.

- A. There shall be no more than four cats over the age of six months harbored by an owner in any Settlement or Business Development District.
- B. There shall be no more than eight cats over the age of six months harbored by an owner in a Rural or Rural Business or Conservation District.
- C. All cats shall be licensed and vaccinated. A cat may be exempted from vaccination by the Animal Control Officer or other designated Town officer upon presentation of proof from a licensed veterinarian that vaccination is not in the best interest of that particular cat.
- D. No cat shall be allowed outside the residence of the owner at any time unless a cat wears a collar, tattoo, microchip or other reliable form of identification stating the name, address and telephone number of the owner.
- E. No cat shall be allowed outside the residence of the owner unless it has been vaccinated for rabies and feline leukemia and unless it has been spayed or neutered.
- F. The provisions of Article I of this article with regard to nonresidential kennels are incorporated by reference into this article and shall be fully applicable to cats.

§ 112-17. Seizure and redemption.

Any person designated in § 112-18 of this chapter is hereby authorized to seize and retain any lost, strayed, homeless or abandoned cat or any cat found upon any public or private property within the Town which does not have the identification specified in § 112-16D hereof at the time the cat is apprehended. However, no person administering the provisions of this article shall enter into a house, apartment, garage or other secured facility without the consent of the owner or tenant of the premises unless a search warrant issued by a Justice of the Town Court of the Town of Callicoon or by a court of competent jurisdiction is first obtained.

- A. Any cat apprehended shall be retained by the Town or designated agency in a properly sheltered and secure place and shall be properly fed and watered for a period of seven days.
- B. Within the period of seven days after the cat is apprehended, the owner may reclaim the cat upon reasonable proof of ownership to the person or agency having custody of the cat upon proof of payment to the Town Treasurer of a fee in the sum of \$25 plus \$5 per day for each

day or fraction thereof that the cat is held in custody and reimbursement of all fees and expenses paid by the Town for veterinary treatment rendered to the cat while in the custody of the Town.

- C. If the cat has not been claimed by the reputed owner within seven days after it has been held, any person may adopt the cat.
- D. All expenses incurred by the Town in connection with the proceedings to enforce this article, shall be assessed against the property upon which the cat is harbored 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.
- E. Neither the Town, its officers or employees, agents or officers of a duly incorporated society for the prevention of cruelty to animals, nor the persons or agencies authorized by the Town Board to enforce the provisions of this article shall be liable in damages or otherwise for the seizure, detention, adoption or euthanizing of any cat found without appropriate identification outside the residence of the owner.

§ 112-18. Enforcement.

This article shall be enforced by any animal control officer, peace officer, when acting pursuant to his special duties, or police officer in, the employ of or under contract with the Town of Callicoon, or the Town Code Enforcement Officer or other designated Town officer.

§ 112-19. Conditional use permit required for kennels.

No kennel or nonresidential kennel shall be authorized unless the Town of Callicoon Planning Board has issued a conditional use permit authorizing such kennel.

§ 112-20. Appearance ticket.

Any person specified in § 112-18 above having enforcement powers of this article, having reasonable cause to believe that a person has violated this article, shall issue and serve upon such person an appearance ticket for such violation.

§ 112-21. Penalties for offenses.

- A. Any person convicted of a violation of this article shall be liable for a mandatory civil penalty of \$50 for a first violation, \$150 for a second violation and \$300 for a subsequent violation.
- B. Any person convicted of a second or subsequent violation of this article shall be deemed to have committed a violation and in addition to being subject to a fine, may be imprisoned for a period not exceeding 15 days.

ARTICLE III
License Fees

§ 112-22. Fees established.

The Town of Callicoon, pursuant to the Agriculture and Markets Law and the Municipal Home Rule Law of the State of New York establishes the following animal license fees; inclusive of those set forth in § 110, Subdivision 1(a) and (b) of the Agriculture and Markets Law. All of the following license fees shall be payable to the Town Clerk.

A. Dogs.

- (1) For each dog which is spayed and/or neutered: \$6.
- (2) For each dog which is not spayed and/or not neutered: \$14.

B. Cats.

- (1) For each cat which is spayed and/or neutered: \$3.
- (2) For each cat that is not spayed and/or not neutered: \$5.

§ 112-23. Fees to be property of Town.

Such additional fees shall be the property of the Town of Callicoon and shall be used only in controlling dogs and cats and enforcing any statute, rule, regulation, local law or Law for the control of dogs and cats.

ARTICLE IV

Licensing of Dogs

[Added 12-13-2010 by L.L. No. 2-2011]

§ 112-24. Purpose.

The purpose of this article is to provide for the licensing and identification of dogs. Effective January 1, 2011, the State of New York has relinquished the responsibility of dog licensing functions to the local municipalities and eliminated the Animal Population Control Fund. Local municipalities will now be required to adopt legislation relating to this issue.

§ 112-25. Definitions.

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

ADOPT — The delivery to any natural person, 18 years of age or older, for the purpose of harboring a dog, seized or surrendered, or any cat from the Town's animal shelter.

ANIMAL/DOG CONTROL OFFICER — Any individual appointed by the Town Board to assist in the enforcement of this article.

CLERK — The Town Clerk, or Deputy Town Clerk, of the Town of Callicoon, where licenses are to be validated or issued.

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

GEESE DOG — 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 — 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 — To provide food or shelter to any dog or cat.

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 of New York during the period such dog is being trained or bred for such training.

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

§ 112-26. 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 dog 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.
- 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 Callicoon," a unique identification number, and the telephone number of the Town Clerk's office.

§ 112-27. Change of ownership or address; 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 10 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 10 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 the license or upon the time of such renewal.

§ 112-28. Violations; penalties for offenses.

- A. It shall be a violation, punishable as provided in Subsection B of this section, for:

- (1) Any owner to fail to license a dog.
- (2) Any owner to fail 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. Violations of this article shall be subject to a fine, not to be less than \$25, except that:

- (1) Where the person was found to have violated this article within the preceding five years, the fine may not be less than \$50; and
- (2) Where the person was found to have committed two or more violations of this article within the preceding five years, the fine may not be less than \$100.

Chapter 116

ELECTRICIANS

[HISTORY: Adopted by the Town Board of the Town of Callicoon 12-28-1973 by resolution. Amendments noted where applicable.]

§ 116-1. County regulations not applicable.

Local Law No. 1-1973 of the County of Sullivan, New York, known as a "Local Law to Provide for the Examination, Licensing and Regulation of Master and Special Electricians," shall not be applicable to the Town of Callicoon and shall have no effect therein, and further, no license shall be required for any master or special electrician or master electrical contractor or limited electrical contractor or any other person, firm or corporation.

Chapter 121

FIRE PREVENTION AND BUILDING CONSTRUCTION

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

GENERAL REFERENCES

Unsafe buildings — See Ch. 97.
Subdivision of land — See Ch. 185.
Zoning — See Ch. 203.

ARTICLE I Dwellings and Buildings [Adopted 5-6-1974]

§ 121-1. Title.

This article shall be known and may be cited as the "Dwelling Ordinance of the Town of Callicoon."

§ 121-2. Purpose.

It is the purpose of this article to promote the health, safety, morals and welfare of the inhabitants of the Town of Callicoon by providing herein for the regulation of the establishment of new dwellings and buildings or additions or revisions to existing ones within said Town of Callicoon.

§ 121-3. Definitions.

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

BUILDING — A structure, either above or below ground, of whatsoever nature, including garages, storage buildings, barns, commercial buildings, swimming pools, etc.

DWELLING — Any structure capable of being used as sleeping and/or living quarters. This includes buildings of conventional structure, prefabricated or modular construction, mobile homes, house trailers and travel trailers.

§ 121-4. Building permit required.

Before work shall be started for the construction or installation of a dwelling or renovation or addition thereto, a building permit shall be obtained as per the requirements of the Town of Callicoon Building Permit Ordinance.¹

¹. Editor's Note: Original Sections 5 and 6, which immediately followed this section, were deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

§ 121-5. Unconventional construction.

When the dwelling is not of conventional construction, it must carry the insignia of approval of the New York State Building Code Council.

§ 121-6. General requirements. [Amended 8-10-1992 by L.L. No. 4-1992]

The following are certain requirements for the installation of a dwelling or building:

- A. All dwellings, whether they are of conventional construction or not, must be installed on foundations or slabs which meet the requirements of the New York State Uniform Fire Prevention and Building Code. (Examples of satisfactory construction are given in the Uniform Code Manual). All structures must be securely anchored to their foundations or slabs. When a structure is supported by other than a continuous wall, the space between the structure and the ground or slab must be suitably closed-in around the periphery of the structure, with suitable provision for ventilation of the enclosed space provided. Stairs, steps, porches, etc., must meet the standards of the New York State Uniform Fire Prevention and Building Code and be so anchored to the structure and/or the foundation or slab as to assure their safe usage. No mobile home shall be installed unless it shall have a factory installed, peaked roof, with a minimum pitch of three on 12. [Amended 4-10-1995 by L.L. No. 3-1995]
- B. Water supplies and sewage disposal systems must meet the requirements of the New York State Sanitary Code. No part of said systems, except water pipes, shall be less than 10 feet from a lot line or boundary of a right-of-way. A septic tank must be at least 10 feet away from the foundation. A well must be at least 100 feet from the nearest part of the leach field. No part of a septic system shall be less than 50 feet from any waterway or body of water. See the New York State Sanitary Code for further requirements.
- C. A certificate of occupancy must be obtained before a dwelling may be occupied.

§ 121-7. Subdivisions.

Any area of land subdivided for the installation of dwellings shall comply with the additional requirements of the Town of Callicoon Residential Subdivision Ordinance² if applicable, as well as those of this Article.³

§ 121-8. Penalties for offenses. ⁴

A violation of this Article is an offense, punishable by a fine of not more than \$250 per day or 15 days imprisonment, or both, for each violation. Each day that a violation is permitted shall constitute a separate offense. In addition to the penalties hereinbefore set forth, the Town Board or the Building Inspector may bring an action in the Supreme Court, for an injunction to restrain the continuance of such violation, against the owner or any other person who shall knowingly

2. Editor's Note: See Ch. 185, Subdivision of Land.

3. Editor's Note: Original Section 10, regarding storage, which immediately followed this section, was deleted 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. I.

violate any of the applicable provisions of the New York State Uniform Fire Prevention and Building Code, the State Sanitary Code or any other lawful order.

ARTICLE II
Administration

[Adopted at time of adoption of Code⁵]

§ 121-9. Legislative intent; authority; applicability.

This Article shall provide for administration and enforcement of the New York State Uniform Fire Prevention and Building Code (Uniform Code) in the Town of Callicoon. This Article is adopted pursuant to § 10 of Article 2 of the Municipal Home Rule Law. Except as otherwise provided within this Article or within the Uniform Code, all premises, regardless of use, are subject to the provisions which follow.

§ 121-10. Definitions.

The words and terms used in this Article shall have the same meanings as those contained in Executive Law, Article 18, as added by Chapter 707 of the Laws of 1981, unless the context may otherwise require.

§ 121-11. Administration.

- A. The Town of Callicoon may, by resolution, enter into a contract with other governments to carry out the terms of this Article.
- B. There is hereby created the appointive office of Code Enforcement Officer. The Code Enforcement Officer shall be appointed by the Supervisor with the approval of the Town Board at a compensation to be fixed by it. In the absence of the Code Enforcement Officer or his inability to act for any reason, the Chief Executive Officer shall have the power, with the consent of the Town Board, to designate a person to act for this officer. Compensation shall be as may from time to time be fixed by the Town Board by resolution.
- C. A schedule of fees shall be established by resolution by the Town of Callicoon Town Board.

§ 121-12. Duties and powers of Code Enforcement Officer.

The Code Enforcement Officer shall administer and enforce all of the provisions of the New York State Uniform Fire Prevention and Building Code. The Code Enforcement Officer may promulgate rules and regulations subject to the approval of the Town Board to secure the intent of this Article and the Uniform Code. Such rules and regulations shall be published at least 10 days prior to their effective date. The specific duties of the Code Enforcement Officer shall be to:

- A. Receive applications and such fees as may be established by the Town Board.
- B. Approve or deny plans and specifications within 60 days, in writing, and issue permits for the erection and alteration of buildings or structures or parts thereof.

5. Editor's Note: See Ch. 1, General Provisions, Art. I.

- C. Inspect the premises for which such applications have been received, plans approved or such permits issued.
- D. Approve or deny applications for certificates of occupancy within 10 days.
- E. Conduct periodic inspections as required by the Uniform Code.
- F. Maintain all records on file with the Town Clerk, consisting of applications, permits, denials, inspection reports, recommendations, complaints, violation orders, certificates of occupancy, correspondence and proof of payment of required fees.
- G. Issue, in writing, all appropriate notices or orders to remove illegal or unsafe conditions.
- H. Require the necessary safeguards during the entire course of construction or demolition.
- I. Serve notices and orders upon a property owner or the owner's agent personally or by certified mail or by posting conspicuously on the premises to which the notice or order applies.
- J. Report at least annually to the governing body all approvals, denials, permits and certificates issued, fees collected and turned in to the general fund, orders and notices issued and other matters as appropriate.

§ 121-13. Penalties for offenses.

- A. It shall be unlawful to erect, construct, enlarge, alter, improve, remove, demolish or use any building or structure or portion thereof in violation of any provision of law, as well as any regulation or rule of the municipality, or to fail in any manner to comply with a notice, directive or order of the Code Enforcement Officer or to commence the erection, construction, enlargement, alteration, improvement, removal, demolition or use of any building or structure or the installation of heating equipment without having applied for and obtained a permit. However, no permit shall be required for the performance of necessary repairs which are not of a structural nature and which are done in conformance with the Uniform Code.
- B. Any person who shall fail to comply with a written order of the Code Enforcement Officer within the time fixed for compliance therewith and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents or any other person taking part or assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of law or any lawful order, notice, directive, permit or certificate of the Code Enforcement Officer made thereunder shall be punished by fine of not more than \$250 or imprisonment for not more than 15 days, or both. Each week that a violation continues shall be deemed a separate offense.
- C. Except as provided otherwise by law, such violation shall not be a crime, and the penalty or punishment imposed therefor shall not be deemed for any purpose a penal or criminal penalty or punishment and shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person found guilty of such an offense.
- D. Appropriate action and proceedings may be taken at law or in equity to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal occupancy of a

building, structure or premises or to prevent illegal acts, conduct or business in or about any premises, and these remedies shall be in addition to penalties otherwise prescribed by law.

§ 121-14. Building permits.

A. Requirements.

- (1) A completed application for a building permit must include:
 - (a) The full name and address of the owner and of the applicant and, if either shall be a corporation, the names and addresses of their responsible officers.
 - (b) A description of the site on which the proposed work is to be done.
 - (c) A statement of the use of occupancy of all parts of the proposed building or structure.
 - (d) A brief description of the proposed activity.
 - (e) The estimated cost of the proposed work, with appropriate substantiation.
 - (f) Such other information as may reasonably be required by the Code Enforcement Officer to establish compliance of the proposed work with the requirements of the applicable building laws, rules and regulations.
 - (g) The signature of the owner or authorized agent.
- (2) Each application for a building permit shall be accompanied by three sets of plans and specifications, including a plot plan, drawn to scale, showing the location and size of all proposed new construction and all existing structures on the site (the nature and character of the work to be performed and the materials to be incorporated), distance from lot lines and to structures on adjoining property, widths and grades of adjoining streets, walks and alleys and, where required by the Code Enforcement Officer, details of structural, mechanical and electrical work, including computations, stress diagrams and other essential technical data. Plans and specifications shall bear the signature of the person responsible for the design and drawings and, where required by §§ 7209 and 7307, as amended, of Articles 145 and 147 of the Educational Law of the State of New York, the seal of a licensed architect or a licensed professional engineer. The Code Enforcement Officer may waive the requirements for filing plans and specifications for minor alterations and issue a building permit so stating.
- (3) Amendments, if any, to the application or to the plans and specifications accompanying the same shall be filed with the Code Enforcement Officer, and approval shall be received from the Code Enforcement Officer prior to the commencement of such change of work.

B. Display. The building permit must be prominently displayed on the property or premises to which it pertains.

C. Expiration. A building permit issued pursuant to this article shall expire one year from the date of issuance. The permit may, on written request, be renewed for successive one-year

periods.

§ 121-15. Certificates of occupancy.

- A. No use or occupancy of a building or structure may be commenced unless a certificate of occupancy has been issued for that building or structure. A temporary certificate of occupancy may be issued if the building or structure or a designated portion of a building or structure is sufficiently complete that it may be put to the use for which it is intended. A temporary certificate of occupancy shall expire in six months, but it may be renewed an indefinite number of times.
- B. Before a certificate of occupancy is issued, a licensed engineer must certify that the septic system is approved.

§ 121-16. Inspections.

- A. Work for which a building permit is in effect shall be inspected for approval prior to enclosing or covering each stage of construction, including building location, site preparation, excavation, foundation, framing, superstructure, electrical, plumbing and heating and air conditioning. It shall be the responsibility of the applicant to inform the Code Enforcement Officer that the work is ready for inspection.
- B. Existing buildings not subject to inspection under Subsection A shall be subject to periodic inspections for compliance with the Uniform Code. Notwithstanding any requirement of this section to the contrary, no regular or periodic inspections of occupied dwelling units shall be required. This shall not be a limitation on inspections conducted at the invitation of the occupant or where conditions on the premises threaten or present a hazard to the public health, safety or welfare.

§ 121-17. Installation of solid-fuel-burning appliances.

A permit for installation of a solid-fuel-burning heating appliance, chimney and flue in any dwelling unit shall be obtained as provided in § 121-14. If the enforcement official, after inspection, determines that the installation is in compliance with the Uniform Code, he shall issue a certificate of compliance on a form to be prescribed by resolution of the Town Board. A violation of this section and of Subdivision 5 of § 378 of the Executive Law shall be punishable as provided in § 121-13B.

ARTICLE III

Administration and Enforcement of Uniform Code

[Adopted 5-14-2007 by L.L. No. 1-2007]

§ 121-18. Purpose.

This article 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 Callicoon, Sullivan County, New York. This article is adopted pursuant to § 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this article, all buildings,

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

§ 121-19. Definitions.

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

BUILDING PERMIT — A permit issued pursuant to § 121-21 of this article. The term "building permit" shall also include a building permit which is renewed, amended or extended pursuant to any provision of this article.

CERTIFICATE OF OCCUPANCY or CERTIFICATE OF COMPLIANCE — A certificate issued pursuant to § 121-24B of this article, depending on the nature or scope of the building permit.

CODE ENFORCEMENT OFFICER — The Code Enforcement Officer appointed pursuant to § 121-20B of this article.

CODE ENFORCEMENT PERSONNEL — Includes the Code Enforcement Officer and all inspectors.

COMPLIANCE ORDER — An order issued by the Code Enforcement Officer pursuant to § 121-32A of this article.

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 § 121-20D of this article.

OPERATING PERMIT — A permit issued pursuant to § 121-27 of this article. The term "operating permit" shall also include an operating permit which is renewed, amended or extended pursuant to any provision of this article.

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

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

STOP-WORK ORDER — An order issued pursuant to § 121-23 of this article.

TEMPORARY CERTIFICATE — A certificate issued pursuant to § 121-24E of this article.

TOWN — The Town of Callicoon in Sullivan County, New York.

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

§ 121-20. Code Enforcement Officer; inspectors.

- A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provision of the Uniform Code, the Energy Code and this article. 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 or 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 or certificates of compliance, temporary certificates and operating permits, and to include in building permits, certificates of occupancy or 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 or certificates of compliance, temporary certificates and operating permits, firesafety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this article;
 - (4) To issue stop-work orders;
 - (5) To review and investigate complaints;
 - (6) To issue orders pursuant to § 121-32, Enforcement, penalties for offenses, of this article;
 - (7) To maintain records;
 - (8) To collect fees as set by the Town Board of the Town;
 - (9) To pursue administrative enforcement actions and proceedings;
 - (10) In consultation with the Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this article, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this article; and
 - (11) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this article.
- B. The Code Enforcement Officer shall be appointed by the Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- C. In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this article.

- D. One or more inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer, by this article. 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.

§ 121-21. Building permits.

- A. Building permits required. Except as otherwise provided in Subsection B of this section, a building permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid-fuel-burning heating appliance, chimney or flue in any dwelling unit. No person shall commence any work for which a building permit is required without first having obtained a building permit from the Code Enforcement Officer.
- B. Exemptions. No building permit shall be required for work in any of the following categories:
 - (1) 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 150 square feet in aggregate;
 - (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) Installation of fences which are not part of an enclosure surrounding a swimming pool;
 - (5) Construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;
 - (6) Construction of temporary motion-picture, television and theater stage sets and scenery;
 - (7) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
 - (8) Installation of partitions or movable cases less than five feet nine inches in height;

- (9) Painting, wallpapering, tiling, carpeting, or other similar finish work;
 - (10) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
 - (11) 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
 - (12) Repairs, provided that such repairs do not involve:
 - (a) The removal or cutting away of a loadbearing wall, partition, or portion thereof, or of any structural beam or loadbearing component;
 - (b) The removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;
 - (c) The enlargement, alteration, replacement or relocation of any building system; or
 - (d) The removal from service of all or part of a fire protection system for any period of time.
- C. Exemption not deemed authorization to perform noncompliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in Subsection B of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.
- D. Applications for building permit. 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. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:
- (1) A description of the proposed work;
 - (2) The Tax Map number and the street address of the premises where the work is to be performed;
 - (3) The occupancy classification of any affected building or structure;
 - (4) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
 - (5) At least two sets of construction documents (drawings and/or specifications) which:
 - (a) Define the scope of the proposed work;
 - (b) Are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;

- (c) Indicate with sufficient clarity and detail the nature and extent of the work proposed;
 - (d) Substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and
 - (e) Where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.
- E. Construction documents. Construction documents will not be accepted as part of an application for a building permit unless they satisfy the requirements set forth in Subsection D(5) of this section. Construction documents which are accepted as part of the application for a building permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the code enforcement personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a building permit will be issued. Work shall not be commenced until and unless a building permit is issued.
- F. Issuance of building permits. An application for a building permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a building permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.
- G. Building permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- H. Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The building permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended building permit reflecting such change is issued.
- I. Time limits. Building permits shall become invalid unless the authorized work is commenced within six months following the date of issuance. Building permits shall expire 12 months after the date of issuance. A building permit which has become invalid or which has expired pursuant to this subsection may be renewed 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 all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

- K. Fee. The fee specified in or determined in accordance with the provisions set forth in § 121-33, Fees, of this article 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.

§ 121-22. Construction inspections.

- A. Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an inspector authorized by the Code Enforcement Officer. The permit holder shall notify the Code Enforcement Officer when any element of work described in Subsection B of this section is ready for inspection.
- 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. Independent testing. Whenever deemed necessary or appropriate by the Code Enforcement Officer to assure compliance with the provisions of this article, the Code Enforcement Officer may require the performance of tests in the field by experienced, professional

persons or by accredited and authoritative testing laboratories or service bureaus or agencies. All costs and expenses associated with the foregoing must be reimbursed in accordance with the provisions set forth in § 121-33, Fees, of this article.

- E. Engineer/architect certifications. The Code Enforcement Officer may, at his or her discretion, accept the certification of a licensed professional engineer or a registered architect that the work that is the subject to the requirements of the Uniform Code and the Energy Code has been performed and completed in accordance therewith.
- F. Fee. The fee specified in or determined in accordance with the provisions set forth in § 121-33, Fees, of this article must be paid prior to or at the time of each inspection performed pursuant to this section.

§ 121-23. Stop-work orders.

- A. Authority to issue. The Code Enforcement Officer is authorized to issue stop-work orders pursuant to this section. The Code Enforcement Officer shall issue a stop-work order to halt:
 - (1) Any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
 - (2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
 - (3) Any work for which a building permit is required which is being performed without the required building permit, or under a building permit that has become invalid, has expired, or has been suspended or revoked.
- B. Content of stop-work orders. Stop-work orders shall be in writing, be dated and signed by the Code Enforcement Officer, state the reason or reasons for issuance, and if applicable, state the conditions which must be satisfied before work will be permitted to resume.
- C. Service of stop-work orders. The Code Enforcement Officer shall cause the stop-work order, or a copy thereof to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by certified mail. 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, engineer, 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; 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 Subsection A of this section, and the authority to issue a stop-work order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under § 121-32, Enforcement; penalties for offenses, of this article 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.

§ 121-24. Certificates of occupancy or certificates of compliance.

- A. Certificates of occupancy or certificates of compliance required. A certificate of occupancy or certificate of compliance, depending on the nature or scope of the building permit, shall be required for any work which is the subject of a building permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued shall be granted only by issuance of a certificate of occupancy or a certificate of compliance.
- B. Issuance of certificates of occupancy or certificates of compliance. The Code Enforcement Officer shall issue a certificate of occupancy or a certificate of compliance, depending on the nature or scope of the building permit, 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 a 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 the certificate of compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the certificate of occupancy or the certificate of compliance:
 - (1) A written statement of structural observations and/or a final report of special inspections; and
 - (2) Flood hazard certifications.
- C. Contents of certificates of occupancy and certificates of compliance. A certificate of occupancy or a 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 the 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 the 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 the certificate of compliance and the date of issuance.
- D. Certificate of occupancy or certificate of compliance based upon engineer/architect certification. The Code Enforcement Officer is authorized to issue a certificate of occupancy or a certificate of compliance upon receipt from a licensed professional engineer or registered architect of as-built plans and a sworn certification which, to the satisfaction of the Code Enforcement Officer, certifies that the subject building, structure or work complies with all applicable requirements of the Uniform Code, the Energy Code and this article in effect at the time of construction or performance of work, notwithstanding that the requisite building permit or building permits were not issued with respect thereto. Such certificate of occupancy or certificate of compliance shall recite that it has been issued upon the certification of a licensed professional engineer or registered architect that the building, structure or work complies with all requirements of the Uniform Code, the Energy Code and this article in effect at the time of construction or performance of work and that such certificate of occupancy or certificate of compliance was issued solely upon the basis of such certification and not on the basis of any independent inspection or investigation by the Code Enforcement Officer or the Town.
- E. Temporary certificate. The Code Enforcement Officer shall be permitted to issue a temporary certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a building permit. However, in no event shall the Code Enforcement Officer issue a temporary certificate unless the Code Enforcement Officer determines that the building or structure, or the portion thereof covered by the temporary certificate, may be occupied safely, that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a temporary certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A temporary certificate shall be effective for a period of time, not to exceed six months, which shall be determined by the Code Enforcement Officer and specified in the temporary certificate. During the specified period of effectiveness of the temporary certificate, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

- F. Revocation or suspension of certificates. If the Code Enforcement Officer determines that a certificate of occupancy, certificate of compliance or a temporary certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.
- G. Fee. The fee specified in or determined in accordance with the provisions set forth in § 121-33, Fees, of this article must be paid at the time of submission of an application for a certificate of occupancy, certificate of compliance or temporary certificate.

§ 121-25. Notification regarding fire or explosion.

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

§ 121-26. Unsafe building and structures.

Unsafe structures and equipment in the Town shall be identified and addressed in accordance with the procedures established by the Unsafe Buildings Law of the Town of Callicoon and/or the applicable provisions of the Uniform Code, as now in effect or as hereafter amended from time to time.

§ 121-27. Operating permits.

A. Operation permits required.

- (1) Operating permits shall be required for conducting the activities or using the categories of buildings listed below:
 - (a) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Table 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;
 - (b) Hazardous processes and activities, including but not limited to commercial and industrial operations which produce combustible dust as a by-product, fruit and crop ripening, and waste handling;
 - (c) Use of pyrotechnic devices in assembly occupancies;
 - (d) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
 - (e) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of the Town.
- (2) Any person who proposes to undertake any activity or to operate any type of building listed in this Subsection A shall be required to obtain an operating permit prior to

commencing such activity or operation.

- B. Applications for operating permits. An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.
- C. Inspections. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an operating permit.
- D. Multiple activities. In any circumstance in which more than one activity listed in Subsection A of this section is to be conducted at a location, the Code Enforcement Officer may require a separate operating permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single operating permit to apply to all such activities.
- E. Duration of operating permits. Operating permits shall be issued for such period of time, not to exceed three years, 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 provisions 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 § 121-33, Fees, of this article 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.

§ 121-28. Firesafety and property maintenance inspections.

- A. Inspections required. Firesafety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at the following intervals:
 - (1) Firesafety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every 12 months.
 - (2) Firesafety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every 12 months.

- (3) Firesafety and property maintenance inspections of all multiple dwellings not included in Subsection A(1) or (2) of this section, and all nonresidential buildings, structures, uses and occupancies not included in Subsection A(1) or (2) of this section, shall be performed at least once every 36 months.
- B. Inspections permitted. In addition to the inspections required by Subsection A of this section, a firesafety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at any time upon: the request of the owner of the property to be inspected or an authorized agent of such owner; receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subsection shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.
- C. OFPC inspections. Nothing in this section or in any other provision of this article shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator under Executive Law § 156-e and Education Law § 807-b. Notwithstanding any other provision of this section to the contrary:
- (1) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a building or structure which contains an area of public assembly if OFPC performs firesafety and property maintenance inspections of such building or structure at least once every 12 months;
 - (2) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a multiple dwelling not included in Subsection A(1) or (2) of Subsection A of this section if OFPC performs firesafety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in Subsection A(3) of this section; and
 - (3) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a nonresidential building, structure, use or occupancy not included in Subsection A(1) or (2) of this section if OFPC performs firesafety and property maintenance inspections of such nonresidential building, structure, use or occupancy at intervals not exceeding the interval specified in Subsection A of this section.
- D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 121-33, Fees, of this article must be paid prior to or at the time each inspection performed pursuant to this section. This subsection shall not apply to inspections performed by OFPC.

§ 121-29. 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 article, or any other local law or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

- A. Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- B. If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § 121-32, Enforcement; penalties for offenses, of this article;
- 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.

§ 121-30. Recordkeeping.

- A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all code enforcement personnel, including records of:
 - (1) All applications received, reviewed and approved or denied;
 - (2) All plans, specifications and construction documents approved;
 - (3) All building permits, certificates of occupancy, certificates of compliance, temporary certificates, stop-work orders, and operating permits issued;
 - (4) All inspections and tests performed;
 - (5) All statements and reports issued;
 - (6) All complaints received;
 - (7) All investigations conducted;
 - (8) All other features and activities specified in or contemplated by §§ 121-21 through 121-29, inclusive, of this article; 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.

§ 121-31. Program review and reporting.

- A. The Code Enforcement Officer shall annually submit to the Town Board of the Town 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 § 121-30, Recordkeeping, of this article 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, on a form prescribed by the Secretary of State, a report of the activities of the Town relative to administration and enforcement of the Uniform Code.
- 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 is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of the Town in connection with administration and enforcement of the Uniform Code.

§ 121-32. Enforcement; penalties for offenses.

- A. Compliance orders. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this article. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a compliance order. The compliance order shall be in writing; be dated and signed by the Code Enforcement Officer; specify the condition or activity that violates the Uniform Code, the Energy Code, or this article; specify the provision or provisions of the Uniform Code, the Energy Code, or this article which is/are violated by the specified condition or activity; specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; direct that compliance be achieved within the specified period of time; and state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the compliance order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail. 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, engineer, 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; 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 prescribed by state law, any person who violates any provision of the Uniform Code, the Energy Code or this article, 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 article, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of the Town.

- D. Injunctive relief. An action or proceeding may be instituted in the name of the Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this article, 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 article. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this article, or any stop-work order, compliance order or other order obtained under the Uniform Code, the Energy Code or this article, an action or proceeding may be commenced in the name of the Town in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the Town Board of the Town. The Code Enforcement Officer may commence, in his/her discretion, any injunctive action, in his/her name.
- E. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in § 121-23 Stop-work orders, of this article, in any other section of this article, 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 § 121-23, Stop-work orders, of this article, in any other section of this article, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of § 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in Subdivision (2) of § 382 of the Executive Law.

§ 121-33. Fees.

- A. Fee schedule. A fee schedule shall be established by resolution of the Town Board of the Town. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of building permits, amended building permits, renewed building permits, certificates of occupancy, certificates of compliance, temporary certificates, operating permits, firesafety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this article.
- B. Reimbursement for professional services.
- (1) The Code Enforcement Officer is hereby empowered to impose and charge the permit holder the actual cost and expense incurred by the Code Enforcement Officer on behalf of the Town for professional fees and charges incurred as the result of

- professional work, consultation, advice and review done on behalf of the Code Enforcement Officer in connection with the issuance of building permits, amended building permits, renewed building permits, construction inspections, certificates of occupancy, certificates of compliance, temporary certificates, operating permits, firesafety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this article.
- (2) For purposes of this subsection, "professional services" shall include but not be limited to services rendered by architects, attorneys, engineers, accredited and authoritative testing laboratories or service bureaus or agencies.
 - (3) Any professional whose services are engaged by the Code Enforcement Officer shall be required to submit a statement setting forth a description of the nature of the services performed, the date such services were performed, the time expended thereon (when services are billed on a time basis), and the identity of the person performing such services. Any voucher or other statement for such professional services that has been audited and approved for payment by the Town Board shall constitute a statement in full compliance with this subsection.
 - (4) Payment by the permit holder of any professional fees and charges incurred in accordance with this subsection shall be required regardless of whether or not any building permit, amended building permit, renewed building permit, certificate of occupancy, certificate of compliance, temporary certificate or operating permit is approved. In the event any such permit or certificate has been approved or issued and the permit holder has failed or refused to pay to the Town such professional fees and charges, the Code Enforcement Officer may, without prior notice to the permit holder, revoke the same and not reissue or reinstate the same unless and until such fees and charges are paid in full. Payment shall not be deemed made, where tendered by check subject to collection, unless and until such check clears and the funds represented thereby are collected.
 - (5) Any permit holder believing himself or herself aggrieved by any professional fees or charges imposed pursuant to this subsection may seek judicial review thereof pursuant to Article 78 of the Civil Practice Law and Rules commenced in the Supreme Court, Sullivan County, within 30 days after presentation to the permit holder of the statement therefor. The commencement of any such proceeding shall not, in and of itself, constitute a stay of enforcement of the permit holder's obligation to pay such fees and charges.

§ 121-34. Intermunicipal agreements.

The Town Board of the Town may, by resolution, authorize the Supervisor of the Town to enter into an agreement, in the name of the Town, with other governments to carry out the terms of this article, 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.

Chapter 125

FLOOD DAMAGE PREVENTION

[HISTORY: Adopted by the Town Board of the Town of Callicoon 12-13-2010 by L.L. No. 1-2011.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 121.

Subdivision of land — See Ch. 185.

Zoning — See Ch. 203.

ARTICLE I

Statutory Authorization and Purpose

§ 125-1. Findings.

The Town Board of the Town of Callicoon finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Callicoon and that such damages may include destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this chapter is adopted.

§ 125-2. Purpose.

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

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

¹. Editor's Note: This local law also repealed former Ch. 125, Flood Damage Prevention, adopted 3-23-1987 by L.L. No. 2-1987.

§ 125-3. Objectives.

The objectives of this chapter are to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- G. Provide that developers are notified that property is in an area of special flood hazard; and
- H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

ARTICLE II
Definitions

§ 125-4. Terms defined.

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

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

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

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the "base floodplain" or "100-year floodplain." For purposes of this chapter, the term "special flood hazard area (SFHA)" is synonymous in meaning with the phrase "area of special flood hazard."

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year.

BASEMENT — That portion of a building having its floor subgrade (below ground level) on all

sides.

BUILDING — See "structure."

CELLAR — Has the same meaning as "basement."

CRAWL SPACE — An enclosed area beneath the lowest elevated floor, 18 inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

CUMULATIVE SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure that equals or exceeds 50% of the market value of the structure at the time of the improvement or repair when counted cumulatively for 10 years.

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

ELEVATED BUILDING — A nonbasement building built, in the case of a building in 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 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 floodwaters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

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

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

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

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

FLOOD INSURANCE RATE MAP (FIRM) — An official map of a community, on which the

Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY — See "flood elevation study."

FLOOD or FLOODING

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

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

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

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

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

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

HISTORIC STRUCTURE — Any structure that is:

- A. 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;
- B. 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;
- C. 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
- D. Individually listed on a local inventory of historic places in communities with historic

preservation programs that have been certified either:

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

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

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

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

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

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MOBILE HOME — Has the same meaning as "manufactured home."

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

ONE-HUNDRED-YEAR FLOOD or 100-YEAR FLOOD — Has the same meaning as "base flood."

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

RECREATIONAL VEHICLE — A vehicle which is:

- A. Built on a single chassis;
- B. Four hundred square feet or less when measured at the largest horizontal projections;
- C. Designed to be self-propelled or permanently towable by a light-duty truck; and
- D. Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively

increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 125-14B of this chapter.

START OF CONSTRUCTION — 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 — A walled and roofed building, including a gas or liquid storage tank, that is principally aboveground, as well as a manufactured home.

SUBSTANTIAL DAMAGE — Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT — Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. "Substantial improvement" also means "cumulative substantial improvement." The term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- A. 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
- B. Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

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

VIOLATION — The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

ARTICLE III General Provisions

§ 125-5. Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Callicoon, Sullivan County.

§ 125-6. Basis for establishing areas of special flood hazard.

- A. The areas of special flood hazard for the Town of Callicoon, Community Number 360816, are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
 - (1) Flood Insurance Rate Map Panel Numbers 36105C0090F, 36105C0091F, 36105C0093F, 36105C0094F, 36105C0113F, 36105C0234F, 36105C0242F, 36105C0255F, 36105C0260F, 36105C0264F, 36105C0265F, 36105C0266F, 36105C0268F, 36105C0270F, 36105C0280F, 36105C0286F, whose effective date is, February 18, 2011, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.
 - (2) A scientific and engineering report entitled "Flood Insurance Study, Sullivan County, New York, All Jurisdictions," dated February 18, 2011.
- B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at: Town Clerk, Town of Callicoon, 19 Legion Street, Jeffersonville, NY 12748.

§ 125-7. Interpretation and conflict with other laws.

- A. This chapter includes all revisions to the National Flood Insurance Program through October 27, 1997, and shall supersede all previous laws adopted for the purpose of flood damage prevention.
- B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

§ 125-8. Severability.

The invalidity of any section or provision of this chapter shall not invalidate any other section or provision thereof.

§ 125-9. Penalties for noncompliance.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered, and no land shall be excavated or filled, without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein

contained shall prevent the Town of Callicoon from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under Article VI will be declared noncompliant, and notification shall be sent to the Federal Emergency Management Agency.

§ 125-10. Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Callicoon, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

ARTICLE IV
Administration

§ 125-11. Designation of local administrator.

The Code Enforcement Officer of the Town of Callicoon is hereby appointed local administrator to administer and implement this chapter by granting or denying floodplain development permits in accordance with its provisions.

§ 125-12. 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 insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 125-6, 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 to be determined from time to time by the Town Board. In addition, the applicant shall be responsible for reimbursing the Town of Callicoon 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 to cover these additional costs.

§ 125-13. Application for permit.

The applicant shall provide the following information, as appropriate. Additional information

may be required on the permit application form.

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- C. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 125-16C, Utilities.
- D. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 125-18, Nonresidential structures.
- E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 125-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- F. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- G. In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.

§ 125-14. Duties and responsibilities of local administrator.

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

- A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:
 - (1) Review all applications for completeness, particularly with the requirements of § 125-13, Application for permit, and for compliance with the provisions and standards of this chapter.
 - (2) Review subdivision and other proposed new development, including manufactured

home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Article V, Construction Standards, and, in particular, § 125-15A, 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 V, Construction Standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.
- (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.

B. Use of other flood data.

- (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (These areas are designated Zone A or V on the FIRM.) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 125-13G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.
- (2) When base flood elevation data are not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard for the purposes of this chapter.

C. Alteration of watercourses.

- (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 Administrator, 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 submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.
- E. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.
- F. Stop-work orders.
- (1) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 125-9 of this chapter.
 - (2) The local administrator shall issue, or cause to be issued, a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 125-9 of this chapter.
- G. Certificate of compliance.
- (1) In areas of special flood hazard, as determined by documents enumerated in § 125-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
 - (2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.
 - (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Subsection E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.
- H. Information to be retained. The local administrator shall retain and make available for inspection copies of the following:
- (1) Floodplain development permits and certificates of compliance;

- (2) Certifications of as-built lowest floor elevations of structures, required pursuant to Subsection D, and whether or not the structures contain a basement;
- (3) Floodproofing certificates required pursuant to Subsection D(1), and whether or not the structures contain a basement;
- (4) Variances issued pursuant to Article VI, Variance Procedures; and
- (5) Notices required under Subsection C, Alteration of watercourses.

ARTICLE V
Construction Standards

§ 125-15. 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 § 125-6.

- 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 Callicoon 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 Callicoon 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 Callicoon 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 § 125-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

- (a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or
- (b) The Town of Callicoon 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 Callicoon 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 Callicoon for all costs related to the final map revisions.

§ 125-16. 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) Enclosed areas.
 - (a) 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 floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
 - [2] The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.
 - (b) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided they permit the automatic entry and exit of floodwaters. Enclosed areas subgrade on all sides are considered basements and are not permitted.
- C. Utilities.

- (1) New and replacement electrical equipment, heating, ventilating, air-conditioning, plumbing connections, and other service equipment shall be located at least two feet 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 also be elevated or designed to prevent water from entering and accumulating within the components 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 floodwaters into the system;
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

§ 125-17. Elevation of residential structures.

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in § 125-15A, Subdivision proposals, § 125-15B, Encroachments, and § 125-16, 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 shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- B. Within Zone A, when no base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- C. Within Zone AO, new construction and substantial improvements 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 § 125-6 (at least two feet if no depth number is specified).
- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

§ 125-18. Nonresidential structures.

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures located in areas of special flood hazard, in addition to the requirements in § 125-15A, Subdivision proposals, § 125-15B, Encroachments, and § 125-16, 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 nonresidential structure 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, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:
 - (1) Have the lowest floor (including basement) elevated above the highest adjacent grade, at least as high as 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 Subsection A(2).
- C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Subsection A(2), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.
- E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

§ 125-19. Manufactured homes and recreational vehicles.

The following standards, in addition to the standards in § 125-15, General standards, and § 125-16, 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.
 - (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (a) Be on site fewer than 180 consecutive days;
 - (b) Be fully licensed and ready for highway use; or
 - (c) Meet the requirements for manufactured homes in Subsections B, C and D.

- (2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.
- B. A manufactured home that is placed or substantially improved in Zones 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 § 125-6 (at least two feet if no depth number is specified).

ARTICLE VI
Variance Procedure

§ 125-20. Appeals Board.

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

- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) The costs to local governments and the dangers associated with conducting search-and-rescue operations during periods of flooding;
 - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (12) The costs of providing governmental services during and after flood conditions, including search-and-rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- E. Upon consideration of the factors of Subsection D and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- F. The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

§ 125-21. Conditions for variances.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in § 125-20D(1) through (12) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
- (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as 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 Subsections A, D, E and F of this section are met; and
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification of:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- G. Notice.
 - (1) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:
 - (a) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and
 - (b) Such construction below the base flood level increases risks to life and property.
 - (2) Such notification shall be maintained with the record of all variance actions as required in § 125-14H of this chapter.

Chapter 126

FORESTRY OPERATIONS AND COMMERCIAL LOGGING

[HISTORY: Adopted by the Town Board of the Town of Callicoon 7-9-2012 by L.L. No. 1-2012. Amendments noted where applicable.]

GENERAL REFERENCES

Farming — See Ch. 100.

Road use and preservation — See Ch. 178.

Subdivision of land — See Ch. 185.

Zoning — See Ch. 203.

§ 126-1. Legislative intent and purpose.

It is the general purpose and intent of this chapter to establish a permitting process for commercial logging to enable the Town to monitor commercial logging operations, and also to provide for and protect the roads in the Town of Callicoon for the general health, safety and welfare of the residents of the Town of Callicoon.

§ 126-2. Definitions.

For the purposes of this chapter, the following terms shall be defined as set forth below:

COMMERCIAL LOGGING — The harvesting of timber by or on behalf of the owner thereof for sale to any person. Commercial logging shall not include the harvest of timber solely for personal use by the owner thereof.

FORESTRY OPERATIONS — The harvesting of timber pursuant to an approved forestry management plan prepared in accordance with Real Property Tax Law § 480-a.

§ 126-3. Permit required.

Any person proposing to engage in commercial logging or forestry operations within the Town of Callicoon shall first obtain a permit upon application to the Town Code Enforcement Officer for each project. Any permit issued under this section shall be valid for one year from the date of issuance. Any such permit may be renewed upon application and payment of the required fee. Any such permit may be amended at the request of the applicant to include additional harvesting area, provided that the application shall provide the information required by § 126-4 below. The permit application shall be made on forms to be developed by the Town Code Enforcement Officer and shall be accompanied by a fee in an amount to be determined, and as adjusted from time to time, by resolution of the Town Board.

§ 126-4. Permit application.

A. The application shall require the following information:

- (1) Names, addresses and phone numbers for the property owner and commercial logger;
 - (2) The dates during which timber harvesting will take place;
 - (3) A location map depicting where the logging will take place on the parcel(s), the site of any landing and plans for the proposed access to the public highway system;
 - (4) The amount of timber to be harvested represented as a percentage of the mature timber on any given parcel(s); and
 - (5) Any other information deemed reasonably necessary by the Code Enforcement Officer.
- B. The application shall be signed by the property owner and the logger, or in lieu thereof, the logger shall provide proof of its authorization to conduct logging activities on land upon which it is not the owner of record.
- C. Proof of liability insurance in the minimum amount of \$500,000, which insurance covers the logging activities in question, and which insures the Town as an additional insured, must be submitted with the application.
- D. The application shall also contain a hold harmless and indemnity agreement whereby the logger holds harmless and indemnifies the Town of Callicoon for any and all damage to any of the roads or rights-of-way of the Town caused by the logging activity.

§ 126-5. Construction of logging roads.

Logging roads constructed to provide access to county, state or Town roads shall be improved with crushed stone at the entrance for a minimum distance of 100 feet into the property being logged to reduce the tracking of mud and debris onto such roads, except where the amount and duration of the activity is, in the judgment of the Town Highway Superintendent, so small as to not warrant such measures.

§ 126-6. Standard practice and harvest guidelines.

During the period of operation, the operator shall comply with New York State Department of Environmental Conservation Forest Practice Board standard practice requirements and timber harvest guidelines, and no operations shall take place without a permit from the Town or while one is revoked.

§ 126-7. Compliance required.

The purpose of this permit system shall be to ensure repairs, where necessary, to any Town roads and compliance with good forest practice as defined by the New York DEC Forest Practice Board. The Code Enforcement Officer shall be authorized to immediately revoke the permits of any commercial logger who shall not comply with these requirements until such compliance is secured and failure to comply shall require the permanent ceasing of all activity by said logger within the Town of Callicoon.

§ 126-8. Agricultural use exemption.

The requirements of this chapter shall not be applicable to any person conducting a farm operation [as defined in Agriculture and Markets Law § 301(11)] from clearing land for the purposes of growing agricultural products. [As defined in Agriculture and Markets Law § 301(2), excepting and not including the production and sale of woodland products, including but not limited to logs, lumber, posts and firewood].

§ 126-9. Waivers.

Upon petition filed by an aggrieved person, the Town Board may, in its sole discretion, grant relief from any of the provisions contained in this chapter upon showing of economic necessity, subject to whatever conditions are deemed necessary to protect the public. The burden shall be on the applicant to support his or her petition by competent financial evidence in dollars-and-cents form.

Chapter 128

FURNACES, OUTDOOR

[HISTORY: Adopted by the Town Board of the Town of Callicoon 9-11-2006 by L.L. No. 1-2006. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 121.

Zoning — See Ch. 203.

§ 128-1. Title; statutory authority.

- A. This chapter shall be known as the "Town of Callicoon Outdoor Furnace Law."
- B. It is adopted pursuant to § 10 of the Municipal Home Rule Law.

§ 128-2. Legislative intent.

Although outdoor furnaces may provide an economical alternative to conventional heating systems, concerns have been raised concerning the safety and environmental impacts of these devices, particularly the production of offensive odors, and potential health effects of uncontrolled emissions. This chapter is intended to insure that outdoor furnaces are utilized in a manner that does not create a nuisance and is not detrimental to the health, safety and general welfare of the residents of the Town of Callicoon.

§ 128-3. Definitions.

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

EXISTING or IN EXISTENCE — When used with "outdoor furnace," means that the outdoor furnace is already in place on the site at the time when this chapter shall take effect.

FIREWOOD — Trunks and branches of trees and bushes, but does not include leaves, needles, vines or brush smaller than three inches in diameter.

OPACITY — The degree of obscuration of light (i.e., a window has zero opacity; a wall is 100% opaque).

OUTDOOR FURNACE — Any device, contrivance, appliance or apparatus or any part thereof which is installed, affixed or situated out of doors for the primary purpose of the combustion of fuel from which heat or energy is derived and intended to be directed therefrom by conduit or other mechanism into any interior space for the supply of heat, hot water or energy.

UNTREATED LUMBER — Dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.

§ 128-4. Permit required.

No person shall cause, allow or maintain the use of an outdoor furnace within the Town of Callicoon without first having obtained a permit from the Town Code Enforcement Officer. Application for a permit shall be made on the forms provided. The cost of a permit application shall be \$25 for a new installation.

§ 128-5. Existing outdoor furnaces.

Any outdoor furnace in existence on the effective date of this chapter shall be permitted to remain in operation, provided the owner thereof applies for and receives a permit, at no cost to the owner, from the Town Code Enforcement Officer within 60 days of such effective date; provided, however, that upon the effective date of this chapter all the provisions hereof, except § 128-6B, C and D shall immediately apply to existing outdoor furnaces. If the owner of an existing outdoor furnace does not apply for a permit within 60 days of the effective date of this chapter, the outdoor furnace shall be removed.

§ 128-6. Specific requirements.

- A. Permitted fuel. Only firewood and untreated lumber are permitted to be burned in an outdoor furnace. Burning of any other material, such as trash, plastics, gasoline, rubber, naphtha, household garbage, material treated with petroleum products, particle board and pressure-treated wood, in an outdoor furnace is prohibited.
- B. Permitted location. Outdoor furnaces shall be permitted only in that portion of the Town of Callicoon lying inside the Rural or Conservation District.
- C. Minimum lot size. Outdoor furnaces shall be permitted only on lots of two acres or more.
- D. Setbacks. Outdoor furnaces shall be set back not less than 200 feet (or 700 feet in the case of a hospital or other health facility, school or day-care center) from the nearest dwelling located off the lot serviced by that outdoor furnace.
- E. Location.
 - (1) It is recommended that the unit be located with due consideration to the prevailing wind direction.
 - (2) If located 50 feet or less from any residence not served by the furnace, the stack shall be at least two feet higher than the eave line of that residence.
 - (3) If located more than 50 but no more than 100 feet from any residence, the stack shall be at least 75% of the height of the eave line of that residence, plus an additional two feet.
 - (4) If located more than 100 feet but no more than 150 feet from any residence, the stack shall be at least 50% of the eave line of that residence, plus an additional two feet.
 - (5) If located more than 150 feet from any residence, the stack shall be at least 25% of the height of the eave line of that residence, plus an additional two feet.
- F. Dates of operation. The furnace shall be operated only between September 15 and May 15.

§ 128-7. Suspension of permit.

- A. A permit issued pursuant to this chapter may be suspended as the Town Code Enforcement Officer may determine to be necessary to protect the public health, safety and welfare of the residents of the Town of Callicoon if any of the following conditions occur:
- (1) If emissions from the outdoor furnace exhibit opacity greater than 20% (six-minute average), except for one continuous six-minute period per hour of opacity of not more than 27%, which shall be determined as provided for in 6 NYCRR 227-1.3(b);
 - (2) Malodorous air contaminants from the outdoor furnace are detectable outside the property of the person on whose lot the outdoor furnace is located;
 - (3) The emissions from the outdoor furnace interfere with the reasonable enjoyment of life or property;
 - (4) The emissions from the outdoor furnace cause damage to vegetation or property; or
 - (5) The emissions from the outdoor furnace are or may be harmful to human or animal health.
- B. A suspended permit may be reinstated once the condition which resulted in the suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition which had previously resulted in suspension of a permit shall be considered a violation of this chapter subject to the penalties provided in § 128-9 hereof.

§ 128-8. Variances.

Where the Town Board finds that extraordinary and unnecessary hardships may result from strict compliance with this chapter, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variations will not have the effect of mollifying the intent and purpose of this chapter or of jeopardizing the health, safety or welfare of the public. In varying any regulations, the Town Board may impose such conditions and requirements as it deems reasonable and prudent. The Town Board shall hold a public hearing as part of its review. If the Town Board denies the waiver, the outdoor furnace must either be brought into compliance with this chapter or removed. If the Town Board does not take any action within 60 days from the receipt of an application for waiver, the waiver shall be deemed approved.

§ 128-9. Penalties for offenses.

Failure to comply with any of the provisions of this chapter shall be a violation and, upon conviction thereof, shall be punishable by a fine of not more than \$500 or by imprisonment for a period of not more than 10 days, or both. In addition, any permit issued pursuant to this chapter shall be revoked upon conviction of a second offense, and the subject outdoor furnace shall not be eligible for another permit. Each day that a violation occurs shall constitute a separate offense. The owners of premises upon which prohibited acts occur shall be jointly and severally liable for violations of this chapter. Any fine imposed hereunder shall constitute a lien upon the real property where the outdoor furnace is located and may be added to the next Town tax bill for that property if unpaid at the time such Town tax is levied.

§ 128-10. Effect on other regulations.

Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Protection Agency, New York State Department of Environmental Conservation, or any other federal, state, regional or local agency. Outdoor furnaces and any electrical, plumbing or other apparatus or device used in connection with an outdoor furnace shall be installed, operated and maintained in conformity with the manufacturer's specifications and any and all local, state and federal codes, laws, rules and regulations. In case of a conflict between any provision of this chapter and any applicable federal, state or local ordinances, laws, codes, rules or regulations, the more restrictive or stringent provision or requirement shall prevail.

Chapter 130

GAMES OF CHANCE

[HISTORY: Adopted by the Town Board of the Town of Callicoon 6-14-1999 by L.L. No. 1-1999. Amendments noted where applicable.]

GENERAL REFERENCES

Bingo — See Ch. 92.

§ 130-1. Definitions.

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

CLERK — The Town Clerk of the Town of Callicoon, Sullivan County, New York,

MUNICIPALITY — The Town of Callicoon, Sullivan County, New York.

OFFICER — The Sheriff of the County of Sullivan, New York.

§ 130-2. Application of statute.

Article 9-A of the General Municipal Law, entitled "Games of Chance Licensing Law," be and the same is hereby incorporated herein and made a part hereof with the same force and effect as though more fully set forth at length and shall apply to the conduct of all games of chance to be held or conducted within the territorial limits of the Town of Callicoon, Sullivan County, New York.

§ 130-3. Application of rules of New York State Racing and Wagering Board.

The rules and regulation of the New York State Racing and Wagering Board, as the same shall apply to the licensing of games of chance, be and the same are hereby incorporated herein and made a part hereof with the same force and effect as though more fully set forth at length and shall apply to the conduct of all games of chance to be held or conducted within the territorial limits of the Town of Callicoon, Sullivan County, New York.

§ 130-4. Authorization to conduct games of chance.

Games of chance may be conducted within the territorial limits of the Town of Callicoon, Sullivan County, New York, by authorized organizations, as defined in Article 9-A of the General Municipal Law. Each such organization shall obtain a license for the conduct of such games to be held within the territorial limits of said Town of Callicoon subject to the definitions, limitations, restrictions and regulations imposed and as set forth in Article 9-A of the General Municipal Law and the rules and regulations of the State Racing and Wagering Board and as said Article 9-A of the General Municipal Law and said rules and regulations of the State Racing and Wagering Board may from time to time hereafter be modified or amended.

§ 130-5. Enforcement officer.

The Town of Callicoon, pursuant to the provisions of Subdivision 2 of § 194 of the General Municipal Law, does hereby designate the Sheriff of the County of Sullivan, New York, as the chief law enforcement officer to enforce the terms and provisions of this chapter, and he shall exercise those powers and duties as set forth in Subdivision 1 of § 194 of the General Municipal Law.

§ 130-6. Sunday games.

The conduct of games of chance on Sunday is hereby authorized subject to the limitations and restrictions set forth in Article 9-A of the General Municipal Law.

§ 130-7. Mandatory referendum required.

This chapter shall be subject to a mandatory referendum and shall become effective only if approved by a majority of the electors voting thereon at the general election of the Town of Callicoon to be held on November 2, 1999.¹ If so approved, this chapter shall become effective immediately upon filing with the Secretary of State of the State of New York, in accordance with the requirements of the Municipal Home Rule Law.

1. Editor's Note: Local Law No. 1-1999 was approved at referendum on 11-2-1999.

Chapter 137

JUNKYARDS

[HISTORY: Adopted by the Town Board of the Town of Callicoon 2-13-1989 by L.L. No. 1-1989. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 203.

§ 137-1. Legislative intent.

By adoption of this chapter, the Town of Callicoon declares its intent to regulate, control and license the activities of businesses known as "junkyards." The Town Board finds and declares that junkyards are often hazardous and public nuisances. The material located thereon may be highly flammable and explosive. The Town Board further finds that the physical appearance of junkyards is unsightly and tends to detract from the value of surrounding land and property, unless such areas are properly screened, maintained and operated.

§ 137-2. Title.

This chapter shall be known and may be cited as the "Junkyard Law of the Town of Callicoon, New York."

§ 137-3. Definitions.

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

AUTO — Any passenger auto, truck, tractor-truck, trailer, bus, travel trailer, snowmobile, motorcycle, motor bicycle, minibicycle or any other vehicle or contraption originally intended for motorized movement, however propelled. Excluded from this definition are vehicles used in connection with the operation of a farm.

CODE ENFORCEMENT OFFICER — A person appointed by the Town Board to perform the duties herein conferred on the enforcement officer.

JUNKYARD — An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of used and discarded materials, including but not limited to wastepaper, rags, metal, building material, house furnishings, solid waste, debris, garbage, unsafe materials, machines, vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The outside storage or deposit on a lot of two or more inoperable, unlicenseable or unregistered vehicles which do not have current licenses issued by the New York State Department of Motor Vehicles, or a comparable agency from another state, shall be considered a "junkyard." The term "junkyard" shall include the place of storage or deposit of used parts or waste materials from autos which, taken together, equal in bulk two or more vehicles. Agricultural vehicles, such as tractors, mowers, etc., which

are utilized as part of an active, ongoing farming operation and contractors' construction equipment shall be exempt from this provision. [Amended 9-13-2004 by L.L. No. 1-2004]

LICENSEE or PERSON — An individual, association, partnership or corporation or any other legal entity.

§ 137-4. Permit application.

- A. The applicant shall submit to and file with the Planning Board of the Town of Callicoon all information provided in the application filed with the Town Clerk as stated in § 137-6 of this chapter. The Planning Board shall determine if said junkyard complies with the Town's zoning regulations and other applicable local, state and federal laws, rules and regulations, including regulations covering nonconforming preexisting uses. (See Town of Callicoon Zoning Law, § 203-26, for permit procedure information.)
- B. The Planning Board shall hold a public hearing in accordance with § 203-27 of the Town of Callicoon Zoning Law.
- (1) The applicant shall notify by certified mail each owner within 1,500 feet of the proposed junkyard about the public hearing at least 10 days before its occurrence.
 - (2) The Planning Board is responsible, where applicable, for confirming that the applicant is in compliance with conditional use procedures as set forth in said Zoning Law, Article VII, pertaining to site plan review.
 - (3) In addition, the Planning Board is responsible for confirming that the applicant is in compliance with the New York State Environmental Quality Review Act (SEQRA).¹ The cost of such review shall be paid by the applicant.
 - (4) The Planning Board may consider collectively the type of roads servicing the junkyard or from which the junkyard may be seen, the natural or artificial barriers protecting the junkyard from view and the proximity of the proposed junkyard to areas or main access routes thereto as well as the reasonable availability of other suitable sites for the junkyard.
 - (5) No junkyard hereafter established shall be licensed to operate within 500 feet of an established church, school, hospital, public building or place of public assembly.
 - (6) Within 45 days after the public hearing, the Planning Board shall act to approve or disapprove, or approve with modification, the application as required by state law.
- C. Prior to the Town Board's decision on granting a junkyard operator's license, the applicant must present a conditional use permit issued by the Town of Callicoon Planning Board.
- D. Licensed junkyards in existence at the time of enactment of this chapter are exempt from the requirement to obtain a permit. This exemption does not apply to amendments to the license which add additional parcels, whether contiguous or not.

§ 137-5. License required.

1. Editor's Note: See Article 8 of the Environmental Conservation Law.

- A. No person shall engage in a junkyard business on real property within the Town of Callicoon, either for himself or for and on behalf of any other person, directly or indirectly, as an agent, employee or otherwise, at wholesale or retail, without first obtaining a license for each separate noncontiguous parcel of real property so used.
- B. Unlicensed junkyards will be fined for being unlicensed and shall be subject to all the provisions in the Town of Callicoon Junkyard Law.
- C. A person presently engaged in or conducting a business such as described herein on real property within the Town of Callicoon must apply for a license therefor within 30 days of the adoption of this chapter. If the place where he conducts such activity or business presently complies with the requirements that a person must meet to secure a license in the first instance, he may be issued a license therefor if he meets the other requirements contained herein. If the place where he conducts such activity or business does not presently comply with the requirements that a person must meet to secure a license in the first instance, he may, at the discretion of the Town Board, be granted a temporary license for a period not to exceed six months, during which period he must arrange the place where he conducts such activity or business so that it does then comply with the requirements a person must meet to secure a license in the first instance. The Town Board, in its discretion, may grant an additional six-month period to comply with the requirements set forth herein upon application showing the efforts made to comply with the requirements and the reasons for which an extension is needed. If, at the end of such period, such person has not so arranged his place of such activity or business, he shall forthwith cease and desist engaging in or conducting the same and shall remove from such place any autos, parts or other materials of the nature described herein.

§ 137-6. Application for license.

- A. For each separate noncontiguous parcel of land used wholly or partially as a junkyard, each applicant for a temporary or permanent license shall execute, under oath, an application, on the form attached hereto as Appendix A,² which shall contain the following:
 - (1) The Town of Callicoon Tax Map section, block and lot number of each parcel.
 - (2) A recitation that the individual is over 18 years of age.
 - (3) A description of the exact type of activity or business intended to be conducted on the parcel.
 - (4) The nature of the materials intended to be handled.
 - (5) The name and address of the owner or owners of the land and the nature of the right of occupancy of the applicant to use such land.
- B. The applicant shall affirm, under oath, that, if granted the license applied for, he will conduct the activity or business pursuant to the regulations hereinafter set forth and that, upon failure to do so, such license may be revoked after a public hearing as described in § 137-7E of this chapter.

2. Editor's Note: Appendix A is on file in the Town Clerk's office.

- C. At the time of making the application, the applicant shall submit to and file with the Town Clerk a map or plan of the real property upon which the activity or business is proposed, indicating that portion of such real property proposed for junkyard use; the location of the fence or enclosure required hereunder; the location of any building on such land; the location of any streets or highways abutting or passing through such land; and the names and addresses and deed references of all abutting landowners and property owners within 1,500 feet of the proposed parcel perimeter.

§ 137-7. Fees; display of license; duration; nontransferability; revocation.

- A. The initial and annual fee for the license is hereby fixed as follows:
 - (1) Twenty or more autos or parts thereof: \$150.
 - (2) Ten to 19 autos or parts thereof: \$100.
 - (3) Fewer than 10 autos or parts thereof: \$75.
- B. Such license shall be displayed in a conspicuous place at the licensee's place of activity or business for which it is issued.
- C. Such license shall be effective from the date of its issuance until the 31st day of December of the year of such issuance, after which a new application for a license must be made yearly if the licensee desires to continue such activity or business. The initial license fee shall be prorated on a monthly basis. Succeeding license fees shall be on an annual basis.
- D. Such license is personal with the licensee. It does not run with the title of the land, nor may it be sold, assigned, transferred or disposed of.
- E. Such license may be revoked by the Town Board after a public hearing. Notice of the public hearing shall be given by publication in the official newspaper and by delivery at the place of business of the licensee 10 days prior to the date of the hearing. The notice of public hearing shall specify the violations and the length of their existence. At the hearing, the Code Enforcement Officer shall present evidence of the violations, and the licensee shall have an opportunity to be heard. The Town Board is not obligated to make or provide a transcript or other record of the hearing. The Town Board, in its discretion, may allow the licensee 30 days within which to correct the violations which have been found to exist. In the event that, at the end of the thirty-day period, the Code Enforcement Officer determines that the violations have not been corrected, the Town Board may revoke the license forthwith. Upon revocation of a license, the Town Board may require the removal of autos, parts and materials left as provided above in the case of an applicant for a temporary license who fails to qualify for a license.
- F. The Town Board shall renew annually the license for a junkyard upon payment of a fee. If the operator is in violation of the provisions of this chapter and has an outstanding summons, he shall not receive renewal until said violations have been corrected.

§ 137-8. Operation requirements.

- A. The licensee must personally be responsible for the management of the activity or business for which the license is granted, whether or not he is present.

- B. All junkyards must erect and maintain, in good repair, a fence high enough to obscure the premises from view from the public highway and adjoining property. The fence must not be less than eight feet high and must be adequate to discourage the entrance of children or others into the area. Fences must be of an opaque material composed solely of wood or wood and hedge or a natural screen and be at least 60 feet from the center line of the right-of-way of any highway. All enclosures must be approved by the Code Enforcement Officer. All equipment and work such as loading and unloading and all material dealt in by the licensee shall be contained within the fence enclosure. No material shall be stacked higher than the height of the fence nor closer than 25 feet to any side line boundary lines. The fence setback distance from the center line of a right-of-way or highway shall not apply to the existing fence of a junkyard licensed at the time of the adoption of this chapter, which fence may remain at its present location. All other setback and fencing requirements shall apply to all junkyards, whether licensed at the time of the adoption of this chapter or not.
- C. All autos, parts and materials dealt in by the licensee shall be disposed of by means other than burning.
- D. The area of the licensee's activity or business shall not be used as a dump area nor as a place for burning and disposal of junk or trash.
- E. Use of a crusher and/or bulldozer must be confined to the hours between 8:00 a.m. and 6:00 p.m., Monday through Saturday. No crushing or bulldozing is allowed on Sundays.³
- F. The Code Enforcement Officer or the Town Board or any of its representatives shall be granted access to the area of the activity or business of the licensee at all reasonable hours to inspect the same for compliance herewith. The Code Enforcement Officer shall have all the necessary authority to enforce this chapter.
- G. The licensee shall maintain roadways for adequate fire protection.

§ 137-9. Enforcement; complaints.

Any person may petition the Code Enforcement Officer to enforce the provisions of this chapter. The Code Enforcement Officer shall proceed to properly record, file and investigate any written complaint about violations. Records shall include action taken in response to complaints. Time and dates shall be noted.

§ 137-10. Penalties for offenses.

- A. The owner or licensee of any such place of business or any person, as defined in § 137-3, who commits or permits any acts in violation of any of the provisions of this chapter or fails to comply with the provisions thereof shall be deemed to have committed an offense against such chapter and also shall be liable for any such violation or the penalty thereof. Each twenty-four-hour period such violation shall continue or be permitted to exist shall constitute a separate violation.

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

- B. For every violation of any provision of this chapter, the licensee or landowner shall be subject to a fine of up to \$100 for the first violation. Each subsequent violation shall be subject to a fine of not less than \$100 and not more than \$250 or 15 days' imprisonment, or both. Such penalty shall be collectible by and in the name of the Town for each twenty-four-hour period that each violation shall continue. [Amended 8-10-1992 by L.L. No. 4-1992]
- C. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of such chapter.
- D. Emergencies. Where it reasonably appears that there is present a clear and imminent danger to the life, safety or health of any person or property unless a junkyard condition, including but not limited to solid waste, debris, garbage and unsafe materials, are immediately removed, secured or demolished, the Town Board may, by resolution, authorize the Code Enforcement Officer to immediately cause the removal, securing or demolition of such unsafe junkyard condition. All expenses of the Town in connection with such removal, securing or demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected in the same manner as provided in Article 15 of the Town Law for levy and collection of a special ad valorem levy. [Added 9-13-2004 by L.L. No. 1-2004]

§ 137-11. Administrative liability.

No officer, agent or employee of the Town of Callicoon shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter. Any suit brought against any officer, agent or employee of the Town of Callicoon as the result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the Town of Callicoon Attorney until the final determination of the proceedings thereon.

Chapter 146

LITTERING

[HISTORY: Adopted by the Town Board of the Town of Callicoon 8-15-1988 by L.L. No. 1-1988. Section 146-9 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

§ 146-1. Title.

This chapter shall be known and may be cited as the "Town of Callicoon, New York, Antilitter Local Law."

§ 146-2. Definitions and word usage.

- A. Word usage. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.
- B. Definitions. For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meanings given herein:

GARBAGE — Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

LITTER — Garbage, refuse and rubbish, as defined herein, which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

NEWSPAPER — Any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States in accordance with federal statute or regulation and any newspaper filed and recorded with any recording officer as provided by general law and, in addition thereto, shall mean and include any periodical or current magazine regularly published with not fewer than four issues per year and sold to the public.

PRIVATE PREMISES — Any dwelling, house, building or other structure designed or used, either wholly or in part, for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant, and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

PUBLIC PLACE — Any and all streets, sidewalks, boulevards, alleys or other public ways and all public buildings, grounds, parks, squares and spaces.

REFUSE — All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings and dead animals.

RUBBISH — Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

VEHICLE — Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

§ 146-3. Placement of litter.

No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the town except in public receptacles, in authorized private receptacles for collection or in the official town dumps or in accordance with Town of Callicoon official orders.

§ 146-4. Placement in receptacles.

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public place or upon private property.

§ 146-5. Sweeping into gutters or streets.

No person shall sweep into or deposit in any gutter, street or other public place within the Town of Callicoon the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.

§ 146-6. Litter from vehicles.

No person, while a driver or passenger in a vehicle, shall throw or deposit litter upon any street or public place within the town or upon private property.

§ 146-7. Trucks causing litter.

No person shall drive or move any truck or other vehicle within the town unless such vehicle is so constructed or loaded as to prevent any load, contents or litter from being blown or deposited upon any street.

§ 146-8. Litter on private property.

No person shall throw or deposit litter on any private property within the town except the owner or person in control of the private property.

§ 146-9. Penalties for offenses.

Any person violating any of the provisions of this chapter, upon conviction thereof, shall be fined in an amount not exceeding \$250 or 15 days' imprisonment, or both. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. In addition, any such person shall be required to remove the litter from the immediate area and transport it to a satisfactory landfill.

§ 146-10. Enforcement.

The Town of Callicoon, New York, Antilitter Local Law shall be enforced by the Town of Callicoon Code Enforcement Officer.

Chapter 159

NOTIFICATION OF DEFECTS

[HISTORY: Adopted by the Town Board of the Town of Callicoon 12-23-1985 by L.L. No. 2-1985. Section 159-4 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

§ 159-1. Unsafe highways, bridges or culverts.

No civil action shall be maintained against the town for damages or injuries to person or property sustained by reason of any highway, bridge or culvert being defective, out of repair, unsafe, dangerous or obstructed unless:

- A. Written notice of such defective, unsafe, dangerous or obstructed condition was received by the Clerk of the governing board or the Highway Superintendent; and
- B. 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.

§ 159-2. Snow or ice on highways, bridges or culverts.

No such action shall be maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any highway or bridge or culvert unless:

- A. Written notice thereof, specifying the particular place, was actually received by the Clerk of the governing board of the town or the Highway Superintendent of the town; and
- B. 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.

§ 159-3. Transmission of notices.

The Highway Superintendent of the town shall transmit, in writing, to the Clerk of the governing board of the town within 10 days after the receipt thereof all written notices received by the Highway Superintendent pursuant to § 159-1 of this chapter.

§ 159-4. Record of notices. ¹

The Clerk of the governing board of the town shall keep an indexed record in a separate book of all written notices which said Clerk shall receive, pursuant to this chapter, of the existence of a defective, unsafe, dangerous or obstructed condition in or upon or of an accumulation of ice or snow upon any town highway, bridge or culvert, which record shall state the date of receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. Said record shall be indexed by the location of the

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

condition. The record of each notice shall be preserved for a period of five years after the date it is received.

Chapter 165

PEDDLING AND SOLICITING

[HISTORY: Adopted by the Town Board of the Town of Callicoon at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Amendments noted where applicable.]

§ 165-1. Title.

This chapter shall be known as the "Peddling and Soliciting Code of the Town of Callicoon."

§ 165-2. Purpose.

This chapter is adopted to regulate the distribution of certain materials, peddling, soliciting and related activities within the town. The licensing of persons engaged in the above-mentioned activities is required so that the identity of persons going door to door or distributing materials within the town may be established and so that general regulations may be more effectively enforced, for the protection and maintenance of the health, safety and welfare of the inhabitants of the town and to prevent dishonest business practices and dishonest solicitation of funds in the town.

§ 165-3. Definitions.

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

DISTRIBUTOR — Any person who distributes or causes to be distributed on any street or public place within the town any newspaper, periodical, book, magazine, handbill, circular, card or pamphlet or printed material of any kind.

MERCHANDISE — All goods, wares, food, meat, fish, ice cream, fruit, vegetables, magazines, periodicals, printed material, farm products, services and orders or contracts for services, home improvement or alterations and anything that may be sold or distributed by peddlers or solicitors as used herein.

PEDDLER — Any person, whether a resident of the town or not, who goes from house to house, from place to place or from street to street, traveling by foot, automotive vehicle or any other type of conveyance, carrying or transporting merchandise for the purpose of selling and delivering the merchandise to customers. The word "peddler" shall also include the words "hawker" and "huckster."

PERSON — Any individual, firm, partnership, corporation, organization, club, association or any principal or agent thereof.

SOLICITOR

A. Any person, whether a resident of the town or not, who goes from house to house, from place to place or from street to street, traveling by foot, automotive vehicle or any other

type of conveyance, soliciting, taking or attempting to take orders for the sale of merchandise or services of any kind for future performance or delivery, whether or not such individual has, carries or exposes for sale a sample of the merchandise or services and whether or not he is collecting advance payments on such sales or orders, or who engages in any of the foregoing activities from a stationary location on any street or other public place.

- B. The word "solicitor" shall also include the word "canvasser."
- C. Any person who goes from door to door, as described above, for the purpose of soliciting and/or collecting funds or solicits and/or collects funds from a stationary location on any street or other public place.

TRANSIENT MERCHANT — Any person engaging in the activities commonly referred to as "transient merchant" or "itinerant vendor" who merchandises or sells with the intent to close out or discontinue such business within a period of one year from the date of commencement and who occupies a room, building, tent, lot or other premises for the purpose of selling merchandise.

§ 165-4. License required.

It shall be unlawful for any peddler, solicitor, distributor or transient merchant to sell, offer for sale or distribute merchandise, printed merchandise, printed material or services within the town without first applying for and obtaining a license from the Town Clerk.

§ 165-5. Information to be submitted.

The following information shall be provided:

- A. The length of time for which the license is desired.
- B. If a vehicle is to be used, a description of such vehicle and its license number.
- C. The place where the merchandise or services to be sold or offered for sale are manufactured or produced, where such goods or property is located at the time such application is filed and the proposed method of delivery.
- D. A photograph of the applicant taken within 60 days immediately prior to the date of the application, which photograph shall clearly show the head and shoulders of the applicant and shall measure two inches by two inches.
- E. Two business references located in the State of New York.

§ 165-6. Restrictions.

No person or license holder shall:

- A. Peddle, solicit or distribute merchandise except between the hours of 8:00 a.m. and 5:00 p.m., unless specifically having been invited into a house by the occupant or having made an appointment with a person previously. Vendors of food products shall be exempt from this restriction.
- B. Attempt to peddle, solicit or distribute merchandise or printed material without first having

identified himself as a peddler, solicitor or distributor registered with the town and displaying his license.

- C. Have exclusive right to any location in the public streets or operate in any congested area where his operations might impede or inconvenience the public.
- D. Leave at a property or house or in any public place circulars, samples or other matter, except "newspapers," which shall be defined as periodicals with a paid circulation of at least 90% of their total circulation, except when handed to a person or house occupant.
- E. Enter or attempt to enter the land of any resident in the town without an express invitation from the occupant of the house.
- F. Conduct himself in such a manner as to become objectionable to or annoy an occupant of any house.
- G. Shout, cry out, blow a horn or use any sound-making or -amplifying device upon any of the streets, parks or public places of the town or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, parks or other public places of the town or upon private premises therefrom, for the purpose of attracting attention to any merchandise or services.
- H. Distribute obscene merchandise or printed material or that which advocates unlawful conduct.
- I. Litter the streets, public places or properties within the town with any merchandise or printed material.
- J. Peddle, solicit or sell in the Town of Callicoon outside of permanent buildings. This provision is intended to prohibit peddling, soliciting or selling from trucks, temporary stands, vans, autos or other motor vehicles except by special permit but shall not be applicable to permanently established nurseries or vending machines and vendors of food and food products.

§ 165-7. License fees.

- A. The fees to be paid for a license to engage in the occupation of peddler, solicitor, distributor or transient merchant shall be provided in the licensing fee schedule as adopted by the Town Board.
- B. Where an organization has several agents peddling, soliciting or distributing merchandise or printed material, each agent shall be licensed separately, and each shall pay the appropriate fee.

§ 165-8. Exemptions from bonding requirements.

The Town Board may, by resolution, exempt persons from the bond requirement, provided that the applicant satisfies the Board that the nature of his activity does not jeopardize the residents.

§ 165-9. Exempt parties.

The following persons are exempt from the requirements of this chapter:

- A. Any person possessing a peddler's license issued in conformity with the New York State General Business Law.
- B. Any person engaged in the delivery of goods, wares or merchandise or other articles or things, in the regular course of business, to the premises of persons who had previously ordered the same or were entitled to receive the same by reason of prior agreement.
- C. Any person selling fruits and farm products grown by himself, with or without the help of others.
- D. Any school, charitable, political or civic organization, benevolent society, service club or nonprofit organization which is located in or has a substantial membership from the town.

§ 165-10. Penalties for offenses.

- A. Any person committing an offense against any provision of this chapter shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding \$250 or by imprisonment for a term not exceeding 15 days, or both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate, distinct offense hereunder.
- B. In addition or as an alternative to the above-provided penalties, the Town Board may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

Chapter 176

RECORDS

[HISTORY: Adopted by the Town Board of the Town of Callicoon: Art. I, 3-9-1992 by L.L. No. 3-1992. Amendments noted where applicable.]

ARTICLE I

Management Program

[Adopted 3-9-1992 by L.L. No. 3-1992]

§ 176-1. Intent.

Records are essential to the administration of local government. They contain the information that keeps government programs functioning. It is the intent of this Article that a records management program be established which will assist officials in making decisions, administering programs and providing administrative continuity with past operations. The program is intended to document the delivery of services, show the legal responsibilities of government and protect the legal rights of citizens. It will contain information on taxation and on the management and expenditure of funds. These records will also document the historical development of government itself, the community and the people of the Town of Callicoon.

§ 176-2. Program established; designation of records management officer.

- A. There shall be a records management program established under the protection of the Town Clerk and headed by a records management officer. The Town Clerk is designated as the records management officer (RMO) and will be responsible for administering the current and archival public records in storage areas for the town in accordance with local, state and federal laws and guidelines.
- B. The RMO may appoint a designee to carry out the specific duties listed in § 176-4.

§ 176-3. Definitions.

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

ARCHIVES — Those official records which have been determined by the officer and advisory committee to have sufficient historical or other value to warrant the continued preservation by the town.

RECORDS — Official files, minutes and documents, books, papers, photographs, sound recordings, microfilms or any other materials, regardless of physical form or characteristics, made or received pursuant to law or in conjunction with the transaction of official town business.

RECORDS CENTER — A central storage area maintained by the records management officer for the storage, servicing, security and processing of records which must be preserved for varying periods of time.

RECORDS DISPOSITION — The removal by the Town of Callicoon, in accordance with approved records control schedules (MU-1), of the records no longer necessary for the conduct of business by such agency through removal methods, which may include the disposition of temporary records by destruction or donation, or the transfer of records to a central storage facility for records with scheduled retention periods or permanent storage of records determined to have historical or other sufficient value warranting continued preservation.

RECORDS MANAGEMENT — The planning, controlling, directing, organizing, training, promotion and other managerial activities involved in records creation, records maintenance and use and records disposition, including records preservation, records disposal and the records center or other storage facilities.

SERVICING — Making information in records available to any agency for official use or to the public.

§ 176-4. Powers and duties of records management officer.

The records management officer shall have all the necessary powers to carry out the efficient administration, determination of value, use, preservation, storage and disposition of the public records kept, filed or received by the officers and departments of the town.

- A. The records management officer shall continually survey and examine public records to recommend their classification so as to determine the most suitable method to be used for maintaining, storing and servicing them under the following guidelines:
 - (1) Disposition: Records deemed obsolete and unnecessary according to the New York State Retention and Disposition Schedule.
 - (2) Archival retention: Information containing administrative, legal, fiscal, research, historical or educational value which warrants their permanent retention.
 - (3) Active retention: Records not yet subject to disposition according to state law.
- B. The records management officer shall establish guidelines for proper records management in any department of the town government in accordance with local, state and federal laws and guidelines.
- C. The records management officer shall report annually to the governing body on the powers and duties herein mentioned, including but not limited to the development and progress of programs to date and planned activities for subsequent years.
- D. The records management officer shall operate a central records management storage facility for storage, processing and servicing of all town records for all town departments and agencies.
- E. Additional requirements of the records management officer include but are not limited to:
 - (1) The development of a comprehensive records management program.
 - (2) The conduct of an initial survey and analysis of all records, to be followed up annually with a report of records stored.

- (3) The encouragement and coordination of the continuous legal destruction of obsolete records through the adoption and use of the state archive records retention and disposition schedules.
- (4) The development of suitable retention periods for records not covered by the state records retention and disposition schedules. (Subsequently, the RMO must secure approval of such retention periods from the New York State Commissioner of Education and gain adoption from the Town Board of any proposed change before the retention period takes effect.)
- (5) The assistance to each department for the establishment of a records management system to support the overall town records management program; encouraging the continued efficient management of records within respective departments.
- (6) The setting up and overseeing of a center for the storage area.
- (7) Maintain archival materials which are not official town records but which have historical value to the community or close relationship to the existing archival collection. This shall be subject to archive space, staff and cost limitations and to the potential endangerment of such materials if they are not collected by the archives.
- (8) The coordinating and carrying out or participating in the planning for development of advanced records management systems and equipment.
- (9) The preparation of special and annual reports for the Town Board on records management program progress, cost savings and cost avoidance problems and additional issues.

§ 176-5. Records Advisory Board.

There shall be a Records Advisory Board designated to work closely with and provide advice to the records management officer.

- A. The Board shall consist of five members, suggested but not limited to the following areas: Town Historian, a department head, a Councilperson, a library representative, an attorney and a member of the community. Appointments shall be made by the supervisor.
- B. The Board shall meet periodically and have the following duties:
 - (1) To provide advice to the records management officer on the development of the records management program.
 - (2) To review the performance of the program on an ongoing basis and propose changes and improvements.
 - (3) To review any changes in retention periods proposed by the records management officer for records not covered by the state archive schedules.
 - (4) To provide advice on the appraisal of records for archival value and to be the final sign-off entity as to what is or is not archival.

§ 176-6. Custody and control of records.

- A. Active records. The originating department has full custody (legal and physical) over records still in active use.
- B. Inactive records. The Town Board is the legal custodian of its records and shall retain the power to retrieve and use records deposited in inactive storage in the records center. The RMO will have physical custody of inactive records and will determine the method and design of storage.
- C. Archival records. Records transferred to or acquired by the archives shall be under the full custody (legal and physical) of the archives, as directed by the RMO, rather than the department which created or held them immediately prior to being transferred to the archives.
 - (1) Records shall be transferred to the archives upon the recommendation of the RMO and/or the Historian, with the approval of the head of the department which had custody of the records and the approval of the Records Advisory Board and the final approval of the RMO.
 - (2) Records may be removed (temporarily or permanently) from the archives at the request of the RMO or the head of the department which had custody of the records immediately prior to the transfer of those records to the archives, subject to the approval of the Records Advisory Board.

§ 176-7. Disposition of records.

No records shall be destroyed or otherwise disposed of by a department of the town until it has met the time limit on the state records retention and disposition schedule or unless approved by the records management officer. No records shall be destroyed or otherwise disposed of by the Records Management Officer without the express written consent of the Town Board. Following required consents and prior to actual destruction, the RMO will allow the Town Historian to review and/or remove any single document or sampling of documents that are of historic value to the community.

§ 176-8. Recovery of records.

The Legal Department may take steps to recover local government records which have been alienated from proper custody and may, when necessary, institute actions of replevin. ("Replevin" shall mean the recovery by a person of goods claimed to be his on his promise to test the matter in court and give the goods up again it defeated.)

§ 176-9. Public access to records.

To comply with Article 6 of the Public Officers Law, the following format will be followed:

- A. All requests for information shall be in writing, reasonably describing the record requested and made during regular business hours of the Town of Callicoon offices.
- B. Within five business days of the receipt of the written request, one of the following will occur:

- (1) The record will be made available to the person requesting it.
 - (2) The request will be denied, in writing, with the reason for denial.
 - (3) A written acknowledgement of the receipt of the request and a statement of the approximate date when such request shall be granted or denied will be forwarded.
- C. Any person denied access to a record may appeal, within 30 days, in writing, such denial to the Town Board.
- D. The Town Board is hereby designated as the appeal agency for determination of denials and will proceed as follows:
- (1) The Town Board shall, within 10 business days of the receipt of an appeal, fully explain, in writing, to the person requesting the record the reason for further denial, or the Town Board shall provide access to the record sought.
 - (2) The Town Board shall forward to the Committee on Open Government a copy of such appeal when received by the agency and shall also forward to said Committee the ensuing determination thereon.
- E. A set fee will be charged per photocopy of a record. Such charges will be established by resolution of the Town Board.

Chapter 178

ROAD USE AND PRESERVATION

[HISTORY: Adopted by the Town Board of the Town of Callicoon 2-11-2013 by L.L. No. 1-2013. Amendments noted where applicable.]

GENERAL REFERENCES

Forestry operations and commercial logging — See Ch. 126.
Subdivision of land — See Ch. 185.
Vehicles and traffic — See Ch. 195.
Zoning — See Ch. 203.

§ 178-1. Findings and purpose; intent.

- A. The purpose of this chapter is to maintain the safety, health, and general welfare of Town residents by regulating high-impact activities that have the potential to adversely affect roads and public and nonpublic property. Well-maintained roads are important to the economic well-being of the Town, and while certain high-impact construction and maintenance operations, and high-impact commercial endeavors, can be economically beneficial, it is known that heavier trucks and equipment, and heavy loads carried by such vehicles, deteriorate the pavement structure at an accelerated rate. Such principles are embodied in documents published by the American Association of State Highways and Transportation Officials ("AASHTO"), which are widely accepted and used throughout the United States. As such, it is the intent of this chapter to protect Town roads from excess damages caused by frequent passes of heavy trucks.
- B. Accordingly, the Town Board has determined that certain high-intensity traffic associated with large construction projects can damage and significantly reduce the life of Town highways, which must then be repaired at the expense of the Town's taxpayers. The Town Board has further determined that such damage can be reliably measured using recognized engineering standards published by ASHTO and others. In addition, the Town Board has determined that the strength and capacity of Town highways may in some cases be inadequate to meet the demands of traffic for large construction and high-impact projects and that upgrades to Town highways may be necessary to accommodate such traffic. The Town Board finds that it is in the best interest of the citizens and taxpayers of the Town to have the developers of such large construction and high-impact projects bear responsibility for making any necessary upgrades to Town highways and repairing any damage caused to Town highways at the expense of such developers. The purpose of this chapter is to establish a mechanism by which the developers of large construction and high-impact projects that will generate traffic likely to require upgrades or cause damage to Town highways shall ensure that such upgrades are made and such damage is repaired at the developer's own expense.

§ 178-2. Legislative authority.

This chapter is enacted pursuant to the New York State Constitution, Art. 9, § 2(c)(6); New York Vehicle and Traffic Law § 1660; New York Municipal Home Rule Law § 10; New York Statute of Local Governments § 10; New York Highway Law §§ 320 and 326; and New York Town Law § 130.

§ 178-3. Definitions.

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

BASELINE TRAFFIC — Recurring ambient traffic presented on an annualized basis. It includes typical daily activities on Town highways (hereinafter defined) such as passenger vehicles, school buses, delivery vehicles, garbage trucks, and normal commuter and business traffic. Baseline traffic is the cause of normal wear and tear for which a Town highway is constructed. Baseline traffic does not include unusual heavy traffic occurring on a temporary basis for such things as construction activity (hereinafter defined).

CONCENTRATED TRAFFIC — Traffic intended to travel upon or traveling upon Town highways to or from the site of construction activity which is not baseline traffic, and which will exceed the predetermined normal wear and tear thresholds of one or more Town highways or segments of Town highways.

CONSTRUCTION ACTIVITY — Any activity occurring or to occur in or outside of the Town that results in land disturbance or the improvement of a parcel. Evidence of construction activity includes, without limitation, those activities which are also being undertaken, subject to:

- A. Federal permits and approvals, including, without limitation, approvals subject to the National Environmental Policy Act¹ and activities subject to the following nationwide permits as amended and issued by the U.S. Army Corps of Engineers: Permit 8 (oil and gas structures), Permit 12 (utility line activities), Permit 13 (bank stabilization), Permit 16 (return water from upland contained disposal areas), Permit 17 (hydropower projects), Permit 21 (surface coal mining operations), Permit 29 (residential developments), Permit 33 (temporary construction, access, and dewatering), Permit 38 (cleanup of hazardous and toxic waste), Permit 39 (commercial and institutional developments), and Permit 44 (mining activities); or
- B. State permits and approvals, including, without limitation: highway work permits; waste transporter permits; SPDES general permit for stormwater discharges from construction activity and other SPDES discharge permits; oil, natural gas, and solution mining permits and other mining permits; overweight/oversize vehicle permits; authority to transport property (except household goods); divisible load overweight permits; special hauling trip and annual oversize/overweight loads permits; LCV/tandem trailer permits; and special hauling permits; or
- C. Local permits and approvals, if applicable, including, without limitation: aquifer protection permits, sludge disposal permits, mining permits, gravel mining permits, permits for well in aquifer area, overweight/oversize vehicle permits, special use permits, zoning changes, and site plan approval.

1. Editor's Note: See 42 U.S.C. § 4321 et seq.

PERSON — Any person, persons, corporation, partnership, limited-liability company, or other entity.

PROGRAM MANUAL — Road Protection Program Manual, Version 2.0, dated February 2012, prepared by Delta Engineers, Architects, & Land Surveyors, P.C., a copy of which is on file and available at the Town's offices located at 19 Legion Street, Jeffersonville, NY 12748.

TECHNICAL MANUAL — Road Protection Program Technical Manual, Version 2.0, dated February 2012, prepared by Delta Engineers, Architects, & Land Surveyors, P.C., a copy of which is on file and available at the Town's offices located at 19 Legion Street, Jeffersonville, NY 12748.

TOWN HIGHWAY — Those roads and highways and related appurtenances of the Town which are owned or maintained by the Town or otherwise exist as Town highways by dedication or use, including, without limitation, roadways, shoulders, guide rails, bridges, tunnels, culverts, sluices, ditches, swales, sidewalks, or any utilities or improvements therein, thereon, or thereunder.

TOWN HIGHWAY SUPERINTENDENT — The Superintendent of Highways or his or her designee.

§ 178-4. Applicability.

This chapter shall apply to any person who, individually or in concert with another person, intends to undertake construction activity that will result in concentrated traffic on Town highways.

§ 178-5. Determination of whether proposed use constitutes concentrated traffic.

- A. Any person identified under § 178-4 of this chapter shall, prior to undertaking such construction activity or allowing, directing, or inducing concentrated traffic to travel upon Town highways, submit a haul route application form and project traffic worksheet to the Town Highway Superintendent in accordance with the forms and procedures set forth in the Program Manual.
- B. The Town Highway Superintendent shall review such application and worksheet in accordance with the Program Manual and the Technical Manual. Within no more than 30 days after receipt of a complete haul route application and project traffic worksheet, the Town Highway Superintendent shall notify the applicant whether the use of Town highways will result in concentrated traffic.
 - (1) If the proposed use of Town highways will not result in concentrated traffic, the remaining provisions of this chapter shall not be applicable to the applicant.
 - (2) If the proposed use of Town highways will result in concentrated traffic, the applicant must either modify the intended haul route and certify to the Town that no traffic generated by the applicant's construction activity will travel over or upon a Town highway so that such traffic will not constitute concentrated traffic or comply with the provisions of § 178-6 of this chapter.

§ 178-6. Requirements for concentrated traffic.

If the Town Highway Superintendent determines that traffic generated by an applicant's construction activity will result in concentrated traffic, the applicant shall be required to comply with the following provisions:

- A. The applicant shall be required to set forth a haul route declaration as set forth in the Program Manual.
- B. The Town's engineering consultant shall examine each segment of the proposed haul route in order to:
 - (1) Evaluate the Town highways on the proposed haul route for design, geometric, or health and safety deficiencies, as those deficiencies are defined more fully by the Program Manual; and
 - (2) Estimate the costs and procedures necessary to upgrade such Town highways on the proposed haul route if the Town's engineering consultant determines that the Town highways on the proposed haul route must be upgraded to accommodate the applicant's concentrated traffic; and
 - (3) If available, propose an alternate haul route if required due to design deficiencies or if desired by the applicant to minimize estimated upgrade or repair costs to the haul route.
- C. The Town's engineering consultant shall design or approve, in conjunction with the Town Highway Superintendent or the Town Engineer, all structural, geometric, and roadbed upgrades to Town highways necessary to accommodate the applicant's concentrated traffic, which upgrades shall be made at the applicant's expense in accordance with the provisions of Subsection H. An applicant that has completed upgrades to Town highways in accordance with this subsection will not be responsible for repairing Town highways on the applicant's haul route, provided that the applicant's actual traffic does not exceed the scope, volume, weight, or trips reported on the applicant's haul route declaration.
- D. The Town's engineering consultant shall conduct all pre-use testing and capacity evaluation of each segment of a haul route that is a Town highway in accordance with the methods set forth in the Program Manual and the Technical Manual.
- E. If no upgrades have been required and/or made to the Town highways on the proposed haul route and the Town's engineering consultant determines that the applicant's concentrated traffic is expected to cause damage to Town highways, the Town's engineering consultant shall provide the Town Highway Superintendent and the applicant with an estimate of the cost to repair such expected damage. Prior to the use of any haul route segment on Town highways, the applicant shall agree to make all such repairs at the applicant's expense in accordance with the provisions of Subsection H (including the posting of appropriate security). If any haul route segment is on a Town highway that is unpaved or prone to seasonal deterioration, or likely to suffer sudden failure that would impair the safe travel and usage of such Town highway, the Town Highway Superintendent may require, upon the recommendation of the Town's engineering consultant, that such Town highways be subject to weekly monitoring and that any damage be repaired within five days at the applicant's expense in accordance with the provisions of Subsection H.

- F. The Town's engineering consultant shall conduct all post-use testing and damage assessment of each segment of a haul route that is a Town highway in accordance with the methods set forth in the Program Manual and the Technical Manual. The Town's engineering consultant shall provide an estimate of the cost of repairing any actual damage to Town highways caused by the applicant's concentrated traffic. Upon receiving the estimate, the applicant shall make all such repairs, at the applicant's expense, in accordance with the provisions of Subsection H. Upon the satisfactory completion of the repairs and the approval of such repairs by the Town Highway Superintendent, any unused security shall be returned to the applicant or otherwise released as herein required.
- G. Any security for performance and/or payment required under this chapter shall be in an amount set by the Town Board upon the recommendation of the Town's engineering consultant. Any such security shall be provided pursuant to a written security agreement with the Town, approved by the Town Board and also approved by the Town Attorney as to form, sufficiency, and manner of execution. At the Town Board's discretion, the security may be in the form of a performance or payment bond, as applicable, the deposit of funds with the Town, an irrevocable letter of credit from a bank authorized to do business in New York State, or other financial guarantee acceptable to the Town Board. If the Town's right to collect against any security is contested and the Town prevails, then the applicant shall pay the Town an amount sufficient to reimburse the Town for its reasonable costs and expenses in obtaining a judgment, including attorneys' fees.
- H. An applicant shall be permitted to undertake upgrade or repair work only if the Town Highway Superintendent determines that the applicant, or a contractor hired by the applicant, has the capability and experience to make the necessary repairs or upgrades. All work shall be performed pursuant to an agreement, in writing, between the applicant and the Town, which shall require, among other things, the applicant or its contractor to complete the work in a timely fashion, post security in accordance with the requirements of Subsection G, indemnify the Town against all liability stemming from the applicant's work, and provide the Town with satisfactory evidence of insurance as determined by the Town, including liability insurance naming the Town as additional insured. All repairs or upgrades to Town highways shall be made in accordance with the specifications established by the Town Highway Superintendent and must be approved by the Town Highway Superintendent. In addition the applicant shall comply with all applicable laws and regulations, including, without limitation, the prevailing wage requirements of New York Labor Law. The applicant or its contractor shall obtain all governmental permits and approvals and obtain any private land rights that are necessary to make any required repairs or upgrades to Town highways. If the applicant does not wish to make such repairs or upgrades to Town highways, or is determined by the Town Highway Superintendent not to have the necessary capability to make such repairs or upgrades, then the applicant shall agree, in writing, to pay the Town for the cost of such repairs or upgrades, to Town highways and post security in accordance with the requirements of Subsection G.
- I. To the extent permitted by law, the applicant shall defend, indemnify, and hold the Town harmless from all losses resulting from injury or death of persons or damage to property arising from the applicant's upgrades and repairs to Town highways.
- J. If an applicant disagrees with any decision by the Town Board, the Town Highway

Superintendent, or the Town's engineering consultant in the administration of this chapter, including, without limitation, the extent or method of a proposed highway upgrade or repair, any cost imposed upon the applicant, or an estimate of the amount of security to be held by the Town, and the applicant and the Town are unable to resolve their dispute through negotiation, the applicant may make a written request to the Town Board appealing such decision and requesting a public hearing at which the applicant shall have the right to appear and be heard. The Town Board shall hold such public hearing not fewer than five days nor more than 30 days after such request. The Town Board may reverse, modify, or affirm, wholly or partly, the decision appealed from and shall make such decision as in its opinion ought to have been made in the matter and, to that end, shall have all the powers of the board, official, or consultant from whose decision the appeal is taken. The Town Board shall issue a determination on the applicant's request within 15 days of the public hearing. In view of the Town's obligation to provide its residents with safe and properly maintained highways, the Town Board's determination shall be final.

- K. In order to comply with the requirements of this section, an applicant shall have the option of entering into a road use agreement with the Town. A sample form of road use agreement meeting all the requirements set forth herein is attached to and made a part of this chapter as Appendix 1.² The applicant may ask to modify such form or propose a different form of road use agreement, but any such agreement must be in a form approved by the Town Board and also approved by the Town Attorney as to form, sufficiency, and manner of execution.

§ 178-7. Deposit of monies and payment of expenses.

- A. The applicant shall pay the Town for all of the Town's reasonable and necessary expenses in implementing and monitoring the requirements of this chapter, including, without limitation, the fees of the Town's engineering consultant in conducting all activities required hereunder and under the Program Manual and Technical Manual and all other legal and consultant expenses and all other additional reasonable expenses associated with the administration of this chapter.
- B. Simultaneous with the filing of a haul route declaration, an applicant shall deposit with the Town Supervisor an initial deposit of monies, as determined by a schedule of deposits established from time to time by resolution of the Town Board, which monies shall be used to pay the expenses incurred by the Town in implementing the requirements of this chapter. Any schedule of deposits established by the Town Board shall remain in effect and apply to all applicants until amended or revised by subsequent resolution of the Town Board.
- C. Upon receipt of any deposit, the Town Supervisor shall cause the monies to be placed in a separate non-interest-bearing account in the name of the Town and shall keep a separate record of all such monies so deposited in the name of the applicant for whom such monies were deposited.
- D. Upon receipt and approval by the Town Board of itemized invoices from the Town's engineering consultant or other consultant or attorney for services rendered and/or costs

2. Editor's Note: Appendix 1 is on file in the Town Clerk's office.

incurred on behalf of the Town pertaining to the applicant's activities regulated by this chapter, the Town Supervisor shall cause such invoices to be paid out of the monies so deposited and shall debit the separate record of such account accordingly. When submitting invoices to the Town Board, the consultant or attorney shall simultaneously furnish copies of such invoices to the applicant.

- E. The Town Board shall review and audit all such invoices and shall approve payment of only such expenses as are reasonable in amount and necessarily incurred by the Town in connection with any of the following activities: the evaluation of haul routes; pre-use testing and capacity evaluation of haul routes; design and approval of all structural, geometric, and roadbed upgrades to Town highways; post-use testing and damage assessment of haul routes; the preparation and review of cost estimates for upgrades and repairs; the evaluation of repairs and upgrades made to Town highways and the maintenance and removal of same; the preparation of recommendations for the amount of security to be posted by an applicant; the preparation and negotiation of road use agreements, security agreements, or other agreements between the Town and an applicant; the enforcement of any such agreement; the collection of or enforcement against any security posted by an applicant; and all other activities performed by consultants and attorneys on behalf of the Town in connection with the application of this chapter to a particular applicant. For purposes of the foregoing, an expense is reasonable in amount if it bears a reasonable relationship to the average charge by consultants and attorneys to the Town for performing similar services, and in this regard, the Town Board may take into consideration the length of the haul routes to be evaluated, the condition of the Town highways under consideration, the extent of the upgrades and repairs to be made to Town highways, the complexity of the issues addressed by the consultant or attorney, the difficulty of negotiations with an applicant, and any special considerations that the Town Board may deem relevant. An expense is necessarily incurred if it was charged by a consultant or attorney in performing services or providing material in order to promote, protect, and maintain the safety, health, and general welfare of the public; protect, preserve, and maintain Town highways; protect the legal interest of the Town, including the avoidance of claims and liability; and promote, protect, or preserve such other interests as the Town Board may deem relevant.
- F. If at any time during the Town's oversight of an applicant's activities regulated by this chapter there shall be insufficient monies on deposit with the Town to pay approved invoices, or if it shall reasonably appear to the Town Supervisor that such monies will be insufficient to pay anticipated invoices, then the Town Supervisor shall cause the applicant to submit additional sums as the Supervisor deems necessary or advisable in order to meet such expenses.
- G. In the event that an applicant fails to deposit such monies or additional monies as reasonably requested, the Town Supervisor shall notify, as appropriate, the Town Board and/or Town Highway Superintendent of such failure, and any review or approval under this chapter may be withheld until such monies are deposited. The failure to deposit such monies within 15 days after receipt of notice by the Town Supervisor shall constitute a violation of this chapter, enforceable in accordance with § 178-13 of this chapter.
- H. After the cessation of all of the applicant's activities regulated by this chapter, and after

payment of all approved invoices submitted in connection with such activities, any sums remaining on account to the credit of such applicant shall be returned to such applicant together with a statement of the invoices so paid.

§ 178-8. Updates to Program Manual and Technical Manual.

From time to time, updates to the Program Manual and the Technical Manual may be published. The Town Board may from time to time update or replace any manual referenced in this chapter by adopting a local law referencing such new or updated manual, and thereafter, the new or updated manual shall be binding on all persons subject to this chapter.

§ 178-9. Application fees.

The Town Board may establish, by resolution, a schedule of fees relating to applications, approvals, inspections, and enforcement under this chapter, which resolution may be revised at the Town Board's discretion from time to time.

§ 178-10. General terms and conditions.

- A. No approval issued under this chapter, nor any rights granted, nor obligations imposed hereunder or pursuant to any road use agreement may be assigned, conveyed, pledged, or transferred without the express prior written consent of the Town Highway Superintendent.
- B. Notwithstanding any approval granted under this chapter or any rights granted under any road use agreement, all Town highways shall be kept passable at all times for all motor vehicles, including emergency and public safety vehicles. If any concentrated traffic causes damage to any Town highway such that, in the opinion of the Town Highway Superintendent, such Town highway is impassable or unsafe for use by the general public, then and in any such event, and regardless of any approval, authorization, or agreement issued or to the contrary, the Town Highway Superintendent may close such Town highway and/or require that the same be immediately repaired by the applicant or other person whose use or abuse thereof caused or contributed to the damages or events as gave rise, wholly or partially, to such Town Highway Superintendent's determination as to closure, damage, safety, or need for repair.
- C. In granting any approval under this chapter or in entering into any road use agreement, the Highway Superintendent or Town Board, as the case may be, may impose conditions relating to seasonal restrictions or the documentation of road conditions or conditions deemed reasonably necessary to promote, protect, and maintain the safety, health, and general welfare of the public.
- D. In the event that any applicant makes any upgrades or improvements to any Town highway, the Town reserves the right to require that such improvements be removed at the conclusion of the relevant construction activity and that the Town highway be restored, to the extent feasible, to its original dimensions and specifications. All removal and restoration shall be performed in accordance with § 178-6H of this chapter.

§ 178-11. Exceptions.

The Town Board may, by resolution, except an applicant from the requirements of this chapter, provided that the Town Board makes a finding that the Town highways to be used by the applicant will be adequately protected and any damage to Town highways will be adequately repaired by virtue of the requirements or conditions imposed upon the applicant in connection with any federal, state, or local permit or approval, including, without limitation, mitigation measures imposed under the National Environmental Policy Act³ or the State Environmental Quality Review Act.⁴

§ 178-12. SEQRA compliance.

- A. Before issuing any approval required under this chapter or before approving any road use agreement, the Town shall comply with the applicable provisions of the State Environmental Quality Review Act, Article 8 of the New York State Environmental Conservation Law, and its implementing regulations set forth in 6 NYCRR 617 (collectively referred to as "SEQRA").
- B. When required by the Town, an applicant must complete and submit an environmental assessment form ("EAF") to the Town.
- C. Environmental review not required.
 - (1) For purposes of this chapter or for any road use agreement, the following actions have been determined not to have a significant impact on the environment and do not require any environmental review under SEQRA as a Type II action:
 - (a) Maintenance or repair of an existing Town highway involving no substantial changes to the Town highway;
 - (b) Replacement, rehabilitation or reconstruction of a Town highway, in kind, on the same site, unless such action meets or exceeds any of the thresholds for a Type 1 action set forth in 6 NYCRR 617.4;
 - (c) Repaving of an existing Town highway not involving the addition of new travel lanes;
 - (d) Openings in the pavement or right-of-way of a Town highway for the purpose of repair or maintenance of existing utility facilities;
 - (e) Installation of traffic control devices on existing Town highways; and
 - (f) Any other actions listed as Type II actions in SEQRA.
 - (2) All other actions require compliance with SEQRA.

§ 178-13. Enforcement; penalties for offenses.

- A. The Town Highway Superintendent and Town Code Enforcement officers are hereby authorized to issue and serve appearance tickets with respect to any violation of this

3. Editor's Note: See 42 U.S.C. § 4321 et seq.

4. Editor's Note: See Environmental Conservation Law § 8-0101 et seq.

chapter.

- B. All provisions of New York law generally applicable to misdemeanors shall apply to any criminal proceeding brought under this chapter, and any violation of this chapter shall be deemed and classified as an unclassified misdemeanor. Each week that a violation continues uncorrected or is resumed shall constitute a separate additional violation. A conviction of a first violation is punishable by a fine of not more than \$5,000 or imprisonment not to exceed three months, or both. A conviction of a second violation occurring within a period of five years is punishable by a fine of not less than \$5,000 nor more than \$10,000 or imprisonment not to exceed six months, or both. A conviction of a third or subsequent violation occurring within a period of five years is punishable by a fine of not less than \$10,000 nor more than \$25,000 or imprisonment not to exceed nine months, or both. If the violator is a corporation or limited-liability company (LLC), the president of the corporation or the manager of the LLC shall be subject to the term of imprisonment.
- C. In lieu of or in addition to any fine or imprisonment, or both, imposed for a conviction of a violation of this chapter, each such violation may be subject to a civil penalty not to exceed \$10,000, to be recovered in an action or proceeding in a court of competent jurisdiction. Each week that a violation continues uncorrected or is resumed shall constitute a separate additional violation.
- D. In addition to the foregoing punishments and penalties, the Town Attorney, or his designee, may, at the request of the Town Board, maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction any violation of this chapter.
- E. Stop-work orders.
 - (1) In addition to any penalties or other remedies provided for or allowed herein, the Town Highway Superintendent shall have the right and authority to issue a stop-work order in order to halt any use of or work on one or more Town highways that is determined by the Town Highway Superintendent to:
 - (a) Pose an unreasonable risk to the safety, health, or general welfare of the public, without regard to whether such use of or work on Town highways has been authorized pursuant to this chapter or by a road use agreement; or
 - (b) Pose a risk of imminent harm to Town highways, without regard to whether such use of or work on Town highways has been authorized pursuant to this chapter or by a road use agreement; or
 - (c) Be contrary to any applicable provision of this chapter.
 - (2) All stop-work orders shall be in writing, be dated and signed by the Town Highway Superintendent, state the reason or reasons for issuance, state with specificity the particular use of and/or work on Town highways that must cease and the particular Town highways for which the stop-work order is effective, and, where applicable, state the conditions which must be satisfied before the use of or work on such Town highways shall be permitted to resume.

- (3) The Town Highway Superintendent shall cause the stop-work order, or a copy thereof, to be served personally or by certified mail or by email or by fax on the following persons, where applicable:
 - (a) The person who has submitted a haul route declaration to the Town and whose use of or work on Town highways is the subject of the stop-work order; and
 - (b) The person who is a party to a road use agreement with the Town and whose use of or work on Town highways is the subject of the stop-work order; and
 - (c) Any identifiable contractor, subcontractor, construction superintendent, hauler, or any of their agents, or any other person taking part or assisting in the use of or work on Town highways that is the subject of the stop-work order.
 - (4) Upon the issuance of a stop-work order, all persons performing, taking part, or assisting in the use of or work on Town highways that is the subject of the stop-work order shall immediately cease all such use of or work on such Town highways. The failure to comply with the terms and conditions of a stop-work order issued hereunder shall constitute a violation of this chapter.
 - (5) A stop-work order may be rescinded only by the Town Highway Superintendent upon receipt of evidence that the conditions or actions that led to the issuance of the stop-work order have been abated or adequately addressed. Notwithstanding the foregoing, the failure to serve any person mentioned above shall not affect the validity or effectiveness of the stop-work order.
- F. The remedies set forth in this section shall not be the exclusive remedies available to the Town, and the pursuit of any particular remedy shall be in addition to, and not in substitution or limitation of, the right and authority to pursue any other remedy or other penalty. In addition to the remedies prescribed herein, if any use of Town highways is made or threatened in violation of the New York Highway Law, the New York Vehicle and Traffic Law, or other local law or ordinance of the Town, the Town Highway Superintendent may, in the name of and on behalf of the Town, seek all remedies allowed pursuant to such laws or ordinances.

§ 178-14. Time to act.

The time periods prescribed herein in which the Town Board, the Town Highway Superintendent, other Town official, or the Town's engineering consultant shall act are not of the essence and shall not be construed as imposing a limitation on the time to act.

§ 178-15. Inconsistent provisions; repealer.

In the event of any inconsistency between the provisions of this chapter and the provisions of the Program Manual and the Technical Manual, the provisions of this chapter shall control. All ordinances, local laws, and parts thereof inconsistent with this chapter are hereby repealed.

Chapter 182

SOLID WASTE

[HISTORY: Adopted by the Town Board of the Town of Callicoon: Art. I, 11-18-1991 by L.L. No. 2-1991. Amendments noted where applicable.]

GENERAL REFERENCES

Junkyards — See Ch. 137.

Littering — See Ch. 146.

ARTICLE I

Dumps and Dumping

[Adopted 11-18-1991 by L.L. No. 2-1991]

§ 182-1. Legislative intent.

By the adoption of this Article, the Town Board of the Town of Callicoon declares its intent to regulate, control and prohibit the disposing, storing or abandoning of certain kinds of solid or liquid waste material originating from inside or outside the boundaries of the Town of Callicoon or creating a waste facility within the town. This Article is enacted by the Town Board of the Town of Callicoon in the exercise of its police power and pursuant to § 130, Subdivisions 6 and 15, of the Town Law of the State of New York.

§ 182-2. Definitions.

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

PERSON — Any individual, firm, trust partnership, corporation, municipality or association of persons.

SOLID OR LIQUID WASTE MATERIAL — All putrescible and nonputrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residue, construction and demolition debris, commercial, hospital and industrial wastes and hazardous and toxic wastes. However, the following shall not be considered solid or liquid waste: compostable vegetable matter, wood stove ash or animal manure used in conjunction with agricultural farming practices.

WASTE FACILITY — Any place used for the disposal, storing or abandoning of solid or liquid waste material.

§ 182-3. Prohibited acts.

- A. The willful disposing, storing and abandoning of any kind of solid or liquid waste materials within the Town of Callicoon, other than by the Town of Callicoon, whether such material originates from inside or outside the Town of Callicoon, is hereby prohibited.
- B. The creation, maintenance or operation of a waste facility within the Town of Callicoon, other than by the Town of Callicoon, is hereby prohibited.

§ 182-4. Exceptions.

Nothing herein contained shall be deemed to prohibit any person from disposing or storing noncommercial or nonindustrial solid or liquid waste material on contiguous property upon which such material is produced, provided that such person is in compliance with all other relevant laws and has obtained all necessary permits and approvals from all appropriate governmental and quasi-governmental agencies.

§ 182-5. Penalties for offenses.

- A. Any violation of this Article shall be punishable by a fine of up to \$250 and an additional \$100 for each day on which the violation continues. In addition, any person found to be in violation may be required to hire a qualified engineer to test the soil, groundwater or disposed-of materials for any chemical, bacterial, toxic or hazardous contamination and pay fees and expenses incurred herewith. If contamination is present in amounts that constitute a threat to public health or the environment according to federal and state regulations, such person may be required to hire a qualified engineer, acceptable to the Town Board, to remediate the contamination or to pay the costs of such remediation.
- B. The town may use its power to bring a civil action to restrain any violation of this Article in a court of competent jurisdiction.

§ 182-6. Enforcement.

This Article will be enforced by the Town of Callicoon Code Enforcement Officer.

Chapter 185

SUBDIVISION OF LAND

[HISTORY: Adopted by the Town Board of the Town of Callicoon 2-10-1992 by L.L. No. 2-1992. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 203.

ARTICLE I General Provisions

§ 185-1. Title; authority.

- A. The Town Board of the Town of Callicoon, pursuant to §§ 276 through 282 of the Town Law of the State of New York, hereby enacts the following chapter governing subdivisions within the limits of the Town of Callicoon. This chapter shall be known and may be cited as the "Town of Callicoon Subdivision Law."
- B. The Town of Callicoon Planning Board is hereby authorized to approve plans showing lots, blocks or sites, with or without streets or highways; to approve preliminary plans; and to approve the development of plans already filed in the office of the County Clerk in which such plans are entirely or partially undeveloped.

§ 185-2. Scope.

This chapter provides for the regulation of subdivisions and developments within the Town of Callicoon, Sullivan County, New York, and may be cited as the "Town of Callicoon Subdivision Law."

§ 185-3. Statutory authority.

This chapter is adopted under the authority provided to the Town of Callicoon by §§ 276 through 282 of the Town Law.

§ 185-4. Adoption.

In order that land subdivisions may be made in accordance with the policy of the Planning Board, this chapter, which shall be known as and which may be cited as the "Town of Callicoon Land Subdivision Law," has been adopted by the Town Board on this 10th day of February, 1992.

§ 185-5. Certification to County Clerk.

The Town of Callicoon has authorized its Planning Board to approve plans showing lots, blocks or sites, with or without streets or highways, or the entire or partial development of plans filed in

the office of the Clerk of the county in which such plans are located, or to approve Preliminary Plans as provided in this chapter. The Clerk of the Town of Callicoon has filed a certificate of that fact with the Clerk of the County of Sullivan.

§ 185-6. Applicability.

This chapter shall apply to all subdivisions in the Town of Callicoon proposed after the effective date of this chapter. No subdivision of any lot, tract or parcel of land shall be affected; no street, sewer system, storm sewer, water system or other facilities, in connection therewith, shall be laid out, constructed, opened or dedicated for public use or travel or for common use of occupants of buildings or lands abutting thereon; no lot may be sold; no permit to erect any building may be issued; and no building may be erected, except upon approval of the final plan and in strict accordance with the provisions of this chapter, and until the improvements required in connection therewith have either been constructed or guaranteed as herein provided.

§ 185-7. Purpose.

This chapter has been adopted to provide rules, standards and procedures for the subdivision of land in the Town of Callicoon in order to protect and promote the health, safety and general welfare of the citizens of the town by establishing this chapter to allow for the proper and controlled development of the town, to provide for environmental protection and to ensure the proper provision and maintenance of community facilities.

§ 185-8. Declaration of policy.

It is declared to be the policy of the Planning Board to consider land subdivision plans as part of the plan for the orderly, efficient and economical development of the town. This means among other things:

- A. That land to be subdivided shall be of such character that it can be used safely without danger to health or peril from fire, flood or other menace.
- B. That proper provision shall be made for drainage, water supply, sewerage and other needed improvements.
- C. That the proposed streets shall compose a convenient system conforming to the Official Map, if such exists, and shall be properly related to the proposals shown on the Master Plan, if such exists, 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.

§ 185-9. Construal of provisions.

The provisions of this chapter in their interpretation and application shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare.

§ 185-10. Conflict with other provisions.

- A. This chapter is not intended to interfere with, abrogate or annul any other law, rule or

regulation, statute or provision of law. Where any of the provisions of this chapter impose restrictions different than any other law, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control. This regulation, however, shall replace, in their entirety, those subdivision laws previously in effect in the Town of Callicoon.

- B. Should any of the provisions of this chapter conflict with or be inconsistent with any provision of the Town Law of the State of New York, such provisions of the Town Law shall apply.

§ 185-11. Intent; waivers/modifications.

- A. Intent. The provisions of this chapter are intended as a minimum standard for the protection of the public health, safety and welfare. If the literal compliance with any mandatory provision of this chapter is shown by the applicant, to the satisfaction of the Planning Board, to be unreasonable or to cause undue hardship as it applies to a particular property, or if the applicant shows that an alternative proposal will allow for equal or better results, or if the applicant documents that the requirements or improvements are inappropriate because of inadequacy or lack of connecting facilities adjacent to or in proximity to the subdivision, the Town Planning Board may grant a waiver from such mandatory provision so that substantial justice may be done and the public interest secured while permitting the reasonable utilization of the property. However, the granting of a waiver/modification shall not have the effect of making null and void the intent and purpose of this chapter.
- B. Conditions. In granting waivers/modifications the Planning Board may impose such conditions as will, in its judgment, secure substantially the objectives of the standards and requirements of this chapter.
- C. Procedure. All requests for waivers, modifications shall be in writing, shall accompany and be a part of the development application and shall include:
 - (1) The specific section(s) of this chapter in question.
 - (2) Provisions for the minimum modification necessary as an alternate to the requirements.
 - (3) Justification for the waiver/modification including the full grounds and facts of unreasonableness or hardship.
- D. Action. If the Town Planning Board denies the request, the applicant shall be notified, in writing, of the reasons for denial. If the Planning Board grants the request, the final record plan shall include a note which identifies the waiver/modification as granted. In any case, the Planning Board shall keep a written record of all actions on all requests for waivers/modifications.

§ 185-12. Amendments.

The Town Board may amend this chapter subject to and in accordance with the applicable laws of the State of New York. This chapter shall also be considered amended whenever any provision of the New York State Town Law is itself amended to require or authorize actions

different from those specified herein.

§ 185-13. Fees.

Each application submitted to the Planning Board shall be accompanied by a fee as authorized by New York law and as established from time to time by resolution of the Town Board based upon the recommendation of the Planning Board. In addition to the application fee, the applicant shall also pay the cost of any professional services required by the town for reviewing and processing the subdivision application, such professionals including but not limited to attorneys, engineers and consultants. No plan shall be accepted for review by the Planning Board and no approval shall be granted until such time as the required fee(s) have been paid.

§ 185-14. Exemptions.

This chapter shall apply to all subdivisions in the Town of Callicoon as required in § 185-6 of this Article I, and there shall be no exemptions therefrom.

**ARTICLE II
Definitions and Word Usage**

§ 185-15. Word usage.

- A. Words in the present tense include the future tense; words used in the masculine gender include the feminine and the neuter; words in the singular include the plural, and those in the plural include the singular.
- B. General terms. As used in this chapter, the following general terms shall be interpreted as indicated:
 - (1) The words "developer," "person," "subdivider," "applicant" and "owner" include a corporation, unincorporated association and a partnership or other legal entity, as well as an individual.
 - (2) The word "street" includes "thoroughfare," "avenue," "boulevard," "court," "expressway," "highway," "lane," "arterial" and "road."
 - (3) The word "building" includes structures and shall be construed as if followed by the phrase "or part thereof."
 - (4) The term "occupied" or "used" as applied to any building shall be construed as though followed by the words "or intended, arranged or designed to be occupied or used."
 - (5) The word "lot" includes "plot," "parcel," "tract," "site" or any other similar term.
 - (6) The word "watercourse" includes "channel," "creek," "ditch," "drain," "dry run," "river," "spring" and "stream."
 - (7) The word "abut" shall include the words "directly across from."
 - (8) The words "should" and "may" are permissive.
 - (9) The words "shall" and "will" are mandatory and directive.

C. Terms or words not defined. Where terms or words are not defined, they shall have their ordinarily accepted meanings or such as the context may imply.

§ 185-16. Definitions.

Terms or words used herein, unless otherwise expressly stated, shall have the following meanings:

APPLICANT — See "developer."

BLOCK — A tract of land, lot or groups of lots bounded by streets, public parks, watercourses, boundary lines of the town, unsubdivided land or by any combination of the above.

BUILDING — Any combination of materials forming any structure which is erected on the ground and permanently affixed thereto, designed, extended or arranged for the housing, sheltering, enclosure or structural support of persons, animals or property of any kind.

BUILDING SETBACK LINE — The line within a property defining the minimum required distance between any building to be erected and an adjacent right-of-way line or lot line. Such line shall be measured at right angles from the street right-of-way line or lot line which abuts the property upon which said building is located and shall be parallel to said right-of-way or lot line. The building setback line shall be established as required by the Town of Callicoon Zoning Law and in accordance with the definitions of "front yard" and "yard" contained therein.

CAMPGROUND or RECREATIONAL VEHICLE (RV) PARK — A plot of ground upon which two or more campsites are located, established or maintained for temporary occupancy by persons using tents or recreational vehicles.

CARTWAY (ROADWAY) — The portion of a street right-of-way paved or unpaved intended for vehicular use.

CLEAR SIGHT TRIANGLE — An area of unobstructed vision at the street intersection defined by lines of sight between points at a given distance from the intersection of the street center line.

COMMON OPEN SPACE — A parcel or parcels of land or an area of water or a combination of land and water within a development site designed and intended for the use and enjoyment of residents of the development, not including streets, off-street parking areas and areas set aside for public or community facilities.

COUNTY — The County of Sullivan, State of New York.

CUL-DE-SAC — A minor street having one end open to traffic and being permanently terminated by a vehicular turnaround.

DEDICATION — The deliberate grant of land by its owner and its acceptance by the town for any general and public use, reserving to himself no other rights than those that are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

DEVELOPER — Any landowner, agent of such landowner, tenant with the permission of such landowner, person with an agreement of purchase with the landowner, or any lot owner holding a lot previously unapproved in accordance with this chapter, who makes or causes to be made a subdivision of land.

DRIVEWAY — A privately owned and constructed vehicular access from an approved private or public road into a lot or parcel having frontage on said road.

EASEMENT — A right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public purpose, within which the lessee or owner of the property shall not erect any permanent structure.

ENGINEER — A professional engineer licensed as such in the State of New York.

IMPROVEMENTS — Those physical additions and changes to the land that may be necessary to provide usable and desirable lots.

LANDOWNER — The legal or beneficial owner or owners of land, including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee, if he is authorized under the lease to exercise the rights of the landowner or other persons having a proprietary interest in the land.

LOT — A designated parcel, tract or area of land, regardless of size, established by a plot or other legal means, and intended for transfer of ownership, use, lease or improvements or for development, regardless of how it is conveyed.

LOT AREA — The total area contained within the lot lines of the lot, excluding the area of any public or private road right-of-way.

LOT IMPROVEMENT SUBDIVISION — The realignment of lot lines or the transfer of land to increase the size of an existing lot provided the grantor's remaining parcel complies with all provisions of this chapter and the Town of Callicoon Zoning Law and no new lots are created, or the combination or reallocation of small lots into a larger lot or lots.

MASTER PLAN — The complete plan or any part of the plan for the development of the Town of Callicoon adopted in accordance with the New York State Town Law.

MOBILE HOME — A transportable, single-family dwelling intended for permanent occupancy, office or place of assembly contained in one unit or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operation.

MOBILE HOME LOT — A parcel of Land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the placement thereon of a single mobile home.

MOBILE HOME PARK — A parcel of land under single ownership which has been planned and improved for the placement of two or more mobile homes for nontransient use.

MUNICIPALITY — The Town of Callicoon, Sullivan County, New York.

PERFORMANCE GUARANTY — A written instrument which may be accepted by the Town Board in lieu of a requirement that certain improvements be made by a developer before the final plan is granted final approval and released for recording, which shall provide for the deposit with the town of financial security in an amount sufficient to cover the costs of any improvements or common amenities, including but not limited to roads, sanitary sewage facilities, water supply

and distribution facilities, stormwater detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements and buffers or screen planting which may be required.

PLAN or PLAT — A map or drawing indicating the subdivision or resubdivision of land which in its various stages of preparation including the following:

- A. SKETCH PLAN — An informal plan, identified as such with the title "sketch plan" on the map, indicating salient existing features of a tract and its surroundings and the general layout of the proposal to be used as a basis for consideration by the town.
- B. PRELIMINARY PLAN — A drawing prepared in accordance with this chapter showing the layout of a proposed subdivision, including but not restricted to the road and lot layout and approximate dimensions, a key plan, topography and drainage, all proposed facilities unsized, including preliminary plans and profiles, at suitable scale and in such detail as local regulation may require.
- C. PRELIMINARY PLAN APPROVAL — The approval of the layout of a proposed subdivision as set forth in a preliminary plan but subject to approval of the plan in final form in accordance with the provisions of this chapter and the New York Town Law, § 276, Subdivision 7.
- D. FINAL PLAN — A complete and exact plan identified as such with the wording "final plan" in the title and showing the modifications, if any, required by the Planning Board at the time of approval of a preliminary plan of such proposed subdivision, if such preliminary plan has been so approved, with a professional engineer's and/or a professional land surveyor's seal affixed as appropriate and prepared for official recording as required by this chapter to define property rights, proposed streets and other improvements.
- E. FINAL PLAN CONDITIONAL APPROVAL — The approval of a final plan subject to conditions set forth by the Planning Board in a resolution conditionally approving such plan. Such conditional approval does not qualify a final plan for recording nor authorize issuance of building permits prior to the signing of the plan by a duly authorized officer of the Planning Board and recording of the plan in the office of the County Clerk in accordance with this chapter and § 276 of the New York Town Law.
- F. FINAL PLAN APPROVAL — The signing of a final plan by the Chairman of the Planning Board after a resolution granting final approval to the plan or after conditions specified in a resolution granting conditional approval of the plan are completed. Such final approval qualifies the plan for recording in the office of the Sullivan County Clerk.
- G. RECORD PLAN — The copy of the final plan which contains the original endorsement of the Town Planning Board which has been finally approved by the Planning Board and all conditions of approval, if any have been satisfied, and which is intended to be recorded with the Sullivan County Clerk at Monticello, New York.

PLANNING BOARD — The Town of Callicoon Planning Board.

PUBLIC HEARING — A formal meeting held pursuant to public notice by the Planning Board, intended to inform and obtain public comment, prior to taking action in accordance with this chapter.

PUBLIC NOTICE — Notice published at least once at least five days before such hearing in a newspaper of general circulation in the town. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The Planning Board may provide that the hearing be further advertised in such a manner deemed appropriate for full public consideration of the plan. Notice of the hearing shall be provided by certified mail to the owners of property adjacent to the proposed subdivision and be mailed to the address of the latest tax assessment roll and to any other persons whom the Board may deem to be particularly affected; said advertisement of the public hearing shall be placed by the Secretary of the Planning Board, and the notification of adjacent landowners is to be made by the applicant, who shall provide evidence thereof to the Planning Board; said evidence documenting that the notices were mailed not less than 10 days before the hearing.

RESERVE STRIP — A parcel of ground in separate ownership separating a street from other adjacent properties or from another street.

RESUBDIVISION — Any revision, replatting or resubdivision of land which includes changes to a recorded plan.

REVERSE FRONTAGE LOTS — Lots which front on one public street and back on another with vehicular access solely from only one street.

RIGHT-OF-WAY — The total width of any land reserved or dedicated as a street, drainage way or for other public or semipublic purposes. The width of any public street right-of-way not specifically identified or designated shall be assumed to be 50 feet for the purposes of building setback lines and lot size calculation.

SEWAGE DISPOSAL, CENTRAL — A sewage collection and disposal system in which sewage is carried from more than one individual lot, dwelling or other unit by a system of pipes to a central treatment plant or subsurface or other type disposal area in compliance with the New York Department of Health or other applicable laws.

SEWAGE DISPOSAL, INDIVIDUAL — Any structure designed to biochemically treat sanitary sewage within the boundaries of an individual lot from one individual dwelling or other type unit.

SIGHT DISTANCE, VERTICAL — The required length of roadway visible to the driver of a passenger vehicle at any given point on the roadway when the view is unobstructed by traffic.

STREET — A strip of land, including the entire right-of-way, whether public or private, designed to provide access, by vehicular traffic or pedestrians, to more than one lot.

A. **COLLECTOR STREET** — A street which serves or is designed to serve as a traffic way for a neighborhood or as a feeder to a major street.

B. **MINOR STREET** — A street intended to serve primarily as an access to abutting properties.

C. **MINIMUM ACCESS STREETS** — See § 185-40G.

SUBDIVIDER — See "developer."

SUBDIVISION — The division or redivision of a lot, tract or parcel of land by any means into

two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition of the court for distribution to heirs or devisees, transfer of ownership of buildings or lot development.

- A. **MINOR SUBDIVISION** — A subdivision that creates four lots or less, does not require the construction or extension of any streets or municipal facilities and creates no public or private community facilities, such as but not limited to a central water supply or a central sewage disposal system or stormwater control facilities.
- B. **MAJOR SUBDIVISION** — Any subdivision that is not a minor subdivision. Any subdivision that creates five or more lots or a cumulative development on a lot-by-lot basis for a total of five lots of any original tract of land of record (i.e., not previously subdivided or developed subsequent to the effective date of this chapter by the owner or the owner's duly appointed agent) or which requires the construction or extension of any streets or municipal facilities or creates any public or private community facilities, such as but not limited to a central water supply or a central sewage disposal system or stormwater control facilities.

SURVEYOR — A professional land surveyor licensed as such in the State of New York.

TOWN — The Town of Callicoon, Sullivan County, New York.

TOWN BOARD — The Town Board of The Town of Callicoon, Sullivan County, New York.

TOWN ENGINEER — A professional engineer, licensed as such in the State of New York, and appointed by the Town Board to provide engineering service to the town.

TRAVELWAY — The portion of the cartway used for steady movement of vehicles.

WATERCOURSE — A discernible and definable natural, man-made or altered course or channel along which water is conveyed ultimately to streams and/or rivers at lower elevations. A watercourse may originate from a lake or underground spring(s) and may be permanent in nature, or it may originate from a temporary source such as a runoff from rain or melting snow.

WATER SUPPLY, CENTRAL — A public or private utility system designed to supply and transmit drinking water from a common source to two or more dwelling units or uses in compliance with the New York Department of Health or other applicable Laws.

WATER SUPPLY, INDIVIDUAL — A system for supplying and transmitting drinking water to a single dwelling or other use from a source located on the same lot and in compliance with the New York Department of Health or other applicable laws, if compliance is required.

WETLANDS — An area of land where the presence of water (at least during part of the year) determines the soil characteristics of the site and the species of vegetation growing on the site, said areas meeting the criteria of the United States Fish and Wildlife Service and being regulated by the New York Department of Environmental Conservation and the United States Army Corps of Engineers.

ZONING LAW — The Town of Callicoon Zoning Law.¹

1. Editor's Note: See Ch. 203, Zoning.

ARTICLE III
Plan Processing Procedures

§ 185-17. Submission of plans required; procedures.

All plans for the subdivision and/or development of land within the corporate limits of the Town of Callicoon shall be submitted to the Town Planning Board and other town, county and/or state officials as provided in this chapter.

- A. Procedures. Whenever any subdivision of land is proposed to be made and before any contracts for the sale of or any offer to sell any lots in such subdivision or any part thereof is made and before any permit for erection of a structure in such proposed subdivision shall be granted, the applicant or his authorized agent shall apply, in writing, for approval of such proposed subdivision in accordance with the following procedure:
- (1) A sketch plan showing the general concept.
 - (2) A preliminary plan showing the proposal in detail, accompanied by appropriate filing fees. [NOTE: May not apply to minor plans.]
 - (3) A review by non-town agencies.
 - (4) A public hearing on the preliminary plan. [NOTE: May not apply to minor plans.]
 - (5) Planning Board action on the preliminary plan. [NOTE: May not apply to minor plans.]
 - (6) Final plan submission and review.
 - (7) A public hearing on the final plan.
 - (8) Planning Board action by resolution.
 - (9) Completion of improvements or posting of a bond, certified check or suitable alternative surety. [NOTE: May not apply to minor plans.]
 - (10) The Planning Board signs the plan.
 - (11) The plan is filed in the County Clerk's office.
- B. Applicant. The applicant shall provide evidence to the Planning Board of his ownership of or other equitable interest in the parcel to be subdivided and a notarized statement authorizing any representatives, and the extent of their authority, to make application to the Board.
- C. Field inspections.
- (1) It shall be implicit in any request for plan approval that the land owner automatically grants the Planning Board, the Town Board or anyone designated by either Board the right to enter upon the area proposed for the subdivision for the purpose of becoming familiar with the property, making necessary observations or tests or for any other reasonable and lawful purpose, until such time as the parcel is no longer under Planning Board consideration.

- (2) The Planning Board may, at the time of sketch plan or preliminary plan submittal or at any other time deemed appropriate by the Board, schedule a field inspection of the parcel proposed for subdivision. The applicant or his representative shall, upon request by the Board, accompany the Board or designated representative, and to facilitate the inspection, the applicant shall have the approximate center line(s) of any proposed streets marked with temporary stakes.
- D. Meeting attendance. The applicant or his duly designated agent or representative shall attend the meeting of the Planning Board at which the subdivision is considered.
- E. County Planning Department, § 239-n review. In accordance with § 239-n of the New York General Municipal Law, any proposed subdivision shall be submitted to the Sullivan County Department of Planning and Economic Development for review, if located within 500 feet of any:
- (1) Municipal boundary.
 - (2) Existing or proposed county or state park or recreation area.
 - (3) Existing or proposed county or state parkway, thruway, expressway, road or highway.
 - (4) Right-of-way of any stream or drainage channel.
 - (5) Existing or proposed boundary of any county- or state-owned land on which a public building or institution is situated.
- F. State Environmental Quality Review Act compliance. The applicant shall, concurrently with the submittal of any subdivision application, submit to the Board such documentation required to demonstrate compliance with the New York State Environmental Quality Review Act (SEQR). Such documentation shall include the appropriate environmental assessment form and any other information required by SEQR or the Planning Board. The determination of the level of environmental review necessary for the proposed action shall be made in accordance with the provisions of 617 NYCRR. Final approval for any subdivision shall not be granted until the requirements of 617 NYCRR have been satisfied.
- G. Previously subdivided lots. In order for the Planning Board to classify a proposed subdivision as a minor or major subdivision, all subdivision plans submitted shall include on the location map any lots previously subdivided from the original tract subsequent to the effective date of this chapter.

§ 185-18. Sketch plans.

- A. Sketch plans. Applicants are encouraged but not required to submit a sketch plan to the Planning Board prior to the submission of a minor plan or a preliminary major plan. The purpose of the sketch plan is to establish:
- (1) The overall objectives of the applicant.
 - (2) The extent to which the proposed plan conforms with the provisions of this chapter.
 - (3) If said plan shall be classified as a major or a minor subdivision.

- B. Filing status. A sketch plan shall be considered a submission for discussion between the applicant and the Planning Board and shall not constitute a formal filing of a plan with the Planning Board. All sketch plans submitted shall be so noted on the plan and in the minutes of the Planning Board. Comments made about the sketch plan by the Planning Board, Town Engineer or other town consultant shall not be binding with respect to any preliminary plan submitted subsequent to the sketch plan.

§ 185-19. Preliminary plans for major subdivisions.

All applications for major subdivisions shall be submitted to the Town of Callicoon and be processed in accordance with this section.

A. Official submission of preliminary plans.

- (1) Plan to be filed with the Planning Board. In order to initiate the determination of plan completeness, copies of the preliminary plan and all required supporting documentation shall be provided to the Town Clerk by the applicant or his authorized representative at least 10 working days prior to the Planning Board meeting when the applicant applies for the official date of preliminary plan submission.
- (2) Number of copies to be submitted.
 - (a) The official submission of the preliminary plan shall include the following:
 - [1] Seven completed copies of the subdivision plan review application. Eight copies are required if § 239-n of the New York General Municipal Law mandates review of the plan by the Sullivan County Department of Planning and Economic Development.
 - [2] Seven legible blue-line paper prints of the preliminary plan. Eight prints are required if § 239-n of the New York General Municipal Law mandates review of the plan by the Sullivan County Department of Planning and Economic Development.
 - [3] Seven copies of the subdivision inspection report issued by the Code Enforcement Officer.
 - [4] Seven copies of a certification by a professional engineer or a professional land surveyor holding a state certification for the same as to the conformity of the plans with the sewage disposal requirements of the New York State Department of Health and the Town of Callicoon.
 - [5] Seven copies of all other required supporting data and information as required in Article VI of this chapter.
 - (b) Additional copies of any or all of the above-referenced plans and documentation may be required by the Board.
- (3) Official date of preliminary plan submission. The official date of preliminary plan submission shall be determined as follows: At the first scheduled meeting of the Planning Board following the submission to the Town Clerk [in accordance with §

185-19A(1)] of the required number of copies of all documents for preliminary plan submittal. (missing text) the Planning Board shall examine the submittal to determine that all documents are complete and in proper form.

- (a) If the Planning Board determines that the submittal is not complete or not in the proper form, the applicant shall be notified, in writing, of the deficiencies, and the submittal shall be rejected until said deficiencies are corrected and then examined again at the next regularly scheduled or special meeting following the resubmittal in accordance with this chapter.
 - (b) If the submittal is complete and acceptable the preliminary plan shall be deemed to have been received by the Planning Board Clerk in accordance with § 276, Subdivision 3, of the New York Town Law, and the Chairman of the Planning Board shall complete an official submission receipt listing the date of said meeting as the official date of the preliminary plan submission and forward said receipt to the applicant.
- (4) Distribution of the preliminary plan. The Planning Board Secretary shall, immediately after the official date of submission, refer the preliminary plan and applicable supporting documents, after all required fees have been collected, to the following, if applicable, who may provide written comments and recommendations to the Planning Board:
- (a) The Sullivan County Department of Planning and Economic Development, if required by § 239-n of the New York General Municipal Law.
 - (b) The Town Engineer.
 - (c) The Town Code Enforcement Officer.
 - (d) The Town Clerk.
 - (e) The Sullivan County Soil and Water Conservation District.
 - (f) The Town Highway Superintendent, the County Public Works Department or the New York Department of Transportation.
 - (g) Any other agency, engineer or consultant designated by the town.

B. Preliminary plan review and action.

- (1) Public hearing. Within 45 days of the date which the plan was accepted for review by the Planning Board in accordance with Subsection A(3) above, the Planning Board shall conduct a public hearing pursuant to public notice.
- (2) Planning Board review and action. Within 45 days after the date of the hearing required by Subsection B(1), the Planning Board shall approve with or without modification or disapprove such preliminary plan, and the ground of a modification, if any, or the ground for disapproval shall be stated upon the records of the Planning Board.
- (3) Notwithstanding the foregoing provisions, the time in which a Planning Board must

take action on such plan may be extended by mutual consent of the applicant and the Planning Board.

- (4) Modifications. When so approving a preliminary plan, the Planning Board shall state, in writing, modifications, if any, as it deems necessary for submission of the plan in final form. The Planning Board shall state, in writing, the modifications, if any, it deems necessary for submission of the plan in final form with respect to:
 - (a) The specific changes which it will require in the preliminary plan.
 - (b) The character and extent of the required improvements for which waivers may have been requested and which, in its opinion, may be waived without jeopardy to the public health, safety, morals and general welfare.
 - (5) Certification. Within five days of the approval of such preliminary plan it shall be certified by the Secretary of the Planning Board as granted preliminary approval, and a copy shall be filed in the Secretary's office and a certified copy mailed to the applicant.
- C. Reviewing agency and officials comments. The Planning Board may consider the comments and the recommendations provided pursuant to Subsection A(4) and may request such additional information as deemed necessary.
 - D. Highway permits, water supply and sewage disposal. If a highway work permit shall be required for access to a town, county or state road, approval of the subdivision plan shall be conditional upon the issuance of a highway work permit for the subdivision access road by the applicable agency. Preliminary approval shall also be conditional upon the applicant demonstrating the provision of adequate water supply and sewage disposal in accordance with all applicable local water or sewer district requirements and New York State Department of Health and Department of Environmental Conservation requirements.
 - E. Status of approval. Approval of the preliminary plan shall not constitute approval of the subdivision plan, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plan as a guide to the preparation of the final subdivision plan which will be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of this chapter and the conditions of the approval of the preliminary plan, if any. Prior to approval of the final subdivision plan, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at the public hearing.
 - F. Expiration of approval. Planning Board approval of a preliminary plan submission shall expire six months after the date of such approval. The preliminary plan approval may be revoked by the Planning Board, and no Planning Board action will be taken after such expiration until a new preliminary application and filing fee are submitted. An extension for a six-month period of time may be given in cases of hardship upon petition by the applicant to the Planning Board. Such extension shall be granted only if the proposed subdivision fully conforms to the Zoning Law in effect at the time such extension is applied for.
 - G. Effect of inaction. In the event the Planning Board fails to take action on a preliminary plan

within the time prescribed therefor, such plan shall be deemed granted preliminary approval. The certificate of the Clerk of the town as to the date of submission and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient in lieu of written endorsement or other required evidence of approval.

§ 185-20. Final plans for major subdivisions.

All final plans for major subdivisions shall be submitted to the Planning Board within six months of the date of approval of the preliminary plan and shall be processed in accordance with this section.

- A. Final plan application. An application for final plan approval can be submitted only when the following conditions have been met:
 - (1) The subdivision has previously been granted an unconditional preliminary plan approval in accordance with § 185-19 of this chapter or all modifications or conditions established by the Planning Board for the preliminary plan approval have been fulfilled by the applicant to the satisfaction of the Planning Board.
 - (2) All improvements shown on the preliminary plan have been completed or are guaranteed in accordance with Article V of this chapter.
- B. Final plan conformation. The final plan shall conform in all principal respects to the previously approved preliminary plan. The Planning Board shall determine whether a modified final plan shall be accepted or whether a new preliminary plan shall be submitted pursuant to § 185-19 and/or if a public hearing is required in accordance with Subsection E(1).
- C. Sections. Final Plans may be submitted in sections in accordance with the Town Law, § 276, Subdivision 6, each section covering a portion of the entire proposed subdivision as shown on the preliminary plan and each section processed in accordance with this section.
 - (1) Each section in the subdivision, except the last section, shall contain a minimum of 20% of the total number of lots and/or dwelling units as depicted on the preliminary plan, except that the Planning Board may approve a lesser percentage based upon a request for waiver.
 - (2) When a final plan is proposed to be submitted by sections, a proposed layout of the sections, their boundaries and the order of submission shall be submitted to the Planning Board for approval prior to submission of the first section.
 - (3) The Planning Board shall in its resolution granting conditional or final approval state that such requirements as it deems necessary to ensure the orderly development of the plan be completed before such sections may be signed by the Planning Board Chairman. Conditional or final approval of the sections of a final plan subject to any conditions imposed by the Board, shall be granted concurrently with conditional or final approval of the plan.
- D. Official submission of final plans.
 - (1) Plan to be filed with the Planning Board. In order to initiate the determination of plan

completeness, copies of the final plan and all required supporting documentation shall be provided to the Town Clerk by the applicant or his authorized representative at least 10 working days prior to the Planning Board meeting when the applicant applies for the official date of final plan submission.

- (2) Number of copies to be submitted.
 - (a) The official submission of the final plan shall include the following:
 - [1] Seven completed copies of the final plan review application. Eight copies are required if § 239-n of the New York General Municipal Law mandates review of the plan by the Sullivan County Department of Planning and Economic Development. (See § 185-17F.)
 - [2] Seven legible blue-line paper prints of the final plan and one Mylar for the County Clerk. Eight prints are required if § 239-n of the New York General Municipal Law mandates review of the plan by the Sullivan County Department of Planning and Economic Development. (See § 185-17F.)
 - [3] Eight copies of all other required supporting data and information as required in Article VI of this chapter.
 - (b) Additional copies of any or all of the above-referenced plans and documentation may be required by the Board.
- (3) Official date of the final plan submission. The official date of the final plan submission shall be determined as follows: At the first scheduled meeting of the Planning Board following the submission to the Town Clerk [in accordance with Subsection D(1)] of the required number of copies of all documents for the final plan submittal, the Planning Board shall examine the submittal to determine that all documents are complete and in proper form.
 - (a) If the Planning Board determines that the submittal is not complete or not in the proper form, the applicant shall be notified in writing, of the deficiencies, and the submittal shall be rejected until said deficiencies are corrected and then examined again at the next regularly scheduled or special meeting following the resubmittal in accordance with this chapter.
 - (b) If the submittal is complete and acceptable, the final plan shall be deemed to have been received by the Planning Board Clerk in accordance with § 276, Subdivision 3, of the New York Town Law, and the Chairman of the Planning Board shall complete an official submission receipt listing the date of said meeting as the official date of the final plan submission and forward said receipt to the applicant.
- (4) Distribution of the final plat. The Town Clerk shall, immediately after the official date of submission, forward the final plan and supporting documents, after all required fees have been collected, to the following, if applicable, who may provide written comments and recommendations to the Planning Board:

- (a) The Sullivan County Department of Planning and Economic Development, if required by § 239-n of the New York General Municipal Law.
 - (b) The Town Engineer.
 - (c) The Town Code Enforcement Officer.
 - (d) The Town Clerk.
 - (e) The Sullivan County Soil and Water Conservation District.
 - (f) The Town Highway Superintendent, the County Public Works Department or the New York Department of Transportation.
 - (g) Any other agency, engineer or consultant designated by the town.
- E. Final plan review and action.
- (1) Public hearing.
 - (a) Within 45 days of the date which the plan was accepted for review by the Planning Board in accordance with Subsection D(3) above, the Planning Board shall conduct a public hearing pursuant to public notice.
 - (b) If the Planning Board deems the final plan to be in substantial agreement with a preliminary plan approved under § 185-19 and modified in accordance with requirements of such approval, if such preliminary plan has been approved with modification, the Planning Board may waive the requirement for such public hearing.
 - (2) Planning Board review and action. The Planning Board shall, by resolution, conditionally approve, with or without modification, disapprove or grant final approval and authorize the signing of such plan within 45 days of its acceptance for review by the Planning Board in accordance with Subsection D(3) above if no such hearing is held or, in the event such hearing is held, within 45 days after the date of such hearing. Any such action taken by the Planning Board shall be specifically stated on the records of the Planning Board. Notwithstanding the foregoing provisions, the time in which a Planning Board must take action on such plan may be extended by mutual consent of the applicant and the Planning Board.
 - (3) Conditional approval. Upon granting conditional approval of such final plan, the Planning Board shall empower a duly authorized officer to sign the plan subject to completion of such requirements as may be stated in the resolution. Within five days of such resolution, the plan shall be certified by the Secretary of the Planning Board as conditionally approved, and a copy shall be filed in the Town Clerk's office and a certified copy mailed to the applicant, including a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved final plan. Upon completion of such requirements, the final plan shall be signed by said duly authorized officer of the Planning Board. Conditional approval of a final plan shall expire within 180 days after the date of the resolution granting conditional approval unless such requirements have been certified as completed. (See Subsection I for the signature of conditionally approved plans.)

- (4) Time extension. The Planning Board may extend the time in which a conditionally approved plan in final form must be submitted for signature if, in its opinion, such extension is warranted by the particular circumstances thereof, for not to exceed two additional periods of 90 days each.
- F. Reviewing agency and officials' comments. The Planning Board may consider the comments and the recommendations provided pursuant to Subsection D(4) and may request such additional information as deemed necessary.
- G. Endorsement of state and county agencies. Water and sewer facility proposals contained in the final plan shall be properly endorsed and approved by the New York Department of Health and shall be in compliance with and obtain all required approvals associated with any established water or sewer district. Applications for approval of plans for sewer and water facilities shall be filed by the applicant with all necessary town, county, and state agencies. Endorsement and approval by the New York Department of Health shall be secured by the applicant before official submission of the final plan. Certified copies of permits signed by a responsible official of the State Highway Department or the Sullivan County Superintendent of Highways approving proposed construction and/or discharge on state or county rights-of-way shall be submitted. Certified copies of permits signed by a responsible official of the State Department of Environmental Conservation shall be submitted when the development falls within the scope of that agency's jurisdiction.
- H. Planned improvements. The Planning Board shall not approve or sign the final plan until such time as all the improvements shown on the final plan have been installed by the applicant and have been certified as complete by the Town Engineer or a performance guaranty has been provided by the applicant pursuant to Article V of this chapter.
- I. Signature of final plan. When all requirements and conditions have been fulfilled by the applicant and all supplemental data and documents have been submitted and approved, the Chairman of the Planning Board shall endorse the final plan for recording purposes. The Planning Board shall retain at least one endorsed print for its files.
- J. Recording of the final plan. The applicant shall file the final record plan with the Sullivan County Clerk within 60 days of the date of endorsement by the Town Planning Board. If the applicant fails to record the final record plan in the Office of the Clerk within the required sixty-day period, the action of the Town Planning Board shall be deemed null and void, and a resubmission of the plan shall be made to the Planning Board. Any resubmittal to the Planning Board of a plan for resignature by the Planning Board shall require the payment by the applicant of a fee for the same as established by resolution of the Town Board and shall be resubmitted in accordance with the provisions of this Article III, unless the Planning Board waives the requirement for resubmittal.
- K. Altering of finally approved plans. No changes, erasures, modifications or revisions shall be made in any subdivision plan after approval has been given by the Planning Board and endorsed, in writing, on the plan, unless said plan is first resubmitted to the Planning Board and such Board approves any modifications. In the event that any such subdivision plan is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the County Clerk.

§ 185-21. Minor subdivisions.

Preliminary Plans for minor subdivisions shall not be required. However, a final plan for all minor subdivisions shall be submitted to the town and be processed in accordance with this section.

A. Official submission of minor subdivision plans.

- (1) Plan to be filed with the town. A minor subdivision plan and all required supporting documentation shall be submitted to the Planning Board at a scheduled meeting of the Planning Board.
- (2) Number of copies to be submitted.
 - (a) The official submission of the minor subdivision plan shall include the following:
 - [1] Five completed copies of the minor plan review application. Six copies are required if § 239-n of the New York General Municipal Law mandates review of the plan by the Sullivan County Department of Planning and Economic Development. (See § 185-17F.)
 - [2] Five legible blue-line paper prints of the minor plan. Six prints are required if § 239-n of the New York General Municipal Law mandates review of the plan by the Sullivan County Department of Planning and Economic Development. (See § 185-17F.)
 - [3] Five copies of all other required supporting data and information as required in Article VI of this chapter.
 - (b) Additional copies of any or all of the above referenced plans and documentation may be required by the Board.
- (3) Official date of minor subdivision submission. The official date of minor subdivision plan submission shall be determined as follows:
 - (a) If the Planning Board determines that the submittal is not complete or not in the proper form, the applicant shall be notified, in writing, of the deficiencies and the submittal shall be rejected until said deficiencies are corrected and then examined again at the next regularly scheduled or special meeting if said rejected plan is resubmitted by the applicant.
 - (b) If the submittal is complete and acceptable, the Chairman of the Planning Board shall complete an official submission receipt, listing the date of said meeting as the official date of the minor subdivision plan submission, and forward said receipt to the applicant.
- (4) Distribution of the minor subdivision plan. The Town Clerk shall, immediately after the official date of submission, forward the minor subdivision plan and supporting documents, after all required fees have been collected, to the following, if applicable, who may provide written comments and recommendations to the Planning Board:

- (a) The Sullivan County Department of Planning and Economic Development, if required by § 239-n of the New York General Municipal Law.
- (b) The Town Engineer.
- (c) The Town Code Enforcement Officer.
- (d) The Town Clerk.
- (e) The Sullivan County Soil and Water Conservation District.
- (f) The Town Highway Superintendent, the County Public Works Department or the New York Department of Transportation.
- (g) Any other agency, engineer or consultant designated by the town.

B. Minor subdivision plan review and action.

- (1) Public hearing. Within 45 days of the date on which the plan was accepted for review by the Planning Board in accordance with Subsection A above, the Planning Board shall conduct a public hearing pursuant to public notice.
- (2) Planning Board review and action. The Planning Board shall, by resolution, conditionally approve, with or without modification, disapprove or grant final approval and authorize the signing of such plan within 45 days after the date of the hearing required in Subsection B(1) above. Any such action taken by the Planning Board shall be specifically stated on the records of the Planning Board. Notwithstanding the foregoing provisions, the time in which a Planning Board must take action on such plan may be extended by mutual consent of the applicant and the Planning Board.
- (3) Conditional approval. Upon granting conditional approval of such minor plan, the Planning Board shall empower a duly authorized officer to sign the plan subject to completion of such requirements as may be stated in the resolution. Within five days of such resolution, the plan shall be certified by the Secretary of the Planning Board as conditionally approved, and a copy shall be filed in the Secretary's office and a certified copy mailed to the applicant, including a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved minor plan. Upon completion of such requirements, the minor plan shall be signed by said duly authorized officer of the Planning Board. Conditional approval of a minor plan shall expire within 180 days after the date of the resolution granting conditional approval unless such requirements have been certified as completed. (See Subsection F for signature of conditionally approved plans.)
- (4) Time extension. The Planning Board may extend the time in which a conditionally approved plan in final form must be submitted for signature, if, in its opinion, such extension is warranted by the particular circumstances thereof, for not to exceed two additional periods of 90 days each.

C. Reviewing agency and officials' comments. The Planning Board shall consider the comments and the recommendations pursuant to Subsection A(4) and may request such additional information as deemed necessary.

- D. Highway work permit. If a highway work permit shall be required for access to a town, county or state road, approval of the minor subdivision plan shall be conditional upon the issuance of a highway work permit by the town, County Department of Public Works or New York Department of Transportation, as the case may be.
- E. Endorsement of state and county agencies. Water and sewer facility proposals contained in the minor plan shall be properly endorsed and approved by the New York Department of Health and shall be in compliance with and obtain all required approvals associated with any established water or sewer district. Applications for approval of plans for sewer and water facilities shall be filed by the applicant with all necessary town, county and state agencies. Endorsement and approval by the New York Department of Health shall be secured by the applicant before official submission of the final plan. Certified copies of permits signed by a responsible official of the State Highway Department or the Sullivan County Superintendent of Highways, approving proposed construction and/or discharge on state or county rights-of-way, shall be submitted. Certified copies of permits signed by a responsible official of the State Department of Environmental Conservation shall be submitted when the development falls within the scope of that agency's jurisdiction.
- F. Signature of minor subdivision plan. When all requirements and conditions have been fulfilled by the applicant and all supplemental data and documents have been submitted and approved, the Chairman of the Planning Board shall endorse the minor subdivision plan for recording purposes. The Planning Board shall retain at least one endorsed print for its files.
- G. Recording of the minor subdivision plan. The applicant shall file the final record plan with the Sullivan County Clerk within 60 days of the date of endorsement by the Town Planning Board. If the applicant fails to record the final record plan in the Office of the Clerk within the required sixty-day period, the action of the Town Planning Board shall be deemed null and void and a resubmission of the plan shall be made to the Planning Board. Any resubmittal to the Planning Board of a plan for resignature by the Planning Board shall require the payment by the applicant of a fee for the same as established by resolution of the Town Board and shall be resubmitted in accordance with the provisions of this Article III unless the Planning Board waives the requirement for the same.
- H. Altering of finally approved plans. No changes, erasures, modifications or revisions shall be made in any subdivision plan after approval has been given by the Planning Board and endorsed, in writing, on the plan unless said plan is first resubmitted to the Planning Board and such Board approves any modifications. In the event that any such subdivision plan is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the County Clerk.

§ 185-22. Lot improvement subdivisions.

- A. Lot improvement subdivisions which involve the combination of lots of record which are shown on a map on file at the office of the Sullivan County Clerk and which do not involve the creation of any new lot lines may be submitted directly to the Planning Board. (The applicant shall certify to the Board that the subject map is, in fact, on record.) A new map

for such lot improvements shall not be required; however, the combination shall be effected by the execution of an owners affidavit for the same which shall be recorded with the Sullivan County Clerk upon the signature of the applicant and the Planning Board. The owner's affidavit shall be in such form as required by the Planning Board upon the recommendation of the Town Attorney and shall include a reference to the lot numbers of the subject lots and the plat book and page number where the map is recorded.

- B. Lot improvement subdivisions which involve the creation of new lot lines shall require a new subdivision map and shall be processed in the manner set forth in § 185-21 of this chapter for minor subdivisions; however, sewage disposal documentation may not be required unless additional new sewage disposal areas are proposed. The applicable notes listed in § 185-29B of this chapter shall be included on the plan and the combination language shall also be included in the deed from the grantor to the grantee and shall also be made binding on the combined parcel(s) of the grantee via articles of restrictive covenants.
- C. All documents to be recorded to effect any lot improvement subdivision shall be in such form as approved by the Planning Board with the recommendation of the Town Attorney, and said documents shall be turned over to the Town Attorney who shall record the same. The fee for lot improvement subdivisions shall be established by resolution of the Town Board in accordance with § 185-13 of this chapter and shall include the costs of recording.

§ 185-23. Subdivisions from large parcels.

In cases where a parcel is being subdivided in order to convey one or more lots, such that the parent parcel, when subdivided, remains 20 acres or more in size, the requirement that the parent parcel be surveyed may be waived by the Planning Board, provided that all parcel(s) subdivided therefrom are surveyed and platted in accordance with all the requirements of this chapter, and said parcel(s) front on a public road and not more than a cumulative number of four lots shall be platted from the parent parcel in any twelve-month period. The entire parcel to be subdivided and existing lots of record within the entire parent parcel shall be shown on the plan using a Tax Map reproduction/reduction.

**ARTICLE IV
Plan Requirements**

§ 185-24. General provisions.

This Article IV establishes the requirements for the contents of plans and all other associated documentation submitted to the Town Planning Board. Nothing herein shall restrict the right of the Town Planning Board to require any additional information deemed necessary to meet the purpose of this chapter. The Town Planning Board reserves the right to require any relevant notation on any plan, such notations not being limited to those specifically required by this chapter.

§ 185-25. Sketch plan suggested information.

A sketch plan may show or may be accompanied by the following data. (The Town Planning Board recommends that a sketch plan include all data available in order to facilitate review and discussion.)

- A. The name of the subdivision.
- B. The name and address of the land owner and/or land developer. (If a corporation, give the name of the officers.)
- C. A location map.
- D. A North arrow.
- E. A graphic scale.
- F. A written scale.
- G. The date the sketch plan was completed.
- H. The names of adjacent property owners and the Tax Map section, block and lot numbers, including those across adjacent roads.
- I. The proposed and existing street and lot layout on immediately adjacent tracts, including street and subdivision names and right-of-way widths.
- J. Existing man-made and/or natural features:
 - (1) Watercourses, lakes and wetlands (with names).
 - (2) Rock outcrops and stone fields.
 - (3) Buildings and structures.
 - (4) Approximate location of the various types of vegetation and land forms such as fields, clear cuts, woodlands, etc.
 - (5) Utility lines, wells and sewage system(s).
 - (6) Any and all other significant features.
- K. Location of permanent and seasonal high water table areas and one-hundred-year flood zones.
- L. Tract boundaries, accurately labeled.
- M. A general street and lot layout, showing approximate widths, depths and areas.
- N. The location and extent of various soil types by Soil Conservation Service classification.
- O. The location and type of rights-of-way or other restrictive covenants which might affect the subdivision.
- P. The following site data, labeled on the plan:
 - (1) The total acreage of the subdivision.
 - (2) The total number of lots proposed.
 - (3) The total lineal feet of new roads.
 - (4) The county property tax assessment number.

- (5) The zoning district of the subdivision.
- (6) Any and all other significant information.
- Q. A map of the entire contiguous holding of the owner and/or developer showing the plan for any future development.
- R. A statement of the type of water supply and sewage disposal proposed.

§ 185-26. Drafting standards.

The following drafting standards shall apply to all plans submitted to the Town Planning Board:

- A. The plan shall be clearly and legibly drawn at a scale of 10 feet, 20 feet, 30 feet, 40 feet, 50 feet, 60 feet or 100 feet to the inch, as appropriate.
- B. Dimensions shall be in feet and hundredths of feet. Bearings shall be in degrees and minutes for the boundary of the entire tract and approximate dimensions in feet for lot lines.
- C. The survey shall not have an error of closure greater than one in 10,000 feet.
- D. The sheet size shall be no smaller than 8 1/2 inches by 11 inches and no larger than 24 inches by 36 inches. If the plan is prepared in two or more sections, a location map showing the location of the sections shall be placed on each sheet. If more than one sheet is necessary, each sheet shall be the same size and numbered to show the relationship to the total number of sheets in the plan (e.g., Sheet No. 1 of 5), and a key diagram showing the relative location of the several sections shall be drawn on each sheet.
- E. Plans shall be legible in every detail.

§ 185-27. Preliminary plan requirements for major subdivisions.

Preliminary plans shall be prepared by a professional engineer and/or a professional land surveyor as applicable and required by state law. Preliminary plans shall be submitted pursuant to the following:

- A. Plan information. The preliminary plan shall contain the following information:
 - (1) The name of the project and identification number assigned by the project professional surveyor/engineer.
 - (2) The name and address of the owner of record (if a corporation give the name of each officer) and the deed book and page where the deed of record is recorded.
 - (3) The name and address of the developer if different from the land owner. (If a corporation give the name of each officer.)
 - (4) The name, address, license number, seal and signature of the professional engineer or the professional land surveyor responsible for the preparation of subdivision and/or development plan.
 - (5) The date, including the month, day and year that the preliminary plan was completed

and the month, day and year for each plan revision along with a description of the revision.

- (6) A location map for the purpose of locating the property being subdivided and showing the relation of the property, differentiated by tone or pattern, to adjoining property and to all streets, roads, municipal boundaries, zoning districts, watercourses and any area subject to flooding and any other significant features.
- (7) A North arrow (true or magnetic).
- (8) A graphic scale and a written scale.
- (9) Names of present adjoining property owners and the names of all adjoining subdivisions, if any, including property owners and/or subdivisions across adjacent roads, along with the current Tax Map section, block and lot numbers for each property shown.
- (10) Existing street and lot layout on immediately adjacent tracts, including names and right-of-way and pavement widths of all streets and/or roads.
- (11) Existing man-made or natural features, including but not limited to the following:
 - (a) Watercourses, ponds and lakes, with the name of each.
 - (b) Rock outcrops and stone fields.
 - (c) Buildings and other structures.
 - (d) The approximate location of the various types of vegetation and land forms such as fields, clear cuts, woodlands, etc.
 - (e) Utilities.
 - (f) Wells and sewage systems.
 - (g) The location and description of any certified historic site or structure.
 - (h) The location and size of culverts with the direction of water flow.
 - (i) Wetlands, as shown on United States Geological Survey topographic maps and the Wetlands Inventory Maps published by the United States Fish and Wildlife Service. If wetlands exist where said maps do not show wetlands or if any wetland may be adversely affected by the proposed development, a detailed, site-specific wetland delineation shall be submitted by the applicant along with certification of the same by the United States Fish and Wildlife Service, United States Army Corps of Engineers and/or the New York Department of Environmental Conservation. If no wetlands are present or no wetlands will be adversely affected, a certification to such effect shall be provided by the applicant.
 - (j) Whenever possible, all other significant man-made or natural features within the proposed subdivision and 100 feet beyond the boundaries of the proposed subdivision.

- (12) The location of permanent and seasonal high water table areas and flood zones as shown on the most recent Federal Insurance Administration/Federal Emergency Management Agency mapping in accordance with existing and available data or, if none, a note to that effect.
- (13) The location, extent and description of various soil types as identified in the Sullivan County Soil Survey and the location of any soil test pits and percolation test locations conducted by the applicant.
- (14) The location, width and purpose of any existing rights-of-way or other easements and associated restrictions.
- (15) The location, width and purpose of any proposed rights-of-way or other easements.
- (16) Contour lines at an interval of not more than 20 feet. Contours at a more-detailed interval may be required by the Planning Board in cases where development on steep slopes is proposed or compliance with the slope standards in the Town Zoning Law must be determined.
- (17) The full plan of the proposed subdivision, including:
 - (a) The location and widths of all streets, suggested types (major, collector, minor) and all rights-of-way, with a statement of any conditions governing their use.
 - (b) Proposed street names. (See § 185-40D for duplication restriction.)
 - (c) Building setback lines as required by the Town Zoning Law. The Planning Board may, however, require, where slope, lot size, drainage or other factors warrant, that the proposed placement of each building be shown on the plan.
 - (d) Lot lines, with dimensions.
 - (e) Lot and/or parcel sizes.
 - (f) Lots numbered in consecutive order.
 - (g) A statement of the number of lots and/or parcels.
 - (h) A statement of the intended use of all nonresidential lots and/or parcels.
 - (i) A statement of the total acreage in the proposed subdivision.
 - (j) The County Tax Map section, block and lot number.
 - (k) Any and all other significant information.
- (18) Zoning data, including all of the following, when applicable:
 - (a) Zoning district designations and bulk and density standards.
 - (b) Zoning district boundary lines transversing the proposed subdivision.
 - (c) Zoning district boundary lines within 500 feet of the proposed subdivision, shown on the location map (may be included on the location map).

- (19) A title block shall be included on the lower right corner of all preliminary plans.
 - (20) A signature block for the Planning Board.
 - (21) An approval block containing the following language: "This preliminary plan shall not be recorded. No construction or development shall be started until all conditions of preliminary approval have been satisfied and a final plan is approved. The signature of the Town Planning Board is hereon affixed for plan identification purposes," and the following statements: "preliminary approval subject to modifications or conditions, letter attached"; or "preliminary approval with no modifications." A signature/dateline shall also be included.
 - (22) The location and configuration of project buildings, parking areas, streets, access drives, driveways and all other planned facilities and any other information deemed necessary by the Town Planning Board.
- B. Supporting documents and information. The following supporting documents, plans and information shall be submitted with preliminary plans for all major subdivisions [See § 185-19A(2) for number of copies to be submitted.]:
- (1) Typical street cross-section drawings for all proposed streets including the following:
 - (a) Typical cut sections.
 - (b) Typical fill sections.
 - (c) Superelevated sections.
 - (d) Typical parallel drainage.
 - (2) Tentative profiles along the top of the cartway center line or as otherwise required by this chapter showing existing and proposed grade lines and printed elevations of the proposed grade lines at fifty-foot intervals and underground utilities.
 - (3) Any existing or proposed deed restrictions and protective and restrictive covenants that apply to the subdivision plan.
 - (4) All proposed offers of dedication and/or reservation of rights-of-way and land areas with conditions attached.
 - (5) Existing documents of dedication and/or reservation of rights-of-way and land areas with conditions attached.
 - (6) The latest deed of record.
 - (7) Water supply information, as follows:
 - (a) A statement from a professional engineer of the type and adequacy of the water supply system proposed to serve the project.
 - (b) The preliminary design of any central water supply system.
 - (c) For a publicly-owned central system, a letter from the water company or authority stating that said company or authority will supply the development,

including a verification of the adequacy of service.

- (d) For a privately-owned central system, a statement setting forth the proposed ownership of the system and responsibility for operation and maintenance.
 - (e) A copy of any application for any permit, license or certificate required by the New York Department of Health or other applicable agencies for the construction and operation of any proposed central water supply system. Preliminary plan approval shall be conditioned on the issuance of said permits.
- (8) Sewage disposal information, as follows:
- (a) Documentation of compliance with the New York State Department of Health and the Town of Callicoon sewage disposal requirements.
 - (b) Private sewage treatment plants and central on-lot systems. A preliminary design of the system and a statement setting forth the proposed ownership of the system and responsibility for operation and maintenance.
- (9) A statement from a professional engineer, professional surveyor or other professional deemed qualified by the Board relative to any Department of Health, environmental or other permits (e.g., wetlands, streams encroachment or certificate of public convenience) required and, if none are required, a statement to that effect.
- (10) A soil erosion and sedimentation control plan.
- (11) A drainage/stormwater management plan.
- (12) Preliminary bridge or stream crossing designs and a statement by the applicant's engineer regarding any state or federal approvals required.
- (13) A statement indicating any existing or proposed zoning variances or subdivision waivers/modifications.
- (14) Where the land included in the subject application has an electric transmission line, a gas pipeline or a petroleum or petroleum products transmission line located within the tract, the preliminary plan shall be accompanied by a letter from the owner or lessee of such right-of-way stating any conditions on the use of the land and the minimum building setback and/or right-of-way lines. This requirement may also be satisfied by submitting a copy of the recorded agreement.
- C. Additional information. The Planning Board shall require any other necessary information based on the specific characteristics of the proposed project.
- D. Application forms and certifications. The applicant shall complete and submit such application forms and certifications as prescribed by the Town Planning Board for submittal with preliminary plan applications.

§ 185-28. Final plan requirements.

Final Plans shall be prepared by a professional engineer and/or a professional land surveyor as applicable and required by state law. Final plans shall be submitted pursuant to the following:

- A. Final plan information. The final plan shall contain the following information:
- (1) The name of the project.
 - (2) The name and address of the owner of record (if a corporation, give the name of each officer) and deed book and page where the deed of record is recorded.
 - (3) The name and address of developer if different from the landowner. (If a corporation, give the name of each officer.)
 - (4) The name, address, license number, seal and signature of the professional engineer or the professional land surveyor responsible for the preparation of subdivision plan.
 - (5) The date, including the month, day and year that the final plan was completed and the month, day and year for each plan revision, along with a description of the revision.
 - (6) A location map for the purpose of locating the property being subdivided and showing the relation of the property, differentiated by tone or pattern, to adjoining property and to all streets, roads, municipal boundaries, zoning districts, watercourses and any area subject to flooding.
 - (7) A North arrow (true or magnetic).
 - (8) A graphic scale and a written scale.
 - (9) The names of present adjoining property owners and the names of all adjoining subdivisions, if any, including property owners and/or subdivisions across adjacent roads, along with the current Tax Map section, block and lot numbers for each property shown.
 - (10) The proposed and existing street and lot layout on immediately adjacent tracts, including names and rights-of-way and pavement widths of all streets and/or roads.
 - (11) Existing and proposed man-made or natural features, including but not limited to the following:
 - (a) Watercourses, ponds and lakes, with the name of each.
 - (b) Rock outcrops and stone fields.
 - (c) Buildings and other structures.
 - (d) The approximate location of tree masses.
 - (e) Utility lines, wells and sewage systems.
 - (f) The location and description of any certified historic site or structure.
 - (g) The location and size of culverts, with the direction of water flow.
 - (h) Wetlands, as shown on United States Geological Survey topographic maps and the Wetlands Inventory Maps published by the United States Fish and Wildlife Service. If wetlands exist where said maps do not show wetlands or if any wetland may be adversely affected by the proposed development, a detailed,

site-specific wetland delineation shall be submitted by the applicant along with certification of the same by the United States Fish and Wildlife Service, United States Army Corps of Engineers and/or the New York Department of Environmental Conservation. If no wetlands are present or no wetlands will be adversely affected, a certification to such effect shall be provided by the applicant.

- (i) Whenever possible, all other significant man-made or natural features within the proposed subdivision and 100 feet beyond the boundaries of the proposed subdivision and/or development.
- (12) The location of permanent and seasonal high water table areas and flood zones as shown on the most recent Federal Insurance Administration/Federal Emergency Management Agency mapping in accordance with existing and available or, if none, a note to that effect.
- (13) The location, extent and description of various soil types, Soil Conservation Service classification for each and the location of soil test pits and percolation test locations.
- (14) The location, width and purpose of any existing rights-of-way or other easements and associated restrictions.
- (15) The location, width and purpose of any proposed rights-of-way or other easements.
- (16) The location of wells and subsurface sewage disposal fields when on-site disposal is proposed, and other utilities.
- (17) Contour lines, at an interval of not more than 20 feet. Contours at a more-detailed interval may be required by the Planning Board in cases where development on steep slopes is proposed or compliance with the slope standards in the Town Zoning Law must be determined.
- (18) The total tract boundary lines of the project with distances accurate to hundredths of a foot and bearings accurate to seconds of an arc. The location of all perimeter monuments shall be shown and described.
- (19) The name and/or number and pavement width and right-of-way lines of all existing public streets and/or roads and the name and location of all other streets and/or roads within the property.
- (20) The full plan of the proposed development, including but not limited to the following information and data:
 - (a) Sufficient bearings, lengths of lines, radii, arc lengths and chords of all lots, streets, rights-of-way, easements, community or public areas and areas to be dedicated to accurately and completely reproduce each and every course on the ground.
 - (b) All dimensions in feet and hundredths of a foot.
 - (c) All bearings to the nearest one minute of the arc.

- (d) Street names.
 - (e) Street widths and rights-of-way and easement widths.
 - (f) Clear sight triangles shown for all street intersections.
 - (g) Block and lot numbers.
 - (h) The total tract area and area of each lot in square feet or acres.
 - (i) The location and type of permanent monuments and markers which have been set in place.
 - (j) Building setback lines for each lot as required by the Town Zoning Law. The Planning Board may, however, require, where slope, lot size, drainage or other factors warrant, that the proposed placement of each building be shown on the plan.
 - (k) Excepted parcels or sections marked "not included in this plan" and their boundaries completely indicated by bearings and distances.
 - (l) A statement of the intended use of all nonresidential lots, with reference to restrictions of any type which exist as covenants in the deed for the lots contained in the subdivision and, if the covenants are recorded, including the book and page.
 - (m) The deed book volume and page number, as entered by the County Clerk, referencing the latest source(s) of title to the land being developed.
 - (n) The County Tax Map section, block and lot number.
- (21) Zoning data, including all of the following, when applicable:
- (a) Zoning district designations and bulk and density standards.
 - (b) Zoning district boundary lines transversing the proposed subdivision.
 - (c) Zoning district boundary lines within 500 feet of the proposed subdivision (show on the location map).
- (22) The following items and notes, when applicable, in the form of protective and/or restrictive covenants:
- (a) Building setbacks.
 - (b) Corner lot sight easements.
 - (c) Corner lot driveway locations.
 - (d) Utility and drainage easements, including ownership and maintenance responsibility.
- (23) A title block included on the lower right corner.
- (24) Approval/signature blocks for the Town Planning Board.

(25) The following general notes, if applicable:

- (a) "All lots shown on this plan are subject to the rules and regulations contained in the Town of Callicoon Zoning Law."
- (b) "Wells shall be developed in accordance with the current standards of the New York Department of Health and Town of Callicoon, and Town Planning Board approval of this plan in no way certifies or guarantees the quality or capacity of any well."
- (c) "No certificate of completion pursuant to the Zoning Law shall be issued for any dwelling or building in any subdivision or land development nor shall any dwelling or building be used or occupied until such time as all improvements required to service and provide access to said dwelling or building have been installed by the developer and approved by the Town Planning Board."
- (d) In the event that the subdivision incorporates a minimum access street as defined in this chapter, the following: "The maintenance of any minimum access street shall be the sole responsibility of those persons who have the right to use the minimum access street."
- (e) In the event of a lot improvement proposal: "Lot/Parcel _____ shall be joined to and become a part of Lot/Parcel _____ as recorded in Deed Book Volume _____, page _____, and cannot be subdivided, conveyed or sold separately or apart therefrom without prior Town Planning Board approval," and "After subdivision approval, Lot _____ must be conveyed to the adjacent buyer and be annexed to his property within 10 days or the subdivision shall be null and void and Lot _____ will remain part of Lot _____"
- (f) "Highway work permits are required for access to roads under the jurisdiction of the New York Department of Transportation, Sullivan County and the Town of Callicoon."
- (g) In the case where wetlands are present: "The developer and/or the lot purchaser(s) assumes full responsibility for obtaining any local, state and federal permits and/or approvals relating to wetlands, and the developer represents and warrants that the wetlands have been accurately and properly identified and delineated. This approval by the Town Planning Board shall not in any manner be construed to be an approval of compliance with statutes or regulations relating to wetlands, and the town shall have no liability or responsibility for the same to the developer or purchaser(s)."
- (h) When on-site subsurface sewage disposal is proposed: "The Town Planning Board approval of this plan in no way certifies or guarantees the suitability of any lot for the installation of a subsurface sewage disposal system. Said system(s) shall be installed in accordance with applicable New York State Department of Health requirements.
- (i) In cases where the requirement for sewage planning is waived by the Town

Planning Board, such as the sale of agricultural or forest land where sewage producing facilities are not proposed: "The lot(s) shown on this plan have not been approved for any type of sewage disposal, based upon the representation by the developer that the lot(s) will be used for the purposes other than a dwelling, commercial establishment or any use which generates wastewater."

- (j) When private improvements are proposed: "It shall be the responsibility of the developer and the property owners in the subdivision for the continued ownership and maintenance of any and all private improvements, including but not limited to roads, stormwater controls, sewage disposal systems, water supplies and recreation facilities."

(26) In the case of land developments, the location and configuration of project buildings, parking compounds, streets, access drives, driveways and all other planned facilities.

B. Supporting documents and information. The following supporting documents and information shall be submitted with the final plan for major subdivisions and land developments (See § 185-19A(2) for the number of copies to be submitted.):

- (1) Typical final street cross-section drawings for all proposed streets and/or roads, including the following:
 - (a) Typical cut sections.
 - (b) Typical fill sections.
 - (c) Typical superelevated sections.
 - (d) Typical parallel drainage.
- (2) Final profiles along the top of the cartway (pavement) center line showing existing and final grade lines and printed elevations of the final grade line at fifty-foot intervals, unless otherwise required by this chapter, and underground utilities.
- (3) Any existing and finally proposed deed restrictions, protective and restrictive covenants that apply to the subdivision plan and those specific restrictive covenant provisions required by the Town Planning Board as part of the plan approval, placed on the plan.
- (4) All existing and finally proposed offers of dedication and/or reservation of rights-of-way and land areas with conditions attached.
- (5) The latest deed of record, if different from the preliminary.
- (6) Water supply and sewage disposal information.
 - (a) The final plan of any central water supply and/or sewage disposal system showing all pertinent details.
 - (b) Evidence of approval by the New York State Department of Health of sewage planning documents.
 - (c) All other documentation required to demonstrate compliance with § 185-43 of

this chapter.

- (7) All required state or federal environmental permits.
 - (8) Highway work permits.
 - (9) A soil erosion and sedimentation control plan.
 - (10) A final drainage/stormwater management plan.
 - (11) Final bridge designs and required state or federal approvals.
 - (12) A statement setting forth any zoning variances or subdivision waivers/modification obtained.
 - (13) Where the land included in the subject application has a railroad, an electric transmission line, a gas pipeline or a petroleum or petroleum products transmission line located within the tract, the final plan shall be accompanied by a letter from the owner or lessee of such right-of-way stating any conditions on the use of the land and the minimum building setback and/or right-of-way lines. This requirement may also be satisfied by submitting a copy of the recorded agreement.
 - (14) Improvement construction documentation as required by Article V.
- C. Additional information. The Town Planning Board shall request any other necessary information based on the specific characteristics of the proposed project.
- D. Application forms and certifications. The applicant shall complete and submit such application forms and certifications as prescribed by the Town Planning Board for submittal with final plan applications. [See § 185-19A(2) for the number to be submitted.]
- E. Maintenance of development improvements. The developer shall provide a proposed plan for the succession of ownership and continued operation and maintenance of all development improvements, amenities and common use or open space areas. (See also Article V.)

§ 185-29. Minor subdivision, final plan requirements.

Plans for minor subdivisions shall be prepared by a professional engineer and/or professional land surveyor as applicable and required by state law and shall be submitted pursuant to the following:

- A. Minor plan information. The minor plan shall contain the following:
- (1) The name of the subdivision and the identification number assigned by the project surveyor/engineer.
 - (2) The name and address of the owner of record. (If a corporation, give the name of each officer.)
 - (3) The name and address of the developer if different from the landowner. (If a corporation, give the name of each officer.)
 - (4) The name, address, license number, seal and signature of the professional engineer or

- professional land surveyor responsible for the preparation of the subdivision plan.
- (5) The date, including the month, day and year that the final plan for the minor subdivision was completed and the month, day and year of each plan revision, along with a description of the revision.
 - (6) The deed book volume and page number reference of the latest source(s) of title to the land being subdivided.
 - (7) A North arrow (true or magnetic).
 - (8) A graphic scale and written scale.
 - (9) Lots numbered in consecutive order.
 - (10) A plat of the area proposed to be subdivided, including the tract boundaries, if appropriate, street lines and names, lot lines, rights-of-way or easements (existing and/or proposed, if any).
 - (11) Sufficient data, acceptable to the Town Planning Board, to determine readily the location, bearing and length of every boundary, street or lot line. All dimensions shall be shown in feet and hundredths of a foot. All bearings shall be shown to the nearest one second of the arc.
 - (12) The area of each lot or parcel shown within each lot or parcel.
 - (13) Reference monuments and/or lot markers shown on the plan and placed as required by this chapter.
 - (14) Any existing buildings located on the tract being subdivided, platted to demonstrate compliance with setback requirements.
 - (15) Building setback lines for each lot as required by the Town Zoning Law. The Planning Board may, however, require, where slope, lot size, drainage or other factors warrant, that the proposed placement of each building be shown on the plan.
 - (16) The name and/or number and pavement width and right-of-way lines of all existing public streets and the name, location and width of all other roads within or abutting the property.
 - (17) Names of adjoining property owners, including those across adjacent roads, and the names of all adjoining subdivisions, including those across adjacent roads with the book and page where each property and/or subdivision is recorded, along with the Tax Map section, block and lot number for each property shown.
 - (18) Watercourses, lakes, streams, ponds with names, rock outcrops and stone fields, the approximate location of existing tree masses and other significant features, man-made or natural, including utilities, wells and sewage systems.
 - (19) Wetlands as shown on United States Geological Survey topographic maps and the Wetlands Inventory Maps published by the United States Fish and Wildlife Service. If wetlands exist where said maps do not show wetlands or if any wetland may be adversely affected by the proposed development, a detailed, site-specific wetland

delineation shall be submitted by the applicant along with certification of the same by the United States Fish and Wildlife Service, United States Army Corps of Engineers and/or the New York Department of Environmental Conservation. If no wetlands are present or no wetlands will be adversely affected, a certification to such effect shall be provided by the applicant.

- (20) A clear sight triangle, clearly shown for all street intersections.
 - (21) Site data, including the total acreage, number of lots, existing zoning district and Tax Map section, block and lot number.
 - (22) Contour lines at an interval of not more than 20 feet. Contours at a more-detailed interval may be required by the Planning Board in cases where development on steep slopes is proposed or compliance with the slope standards in the Town Zoning Law must be determined. A minimum of two contour lines are required to show direction and amount of slope.
 - (23) The location of all flood hazard areas as shown on the most recent Federal Insurance Administration/Federal Emergency Management Agency mapping and, if none, a note to that effect.
 - (24) The location and extent of various soil types by Soil Conservation Service classification for each type and the locations of soil test pits and wells.
 - (25) The location of any soil test pits and/or percolation tests. The logs of the test pit evaluations and the results of the percolation tests shall accompany the plan.
 - (26) A location map for the purpose of locating the property being subdivided.
 - (27) Approval/signature blocks for the Town Planning Board.
 - (28) A title block on the lower right corner.
- B. General notes. The following general notes shall be included on all final minor plans, if applicable:
- (1) "All lots shown on this plan are subject to the rules and regulations contained in the Town of Callicoon Zoning Law."
 - (2) "Wells shall be developed in accordance with the current standards of the New York Department of Health and the Town of Callicoon, and town approval of this plan in no way certifies or guarantees the quality or capacity of any well."
 - (3) "No certificate of completion pursuant to the Zoning Law shall be issued for any dwelling or building in any subdivision or land development nor shall any dwelling or building be used or occupied until such time as all improvements required to service and provide access to said dwelling or building have been installed by the developer and approved by the Town Planning Board."
 - (4) In the event the subdivision incorporates a minimum access street as defined in this chapter, the following: "The maintenance of any minimum access street shall be the sole responsibility of those persons who have the right to use the minimum access

street."

- (5) In the event of a lot improvement proposal: "Lot/Parcel _____ shall be joined to and become a part of Lot/Parcel _____ as recorded in Deed Book Volume _____, page _____, and cannot be subdivided, conveyed or sold separately or apart therefrom without prior Town Planning Board approval," and "After subdivision approval, Lot _____ must be conveyed to the adjacent buyer and be annexed to his property within 10 days or the subdivision shall be null and void and Lot _____ will remain part of Lot _____"
 - (6) "Highway work permits are required for access to roads under the jurisdiction of the New York Department of Transportation, Sullivan County and the Town of Callicoon."
 - (7) In the case where wetlands are present: "The Developer and/or the lot purchaser(s) assumes full responsibility for obtaining any local, state, and federal permits and/or approvals, relating to wetlands, and the Developer represents and warrants that the wetlands have been accurately and properly identified and delineated. This approval by the Town Planning Board shall not in any manner be construed to be an approval of compliance with statutes or regulations relating to wetlands, and the town shall have no liability or responsibility for the same to the developer or purchaser(s)."
 - (8) When on-site subsurface sewage disposal is proposed: "The Town Planning Board approval of this plan in no way certifies or guarantees the suitability of any lot for the installation of a subsurface sewage disposal system. Said system(s) shall be installed in accordance with applicable New York State Department of Health requirements."
 - (9) In cases where the requirement for sewage planning is waived by the Town Planning Board, such as the sale of agricultural or forest land where sewage producing facilities are not proposed: "The lot(s) shown on this plan have not been approved for any type of sewage disposal, based upon the representation by the developer that the lot(s) will be used for the purposes other than a dwelling, commercial establishment or any use which generates wastewater."
- C. Supporting documents and information. Typical cross sections for any minimum access streets of a design adequate for anticipated traffic, along with center line profiles and vertical curve data shall be shown.
- D. Additional information. The Town Planning Board shall request any other information deemed necessary by the Board based on the specific characteristics of the proposed project.
- E. Application forms and certifications. The applicant shall complete and submit such application forms and certifications as prescribed by the Town Planning Board for submittal with minor subdivision applications. (Forms are available from the Town Clerk.)
- F. Plan requirements for lot improvement subdivisions. The plan requirements set forth in this section for minor subdivisions shall also apply to lot improvement subdivisions. In addition, copies of the deeds prepared for recording shall be provided, and said deeds shall effect the lot improvements on the approved plans, and said deeds shall be recorded along

with the approved plans.

ARTICLE V
Improvement Construction and Guaranties

§ 185-30. General provisions.

- A. No project shall be considered in compliance with this chapter until the streets, parking facilities, storm drainage facilities, water and sewer facilities, lot corner markers and survey monuments and all other required or proposed improvements have been installed in accordance with this chapter.
- B. No final plan shall be signed by the Town Planning Board for recording in the Office of the County Clerk until:
 - (1) All improvements required by this chapter are installed to the specifications contained in Article VI of this chapter and other town requirements, and such improvements are certified as complete by the Town Engineer, or
 - (2) An improvements construction guaranty, in accordance with § 185-32, has been accepted by the town.
- C. Any approval granted by the Planning Board for any improvement required by this chapter shall be for subdivision approval purposes only and shall not constitute in any manner an approval for dedication of any improvements to the town.
- D. No building permit shall be issued for any dwelling or building in any subdivision until such time as all improvements required to service and provide access to said dwelling or building have been installed and approved by the Town Planning Board.

§ 185-31. Proposals in sections or stages.

In cases where final plan approval is proposed in sections or stages pursuant to § 185-20C, the Town Planning Board shall require the construction or guaranty of any and all development improvements required for the service or protection of any section or stage of the development proposed for final approval. Approval of the plan may be granted upon the installation of the required improvements in the section of the plan filed in the office of the County Clerk or Register or the posting of a guaranty covering the cost of such improvements. The owner shall not be permitted to begin construction of buildings in any other section until such section has been filed in the office of the County Clerk and the required improvements have been installed in such section or a guaranty covering the cost of such improvements is posted.

§ 185-32. Improvement construction guaranties.

- A. Acceptable guaranties.
 - (1) When approved by the Town Board and the Town Attorney as to form, sufficiency and manner of execution and surety, the following may be acceptable forms of improvement construction guaranties:
 - (a) Surety performance bond. A security bond from a surety bonding company

authorized to do business in the State of New York and approved by the town. The bond shall be payable to the Town of Callicoon.

- (b) Cash surety. A deposit of cash with the town which shall be placed in an interest-bearing account by the town with the town having the sole right to withdraw funds. Any interest earned on cash held by the town shall be retained by the town for administration of the escrow account.
 - (c) Irrevocable letter of credit. A letter of credit provided by the developer from a financial institution subject to the approval of the town.
- (2) The following requirements shall apply to the financial guarantees set forth in this Subsection A:
 - (a) The funds of any guaranty shall be held in trust until released by the town and may not be used or pledged by the developer as security in any other matter during that period.
 - (b) In the case of a failure on the part of the developer to complete said improvements, the institution shall immediately make the funds available to the town for use in the completion of those improvements approved as part of the final plan and as may be required to service any lots or dwelling units as determined by the Town Planning Board.
 - (c) The creditor shall guarantee funds in an amount equal to the established cost of completing all required improvements pursuant to Subsection B.
 - (d) The guaranty shall not be withdrawn or reduced in amount until released by the town.
- B. Amount of security. The amount of financial security to be posted for the completion of the required improvements shall be established by the Town Board with the advice of the Planning Board, the Town Engineer or other appropriate town departments. The amount of guaranty required shall be based upon an estimate of the cost of completion of the required improvements as if the town was responsible for contracting for improvements construction, plus any anticipated cost increases.
- C. Terms of guaranty. The performance guaranty shall run for a term to be fixed by the Planning Board, but in no case for a longer term than three years; provided, however, that the term of such performance bond may be extended by the Planning Board with consent of the parties thereto. The term of any guaranty shall extend 60 days beyond the scheduled date of improvements completion in order to assure the availability of funds to the town if the guaranty must be executed by the town.
- D. Additional guaranty. If the Town Board shall decide at any time during the term of the performance guaranty that the character and extent of such development require additional improvements previously waived for a period stated at the time of fixing the original terms of such guaranty, the Town Board may modify its requirements for any or all such improvements, and the face value of such performance guaranty shall thereupon be reduced or increased by an appropriate amount so that the new face value will cover the cost in full of the amended list of improvements required by the Town Board and any guaranty shall

be increased proportionately.

- E. Partial release of improvement construction guaranties. If the Planning Board shall decide at any time during the term of the performance guaranty that the extent of building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by such performance guaranty or that required improvements have been installed, as provided in this chapter and by the Planning Board, in sufficient amount to warrant reduction in the face amount of said guaranty and upon approval by the Town Board, the Planning Board, after due notice and public hearing, may modify its requirements for any or all such improvements, and the face value of such performance guaranty shall thereupon be reduced by an appropriate amount so that the new face value will cover the cost in full of the amended list of improvements required by the Planning Board, and any security deposited with the guaranty may be reduced proportionately, said reductions and releases to be governed by the procedures which follow:
- (1) Request. All such requests shall be in writing to the Town Board with a copy to the Town Engineer and shall include a certification from the developer's Professional Engineer that the subject improvements have been completed in accordance with the approved plans and town standards.
 - (2) Inspection. Upon receipt of such request, the Town Board shall direct the Town Engineer to inspect the subject improvements and certify to the Town Board their completion in accordance with the approved plans and town standards, and the Town Board shall authorize release of such portion of the construction guaranty established by the Town Engineer to represent the value of the completed improvements.
 - (3) Report. The Town Engineer shall file a detailed written report with the Town Board, with a copy mailed to the developer by certified or registered mail, recommending approval or rejection of said improvements, either in whole or in part, and if said improvements or any portion thereof shall not be approved or shall be rejected, said report shall contain, by specific law reference, a statement of reasons for nonapproval or rejection.
 - (4) Action. The Town Board shall act upon the Engineer's report and shall notify the developer, in writing, by certified or registered mail of its action. The Town Board may require the retention of 10% of the estimated cost of any approved improvements until the time of final release for all improvements.
 - (5) Rejected or unapproved improvements. If any portion of the subject improvements are not approved or are rejected by the Town Board, the developer shall proceed to rectify and/or complete the same, and upon completion, the same procedure of notification, as outlined in this Subsection E, shall be followed.
- F. Modification of design 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 by the Town 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 its next regular meeting.

- G. Final release of improvements and construction guaranties. When the developer has completed the construction of all required improvements the developer shall so notify the Town Board.
- (1) Notification. Such notification shall be in writing, by certified or registered mail, with a copy to the Town Engineer, and shall include a certification from the developer's professional engineer that all required improvements have been completed in accordance with the approved plans and town standards.
 - (2) Inspection. Upon receipt of said notice, the Town Board shall direct and authorize the Town Engineer to make a final inspection of the subject improvements.
 - (3) Report. The Town Engineer shall file a detailed written report with the Town Board, with a copy mailed to the developer by certified or registered mail, recommending approval or rejection of said improvements, either in whole or in part, and if said improvements or any portion thereof shall not be approved or shall be rejected, said report shall contain, by specific law reference, a statement of reasons for nonapproval or rejection.
 - (4) Action. The Town Board shall act upon the Engineer's report and notify the developer, in writing, by certified or registered mail of its action.
 - (5) Rejected or unapproved improvements. If any portion of the subject improvements are not approved or are rejected by the Town Board, the developer shall proceed to rectify and/or complete the same and, upon completion, the same procedure of notification, as outlined in this Subsection G, shall be followed.
- H. Enforcement remedies. In the event that any improvements which may be required have not been installed as provided in this chapter or in accordance with the approved plan, the Town Board may thereupon declare said performance guaranty to be in default and collect the sum remaining payable thereunder, and upon the receipt of the proceeds thereof, the town shall install such improvements as are covered by such performance guaranties and are commensurate with the extent of building development that has taken place in the subdivision, but not exceeding in cost the amount of such proceeds.

§ 185-33. Improvement construction.

This section shall apply to all construction of improvements whether the improvements are completed prior to final plan approval or guaranties are provided. The construction of all required improvements shall be supervised by the Town Engineer, who, after completion of construction, shall certify to the Town Board that all required improvements have been constructed as required by the town.

- A. Schedule. The developer shall, prior to the initiation of construction of any required improvements, submit to the Town Engineer a schedule of construction for all required improvements.

- B. Inspections. The Town Engineer or his designee shall have the right to inspect any and all improvements during and after construction. Based upon the improvements construction schedule and the nature of the required improvements the town shall make the inspections deemed necessary by the town.
- C. Notice. The developer shall provide a minimum of five working days notice prior to the time when construction will have proceeded to the time of an inspection required by the town inspection schedule.
- D. Cost. The cost of all inspections, including the cost of escrow administration and the on-site inspections and associated work conducted by the Town Engineer, shall be borne by the developer. A fee shall be charged which shall be 4% of the cost estimate of all improvements as set forth on the approved plan, said cost estimate determined in accordance with § 185-32B and payable prior to initiation of the construction of improvements or posting of a financial security. Said fee shall be deposited in an escrow account in the name of the town and shall be properly established and administered. In the event that all escrow funds for inspections are exhausted, an additional fee in an amount equal to 4% of the cost of the uncompleted improvements shall be paid by the applicant. Upon final approval of all constructed improvements, any remaining escrowed inspection fees shall be reimbursed to the applicant.

§ 185-34. Improvement maintenance guaranties.

In cases where the developer proposes that improvements be dedicated to the town, before final approval is granted, the developer shall provide to the Town Board a maintenance guaranty in an amount not less than 15% of the cost of all required improvements as estimated by the Town Engineer.

- A. Such maintenance guaranty shall be in such form as prescribed in § 185-32A and shall guarantee that the developer shall maintain all improvements in good condition during the 18 months after the completion of construction or installation and final approval of all improvements. If the developer is negligent or fails to maintain all improvements in good condition during the eighteen-month period, the town may enforce the maintenance guaranty, bond or other surety by appropriate and equitable remedies. If proceeds of such bond or other surety are insufficient to pay the cost of maintaining the improvements during said eighteen-month period, the town, at its option, may institute appropriate legal or equitable action to recover the moneys necessary for maintaining the improvements in good condition.
- B. After the expiration of the 18 months from the date of the final approval of the subject improvements and if all improvements are certified by the Town Engineer to be in good condition, the town shall release said maintenance guaranty and surety to the developer or party posting said maintenance guaranty and surety.

§ 185-35. Succession of ownership and maintenance of improvements.

The developer shall provide for the succession of ownership and responsibility for maintenance of development improvements and/or common areas.

§ 185-36. Subdivision and/or land development improvements certification.

All applicants proposing any subdivision and/or land development requiring the installation of improvements as required by this chapter shall, prior to final plan approval by the Town Board and if so directed by the Town Board, provide a legally binding development agreement, which shall pass to the developer's heirs and assigns, guaranteeing the installation of the required improvements in accordance with the approved plan and all town requirements.

A. Contents. The development agreement shall be in a form suitable for execution by the Town Board and shall provide for the following, where applicable and as required by the town:

- (1) The construction of all facilities authorized by the approved plans (streets, drainage, etc.) in itemized format.
- (2) The installation of survey monuments and lot markers.
- (3) The installation of all public utility lines.
- (4) The prevention of erosion, sedimentation and water damage to the subject, adjacent and downstream properties.
- (5) The developer's responsibility for any damages to adjacent or neighboring properties.
- (6) A work schedule setting forth the beginning and ending dates and such other details as the town deems fit and appropriate for improvements contained therein.
- (7) The estimated cost of the improvements not yet completed, including the amount of performance guaranty to be submitted.
- (8) Security in the form of a construction guaranty approved by the town to insure the installation of the required improvements.
- (9) Security in the form of a maintenance guaranty approved by the town for the repair or reconstruction of improvements which are found by the Town Engineer to be defective within 18 months from the date of formal acceptance of said improvements, together with provisions for disbursement thereof.
- (10) A set of reproducible as-built plans prepared by and certified to by a professional engineer of all roadways and streets, bridges, drainage systems, sewage collection and treatment systems and water distribution systems.
- (11) Public liability insurance for the duration of improvements construction. A copy of said policy or other evidence of coverage shall be submitted to the town.
- (12) A save-harmless clause to protect the town from any and all liability.
- (13) The developer's responsibility for all reasonable engineering and legal costs and expenses for inspection, consultations and preparation of agreements to the extent that such costs and expenses exceed the moneys paid by the developer in accordance with the standard fee schedules.
- (14) Provisions for changing the approved final plan, supporting plans, profiles, data,

specifications and related documents.

(15) Provisions for violations of the development agreement.

(16) Provisions for severability of any article.

(17) Provisions for any additional agreements deemed necessary.

B. Execution. The final plan shall not be approved by the Town Board prior to the execution of this agreement.

ARTICLE VI

Design Standards and Improvement Specifications

§ 185-37. General provisions.

A. Application. The standards and requirements contained in this Article are intended as the minimum for the preservation of the environment and promotion of the public health, safety and general welfare and shall be applied as such by the Town of Callicoon Planning Board and by the Town Board of the Town of Callicoon in reviewing and evaluating plans for all proposed subdivisions.

(1) Additional improvements or improvements of more-stringent specifications may be required in specific cases where, in the opinion of the Town Planning Board, with the advice of the Town Engineer, they are necessary to create conditions essential to the health, safety and general welfare of the citizens of the Town of Callicoon and/or to protect the environment of the town.

(2) Those areas which are subject to such hazards to life, health or property as may arise from fire, flood or noise or are considered to be uninhabitable for other reasons shall not be subdivided for building purposes unless the hazards have been eliminated or the plans show adequate safeguards against the hazards.

(3) Sources for determining and evaluating potential hazards may include historical records, soil evaluations, engineering studies, expert opinions, standards used by licensed insurance companies and adopted regional, county or local municipal policies.

(4) All portions of a tract being subdivided shall be taken up in lots, streets, public lands or other proposed uses so that remnants and landlocked areas shall not be created. The layout of a subdivision shall also be planned with consideration for existing nearby developments or neighborhoods so that they are coordinated in terms of traffic movement, drainage and other reasonable considerations.

(5) Care shall be taken to preserve natural features such as trees, watercourses, views, other irreplaceable natural assets and historical features, such as buildings and stone walls, which will add attractiveness and value to the subdivision and community.

(6) Where a subdivision is on a site where slopes exceed 15%, larger lots shall be required in accordance with the Town Zoning Law. Damming, filling, relocating or otherwise interfering with the natural flow of surface water along any surface water drainage channel or natural watercourse shall not be permitted except with the

approval of the town and, where appropriate, the New York State Department of Environmental Conservation.

- (7) Lot lines, where possible, shall follow municipal and county boundary lines rather than cross them. Reserve strips controlling access to lots, public rights-of-way, public lands or adjacent private lands are prohibited.
- B. Planned improvements. Physical improvements to the property being subdivided and/or developed shall be provided, constructed and installed as shown on the record plan.
 - C. Improvements specifications. All improvements installed by the developer shall be constructed in accordance with the design specifications and construction standards of the town.
 - (1) Where there are no applicable town specifications, improvements shall be constructed in accordance with specifications furnished by the Town Engineer, County Department of Public Works Engineer, New York Department of Environmental Conservation or such other state or federal agency as may be applicable.
 - (2) If there are no applicable town or other laws, the Town Planning Board and/or the Town Board may authorize that such specifications be prepared by the Town Engineer.
 - D. Other laws and regulations. Whenever other town laws and/or regulations impose more restrictive standards and requirements than those contained herein, such other laws and/or regulations shall be observed; otherwise, the standards and requirements of this chapter shall apply. In addition, any development or any activity undertaken or facilities provided pursuant to this chapter shall comply with any and all applicable state and federal regulations.

§ 185-38. Blocks and lots.

- A. Configuration. The configuration of blocks and lots shall be based upon the lot area requirements, the salient natural features, the existing man-made features and the proposed type of structure. Lot configurations should provide for flexibility in building locations, while providing safe vehicular and pedestrian circulation.
- B. Blocks.
 - (1) Residential blocks shall have a maximum length of 1,200 feet.
 - (2) Commercial blocks shall have a maximum length of 600 feet.
 - (3) Blocks shall be of sufficient width to permit two tiers of lots except where a public street, stream, other natural barrier or unsubdivided land prevents the platting of two tiers of lots.
- C. Lots.
 - (1) Lot sizes and widths shall be governed by the Town of Callicoon Zoning Law and shall be platted so that each lot includes an area of suitable slope, soil and other conditions for building purposes in accordance with applicable town, county and state

regulations. In all cases, each lot shall include a consolidated building area of not less than 10,000 square feet with a slope of 15% or less.

- (a) The net lot area shall be determined by computing the gross area contained within the lot lines and deducting therefrom the following nonqualifying areas:
 - [1] Land contained within the rights-of-way of any existing public or proposed private streets.
 - [2] All areas of water bodies, including lakes, ponds and streams (measured to the normal high-water mark on each side) and all areas with slopes in excess of 20%.
 - (b) Any portion of the above deduction areas located within the front, side and rear yard setback areas required by the Town Zoning Law need not be deducted.
- (2) Lots shall be laid out to the center of any public or private road right-of-way or to a previously existing state, county or town right-of-way.
 - (3) Lots should not be of such depth as to suggest the possibility of the later creation of a second building lot at the front or rear.
 - (4) Lots shall, where possible, not be divided by municipal boundaries.
 - (5) All side lines of lots shall be as near as possible at right angles to straight street lines and radial to curved street lines.
 - (6) Double frontage lots shall not be platted except where provided as reverse frontage lots to minimize driveway intersections along a public road, and lot access is restricted to the interior development street. A front yard setback shall be provided along all road rights-of-way.
 - (7) In order to minimize the number of driveways to a public road, interior streets or a common driveway between two lots may be required when lot widths, driveway locations and sight distances present safety problems.
 - (8) All lands in a subdivision shall be included in plotted lots, roads, common areas and other improvements, and no remnants of land or reserve strips controlling access to lots, public rights-of-way, public lands or adjacent private lands shall be permitted.
 - (9) Corner lots shall be sized to provide for proper building setbacks from each street.
 - (10) In the event that streets or roads within the subdivision are to be taken over by the town or when driveways are proposed to enter existing public streets or roads, a driveway permit shall be obtained from the state, county or town official authorized to issue such permits.

§ 185-39. Monuments and markers.

Monuments and markers shall be placed so that the center or scored or marked point shall coincide exactly with the intersection of the lines being monumented or marked and shall conform to the following:

A. Monuments.

- (1) Monuments shall consist of either:
 - (a) A two-inch (inside diameter) galvanized pipe filled with concrete at least 48 inches in length or unless otherwise approved by the Town Planning Board.
 - (b) A concrete cylinder four inches in diameter and at least 48 inches in length.
 - (c) Such other monuments as the Town Planning Board may approve.
- (2) Monuments shall be set flush with the finished grade of the surrounding ground.
- (3) All monuments shall be placed under the direction of a professional land surveyor who will take full responsibility for their accuracy and placement.
- (4) Monuments shall not be placed until road grading has been completed.
- (5) Monuments shall be placed as follows:
 - (a) At all exterior property corners where permanent corners do not exist at the time of the perimeter survey. (Existing permanent corners shall not be removed or replaced but shall be noted on the plan as existing and described.).
 - (b) One monument for every 10 lots proposed shall be placed at intersections of rear lot lines, the location of which shall be proposed by the developer and approved by the Town Planning Board. However, an adequate number of monuments shall be provided so that in no case shall the distance between monuments exceed 1,000 feet.

B. Markers.

- (1) Lot markers shall consist of either:
 - (a) Solid steel rods not less than 1/2 inch in diameter or not less than 24 inches in length.
 - (b) Steel pipes not less than 3/4 inch in diameter or not less than 24 inches in length.
 - (c) Such other markers as the Town Planning Board may approve.
- (2) Markers normally shall be set not less than two inches above the finish grade of the surrounding ground.
- (3) All markers shall be placed under the direction of a professional land surveyor who shall have full responsibility for their accuracy and placement.
- (4) Markers shall not be placed until road grading has been completed.
- (5) Lot markers shall be placed as follows:
 - (a) At all points where lot lines intersect street right-of-way lines.
 - (b) At all points where lot lines intersect exterior property lines.

- (c) At all interior lot corners.
- (d) At such other lot corners and locations as the Town Planning Board may direct.

§ 185-40. Streets and roads.

The classification of streets as collector or minor within a subdivision shall be approved by the Town Planning Board based on the particular site characteristics, traffic flow and the advice of the Town Engineer. Roads shall be graded, improved and surfaced to the grades and specifications shown on the plans, profiles and cross sections as approved by the Town Planning Board.

- A. Topography. Roads shall be logically related to topography to produce grades in conformance with this chapter, minimize excessive cuts and fills and stormwater runoff and provide suitable building sites.
- B. Existing access. Existing private roads or rights-of-way proposed to provide access to a subdivision shall meet all the requirements of this section or shall otherwise be improved to such standards, including right-of-way width.
- C. Street connections continuation.
 - (1) Subdivisions containing 20 lots or more shall have at least two street connections with existing public roads.
 - (2) The arrangement of streets in the subdivision shall provide for the continuation of principal streets of adjoining subdivisions and for proper projection of principal streets into adjoining properties which are not yet subdivided in order to make necessary fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services, such as sewers, water and drainage facilities. Where, in the opinion of the Planning Board, topographic or other conditions make such continuance undesirable or impractical, the above conditions may be modified.
- D. Subdivision and street names. Streets that are extensions of or obviously in alignment with existing streets shall bear the names of the existing streets. Subdivision and street names shall not be repeated or be similar to those existing within the town or adjacent areas, and all street names shall be subject to the approval of the Town Planning Board. Street name signs of a design approved by the Town Planning Board shall be installed by the developer at his expense at each street intersection, and such signs shall be considered as improvements for purposes of installation and maintenance in accordance with Article V of this chapter.
- E. Inadequate rights-of-way. Where a subdivision abuts or contains an existing county, state, town or private street of inadequate right-of-way width, additional right-of-way width in conformance with Table VI-1, Design Standards for Roads, shall be provided.²
- F. Cul-de-sac streets. Cul-de-sac streets shall meet the following design regulations:

2. Editor's Note: Table VI-1 is included at the end of this chapter.

- (1) Dead-end streets are prohibited unless otherwise designed as cul-de-sac streets or designed to provide future access to adjoining properties.
- (2) Any temporary dead-end street shall be provided with a temporary all-weather turnaround within the subdivision, and the use of such turnaround shall be guaranteed to the public until such time as the street is extended.
- (3) Cul-de-sac streets, permanently designed as such, shall not exceed 1,500 feet in length. However, the total length may be increased if a turnaround is provided at intervals of 1,500 feet or there is an intervening intersection. If the total length is less than 3,000 feet the turnaround or intervening intersection shall be at the midpoint.
- (4) All cul-de-sac streets, whether permanently or temporarily designed as such, shall terminate in a circular right-of-way with a minimum outside radius of 60 feet and the outer pavement edge or curblin shall have a minimum radius of 50 feet. The same dimensions shall apply to intervening turnarounds. The entire area of all cul-de-sac circles and any intervening turnarounds shall be cleared and surfaced to the same specifications as the connecting road.
- (5) The circular right-of-way of the turnaround shall be connected to the approach right-of-way by an arc having a radius of not less than 25 feet.

G. Minimum access streets. Minimum access streets may be used to provide access to residential lots which do not front on a public or approved private road in accordance with the requirements of this subsection. A minimum access street shall not be permitted in any subdivision where any new minor or collector streets are proposed as part of the subdivision. In such cases, all lots platted shall be served by a minor or collector street. (For existing rights-of-way, see Subsection E.).

- (1) The minimum access street shall serve a subdivision of not more than 10 lots, including that lot fronting on the abutting street, and shall not exceed 800 feet in length, and all lots shall use the minimum access street for access to the public/private road. [Amended 4-14-1997 by L.L. No. 1-1997]
- (2) The minimum access street shall have a minimum right-of-way width of 50 feet and is terminated by a circular right-of-way with a minimum outside radius of 60 feet, and the outer pavement edge or curblin shall have a minimum radius of 50 feet.
- (3) Minimum access streets and entrances or aprons within the adjoining street right-of-way shall be installed by the developer and/or subdivider as required in Subsection J. Maintenance of the remaining length of the minimum access street shall be the responsibility of the buyer or buyers of the served lot or lots, and said minimum access street shall not, under any circumstances, be offered to the Town as a municipal road. A covenant shall be placed on the final plan clearly assigning responsibility for construction and maintenance of the minimum access street and establishing its future private ownership status, and said responsibility shall be established by a private maintenance agreement in accordance with § 185-35 of this chapter. Prior to final approval, the Town may also require the construction of the minimum access street or the posting of a guaranty in accordance with Article V of this chapter.

- (4) A minimum access street shall be used only to provide access to lots that cannot legally be further subdivided or improved with more than one dwelling unit, except in full accordance with Town requirements.
- (5) A leveling area not exceeding 3% in grade and not less than 30 feet in length shall be provided where the minimum access street intersects with the right-of-way of the adjoining road.
- (6) The Planning Board may also require the planning, construction and maintenance of stormwater control facilities in connection with the approval of any minimum access street.

H. Intersections.

- (1) Center lines of streets shall intersect at right angles as nearly as possible.
 - (a) Any center line angle of less than 75° shall be allowed only upon grant of a waiver by the Town Planning Board based upon a written request by the developer.
 - (b) Center line angles of less than 60° shall not be approved under any condition.
- (2) Intersections of more than two streets at one point shall not be permitted.
- (3) Where streets intersect other streets and are not in direct alignment, the minimum offset or distance between center lines of parallel or approximately parallel streets intersecting a cross street from opposite directions shall be as follows:
 - (a) One hundred fifty feet for minor streets.
 - (b) Four hundred feet for collector streets.
- (4) The cartway edge at intersections shall be rounded by a tangential arc with a minimum radius of 40 feet for minor streets or streets of lesser classification and 50 feet for collector streets.

I. Street frontage. Points of intersection with existing major or collector streets shall be minimized, and the Town Planning Board may require minor streets or reverse-frontage lots or such other treatment as will provide protection for abutting properties, reduction in the number of intersections with any major or collector street and separation of local and through traffic.

J. Street right-of-way, travelway, shoulder widths and cross sections. Street right-of-way, travelway and shoulder widths shall be provided to the minimum standards provided in Table VI-1 and Table VI-2.³

- (1) Shoulder surfaces shall be graded at a slope 1/2 inch per foot away from the pavement edge.
- (2) The finished paved travelway surface of tangent sections and curve sections not required to be superelevated, shall be crowned at 1/4 inch per foot away from the

3. Editor's Note: Tables VI-1 and VI-2 are included at the end of this chapter.

center line.

- (3) Properly superelevated cross sections shall be required on major and collector streets when the curve radii are less than 1,500 feet. The maximum permissible superelevation shall be 0.08 foot per foot.

K. Access and utility rights-of-way.

(1) Access rights-of-way.

- (a) Access rights-of-way shall be shown and labeled on the plans to indicate the purpose, the rights-of-way users and the rights of said users.
- (b) No access right-of-way shall be a part of any lot, but it shall be a separate area designed with the express purpose of access to a particular site or facility. (Example: An access to a well lot would be part of the well lot and not a right-of-way across the adjoining building lot.).
- (c) The name(s) of the right-of-way holder (dominant tenement) and maintenance responsibility shall be noted on the plan for each right-of-way.

(2) Utility and drainage rights-of-way.

- (a) Utility and drainage rights-of-way provided along street rights-of-way shall be a minimum of 10 feet in width or as required to meet drainage requirements, and all other drainage and utility rights-of-way shall be 15 feet in width.
- (b) All utility and drainage rights-of-way shall be shown and labeled on the plan and included in the restrictive covenants.
- (c) Utility and drainage rights-of-way may be located within the street right-of-way unless site conditions, as determined by the Planning Board, require the dedication of additional rights-of-way.

L. Street alignment. Street alignment shall be designed as follows:

- (1) Whenever street lines are deflected in excess of 5° within 500 feet, connection shall be made by horizontal curves.
- (2) Streets shall be designed so that there will be unobstructed sight distances along the center line thereof, as set forth in Table VI-1.⁴
- (3) Sight distances shall be measured from a point 3.75 feet above the road surface to a point 0.5 foot above the road surface.
- (4) Between reversed curves, the following minimum tangents shall be provided:
 - (a) One hundred feet on major and/or collector streets.
 - (b) Fifty feet on minor streets.

M. Street grades. Street grades shall be designed as follows:

4. Editor's Note: Table VI-1 is included at the end of this chapter.

- (1) Center line grades shall not exceed the grades set forth in Table VI-1.⁵
 - (2) Center line grades shall be a minimum of 1%.
 - (3) The maximum grade across any turnaround in a cul-de-sac street shall not exceed 4%.
 - (4) To provide for adequate drainage, the minimum grade of any street or street gutter shall not be less than 1%.
 - (5) To provide for adequate drainage, the minimum grade of any parallel ditch along a street shall be not less than 2%.
 - (6) A leveling area for all street intersections shall be provided as follows:
 - (a) The tangent grade of the intersecting street(s) shall not exceed 3% within 30 feet of the right-of-way lines of the through street.
 - (b) Crest and sag vertical curves shall be provided in accordance with Subsection N.
 - (c) The point of vertical curvature or tangency shall not be within the through street right-of-way and leveling areas.
- N. Vertical curves. Vertical curves shall be used at all changes of grade and shall be provided in accordance with Table VI-3.⁶
- O. Clear sight triangles. At all intersections, a triangular area shall be graded and/or other sight obstructions removed in such a manner as not to obscure vision between a height of from two to 10 feet above the center line grades of the intersecting streets.
- (1) Such triangular area shall be determined by the intersecting street center lines and a diagonal connecting the two points, one point at each street center line:
 - (a) One hundred seventy-five feet from the intersection of such street center lines if either street is a major street.
 - (b) One hundred twenty-five feet from the intersection of such street center lines if either street is a collector street.
 - (c) Eighty-five feet from the intersection of such street center lines if both streets are minor streets.
 - (2) Whenever a portion of the line of such triangle occurs behind (from the street) the building setback line, such portion shall be shown on the final plan of the subdivision and shall be considered a building setback line.
- P. Driveways. No lot shall be approved which would result in a driveway which would exceed 15% in grade. A grading plan shall be provided as part of the subdivision plan demonstrating that a driveway for each lot can be installed in accordance with this subsection. Driveways shall be as follows:

5. Editor's Note: Table VI-1 is included at the end of this chapter.

6. Editor's Note: Table VI-3 is included at the end of this chapter.

- (1) Driveways shall not be permitted to have direct access to major or collector streets unless authorized by the Town Planning Board and approved by the Town Engineer, County Department of Public Works Engineer or the New York State Department of Transportation, as the case may be, via issuance of a highway work permit.
- (2) Lots shall not be platted which would result in driveways which would exceed 3% in grade for the first 30 feet or 15% thereafter or as otherwise required by state, county or town Laws.
- (3) Entrances shall be rounded at a minimum radius of five feet or shall have a flare construction that is equivalent to this radius at the point of intersection with the cartway edge.
- (4) Future driveways which are to be constructed adjacent to a street intersection shall be indicated on the preliminary and final plans.
- (5) A leveling area not exceeding 3% in grade and not less than 40 feet in length shall be provided where a driveway intersects with the right-of-way of the adjoining road.
- (6) The minimum distance between a driveway or point of access to a street shall be as follows:

Distance Between Center Lines of Driveway and Nearest Intersecting Road by Type of Intersecting Road

Type of Subdivision	Major (feet)	Collector (feet)	Minor (feet)
Residential	150	100	50
Nonresidential	300	200	150

- (7) The nearest intersecting street shall be construed as being on the same or the opposite side of the street on which the lot is located.
 - (8) Adequate provision shall be made for parallel drainage facilities.
- Q. Bridges and stream crossings. Bridges, culverts and other stream crossing structures which are part of the proposed street system shall be designed and certified by a professional engineer to serve the intended traffic use and provide adequate access for emergency and road maintenance vehicles and shall, at a minimum, be designed and constructed in accordance with the current New York State Department of Transportation and Department of Environmental Conservation standards and specifications. As required by the New York Department of Environmental Conservation, the design shall provide for the minimization of disturbance to stream biology and channel characteristics. Evidence of compliance with and approval of all state, federal, county and town laws shall be provided. The travelway of the bridge or stream crossing shall be of a minimum width equal to the full cartway width of the roadway carried by the bridge or stream crossing.
- R. Clearing and grubbing. The right-of-way need not be cleared and grubbed to its full width,

but only to the extent necessary to comply with the street construction, slope, drainage and other requirements of this chapter.

- (1) All trees, stumps, roots and other material deemed unsuitable by the town shall be removed from the grading area.
- (2) Voids created by the removal of stumps or roots shall be backfilled and compacted to the satisfaction of the town.
- (3) Rocks and/or boulders shall be removed to a minimum depth of six inches below the finished subgrade.
- (4) All cleared and grubbed areas shall be inspected and approved by the town prior to placing the embankment.

S. Cuts and fills. All cuts and fills shall be constructed as follows:

- (1) The maximum slope of any earth embankment or excavation shall not exceed one foot vertical to two feet horizontal.
- (2) The maximum slope of any rock excavation shall not exceed four feet vertical to one foot horizontal.
- (3) All excavations and embankments shall have a continuous slope to the point of intersection with the natural grade with a rounding of the top of the slope of excavations to prevent erosion.
- (4) All embankments shall be compacted, stabilized and seeded to the satisfaction of the Town Engineer.
- (5) The right-of-way of any proposed road shall be increased in width as is necessary to include the area of all cuts and fills.

T. Subgrade, base and surface.

- (1) Subgrade.
 - (a) The design and construction of the road bed shall take into consideration the supporting capacities of the subgrade, with particular attention to those soils which are subject to frost heave.
 - (b) Subgrade, parallel and cross drainage facilities shall be provided when necessary and shall be located, designed and installed to maintain proper drainage.
 - (c) Unsuitable soils shall be removed and replaced, drained or otherwise stabilized to provide adequate support for the road bed and anticipated loads as determined by the Town Engineer. If construction of a road bed in such locations and particularly on soils identified in the Sullivan County Soil Survey as subject to frost heave is proposed, the Town Planning Board shall require such drainage facilities and/or underdrains and subgrade drains as necessary to stabilize the subgrade. The design of such facilities shall be approved by the Town Engineer.

- (2) Base course. Base course aggregate material shall conform in type and be compacted to the depths shown in Table VI-2 of these laws in accordance with the latest specifications of the New York State Department of Transportation and the requirements of the Town of Callicoon.⁷
- (3) Surface course. The bituminous surface course shall conform in type and be compacted to the depths shown in Table VI-2 of this chapter in accordance with the latest specifications of the New York State Department of Transportation and the requirements of the Town of Callicoon.⁸
- (4) Shoulders. Shoulders shall be constructed of the material and compacted to the width and depth shown in Table VI-2 of this chapter.⁹

U. Compaction requirements.

- (1) All fill material shall be compacted to a minimum of 95% of the maximum dry density, as determined in accordance with ASTM D1557.
- (2) All base course and shoulder material shall be compacted to a minimum of 95% of the maximum dry density as determined in accordance with ASTM D1557 or to Town Planning Board approval.
- (3) All surface course asphalt shall be compacted to a minimum of 95% of the maximum density as determined by field test sections.

V. Guiderails. Guiderails shall be installed at points where side slopes are 4:1 or greater and/or where road elevation is five feet higher than the adjacent grade.

§ 185-41. Stormwater and drainage control.

- A. Purpose. The purpose of this section is to provide for the management of the quantity, velocity and direction of stormwater in order to provide protection to downstream property owners, to control soil erosion and sedimentation and to protect the public general health, safety and welfare. Stormwater planning and management facilities shall be required whenever any new streets are proposed or as otherwise may be required by the Planning Board to meet the intent and purposes of this chapter.
- B. Plan. A stormwater drainage and management plan shall be required for all major subdivisions and shall be subject to the approval of the Town Planning Board. The plan shall show all existing surface drainage features and shall include all appropriate designs, details and dimensions necessary to clearly explain proposed construction materials, grades and elevations. The developer shall submit the plan and all associated engineering calculations to the Planning Board at the time of preliminary subdivision plan submittal, and said plan shall be submitted concurrently by the developer to the Sullivan County Soil and Water Conservation District. Preliminary subdivision approval shall not be granted until all required reviews for the development are received from the County Soil and Water

7. Editor's Note: Table VI-2 is included at the end of this chapter.

8. Editor's Note: Table VI-2 is included at the end of this chapter.

9. Editor's Note: Table VI-2 is included at the end of this chapter.

Conservation District.

C. General requirements.

- (1) Stormwater facilities to accommodate potential development upstream. Stormwater facilities shall, in each case, be large enough to accommodate potential runoff from their entire upstream drainage area, whether inside or outside the subdivision, under conditions of total potential development permitted by the existing local laws in the watershed.
- (2) Responsibility from drainage downstream. The developer's professional engineer shall also include in the plan the effect of the subdivision on the existing downstream drainage facilities outside the area of the subdivision. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a five-year storm, the Planning Board shall notify the Town Board of such potential condition. In such case, the Planning Board shall not approve the subdivision until provision has been made by the developer for the improvement of said condition.
- (3) Land subject to flooding. Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard, but such land within the plat shall be set aside for such uses as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said hazardous conditions.

D. Design criteria.

- (1) Stormwater management facilities shall be designed for a storm frequency of 10 years, using generally accepted engineering principles appropriate for the proposed site and development. In addition to being designed for a ten-year storm, detention facilities shall be designed to pass a one-hundred-year storm without facility failure. Any proposed stormwater detention facility exceeding 10 feet in height or storing in excess of 1,000,000 gallons shall be reviewed and approved by the New York Department of Environmental Conservation.
- (2) The post-development peak rate of stormwater discharge from the parcel being developed shall not exceed the predevelopment peak rate of stormwater discharge from the parcel being developed. The calculation of post-development discharge shall, in addition to areas disturbed during development, include the estimated effect of all runoff expected from driveways, buildings, walkways, parking areas and other impervious areas associated with the ultimate build-out of the subdivision.
- (3) The Planning Board shall, in cases where existing drainage problems, flooding or other factors relating to the public health, safety and welfare exist and upon the recommendation of the Town Engineer, require that the proposed stormwater control facilities be designed to a greater year storm frequency and/or other more stringent criteria and shall require the provision of stormwater control facilities in areas where no such facilities are proposed by the developer.

E. Additional requirements.

- (1) All proposed surface drainage structures shall be indicated on the preliminary drainage plan submitted with the preliminary subdivision plan and shall be considered improvements for the purposes of final subdivision approval.
- (2) Natural drainage courses and points of natural drainage discharge shall not be altered.
- (3) Stormwater or natural drainage water shall not be diverted to overload existing drainage systems or create flooding or the need for additional stormwater management or drainage facilities on other properties without the written consent of the owners of such properties and the provision by the developer of facilities to control the stormwater or drainage.
- (4) Where a subdivision is traversed by a natural drainageway or channel, there shall be reserved by the developer a drainage easement conforming substantially to the line of such drainageway or channel and of such width as determined by the Town Planning Board as adequate to preserve the unimpeded flow of natural drainage or for the purpose of widening, deepening, relocating, maintaining, improving or protecting such drainage facilities, but not less than 20 feet on either side. A drainage easement shall also be so provided for all proposed stormwater control facilities.
- (5) Where a subdivision is traversed by a watercourse, there shall be provided a drainage easement of not less than 25 feet on each side of the stream from each stream bank or such additional width as will be adequate to preserve the unimpeded flow of the watercourse.
- (6) All streets shall be so designed as to provide for discharge of surface water from their right-of-ways.
- (7) In no case shall any pipe system of less than 18 inches be installed underneath a street or driveway, and materials shall be approved by the Town Planning Board.
- (8) Drainage structures that are located on state or county highway rights-of-way shall be approved by the responsible agency, and a letter from such agency indicating such approval shall be directed to the Town Planning Board prior to final plan approval.
- (9) Lots shall be laid out and graded to prevent cross-lot drainage and to encourage drainage away from proposed building areas.
- (10) Drainage easements of a minimum of 10 feet in width shall be provided along all side and rear lot lines, or a total of 20 feet for abutting lots and adjacent to street rights-of-way, as required by the stormwater drainage and management plan.
- (11) Paved street shoulders, gutters and/or drainage swales and riprap of drainage swales may be required to provide for adequate stormwater management.
- (12) Drainage systems shall be designed in accordance with such design standards as may be promulgated by the New York State Department of Transportation, Sullivan County or the Town of Callicoon using hydraulic computations to show effects of the flow of water.

- (13) If it can reasonably be anticipated that there will be an increase in the flow of water onto the property of some other person as a result of action, a drainage release shall be submitted with the application. The drainage release shall be obtained, by and at the expense of the applicant, from all property owners over whose land additional drainage will flow. All drainage releases shall be notarized and recorded, by and at the expense of the applicant, in the County Clerk's office of the Recorder of Deeds.
- (14) Whenever storm drains are required by the Planning Board, such storm sewer systems shall be separate from any sanitary sewer system. Storm drains or storm sewer facilities may be required in any development situation where the Planning Board determines that surface drainage facilities proposed are inadequate to prevent excessive erosion and lot or road maintenance problems, and said drains and facilities shall be constructed in accordance with generally accepted design criteria as established by the Town Engineer.
- (15) All drainage systems and structures shall be subject to the approval of the Town Engineer, Town Highway Superintendent or any such other qualified person as may be appointed for this purpose by the Town Board.

F. Maintenance of stormwater control facilities.

- (1) Maintenance of stormwater control facilities, including easements between lots, shall be the responsibility of the owner of said facilities.
- (2) In cases where a property owners' association is created for the ownership, operation and maintenance of common facilities, such property owners' association shall be responsible for the maintenance of stormwater control facilities, and such maintenance shall be established in the deed covenants and restrictions.
- (3) When stormwater management control facilities are located on an individual lot and when such facilities are the responsibility of that landowner to maintain, a description of the facility or system and the terms of the required maintenance shall be incorporated as part of the deed to the property.
- (4) If the Town Planning Board or the Town Board determines at any time that any permanent stormwater management control facility has been eliminated, altered or improperly maintained, the owner of the stormwater control facility shall be advised of corrective measures required and given a reasonable period of time to take necessary action. If such action is not taken by the property owner, the town may cause the work to be done and lien all costs against the property.

§ 185-42. Soil erosion and sedimentation controls.

All soil erosion and sedimentation control plans shall meet the specifications of and shall be reviewed by the Sullivan County Soil and Water Conservation District. Erosion and sedimentation controls shall be installed according to the approved plan and shall be maintained by the developer in proper functioning condition until stabilization of the area is completed, as determined by the Sullivan County Soil and Water Conservation District. Additional erosion and sedimentation controls may be required by the Town Planning Board at any time to effect the necessary controls.

§ 185-43. Water supply and sewage disposal.

A. General standards.

- (1) All subdivisions shall be served by an adequate water supply and sewage disposal system, and the developer shall provide evidence documenting said adequacy.
- (2) Applicants shall present evidence to the Town Planning Board, when the subdivision or development is to be supplied by a certificated public utility, by a bona fide cooperative association of lot owners or by a municipal corporation, authority or utility.
- (3) One copy of all correspondence, supporting documentation, applications for permits and certificates for operation submitted to the regulating agency for the right to provide such services shall be forwarded to the town as a part of the public record.
- (4) In the case of utilization of a publicly owned or other existing central water supply and/or sewage disposal system the developer shall submit at the preliminary stage a letter from the operator of such utility indicating the utility owner's willingness to supply service to the development and including a verification of the adequacy of the utility system to serve the proposed development. At the final approval stage, an executed agreement with the service supplier shall be submitted.
- (5) All required approvals and permits shall be obtained by the developer and/or the utility owner as a condition of preliminary approval and shall be submitted with the final plan application.
- (6) All water supply and sewage disposal systems shall be designed and certified by a registered New York State professional engineer or other individual otherwise certified for such design work, and all systems shall be designed in accordance with all applicable federal, state and local standards, including any standards associated with any existing water or sewer districts.
- (7) Where connection to neither a central water system nor a central sewage system is required, on-site systems shall be provided for each lot in the subdivision.

B. Existing public water supply/water district. As determined by the Town Planning Board, where a public water supply is available within reasonable proximity of the proposed residential development, the developer shall construct a system of water mains and connect with such system and provide a connection for each lot, provided that capacity is available. The developer shall pay all costs associated therewith, including but not limited to distribution lines and supply capacity in accordance with any water district requirements.

C. On-lot water supply. All on-lot water supply systems shall comply with the requirements of the New York State Department of Health and/or applicable town Laws.

D. Central water supply.

- (1) Central water systems shall be designed to furnish adequate storage facilities and main sizes and fire hydrants located to meet the specifications of the Association of Fire Underwriters and the local Fire Department or as otherwise required by the Planning Board.

- (2) Community well source. Community wells and distribution systems shall be governed by all applicable requirements of the New York State Department of Health, 10 State Standards, Bulletin 42 or latest edition, and the following:
 - (a) Wells shall be sited, drilled and tested under the direct supervision of a registered New York State professional engineer.
 - (b) A minimum of two wells shall be required for a community system unless otherwise approved by the New York Department of Health. Said wells shall be located not less than 75 feet away from potential sources of pollution and in accordance with town and State Department of Health requirements and shall be sited on a reserved parcel of a minimum of 1/4 acre.
 - (c) The capacity of the well, as certified by a professional engineer, shall be sufficient to produce at least 110 gallons per capita per day and/or 400 gallons per day for each residential dwelling unit to be served. The capacity of service to industrial or commercial establishments shall meet the standards of the American Water Works Association.
 - (d) Wells shall be pump-tested to Town Planning Board and New York State Department of Health requirements, utilizing a controlled step-drawdown test to establish the specific capacity of each well and to establish a long-term pumping rate. The well shall be pumped at the above-determined long-term pumping rate for a sufficient period of time for stabilization to occur, and the recovery shall be noted. In no case will a pumping rate greater than the recharge rate be allowed. A minimum twenty- four-hour pump test shall be required with a forty- eight-hour test preferred.
 - (e) Well construction shall be consistent with generally accepted practice and the guidelines of the New York Department of Health.
 - (f) Documentation of the effect of the projected area-wide drawdown of the water table may be required by the Town Planning Board if the anticipated pumping of groundwater warrants such documentation. Water level monitoring for at least one well on an adjacent property, if such well is within 1,000 feet of the proposed well, shall be required when substantial flow rates are proposed as determined by the Planning Board.
- (3) Water distribution system.
 - (a) The system design shall follow good engineering practice and the guidelines of the New York Department of Health. The distribution system shall be designed and sized to provide the design flows at a minimum pressure of 25 pounds per square inch at curb stops.
 - (b) Pipe classes shall be consistent with design pressures.
 - (c) Before being placed into service, the system must be tested and chlorinated by procedures established by New York State Department of Health.
 - (d) Service connections shall be a minimum of 3/4 inch diameter.

- E. Sewer district. When a proposed development is located in a Town of Callicoon Sewer District or within a reasonable distance of such district, as determined by the Planning Board, the developer shall provide, in accordance with the Town of Callicoon sewer laws, a system of collection lines and necessary pumping facilities to connect to said system.
- F. On-lot sewage disposal. Central sewage disposal systems are required for all residential lots and nonresidential developments outside sewer districts where soil conditions are unsuitable for on-lot subsurface sewage disposal systems according to New York State Department of Health and Environmental Conservation regulations. All on-lot sewage disposal systems shall comply with the applicable standards of the New York State Department of Health and all town laws. In the case where on-lot sewage disposal is proposed, the Planning Board may require that soil evaluations and percolation tests be conducted to confirm the general suitability of the soils on the parcel proposed for subdivision for on-lot sewage disposal. The Planning Board may consult with the Town Building Inspector and/or Town Engineer for a recommendation regarding such testing.
- G. Central sewage disposal system.
 - (1) All central sewage disposal systems shall be consistent with the sewage feasibility studies and plans of the town.
 - (2) All sewage collection and treatment facilities shall be designed and constructed in accordance with regulations and requirements of the New York State Department of Health and the New York Department of Environmental Conservation.
 - (3) All central sewage disposal systems shall be designed and constructed to provide adequate capacity for the ultimate flow of the subject development. The Town Planning Board may also require that any central sewage disposal system be designed and constructed to provide for service to adjacent or nearby properties. In such instances, developers shall be financially responsible solely for those costs associated with their individual development.
 - (4) All central sewage disposal systems using subsurface or land application of sewage effluent shall be designed and constructed in accordance with applicable New York State Department of Health standards, and a suitable replacement area meeting said standards for the effluent disposal area shall be provided.

§ 185-44. Commercial and industrial subdivision

- A. Access roads. Access roads serving commercial and industrial subdivisions shall be designed and constructed to collector street standards.
- B. Ingress and egress.
 - (1) Driveways shall not be permitted to have direct access to any public streets unless approved by the town, the County Department of Public Works or the New York State Department of Transportation, as applicable, via issuance of a highway work permit.
 - (2) In order to provide safe and convenient means of access, grades on driveways shall not exceed 8%.

- (3) Ingress and egress shall be restricted to one common access driveway located as follows. [If the tract exceeds 400 feet in road frontage, two such access points shall be permitted.]
 - (a) The center line of the driveway shall be a minimum of 35 feet from any side property line 60 feet if abutting a residential zone).
 - (b) Future driveways which are to be constructed adjacent to a street intersection shall be indicated on all preliminary and final plans and shall have the following distances between the center line of the driveway and the right-of-way line of the nearest intersecting street or road [NOTE: The nearest intersection street shall be construed as being on the same or the opposite side of the street on which the tract is located.]:
 - [1] Public streets: 300 feet.
 - [2] Collector streets: 200 feet.
 - [3] Minor streets: 150 feet.
 - [4] Other driveways: 75 feet.
 - (c) Curbing or traffic barriers shall be installed along the remainder of the road frontage to restrict ingress and egress to the approved access point.
- (4) The width and design of all access driveways shall be in accordance with the New York State Department of Transportation specifications and/or the requirements of the Town of Callicoon.

§ 185-45. Multifamily dwellings.

In addition to the applicable regulations and standards of this chapter, multifamily dwelling subdivisions shall comply with the standards contained in the Town of Callicoon Zoning Law.

§ 185-46. Cluster development.

In addition to the applicable regulations and standards of this chapter, cluster developments shall comply with the standards contained in the Town of Callicoon Zoning Law.

§ 185-47. Recreational vehicle parks and campgrounds.

In addition to the applicable regulations and standards of this chapter, recreational vehicle parks and campgrounds shall comply with the standards contained in the Town of Callicoon Zoning Law.

ARTICLE VII
Enforcement and Penalties

§ 185-48. Penalties for offenses; enforcement; remedies.

- A. Violations. Any person who violates any provision of this chapter shall be deemed to have committed an offense against this chapter and also shall be liable for said violation.

- B. Penalties. Any person, firm, or corporation violating this chapter shall be subject to a civil penalty enforceable and collectible by the town in the amount of not more than \$250 for each offense. Such penalty shall be collectible by and in the name of the town.
- C. Damages. In the event of a violation of this chapter, in addition to the aforesaid civil penalty, the town shall be entitled to claim, as additional damages, its actual costs in enforcing this chapter, which costs shall include but not be limited to legal fees, court filing fees, costs and disbursements of litigation, witness fees, experts' fees and any additional expenses related to the enforcement process.
- D. Continuing violations. Each week's continued violation after notice thereof shall constitute a separate violation and offense.
- E. Remedies. All remedies on behalf of the town provided for in this chapter or available at law or equity shall be enforceable against a subdivider, prospective purchaser or purchaser of any lot which forms a part of any subdivision.
- F. Compliance. In addition to the above-provided penalties, the Town Board may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any portion of this chapter.

SUBDIVISION OF LAND

185 Attachment 1

Town of Callicoon

**Table VI-1
Design Standards for Roads**

Design Specification	Collector	Minor	Minimum Access
Right-of-way width (feet)	50 ¹	50 ¹	50
Cartway width (feet)	28	28	NA
Travelway width (feet)	20	20	12
Minimum center-line radii (feet) ²	300	150	75
Minimum sight distance (feet)	300	200	100
Maximum grade (percent)	7 ³	12 ⁴	15
Shoulder width (cut or fill) (feet)	4	4	NA

NOTES:

- 1 Right-of-way width does not include slope, drainage or utility easements, if the same can be provided within the right-of-way in conformance with the other requirements of this chapter.
- 2 Larger radii may be required as determined by alignment to provide required sight distances.
- 3 Ten percent for up to 500 feet in distance. The maximum grades may be repeated if separated by distances of 500 feet meeting the standard grade requirements for the class of road.
- 4 Fourteen percent for up to 500 feet in distance. The maximum grades may be repeated if separated by distances of 500 feet meeting the standard grade requirements for the class of road.

SUBDIVISION OF LAND

185 Attachment 2

Town of Callicoon

Table VI-2, Part 1
Typical Street Cross Section
 [Amended 4-14-1997 by L.L. No. 1-1997]

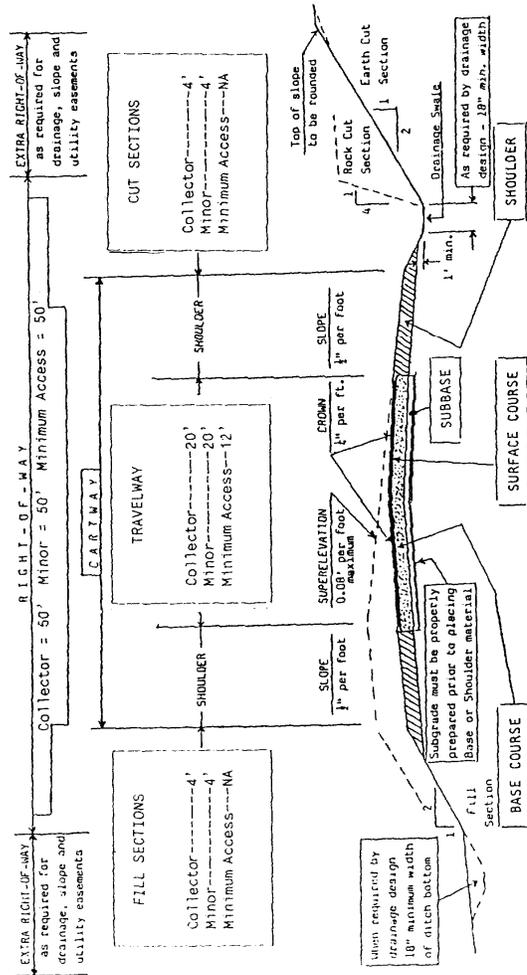


TABLE VI-2 TYPICAL STREET CROSS SECTION

SUBDIVISION OF LAND

185 Attachment 3

Town of Callicoon

**Table VI-2, Part 2
Road Construction Materials**

- A. Minimum access (private) roads.
 - (1) Subbase: eight inches of run-of-bank gravel with no particles exceeding four inches in size. [Amended 4-14-1997 by L.L. No. 1-1997]
 - (2) Base: four inches of well-graded run-of-bank gravel with no particles exceeding two inches in size (Item D).
 - (3) Surface: a minimum of two inches of compacted crusher-run material.
- B. Undedicated minor or collector roads.
 - (1) Subbase: eight inches of run-of-bank gravel with no particles exceeding four inches in size. [Amended 4-14-1997 by L.L. No. 1-1997]
 - (2) Base: four inches of well-graded run-of-bank gravel with no particles exceeding two inches in size (Item D).
 - (3) Surface: bituminous double-surface treatment (oil and chip).
 - (a) First application: 0.80 gallon per square yard of MCO road oil covered with one-half-inch to three-fourths-inch stone chips at a rate of 40 to 50 pounds per square yard.
 - (b) Second application: 0.50 gallon per square yard of MC5 road oil covered with one-eighth-inch to one-half-inch stone chips at a rate of 25 to 40 pounds per square yard.
- C. Minor or collector roads proposed for dedication to the Town.
 - (1) Subbase: eight inches of run-of-bank gravel with no particles exceeding four inches in size. [Amended 4-14-1997 by L.L. No. 1-1997]
 - (2) Base: four inches of well-graded run-of-bank gravel with no particles exceeding two inches in size (Item D).
 - (3) Surface: a minimum of two inches of asphaltic concrete binder and 1 1/2 inches of asphaltic concrete Type 1A top course.
- D. Shoulders for minor or collector roads, dedicated or undedicated: a minimum four inches' compacted thickness of well-graded granular base material (particles less than two inches in size) over a six-inch subbase layer of run-of-bank material.
- E. Shoulders for minimum access roads: not required.

CALLICOON CODE

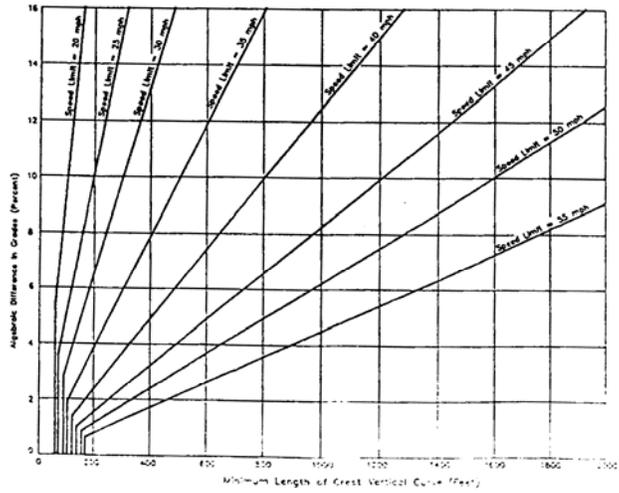
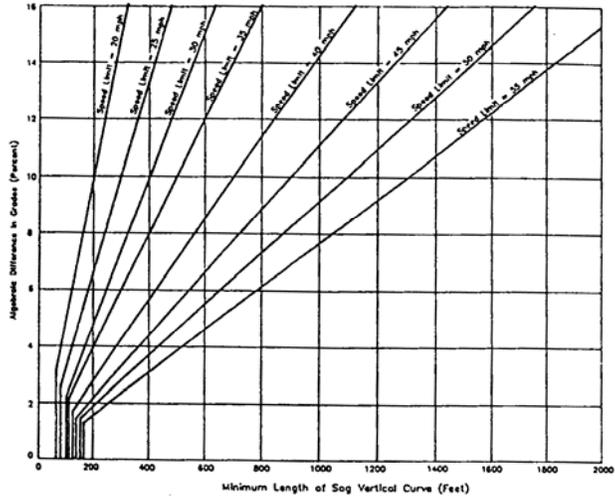
NOTE: All materials shall meet or exceed current New York State Department of Transportation specifications.

SUBDIVISION OF LAND

185 Attachment 4

Town of Callicoon

Table VI-3
Required Minimum Vertical Curve Lengths
(From Geometric Design of Streets, AASHTO, 1984)



Chapter 189

TAXATION

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

GENERAL REFERENCES

Assessment — See Ch. 7.

ARTICLE I

Third-Party Filing

[Adopted 11-10-1986 by resolution]

§ 189-1. Final filing date.

November 15 of each year will be the final filing date for third-party applications to be filed with the Tax Collector in order to effect the third-party notice to be sent out in the following year's tax levy.

ARTICLE II

Senior Citizens Exemption

[Adopted 7-14-2003 by L.L. No. 1-2003¹]

§ 189-2. Exemption established.

Real Property owned by one or more persons, each of whom is 65 years of age or over, or real property owned by a husband and wife, one of whom is 65 years of age or over, shall be exempt from taxation by the Town of Callicoon to the extent of 50% of the assessed value thereof or such lesser per centum of assessed value thereof for persons whose maximum income eligibility is increased in accordance with the provisions of Paragraph (b) of Subdivision (1) of § 467 of the Real Property Tax Law.

§ 189-3. Maximum income.

The maximum income eligibility determined in accordance with Subdivision 3 of § 467 of the Real Property Tax Law shall be \$17,500 and shall entitle the owners to a 50% exemption.

§ 189-4. Compliance with statute.

No exemption shall be allowed except in accordance with the provisions of § 467 of the Real Property Tax Law for real property which qualifies by use and ownership upon an application submitted in the manner provided by such section.

1. Editor's Note: This local law also repealed former Art. II, Senior Citizens Exemption, adopted 11-12-1990 by L.L. No. 1-1990, amended in its entirety 2-20-1995 by L.L. No. 1-1995.

ARTICLE III
Notices
[Adopted 7-11-1994 by L.L. No. 1-1994]

§ 189-5. Notices to accompany annual tax bill.

The Town of Callicoon is hereby authorized to include with the mailing of the annual Town tax bills the following items:

- A. Notification of the availability of special accounts at local banking institutions permitting taxpayers to make installment savings payments for taxes.
- B. A directory of local elected and appointed officials, including addresses and telephone numbers and hours of availability.

ARTICLE IV
Tax Exemption for Capital Improvements
[Adopted 12-15-1997 by L.L. No. 2-1997]

§ 189-6. Purpose.

This article is adopted pursuant to § 421-f of the Real Property Tax Law for the purpose of exempting capital improvements to residential buildings from taxation and special ad valorem levies and shall be applied in accordance with that statute, as amended from time to time.

§ 189-7. Definitions.

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

RECONSTRUCTION, ALTERATION, and IMPROVEMENT — Shall not include ordinary maintenance and repairs.

RESIDENTIAL BUILDING — Any building or structure designed and occupied exclusively for residential purposes by not more than two families.

§ 189-8. Exemption eligibility.

- A. Residential buildings reconstructed, altered, or improved subsequent to the effective date of this article shall be exempt from taxation and special ad valorem levies to the extent provided herein.
- B. No such exemption shall be granted for reconstruction, alterations, or improvements unless:
 - (1) Such reconstruction, alteration or improvement was commenced subsequent to the effective date of this article; and
 - (2) The value of such reconstruction; alteration, or improvement exceeds \$3,000; and
 - (3) The greater portion, as so determined by square footage, of the building reconstructed, altered, or improved is at least five years old.

§ 189-9. Calculation of exemption.

- A. The buildings described in § 189-8 shall be exempt for a period of eight years to the extent of the following percentages of the increase in assessed value thereof attributable to such reconstruction, alteration or improvement:

Year Exemption Percentage

1	100.0
2	87.5
3	75.0
4	62.5
5	50.0
6	37.5
7	25.0
8	12.5

- B. The exemption shall be limited to \$80,000 in increased market value of the property attributable to such reconstruction, alteration, or improvement.

§ 189-10. Application; grant of exemption.

- A. An exemption shall be granted only upon application by the owner of the building on a form prescribed by the State Board of Real Property Services. The application shall be filed with the Assessor of the Town or village having the power to assess property for taxation on or before the appropriate taxable status date of such Town or village.
- B. If satisfied that the applicant is entitled to an exemption pursuant to this article, the Assessor shall approve the application and such building shall thereafter be exempt from taxation and special ad valorem levies as herein provided commencing with the assessment roll prepared on the basis of the taxable status date. The assessed value of any exemption granted pursuant to this article 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.

§ 189-11. Termination of exemption.

In the event that a building granted an exemption pursuant to this article ceases to be used primarily for residential purposes or title thereto is transferred to other than the heirs or distributees of the owner, the exemption shall cease.

ARTICLE V
Veterans Real Property Tax Exemption
[Adopted 8-8-2005 by L.L. No. 1-2005]

§ 189-12. Increase of maximum exemption.

Notwithstanding any of the statutory maximums set forth in Subsection 2(a),(b) and (c) of § 458-a of the Real Property Tax Law, pursuant to the authority contained in Subsection 2(d) of § 458-a of the Real Property Tax Law the maximum exemption allowable for the veterans' real property tax exemption under Paragraphs 2(a), (b) and (c), in the Town of Callicoon shall be increased to \$27,000, \$18,000, and \$90,000, respectively.

ARTICLE VI
Cold War Veterans Exemption
[Adopted 1-14-2008 by L.L. No. 1-2008]

§ 189-13. Statutory authority.

New York State Real Property Tax Law § 458-b authorizes a partial exemption from real property taxes on qualifying residential real property for Cold War Veterans, as defined in the Real Property Tax Law § 458-b.

§ 189-14. Definitions.

The terms "Cold War veterans," "service connected," "qualified owner," "qualified residential real property," and "latest state equalization rate," when referenced in this article, shall have the definition(s) ascribed to them in the Real Property Tax Law § 458-b, Subdivision 1.

§ 189-15. Purpose.

Pursuant to § 458-b, Subdivision (2)a of the Real Property Tax Law, the Town of Callicoon is authorized to adopt a local law establishing a partial exemption from the Town portion of real property taxes for Cold War veterans or qualifying owners who own qualifying residential real property within the Town of Callicoon. It is the desire of the Town of Callicoon to provide for such exemption on Town of Callicoon properties to reward Cold War veterans for their valued service to our country.

§ 189-16. Maximum exemption.

- A. Pursuant to § 458-b, Subdivision (2)(a)(ii) of the Real Property Tax Law, the maximum exemption allowable from the Town of Callicoon real property taxes shall be 15% of the qualifying residential real property assessment not to exceed \$12,000 or the product of \$12,000 multiplied by the latest state equalization rate of the assessing unit, whichever is less.
- B. Pursuant to § 458-b, Subdivision 2(b) of the Real Property Tax Law, there shall be an exemption in addition to the exemption provided in Subsection A above for a Cold War veteran who received a compensation rating from the United States Veterans Affairs or from the United States Department of Defense because of a service connected disability. This exemption shall be equal to the product of the assessed value of the qualifying

residential real property multiplied by 50% of the Cold War veteran's disability rating; provided, however, that such exemption shall not exceed \$40,000 or the product of \$40,000 multiplied by the latest state equalization rate for the assessing unit, whichever is less.

§ 189-17. Certain veterans ineligible.

If a Cold War veteran receives an exemption pursuant to Real Property Tax Law § 458 or § 458-a, the Cold War veteran shall not be eligible to receive the exemption established by this article.

Chapter 195

VEHICLES AND TRAFFIC

[The vehicle and traffic legislation of the town is on file at the town offices and may be inspected there during regular office hours.]

Chapter 203

ZONING

[HISTORY: Adopted by the Town Board of the Town of Callicoon 1-12-1987 by L.L. No. 1-1987. Amendments noted where applicable.]

GENERAL REFERENCES

Fire provisions and building construction — See Ch. 121.

Flood damage prevention — See Ch. 125.

Junkyards — See Ch. 137.

Subdivision of land — See Ch. 185.

ARTICLE I

Title and Purposes

§ 203-1. Title.

This chapter shall be known as the "Town of Callicoon Zoning Law."

§ 203-2. Objectives. [Amended 12-11-1989 by L.L. No. 2-1989]

This chapter is enacted to implement the Comprehensive Plan for the Town of Callicoon adopted on January 12, 1981, as amended. More specifically, this chapter is enacted to help meet the following community development objectives:

- A. Preserving the rural character and scenic beauty of the Town of Callicoon.
- B. Guiding future development of the Town to achieve maximum benefit from the community's resources at a minimum cost to the rights of individual residents, including the right to use property as one chooses and also to be free of the impacts of other disruptive, noxious and inappropriate land uses.
- C. Providing for the adequate and efficient placement of community facilities, services and utilities.
- D. Providing for the safe and efficient movement of people and goods through the Town and making adequate provisions for off-street parking and loading.
- E. Protecting the surface and ground water supplies from pollution by ensuring that homes, businesses and industries are served by public or private sewage treatment and water supply systems meeting both state and federal standards.
- F. Coordinating the enforcement of other laws or ordinances of the Town of Callicoon and securing better enforcement of state codes and laws.
- G. Controlling density of residential and other development so as to protect valuable open spaces within the Town.

- H. Otherwise promoting the health, safety and general welfare of the residents of the Town of Callicoon in accordance with § 263 of the New York State Town Law.

ARTICLE II
Word Usage and Definitions

§ 203-3. Word usage.

Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future; singular terms include the plural; the word "lot" includes "plot" or "parcel"; the word "building" includes "structure"; the word "shall" is intended to be mandatory; and "occupied" or "used" shall be considered as though followed by the words "arranged, designed, constructed, altered, converted, rented, leased or intended to be used or occupied."

§ 203-4. Definitions.

For the purpose of this chapter, the following words, terms and phrases have the meanings herein indicated:

ACCESSORY BUILDING OR USE — A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use.

ADULT HOME — Any dwelling where persons are housed or lodged and furnished with meals and where nursing care is available for hire.

ALTERATION — A structural change or rearrangement of a building; an enlargement, whether by extending on a side or by increasing in height; or the moving of a structure from one location or position to another.

AMUSEMENT (INDOOR) CENTERS — Establishments primarily engaged in providing indoor amusement or entertainment for a fee, but excluding adult stores.

BOARDING OR TOURIST HOME — Any dwelling in which more than three persons, either individually or as families, are housed or lodged for hire, with meals normally included as a part of the services rendered.

BUILDING HEIGHT — The vertical distance measured from the average elevation of the proposed finished grade within 20 feet of the building to the highest point of the roof.

CAMPGROUND or RECREATIONAL VEHICLE PARK — A plot of ground upon which two or more campsites are located, established or maintained for temporary occupancy by persons using tents or recreational vehicles.

CENTRAL SEWAGE SYSTEM — A sanitary sewage collection system in which sewage is carried from individual lots or dwelling units by a system of pipes to an off-site treatment and disposal facility. A system designed to serve a two-family dwelling or two dwelling units located on the same property or adjacent properties shall not be considered a "central sewage system."

CENTRAL WATER SYSTEM — A water supply system serving three or more dwelling units.

CHURCH or SYNAGOGUE — A building which, by design, is primarily intended and regularly used for conducting organized religious services and accessory uses associated therewith, but not including any dwelling units other than one to accommodate the clergy assigned to the church or synagogue.

COMMERCIAL GREENHOUSE — A structure in which plants, vegetables, flowers and similar materials are grown for sale.

CONDITIONAL USE — A special permit use subject to Planning Board approval pursuant to § 274-a of the New York State Town Law and permitted in a particular zoning district only on showing that such use in a specified location will comply with all conditions and standards for the location or operation of such use as may be reasonably imposed according to the requirements of this chapter.

CONVENIENCE RETAIL ESTABLISHMENT — A retail store or personal service shop 800 square feet or less in size, with or without the sale of gasoline, designed primarily to accommodate the needs of the immediate surrounding area, but excluding vehicle and equipment sales.

DWELLING — A building designed for use as the living quarters for one or more families. The terms "dwelling," "one-family dwelling," "multiple dwelling," "two-family dwelling" or "dwelling group" shall not be deemed to include recreational vehicles, rooming houses, boarding homes or hotels and motels. "Multiple dwellings" shall be those structures containing three or more individual dwelling units. An "individual dwelling unit" shall be a building or that portion of a building providing complete housekeeping or living facilities for one family.

FARM STAND — A booth or stall on a farm from which produce and farm products are sold to the general public.

FORESTRY ENTERPRISES — Establishments primarily engaged in the operation of timber tracts, tree farms, forest nurseries or the gathering of forest products or in performing forest services.

FRONT YARD — A space extending the full width of a lot between a building and the edge of the highway right-of-way (which shall be considered the front lot line).

HEALTH-CARE INSTITUTION — Establishments primarily engaged in providing services for human health maintenance, including hospital facilities, nursing and adult homes and medical clinics and offices.

HOME OCCUPATION — Any use customarily conducted entirely within a dwelling or in a building accessory thereto and carried on by the inhabitants residing therein, provided that the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and the exterior appearance of the structure or premises is maintained as a residential dwelling, except for signs as provided herein.

HOTEL or MOTEL — A building containing rooms intended or designed to be used or which are used, rented or hired out to be occupied for sleeping purposes by guests and where ancillary facilities are limited to a general kitchen and dining room.

INTENSIVE LIVESTOCK OPERATION — The fattening or raising of hogs or poultry. Any

livestock operation which involves the keeping of more than 10 hogs or 5,000 poultry shall be considered intensive. The keeping of dairy and beef animals shall not be included in this definition or regulated by this chapter.

INTERIOR ACCESS DRIVE — A street running parallel to another highway and used to collect traffic from abutting properties in order that such traffic shall be distributed to the highway at specific intersections rather than from individual driveways.

JUNKYARD — An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of used and discarded materials, including but not limited to wastepaper, rags, metal, building materials, house furnishings, machines, vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The outside storage or deposit on a lot of three or more presently inoperable vehicles which do not have current licenses issued by the New York State Department of Motor Vehicles or a comparable agency from another state shall be considered a "junkyard." Agricultural vehicles, such as tractors, mowers, etc., which are utilized as part of an active ongoing farming operation and contractors' construction equipment shall be exempt from this provision. Vehicle and equipment sales operations managed by licensed dealers and storage areas for recognized antique autos shall also be exempt.

KENNEL — The keeping of four or more dogs which are more than six months of age.

LOT — Land occupied or to be occupied by a building(s) and its accessory buildings, together with open spaces required by this chapter.

LOT COVERAGE — That portion or percentage of the lot area which is covered by buildings, pavement or other impervious surfaces.

LOT FRONTAGE — The width of a lot at the building setback line.

LOT WIDTH — The average of the widths of a lot at the building setback line and at the rear of the property.

MACHINERY STORAGE — The storage on a lot of contracting, farm or other equipment which is used regularly in the conduct of any other permitted use within a particular zoning district.

MOBILE HOME — A transportable single-family dwelling (intended for permanent occupancy), office or place of assembly contained in one unit, or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations. The term "mobile home" shall not include recreational vehicles or any unit of less than 40 feet in length or 10 feet in width. No mobile home shall be installed unless it shall have a factory installed, peaked roof, with a minimum pitch of three on 12. [Amended 4-10-1995 by L.L. No. 3-1995]

MOBILE HOME PARK — A parcel of land under single ownership which has been planned and improved for the placement of two or more mobile homes for nontransient use.

PERMANENT FOUNDATION — A cement, concrete, treated-wood or cinder-block walled foundation erected on a poured concrete footer. A solid concrete slab will also be considered a

"permanent foundation."

PERSONAL SERVICES — Beauty shops, barbershops and similar businesses.

PRIVATE ACCESS DRIVE — A private roadway providing access for vehicles to a parking space, garage, dwelling or other structure.

PUBLIC RIGHT-OF-WAY — Any highway, roadway or street which is owned or maintained by the State of New York, Sullivan County or the Town of Callicoon or which is shown upon a plat, on record in the Sullivan County Clerk's office, as an access to more than one property. Where the limits of such rights-of-way are not accurately mapped or deeded, the same shall be assumed to be not less than 25 feet from the center line of the travelway.

RECREATIONAL ENTERPRISES — Summer or day camps, campgrounds, ski areas, golf courses and similar enterprises, but not including hunting and fishing camps.

RECREATIONAL VEHICLE — A vehicular type of unit designed as temporary living quarters for recreational camping or travel use which has either its own motive power or is mounted on or drawn by another vehicle. Included in this category are travel trailers of no more than 500 square feet in size, truck campers fitted to the chassis of a pickup truck, self-propelled motor homes and collapsible-wall camper trailers.

RETAIL STORES — Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods, not including vehicle and equipment sales or wholesale operations.

SERVICES, ESSENTIAL — Uses necessary for the preservation of the public health and safety, including but not limited to the erection, construction, alteration or maintenance by public utilities or governmental agencies of underground or overhead transmission systems, poles, wires, pipes, cables, fire alarm boxes, hydrants or other similar equipment.

SIGN — Any device for visual communication located on the outside of a building or out of doors that is used for the purpose of bringing the subject thereof to the attention of the public, but not including any flag, badge or insignia of any government or government agency or of any civic, charitable, religious, patriotic or similar organization.

STABLE, COMMERCIAL — The use of land or of a building for the keeping of horses for hire, remuneration or sale. Any stable involving the keeping of more than three horses shall be considered commercial, whether operated for profit or not.

STRUCTURE or BUILDING — A combination of materials to form a construction for use, occupancy or ornamentation, whether installed on, above or below the surface of land or water.

USE — The specific purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained.

VARIANCE — Permission granted by the Zoning Board of Appeals for an adjustment to some regulation which, if strictly adhered to, would result in an unnecessary hardship.

VEHICLE AND EQUIPMENT SALES OPERATION — The use of any building or land area for the display and sale of new and used automobiles of operable condition, panel trucks or vans, mobile homes or trailers, recreational vehicles or farm or construction equipment, including any

warranty repair work and other repair service as an accessory use. No business or facility which generates less than 50% of its gross sales from the actual sale of new or used vehicles or equipment of the type herein described, excluding parts and repairs, shall be considered a "vehicle and equipment sales operation."

YARD — An open unoccupied space extending the full depth or width of a lot.

ARTICLE III Zoning Districts

§ 203-5. Designation of districts. [Amended 12-11-1989 by L.L. No. 2-1989]

For the purpose of this chapter, the Town of Callicoon is hereby divided into districts, which shall be designated as follows:

CD Conservation District

RU Rural District

SD Settlement District

BD Business District

RB Rural Business District

§ 203-6. Zoning Map.

The boundaries of said districts shall be as shown on the map attached to and made a part of this chapter, which shall be designated the "Town of Callicoon Official Zoning Map." The same map and all the notations, references and other data shown thereon are hereby incorporated by reference into this chapter as if all were fully described herein.¹

§ 203-7. District boundaries.

District boundary lines are intended to follow or be parallel to the center lines of streets and streams and lot or property lines as they exist on a recorded deed or plan of record in the Sullivan County Clerk's office at the time of the enactment of this chapter unless such district boundary lines are fixed by dimensions as shown on the Zoning Map. In any case of uncertainty, the Town of Callicoon Planning Board shall interpret the intent of the Map as to the location of district boundaries.

ARTICLE IV District Regulations

§ 203-8. Conformity with regulations required.

A. No building, structure or land shall hereafter be used or occupied and no building or part thereof shall hereafter be erected, moved, altered, reconstructed or enlarged except in

1. Editor's Note: The Zoning Map is on file at the town offices.

conformity with the regulations herein specified for the district in which it is located or as may be provided for under Article VI of this chapter pertaining to existing nonconforming uses.

- B. No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot.
- C. No yard or lot existing at the time of the enactment of this chapter shall be reduced in size below the minimum requirements set forth herein.

§ 203-9. Intent; use regulations; development standards; performance standards.

- A. Intent of districts. Statements expressing the intent of the Town of Callicoon Board in creating each district are provided in the Schedule of Use Regulations which follows and is hereby made a part of this section.²
- B. Use regulations. Use regulations are also detailed by district. Permitted uses listed are those for which an applicant can be issued a permit by the Town Zoning Officer as a matter of right, provided that other requirements of this chapter are met. Conditional uses listed for each district are those permitted subject to Planning Board approval (see definition). Accessory uses are permitted as a matter of right in conjunction with any allowed use, provided that the standards of this chapter pertaining to such uses are met.
- C. Development standards. Development standards which apply to each district, including lot sizes, average lot widths, yard requirements, lot coverage for buildings and height, are also outlined on the schedule. All standards are minimums, with the exception of height and lot coverage, which are to be taken as maximums.
- D. Performance standards.
 - (1) Special performance standards for areas of steep slope within any district have been included to ensure that development in these areas is done in such a way as to overcome the inherent natural hazards. The steep slope areas have been defined on a steep slopes map developed and maintained by the Planning Board as part of the Town Comprehensive Plan. They consist of those slopes in excess of a grade of 15% as depicted on said map.
 - (2) All uses which will result in any building or construction on steep slope areas shall be considered conditional uses. The Zoning Officer, in determining that a proposed activity, building or use is to be located in such an area, shall require the applicant to submit such additional information as may be required to document that the performance standards listed below are or will be met before passing the application on to the Town Planning Board:
 - (a) If the Planning Board shall determine that the proposed use is within an identified steep slope area but topographic information indicates that the slope within that specific area in which actual construction is to take place is less than 15%, the Board shall direct the Zoning Officer to issue a zoning permit,

2. Editor's Note: The Schedule of Use Regulations is included at the end of this chapter.

provided that other requirements of this chapter are satisfied.

- (b) Buildings or structures shall not be located on sites with slopes exceeding 25%, except in cases where off-site sewage and water facilities are provided and the applicant submits special engineering plans indicating how slope limitations will be overcome. The applicant shall submit a topographic map with contours at five-foot intervals whenever he proposes a building on such a slope.
- (c) Buildings or structures and roads located on sites with slopes exceeding 15% in grade require a plan showing the topography, building location, drives, sanitary facilities, foundation, drainage, grading plan and a statement of how problems of erosion, stream siltation, soil stabilization and revegetation are to be addressed. Such plan shall serve as the basis for site plan review by the Planning Board prior to the issuance of a conditional use permit.
- (d) The minimum lot area per dwelling unit where construction is proposed on sites with steep slopes shall be as follows:
 - [1] Zero percent to 15%: See the Schedule of Use Regulations.³
 - [2] Sixteen percent to 20%: three acres.
 - [3] Twenty-one percent to 25%: four acres.
 - [4] Grade of over 25%: five acres.
- (e) Impervious surfaces shall be kept to a minimum.
- (f) No finished grade where fill has been used shall exceed a slope of 50%.
- (g) Any steep slopes also characterized by a seasonal high water table shall be avoided.
- (h) Natural vegetation shall be preserved to as great a degree as possible.

§ 203-10. Uses not specifically provided for.

- A. Where a use has been neither specifically allowed nor denied in this chapter, the Town Board, with the advice of the Planning Board, shall determine whether such use is to be allowed, basing its decision strictly on the similarity of the proposed use to those uses detailed on the schedule.⁴
- B. Any use named in this chapter but not included among the listed uses allowed in a particular zoning district shall be deemed to be specifically excluded. Uses which are similar to others denied within the Town of Callicoon or which are not similar to allowed uses shall likewise be deemed to be excluded. If a proposed use is determined to be similar to one allowed as a conditional use, it shall be treated in a like manner.
- C. Whenever the Zoning Officer receives an application for a use which is not named in this

3. Editor's Note: The Schedule of Use Regulations is included at the end of this chapter.

4. Editor's Note: The Schedule of Use Regulations is included at the end of this chapter.

chapter, he or she shall, within 10 days, forward said application to the Planning Board for review and comment. The Planning Board shall make its recommendation to the Town Board, which shall act on the same no later than 60 days of the filing of the application with the Zoning Officer.

ARTICLE V
Supplementary Regulations

§ 203-11. Compliance with other provisions.

Nothing contained herein shall remove the obligation of any party to comply with other codes, laws and ordinances of the Town of Callicoon or the State of New York. The Zoning Officer, Planning Board or Zoning Board of Appeals may require documentation of the applicant's compliance with these other codes, laws or ordinances as a condition to the issuance of any building/zoning permit. Nonetheless, whenever any proposal involves the obtaining of permits under more than one law or ordinance of the Town of Callicoon, it shall be the obligation of the town officials to attempt to process the various applications concurrently to facilitate review procedures and save time and expense for all parties. Combined local permits shall be allowed and encouraged, provided that the provisions of each law or ordinance are satisfied.

§ 203-12. Building separation; lighting and noise; commercial refuse receptacles.

- A. Building separation. No building (accessory structures excepted) shall be located closer than 50 feet to any other structure on the same lot.
- B. Lighting and noise restrictions. No activity or use shall be permitted which will result in the direct reflection of floodlighting on adjoining properties or toward highway traffic. Also, no use shall be permitted which will produce a sustained sound level of 65 decibels at the property line.
- C. Refuse receptacles for commercial activities. All refuse and garbage generated in conjunction with a commercial or industrial activity shall be placed and kept in covered receptacles within enclosed areas for the same.

§ 203-13. Floodplain standards.

There is hereby created a special zoning district, the boundaries of which shall be congruent with those areas identified as special flood hazard areas (Zone A) on the Flood Hazard Boundary Maps as issued and/or amended by the Federal Insurance Administration, or its successor agencies, and originally dated June 14, 1974, for the Town of Callicoon (Community No. 360816A). This district shall be an overlay zone in which the normal provisions of the district indicated on the Official Zoning Map shall apply, except that no development shall be permitted which is not completely in accord with the provisions of the Town of Callicoon Flood Damage Prevention Law.⁵

§ 203-14. Signs.

5. Editor's Note: See Ch. 125, Flood Damage Prevention.

- A. The following types of signs and no others shall be permitted in SD Districts:
- (1) Nonilluminated signs advertising the sale or rental of the premises upon which located and not exceeding eight square feet in area.
 - (2) Nonilluminated nameplates not exceeding six square feet in area.
 - (3) Announcement signs for schools, churches and other institutions, not exceeding two per property.
 - (4) Nonilluminated signs identifying a residential development and located at the entrance to such development, not exceeding one per entrance and 32 square feet each.
 - (5) Signs directing traffic movement to and off of the premises.
- B. The following types of signs and no others shall be permitted in the RU, CD and BD Districts:
- (1) All signs permitted in SD Districts.
 - (2) Nonilluminated signs advertising the sale or rental of the premises upon which located, not exceeding one per property and 32 square feet in area. This shall be in addition to signs permitted in Subsection A(1) above.
 - (3) Nonilluminated advertising signs not related to business conducted on the same premises, provided that they do not exceed two per property and 100 square feet each in area. Two signs on the same property must be located at least 1,000 feet apart.
 - (4) Signs directly relating to business conducted on the same premises. Freestanding signs of more than 12 square feet each in area shall be limited in number to five or fewer.
 - (5) Sign directories for the purpose of advertising three or more businesses or trades, provided that individual directory signs do not exceed two feet by six feet.
- C. General sign regulations.
- (1) Signs must be constructed of durable material, maintained in good condition and not allowed to become dilapidated.
 - (2) No sign shall be placed in such a position that it will cause danger to traffic on a street by obscuring view or shining a light directly on the street. Flashing or oscillating lights shall not be allowed.
 - (3) No sign shall be erected within a public right-of-way or within 25 feet of the center line of any travelway.
 - (4) Portable or movable signs mounted on wheels or similar apparatus shall not be permitted except in rural and business development districts and then only in strict conformance with all other sign standards, including those restricting the total number of signs.
 - (5) A permit shall be required for the erection of signs 32 square feet or more in size.

§ 203-15. Off-street parking.

A. General provisions. Off-street parking, loading and unloading space shall be provided in conjunction with the establishment of new uses. Parking space shall consist of an average of 270 square feet of usable area for each vehicle and the like. Parking shall not be permitted on public rights-of-way. Any lighting shall be so arranged as not to reflect towards adjoining premises or public rights-of-way.

B. Standards.

(1) Uses shall be provided with parking spaces as follows:

Use	Parking Space Required
Dwellings	2 per dwelling unit
Hotels or motels	1 per guest room plus 1 per employee
Schools	1 for each 12 classroom seats
Home occupations	1 per 100 square feet of floor area devoted to such activity
Physicians' or dentists' offices or clinics	3 for each doctor or dentist plus 1 for each employee
Retail stores	1 per 100 square feet of floor area
Offices	1 per 150 square feet of floor area
Eating and drinking places	1 for each 3 seats plus 1 for each employee
Places of assembly	1 per every 3 seats
Recreational enterprises	1 per each 3 persons of design capacity
Personal service shops	4 per business
Industrial establishments	1 per employee on the largest shift

(2) For uses not specifically listed, the Planning Board shall determine the requirements. The Board shall also ascertain whether adequate parking has been provided to accommodate handicapped persons as required by law.

C. Loading and unloading space.

(1) In addition to the off-street parking spaces required above, any building erected, converted or enlarged in any district for commercial, manufacturing or wholesale uses shall provide adequate off-street areas for loading and unloading of vehicles. The minimum size loading space shall be 60 feet in depth, 12 feet in width, with an overhead clearance of 14 feet.

(2) In no case where a building is erected, converted or enlarged for commercial, manufacturing or business purposes shall the public rights-of-way be used for the loading or unloading of materials.

D. Access.

- (1) Access to and from all off-street parking, loading and vehicle service areas along public rights-of-way shall consist of well-defined separate or common entrances and exits which shall not open upon any public right-of-way within 80 feet of the nearest right-of-way line of any intersecting public street or highway or where the sight distance in either direction along the public thoroughfare would be less than 250 feet. Each entrance and exit shall be clearly defined with curbing, fencing or vegetative screening so as to prevent access to the area from other than the defined entrances and exits, and no intersection of such entrances or exits with a public right-of-way shall be at an angle of less than 60°.
- (2) Interior access drives shall be required with any subdivision of property which would open more than five new access points to a public right-of-way. Exceptions to this requirement may be granted by the Planning Board in instances where the average lot frontage or separation of access points exceeds 300 feet.
- (3) Private access drives shall be permitted to a parcel if no more than one lot or use is served by such drive and a permanent right-of-way of at least 40 feet in width is provided. No new lot shall be created with access only from a private drive, however, if such lot would be capable of being subdivided according to the minimum area requirements of this chapter.

§ 203-16. Campgrounds and recreational vehicle parks.

- A. Minimum development area. A campground or recreational vehicle (RV) park development shall have a gross area of at least 20 contiguous acres of land suitable for development.
- B. Screening requirements. All campgrounds shall provide and maintain a vegetative screening strip of planted or natural growth along all property boundary lines. Such screening shall be at a depth of not less than 20 feet to effectively screen the area within a reasonable time period [five to 10 years]. A planting plan specifying the type, size and location of existing and proposed plant material shall be required and approved by the Planning Board.
- C. Lot requirements shall be as follows:
 - (1) For nontransient campground or RV park developments (those which involve permanently owned but not permanently occupied sites), the minimum lot size and building setback distance requirements shall be as required for a single-family dwelling.
 - (2) Transient campground or RV park development lots shall be at least 75 feet wide and 100 feet deep and a minimum of 7,500 square feet in area. Frontages on culs-de-sac may be varied.
 - (3) Sites or lots shall be separated from service building structures and other occupied buildings and structures by a minimum distance of 50 feet.
- D. Off-street parking requirements. At least two off-street parking spaces shall be provided for

each site, at least one of which shall be provided on the site.

- E. Streets. All street systems within any campground where recreational vehicles will be parked shall be improved to the standards of the Callicoon Subdivision Law.⁶ Where only primitive or tent camping is to be provided, the Planning Board may approve a lesser standard.
- F. Sewage and water supply. No individual on-site sewage or water supply shall be permitted, and all community systems for the common use of campsite occupants shall fully comply, as evidenced by approved plans, with the standards imposed by the New York State Sanitary Code.
- G. Other regulations. The following additional regulations shall apply to all campgrounds and RV parks:
 - (1) No permanent external appurtenances, such as carports, cabanas or patios, may be attached to any travel trailer or other recreational vehicle parked in a campground or RV park, and the removal of wheels or placement of the unit on a foundation in such a park is prohibited.
 - (2) A minimum of 8% of the gross site area for the campground or RV park shall be set aside and developed as common use areas for open and enclosed recreational facilities. No recreational vehicle site, required buffer strip, street right-of-way, cartway, storage area or utility site shall be counted as meeting this requirement.
 - (3) No entrance or exit to a campground or RV park shall require a turn at an acute angle, and the radii of curbs and pavements at intersections shall be such as to facilitate easy turning movement for vehicles with trailers attached. No intersection of an entrance and/or exit with a public highway shall be located where less than 500 feet of sight distance exists in either direction along such highway, nor shall such intersection be located within 150 feet of any other intersection.
 - (4) In connection with the use of any campground or RV park, no parking, loading or maneuvering incidental to parking or loading shall be permitted on any public street, sidewalk, required buffer, right-of-way or any public grounds or any private grounds not part of the campground or RV park, unless the owner has given written permission for such use. Each campground or RV park operator shall provide off-street parking, loading and maneuvering space located and sealed so that the prohibitions above may be observed and shall be responsible for violations of these requirements.
 - (5) Occupancy. Campsites shall be used only for camping purposes. No improvement nor any mobile home designed for permanent occupancy shall be erected or placed on any campsite. All recreational vehicles in the development shall be maintained in a transportable condition at all times. Any action toward removal of wheels or to attach the recreational vehicle to the ground for stabilizing purposes is hereby prohibited. Moreover, no campsite shall be occupied for more than six consecutive months, and no campsite shall be the primary and principal residence of the owner or any other

6. Editor's Note: See Ch. 185, Subdivision of Land.

- occupant, each campsite to be used and occupied, excepting occasional guests, for camping and recreational purposes only by a single household. The Town Board may require any owner to remove a recreational vehicle for a period of 24 hours unless such owner can establish a prior removal within the immediately preceding six months. These requirements shall be attached to each campsite sale by restrictive covenant.
- (6) Records. The management of every campground or RV park shall be responsible for maintaining accurate records concerning the occupancy of all campsites. The term "management" shall include associations of property owners when such are responsible for maintenance and operation of common facilities. The town shall have access to and the right to inspect records for evidence of permanent residency or lack thereof. The Town Board shall, in addition, have the authority, when any provision of this Article is violated, to prohibit the occupancy of any and all campsites in a campground or RV park until the owners and/or management provide evidence of compliance with these provisions.
 - (7) Sanitary waste disposal. No owner or occupant of any campsite shall permit or allow the dumping or placement of any sanitary or other waste anywhere upon any campsite or elsewhere within the development except in places designated therefor. No outside toilets shall be erected or maintained on any campsite. If there has been installed upon any campsite an apparatus for connection to the central sewage disposal system constructed within the development, plumbing fixtures within the recreational vehicle placed upon the campsite shall be connected to that sewage disposal system.
 - (8) Fences. All property lines shall be kept free and open, and no fences or wall, except as may be required by screening sections or may exist naturally, shall be permitted.
 - (9) Nuisances. No noxious or offensive activities or nuisances shall be permitted on any campsite.
 - (10) Animals. No animals shall be kept or maintained on any campsite, except the usual household pets. Pets shall be kept confined so as not to become a nuisance.
 - (11) Garbage and refuse disposal. No person shall burn trash, garbage or other like refuse on any campsite. All such refuse shall be placed and kept in covered receptacles within enclosed areas for the same. No owner shall permit the accumulation of litter or refuse or junk vehicles on a campsite.
 - (12) Camping accessories. Notwithstanding any provisions herein contained to the contrary, picnic tables, benches, storage sheds, fire boxes or fireplaces and similar items of personal property may be placed on a campsite. All personal property on a campsite shall be maintained in good condition so as not to become unsightly.
 - (13) Ditches and swales. Each owner shall keep drainage ditches and swales located on his campsite free and unobstructed and in good repair and shall provide for the installation of such culverts upon his campsite as may be reasonably required for proper drainage. He shall also prevent erosion on his campsite.
 - (14) Drilling and mining. No drilling, refining, quarrying or mining operation of any kind

shall be permitted, nor shall drilling for water or digging of water wells be permitted on any campsite.

- (15) Vehicle parking. No recreational vehicle shall be parked on any street or roadway within the development.
- (16) Owner/manager residence. Nothing herein shall preclude the property owner or resident manager or a caretaker from having a permanent residence on the same property as the campground.

§ 203-17. Multiple dwellings.

Multiple-family housing (multiple-dwelling structures, including garden apartments and townhouses), where permitted, shall, in addition to meeting the standards of New York State law and those building standards contained in other laws and ordinances, also conform to the following standards:

- A. Density. Multifamily structures shall be constructed at a density not to exceed the applicable permitted density for single-family housing in the district in which the development is proposed and shall be in no case greater than 1.3 dwelling units per acre, exclusive of the right-of-way. All multifamily developments shall be served with central water supply and sewage facilities.
- B. Size limitations. There shall be no more than eight dwelling units in each multifamily building nor more than eight townhouses placed contiguously. No structure shall be erected closer to any other structure than a distance equal to its own height. Within clusters containing four or fewer buildings of no more than two dwelling units each, the distance between buildings may be reduced to 1/2 the height of the highest building, provided that the buildings are situated at the corners so a collapsing wall would not fall against another building. The distance between such clusters shall be no less than 100 feet.
- C. Nonresidential uses. Nonresidential uses shall not be permitted in a multifamily development. This shall not, however, preclude such ancillary facilities as laundry areas, service buildings, recreational facilities and the like.
- D. Open space. Lands not used for construction shall be held in open space to be maintained solely for the common use of the residents of the development.
- E. Property and maintenance. Where there is condominium and/or time-shared ownership and, therefore, common property involved, evidence of arrangements for continuous maintenance of the same by the developer and/or property owners of said common property shall be submitted. This shall specifically include but not be limited to the provisions dealing with maintenance of recreation areas, roads and utilities and shall indemnify the town of any responsibility having to do with the same to which it has not otherwise agreed or which is not assigned by state statute.

§ 203-18. Residential conversions.

Any structure may be converted to a single-family residential use, provided that the proposed sewage disposal is certified by a professional engineer or licensed surveyor with a certificate of

exemption as adequate to meet the requirements of the New York State Sanitary Code and the structure is not located in a flood hazard area. Single-family dwellings may be converted to two-family use under the same conditions, provided that no more than two persons occupy the second unit. Such restriction shall not apply in districts where two-family dwellings are allowed.

§ 203-19. Special lot standards and exceptions.

- A. Exceptions to district regulations. The height limitations of this chapter shall be waived for farm structures (except poultry houses), private home antennas, chimneys, spires, flagpoles, water towers, elevator enclosures and the like.
- B. Corner lots. Front yard setbacks are required on both street frontages; and one yard, other than such front yards, shall be deemed to be the rear yard and the other the side yard.
- C. Construction within required yards. A permitted accessory building may be located in any required side yard or rear yard, provided that it does not intrude upon the required front yard(s) and is located at least five feet from the property line(s).

§ 203-20. Mobile home parks.

- A. Minimum park area. A mobile home park shall have a gross area of at least five contiguous acres of land.
- B. Park areas for nonresidential uses. In all parks designed to accommodate 10 or more mobile homes, there shall be one or more recreation areas that are easily accessible to all park residents. The size of such recreation areas shall be based on a minimum of 5,000 square feet per area, with the total recreation area to be not less than 10% of the total area of the mobile home park. Recreation areas shall be located so as to be free of traffic hazards and should, where the topography permits, be centrally located.
- C. Required setbacks, buffer strips and screening.
 - (1) All mobile homes shall be located at least 60 feet from the center line of any public street or highway and at least 35 feet from any other park property boundary line.
 - (2) There shall be a minimum distance of 30 feet between an adjoining pavement of a park street or common parking area and other common areas and structures.
 - (3) All mobile home parks located adjacent to existing industrial or commercial land uses or existing residential neighborhoods shall be required to provide screening, such as fences or natural growth, along the property boundary line separating the park and such adjacent nonresidential or residential use.⁷
 - (4) Accessory structures, including toolsheds, trash receptacles, patios, porches, garages and bike racks, may be erected within required setback and buffer areas, provided that a fire lane of at least 10 feet in width is maintained clear of all obstacles on each side of each mobile home. No structures of any kind may be erected within 10 feet of the mobile home lot line.

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

- D. Erection and placement of mobile homes.
- (1) Mobile homes shall be separated from each other and from other buildings and structures by at least 50 feet on all sides.
 - (2) An enclosure of similar design and material to the mobile home itself shall be erected around the entire base of each mobile home. Enclosures shall be placed within one year of occupancy of the mobile home.
- E. Park street system. The park street system shall comply fully with the requirements contained in the Callicoon Subdivision Law.⁸ No more than one access shall be provided to any one public right-of-way, and interior access drives shall be required to service any lots which may front on a public highway.
- F. Off-street parking areas. Each mobile home shall be provided with off-street parking equivalent to that required of single-family detached dwellings.
- G. Mobile home site. The area of the mobile home site shall be improved to provide a permanent foundation for the placement and tie-down of the mobile home, thereby securing the structure against uplift, sliding, rotation and overturning.
- (1) The mobile home site shall be designed and constructed so as not heave, shift or settle unevenly under the weight of the mobile home due to frost action, inadequate drainage, vibration or other forces acting on the superstructure.
 - (2) The mobile home site shall be provided with anchors and tie-downs, such as cast-in-place concrete deadmen, eyelets imbedded in concrete foundations or runways, screw augers, arrowhead anchors or other devices securing the stability of the mobile home.
 - (3) Anchors and tie-downs shall be placed at least at each corner of the mobile home site, and each shall be able to sustain a minimum tensile strength of 2,800 pounds.
- H. Mobile home lots. Mobile home lots shall be not less than 100 feet wide and 200 feet deep with a minimum area of 20,000 square feet.
- I. Water supply. An adequate off-site supply of water shall be provided for mobile homes, service buildings and other accessory facilities as required by this chapter. The water supply shall be capable of supplying a minimum of one 150 gallons per day per mobile home, and the water distribution system shall be designed and maintained so as to provide a pressure of not less than 35 pounds per square inch under normal operating conditions at service buildings and other locations requiring potable water supply. There must also be an adequate reserve supply of water at adequate pressure to meet fire-fighting needs as estimated by the fire company serving the area.
- J. Sewage disposal. An adequate and safe central sewage disposal system shall be provided in all parks for conveying and disposing of sewage from mobile homes, service buildings and other accessory facilities. Such system shall be designed, constructed and maintained in accordance with the New York State Sanitary Code.

⁸. Editor's Note: See Ch. 185, Subdivision of Land.

- K. Requirement for license. No person, partnership, association or corporation owning or occupying land within the Town of Callicoon shall use or allow the use of such land for a mobile home park without a license issued by the Town Zoning Officer, which license shall be applied for and renewed annually pursuant to regulations which shall be developed for this purpose by the Town Planning Board.

§ 203-21. Cluster housing.

- A. Cluster development shall be allowed in any district as a conditional use. A minimum of 10 acres of land shall be required, and the proposal shall be processed under the Callicoon Subdivision Law⁹ as well as the site plan review procedures of this chapter. Such submissions, however, shall be combined and acted on concurrently. Individual building lots in a cluster development may be reduced to 1/2 the area normally required, and other development standards may be modified to accommodate a more efficient, attractive and economical pattern of development.
- B. A central water supply and sewage disposal system shall be required in all cluster developments.
- C. All land area saved by reducing minimum lot sizes shall be owned and maintained solely for the common use and benefit of the residents of the cluster such that overall density is equal to that which would have been achieved through normal development of the property according to the standards of the district in which it is located.

§ 203-22. Intensive livestock operations.

A minimum lot area of 10 acres shall be required for the establishment of new intensive livestock operations. Structures in which animals are kept or manure is stored shall be set back a minimum of 200 feet from property lines to ensure that odors readily detectable without instruments are restrained to the lot on which the operation is established. Manure storage and disposal plans shall be evaluated by comparison to standards recommended by the New York State Cooperative Extension Service. Nothing herein, however, shall be deemed to regulate any agricultural operation other than a commercial poultry or swine farm.

§ 203-23. Summer and day camps and boarding homes.

- A. Occupancy. No day camp, summer camp or boarding home facility shall be used as the permanent residency of any individual other than the resident caretaker or single owner. Permanent residency shall include any occupation of the premises for more than six months per year.
- B. Sewage disposal and water supply. No day camp, summer camp or boarding home facility shall be issued a certificate of use without first providing a certificate from a professional engineer licensed in the State of New York that the existing and/or proposed sewage disposal and water supply facilities are consistent with good engineering design and practice, are adequate to meet the demands which will be imposed by the proposed level of occupancy and comply in all respects with regulations of the New York Department of

9. Editor's Note: See Ch. 185, Subdivision of Land.

Environmental Conservation and the various health agencies with jurisdiction.

- C. Density. There shall be no more than one dormitory unit for each 10,000 square feet of lot area. Each dormitory unit shall include toilet and shower facilities and shall be a minimum of 350 square feet in size. Kitchen or laundry facilities shall not be provided. No more than six persons shall occupy any individual dormitory unit.

ARTICLE VI Nonconforming Uses

§ 203-24. General provisions.

It is the purpose of this Article to limit the injurious impact of nonconforming uses and/or structures on other adjacent properties within a particular district and the community as a whole while recognizing that alterations, continuations and extensions of nonconforming uses and/or structures may not be contrary to the public interest or the general purpose of this chapter when failure to allow such alteration, continuation or extension would itself lead to neighborhood or district deterioration. It is further the purpose of this Article to prescribe those standards which are to be applied by the town in determining the reasonableness of a proposal to alter, continue or extend a nonconforming use. The following are regulations which shall apply to the alteration, continuation or extension of nonconforming uses:

- A. A "nonconforming use or building" shall be a building, structure or use legally existing at the effective date of this chapter or any amendment thereto, or a building, structure or use planned and with construction started in compliance with existing laws prior to the effective date of this chapter, or any amendment thereto and completed within a one-year period after the effective date of this chapter or amendment thereto and which does not conform to the use regulations of the district in which located. A building, structure or use allowed by variance in a district where it becomes nonconforming with any regulations of this chapter shall also be considered a nonconforming use.
- B. Normal maintenance and repairs, such as painting, replacing a roof, etc., are allowed as well as minor additions, alterations and interior renovations that do not structurally alter the building or result in increased use of the building or area or a different nature of use than that existing at the present time or otherwise create more incompatibility with the surrounding permitted uses.
- C. All changes and additions to nonconforming uses, except those identified above, shall be considered conditional uses, and permits for alterations, changes in use or additions of one sort or another shall be granted only after a determination by the Town Board that the following conditions have been or will be satisfied:
 - (1) Storage of materials. There shall be no increase in the amount of materials, supplies and/or products that is stored outside a nonconforming facility on a lot in nonconforming use except those types of uses outlined in Subsection C(2).
 - (2) Screening. Where the nonconforming activity is one which necessarily results in the storage of large quantities of material, supplies or products outside, such as a sawmill, vehicle and equipment sales operation or similar operation, the use may only be expanded if a solid fence of wood or some similar material and/or vegetative

screening not less than six feet in height is present on all sides of the immediate area in use.

- (3) Yards and setbacks. No addition, change or expansion of a nonconforming use shall create further nonconformity by violation of yard, setback and height regulations of the district in which it is located.
 - (4) Stormwater. There shall be no increase in the amount of stormwater runoff for the site over what was existing as of the date of the enactment of this chapter. The United States Department of Agriculture's Soil Conservation Service may be relied on to make recommendations of appropriate measures to control stormwater runoff, which may be attached as conditions of approval by the town.
 - (5) Parking and traffic. In no case will a change, addition or expansion of a nonconforming use be allowed which would result in the diversion of traffic or relocation of a driveway on the site to any point nearer a residential property or result in violation of any of the parking and unloading requirements of this chapter. If the total number of parking spaces for the site is to be increased more than 25% over those available as of the date of the enactment of this chapter, the town may require vegetative screening of the parking area from nearby residential areas.
 - (6) Extension onto new properties. The use may only be expanded or extended onto a new property in the district if that property is immediately adjacent and the owner has clearly exhausted the alternatives available for expansion on the existing site. Additional land may be purchased, however, to meet yard and setback requirements or increase conformity therewith and thereby allow the owner to make fuller use of the original site, but structures shall not be extended into said yard areas.
 - (7) Prohibited expansions. Should the use proposed for expansion be one which is specifically prohibited as a new use in the town or is judged by the Planning Board to be one similar to such a use or of such a nature as to impose health, safety or welfare concerns which cannot be satisfied by the imposition of conditions permitted under this chapter, the expansion application shall be denied.
- D. A nonconforming use may be reestablished within a period of 18 months after it has been discontinued or vacated, with an extension allowable where proven necessary. Any structure may, however, be reused at any time for the purpose for which it was originally designed.
- E. If any nonconforming use is damaged or destroyed, it may be restored or reconstructed within two years of the date of the damage, with an extension allowable where proven necessary.
- F. A single-family dwelling, or any of the principal uses listed for SD and BD Districts, may be erected on any town lot of record existing at the time this chapter is enacted, provided that the owner does not possess adjoining property, no yard is reduced to less than 10 feet and the lot will accommodate a properly designed sewage disposal system with minimum isolation distances from on-site and adjacent wells as provided by the New York Sanitary Code.

- G. In order to administer this chapter, the Zoning Officer shall prepare a list of nonconforming uses, signs, buildings and lots in existence as of the effective date of this chapter or amendments thereto and shall maintain such list at the Town Clerk's office. He shall also issue, upon request, a certificate of nonconformance to any property owner who so requests.
- H. Nothing herein shall limit the rights of any owners of a nonconforming lot or use to transfer their ownership of said property to others, complete with all privileges accorded by this Article.

**ARTICLE VII
Administration and Enforcement**

§ 203-25. Zoning Officer.

It shall be the duty of a Zoning Officer, to be appointed by the Town Board, to enforce the provisions of this chapter. The Zoning Officer shall examine all applications for permits, issue permits for construction and uses which are in accordance with the requirements of this chapter, record and file all applications for permits, with accompanying plans and documents, and make such reports as the Town Board may require. Permits for construction and for uses which are conditional uses shall be issued only upon written order of the Planning Board and the Town Board. Permits for construction and for uses which are special uses or variances to requirements of this chapter shall be issued only upon written order of the Zoning Board of Appeals.

§ 203-26. Permit procedures.

- A. Requirements of permits. A building/zoning permit or certificate of occupancy shall be required prior to the erection, addition or alteration of any building or portion thereof, prior to the use or change in use of a building or land and prior to the change or extension of a nonconforming use. It shall be unlawful for any person to commence work for the erection or alteration of any building or for a change in land use until a permit has been duly issued therefor. No zoning permit shall be required in cases of normal maintenance activities, minor repairs and alterations which do not structurally change a building or structure.
- B. Applications for permits.
 - (1) All applications for permits shall be accompanied by a plot sketch, in duplicate, drawn to show the actual shape and dimensions of the lot to be built upon, the exact size and location of any buildings existing on the lot, the lines within which the proposed building or structure shall be erected or altered, the existing and intended use of each building or part of a building, the number of families or dwelling units the building is designed to accommodate and such information as may be necessary to determine compliance with this chapter and all other pertinent ordinances. All applications, with accompanying plans and documents, shall become public record after a permit is issued or denied.
 - (2) Applications for uses which also necessitate approvals under the Town of Callicoon

Subdivision Law¹⁰ shall be processed in the manner provided for plat approval under that chapter. Such applications shall also contain all information or data normally required for a submission under the Subdivision Law. A zoning permit shall not be issued until the proposed use has been granted a preliminary approval under the Subdivision Law.

- C. Issuance of permits. No permit shall be issued until the Zoning Officer has certified that the proposed building, addition or alteration complies with all the provisions of this chapter as well as with all the provisions of other applicable regulations. A permit issued hereunder shall become void 12 months after the issuance date.
- D. Temporary permit. A temporary permit may be authorized by the Town Board for a nonconforming structure or use which it deems necessary to promote the proper development of the community for a specified period of time, not to exceed one year, and may be renewed annually for an aggregate period not exceeding three years, provided that such nonconforming structure or use shall be completely removed upon expiration of the permit.
- E. Fees.
 - (1) The Town Board shall establish a uniform schedule of fees, charges and expenses as well as a collection procedure for zoning permits, special permits, variances and other matter pertaining to this chapter.
 - (2) Said schedule of fees shall be posted in the office of the Zoning Officer and/or the Town Clerk.
 - (3) Permits, conditional uses and variances shall be issued only after fees have been paid in full, and the Zoning Board of Appeals shall take no action on appeals until preliminary charges have been paid in full.
- F. Inspection by the Zoning Officer. It shall be the duty of the Zoning Officer, or his duly appointed representative, to make the following minimum number of inspections on property for which a permit has been issued:
 - (1) At the beginning of construction. A record shall be made indicating the time and date of the inspection and the finding of the Zoning Officer in regard to the conformance of the construction to plans submitted with the application for the building. If the actual construction does not conform to the application, a written notice of the violation shall be issued by the Zoning Officer, and such violation shall be discontinued. Upon proper correction of the violation and receipt of written notice from the Zoning Officer, construction shall proceed.
 - (2) At the completion of construction. A record shall be made indicating the time and date of the inspection and the findings of the Zoning Officer in regard to the issuance of a certificate of occupancy permit. Nothing herein shall, however, preclude the Zoning Officer from making such additional inspections as are deemed necessary to establish conformance to this chapter or other town laws.

10. Editor's Note: See Ch. 185, Subdivision of Land.

G. Certificate of occupancy.

- (1) A certificate of occupancy shall be a statement issued by the Zoning Officer setting forth either that a building, structure or parcel of land complies with the provisions of this chapter or that a building or structure lawfully may be employed for specified uses under the provisions of this chapter, or both.
- (2) No vacant land shall be occupied or used and no structure or part of a structure hereafter erected, structurally altered or changed in use shall be occupied or used until a certificate of occupancy shall have been regularly issued therefor by the Zoning Officer.
- (3) A certificate of occupancy, either for the whole or part of a new building or for the alteration of an existing building, shall be applied for coincident with the application for a building permit and shall be issued within 15 days after the erection or alteration of such building or part shall have been completed in conformity with the provisions of this chapter.
- (4) A certificate of occupancy for the use or occupancy of vacant land or for a change in the use of land or for a change in the use of an existing building shall be applied for and issued before any such land shall be occupied or used or such land or building shall be changed in use, and such certificate shall be issued within 15 days after application has been made, provided that such proposed use is in conformity with the provisions of this chapter.
- (5) A certificate of occupancy for changing or extending a nonconforming use existing at the time of the passage of this chapter or of an amendment thereto shall be applied for and issued before any such nonconforming use shall be changed or extended. Such certificate shall be issued pursuant to the conditional use procedures of this chapter.
- (6) An applicant for a certificate of occupancy must document the existence of a potable water source for the proposed use. This may be accomplished by submitting copies of relevant information from well drillers' logs. Also, no certificate of occupancy will be issued in the absence of compliance with the New York State Environmental Quality Review program.
- (7) A record of all certificates of occupancy shall be kept on file in the office of the Zoning Officer, and a copy shall be furnished on request to any person having a proprietary or tenancy interest in the building or land affected.

§ 203-27. Conditional uses and site plan review.

A. Planning Board approval of site plans and certain uses.

- (1) No building permit shall be issued by the Zoning Officer for a conditional use except upon authorization of and in conformity with plans approved by the Planning Board, as provided herein.
 - (a) The Planning Board is authorized to review and approve, with modifications, or disapprove site plans, prepared to specifications set forth in this chapter and/or in regulations of the Planning Board, showing the arrangement, layout and

design of the proposed use of the land shown on such plan. Such approval shall be required for all conditional uses. Elements of concern to the Planning Board and to be addressed in such plans submitted for approval shall include but not be limited to those relating to:

- [1] Parking and access.
- [2] Screening.
- [3] Signs.
- [4] Architectural features.
- [5] The location and dimensions of buildings.
- [6] Adjacent land uses.
- [7] Drainage.
- [8] The ultimate development impact.
- [9] The availability of fire protection.
- [10] The availability of police protection.
- [11] The availability of health facilities.
- [12] Traffic generation.
- [13] The availability of sewage and water facilities.
- [14] Present zoning.

- (b) The Planning Board may adopt such rules and regulations as it deems necessary, consistent with the provisions of the New York State Town Law and of this chapter, to exercise the powers granted. Plats showing lots, blocks or sites which are subject to review pursuant to authority adopted under § 276 of the Town Law shall continue to be subject to such review and shall not be subject to review under this section.
- (2) Where Article IV of this chapter specifies conditional uses subject to plan approval by the Planning Board, which are permitted only upon compliance with conditions specified in this chapter, the Planning Board is authorized to approve the establishment of such conditional uses upon determining compliance with such conditions. Such conditions may include, where appropriate, the approval of plans for the site layout and design of the specified uses containing elements described in Subsection A of this section. Such approval shall be evidenced by the issuance of a conditional use permit directed to the Zoning Officer and upon which permit, if all other requirements of the law are met, a building/zoning permit may be issued. Planning Board approval of such uses as are subject to § 239-m of the New York State General Municipal Law shall be conditioned on review by the Sullivan County Planning Department.
- (3) Hearing and decision. The Planning Board may, within 45 days of the day an

application for site plan approval and/or an application for a conditional use permit is actually received, fix a time for a public hearing of any matter referred to herein. The Planning Board shall give public notice of such hearing at least 10 days prior to the date thereof. The Planning Board shall decide any such application within 45 days after such public hearing or within 45 days of the receipt of the application if no hearing is held. The decision of the Planning Board shall be filed in the office of the Town Clerk immediately after the same has been signed by the Chairman of the Planning Board, and a copy thereof shall be mailed to the applicant.

- (4) Appeals. Any person aggrieved by a decision of the Planning Board or any officer, department, board or bureau of the town may appeal from the same within the time and under the conditions provided for in § 274-a 3, 4 and 5 of the Town Law and/or file an appeal with the Town of Callicoon Zoning Board of Appeals.

B. Plan requirements. Applications submitted shall include a description of all proposed uses and a site plan showing the subject lot and all structures on adjacent properties within 100 feet of the lot lines of the subject lot, plans and elevations of all proposed outdoor signs, floor plans and plans for exterior alterations of all existing and proposed structures and any other such building plans and elevations as the Planning Board may require. Site plans shall indicate the following:

- (1) The location of all existing and proposed outdoor signs.
- (2) The location of all uses not requiring a structure.
- (3) The location of all driveways, parking and loading.
- (4) Traffic access. That all proposed traffic accessways are adequate but not excessive in number, adequate in width, grade, alignment and visibility; not located too near the street corners or other places of public assembly; and other similar safety considerations.
- (5) Circulation and parking. That adequate off-street parking and loading spaces are provided to prevent parking in public streets of vehicles of any persons connected with or visiting the use and that the interior circulation system is adequate to provide safe accessibility to all required off-street parking.
- (6) Landscaping and screening. That all playground, parking and service areas are reasonably screened, at all seasons of the year, from the view of adjacent residential lots and streets and the general landscaping of the site is in character with that generally prevailing in the neighborhood and that existing trees over 12 inches in diameter are preserved to the maximum extent possible.

C. Renewal of permit. The Board may require that its approval be periodically renewed. Such renewal shall be granted following due public notice and hearing and may be withheld only upon a determination by the Zoning Officer to the effect that such conditions as may have been prescribed by the Board in conjunction with the issuance of the original permit have not been or are being no longer complied with. In such cases, a period of 60 days shall be granted the applicant for full compliance prior to the revocation of said permit.

§ 203-28. Accessory uses.

- A. Accessory structures. No detached accessory structure shall be erected in any required front yard, and no detached accessory building or structure shall be erected within five feet of any other building or structure. Below-ground swimming pools shall, in addition to meeting the above requirements, also be entirely enclosed with a permanent fence not less than four feet in height.
- B. Permit requirements.
 - (1) Accessory uses shall be considered to be uses allowed as a matter of right but shall require a permit from the Zoning Officer, with the following exempted:
 - (a) Patios.
 - (b) Any porch or deck not over six feet in height above the grade level and lacking a roof.
 - (c) Aboveground swimming pools.
 - (d) Signs less than 32 square feet in size.
 - (e) Portable structures or buildings less than 100 square feet in size.
 - (f) All nonstructural accessory uses, including gardens, small-animal projects, etc.
 - (2) Regardless of requirements for permits, all accessory structures shall comply with Subsection A above.
- C. Home occupations. Home occupations shall be permitted anywhere, provided that such occupations are clearly incidental or secondary to the use of the property as a residence and do not materially change the character of or have an exterior effect on the dwelling. Home occupations shall be limited to the employment, on the premises, of not more than three persons, except as herein provided, other than immediate family members at any one time. An additional off-street parking space shall be provided for each employee. Home occupations shall not occupy more than 50% of the total floor area of a dwelling unit, including the basement. Permits shall ordinarily not be required for home occupations unless a structural addition or new structure is planned. Home occupations employing more than three persons, other than immediate family members, shall be permitted as conditional uses, however.

§ 203-29. Penalties for offenses.

- A. Failure to comply with any provision of this chapter; failure to secure a permit or Zoning Board of Appeals certificate, when required, previous to the erection of, construction of, extension of or addition to a building; or failure to secure a certificate of occupancy permit shall be a violation of this chapter. When written notice of a violation of any of the provisions of this chapter has been served by the Zoning Officer on the owner, occupant and/or contractor, such violation shall be discontinued immediately.
- B. It shall be unlawful to erect, construct, reconstruct, alter and maintain or use any building or structure or to use any land in violation of any provision of this chapter or amendment

thereto. Any person, partnership or corporation who or which shall do so shall, upon conviction thereof, be sentenced to pay a fine of not more than \$250 or 15 days' imprisonment, or both. Each day that a violation is continued shall constitute a separate offense. All fines collected for the violation of this chapter shall be paid over to the Town of Callicoon.¹¹

- C. Whenever any building, structure or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of any ordinance, the Town Board or, with the approval of the Town Board, an officer of the town, in addition to other remedies, may institute in the name of the town any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure or land or to prevent in or about such premises any act, conduct, business or use constituting a violation.

ARTICLE VIII
Zoning Board of Appeals.

§ 203-30. Creation and appointment.

- A. Establishment and membership. There shall be a Board of Appeals of five members pursuant to the provisions of § 267 of the Town Law. The Town Board shall appoint said members, shall designate a Chairman and may remove any members of the Board of Appeals for cause after public hearing. The members of the Board shall be appointed for terms of five years, except the first appointed members, who shall be appointed for staggered terms as provided by the Town Law. If a vacancy shall occur otherwise than by expiration of the term, it shall be filled by the Town Board by appointment for the unexpired term.
- B. Procedure. Meetings shall be held at the call of the Chairman or at other times as the Board of Appeals shall determine. A quorum shall consist of three members, but in order to reverse a decision of the Zoning Officer or authorize a variance, an affirmative vote of at least three members shall be required. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, and shall keep records of its examinations and other official actions.

§ 203-31. Powers and duties.

The Board of Appeals shall have all the powers prescribed by the New York State Town Law and by this chapter to, on appeal from an order, requirement, decision or determination made by an administrative official or on request by an official, board or agency of the town, determine the meaning of any portion of text of this chapter or of any condition or requirement specified or made under the provisions of this chapter and to authorize variances pursuant to § 203-32 below.

§ 203-32. Variances.

- A. Any property owner, tenant or representative thereof may, in appealing an administrative decision of the Town of Callicoon with respect to this chapter, request a variance from its literal terms. Application for a variance may be made concurrently with application for a

¹¹. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

building permit and shall be delivered to the Building Inspector, who shall then, in acting upon the permit application, refer the matter to the Zoning Board of Appeals for a decision on the variance request. This shall not, however, preclude an applicant whose permit request has been denied from subsequently requesting a variance in conjunction with an appeal of such action if the appeal has been timely filed.

B. Two types of variances may be granted by the Zoning Board of Appeals: area variances and use variances. Area variances involve relief from dimensional or other requirements for existing uses or uses allowed within the district under the terms of this chapter. Use variances involve a use of land not allowed in a district under the terms of this chapter. Each of the following findings of fact shall be made by the Board of Appeals prior to granting such variances:

- (1) Area variances. Area variances may be granted where the strict application of the literal terms of this chapter would present practical difficulties in the use of the property in question from allowed uses. Practical difficulties shall be deemed to exist where:
 - (a) The applicant has proven that he cannot make a reasonable use of his land due to its particular size, shape or grade.
 - (b) The applicant has proven that economic injury will result from literal application of the standards of this chapter and the town has failed to show that the public health, safety and welfare will be served by upholding the application of the standards and denying the variance.
 - (c) The applicant has proven that the variance, if granted, would be the minimum necessary to render relief and the difficulty could not be obviated by some method feasible for the applicant to pursue, other than a variance.
 - (d) The applicant has proven that the variance, if granted, will not change the permitted density for the parcel.
 - (e) The applicant has proven that the variance, if granted, would not change the character of the district or be a substantial detriment to adjoining properties.
 - (f) The applicant has proven that the variance is not requested for reasons of mere inconvenience, aesthetic tastes or more profitable use.
 - (g) The applicant has proven that the variance would be consistent with the spirit of this chapter and the Town of Callicoon Comprehensive Plan.
 - (h) The applicant has proven that the practical difficulties are not self-created. This requirement shall be strictly enforced, and practical difficulties related to properties acquired by the applicant subsequent to the effective date of this chapter shall be deemed self-created.
- (2) Use variances.
 - (a) Use variances may be granted where the strict application of the literal terms of this chapter would produce unnecessary hardship to the applicant. Unnecessary hardship will be deemed to exist where the applicant has proven that:

- [1] A reasonable return cannot be realized through permitted uses. The applicant shall specifically prove, through at least two independent sources of professional testimony, that no use permitted by the zoning regulations applicable to that district would yield a reasonable return. The evidence must be specific and address the amount paid for the property, present value, maintenance expenses, taxes, mortgages and encumbrances, income from the land in question and other facts relevant to the particular circumstances of the case. Failure to sell land for a permitted purpose is evidence that it will not bring a reasonable return if used for such purpose if the owner has made an active effort to sell. Mere financial loss to the individual owner or inability to achieve the most profitable use of a property shall not be sufficient justification for a variance.
 - [2] The hardship is not self-created.
 - [3] The use, if granted, would not alter the essential character of the district or be a substantial detriment to adjoining properties.
 - [4] The variance is not requested for reasons of mere inconvenience or aesthetic taste.
 - [5] The variance would be consistent with the spirit of this chapter or the Town of Callicoon Comprehensive Plan. No variance shall be granted which would have the practical effect of redistricting the area, and any use granted shall be only for the purpose of allowing the owner to achieve a reasonable return consistent with the intent of the district in question.
- (b) In reviewing a request for a use variance, the Board may consider the effects of adjacent similar uses, heavy traffic, obsolete improvements, the existence of unusable natural resources and governmental rulings unrelated to zoning.
 - (c) The burden of proof with a use variance, nonetheless, shall be wholly with the applicant.

§ 203-33. Procedure.

The powers and duties of the Board of Appeals shall be exercised with the following procedure:

- A. The Board of Appeals shall not grant any appeal for a variance without first holding a public hearing, notice of which hearing and of the substance of the appeal shall be given by publication in the official newspaper of the town at least 10 days before the date of such hearing.
- B. In addition to such published notice, the applicant shall cause notice to be given of the substance of every appeal of a variance, together with notice of hearing thereon, by causing notices thereof to be mailed, at least 10 days before the date of said hearing, to the owners of all property abutting that held by the applicant in an immediate area, whether or not involved in such appeal, and all other owners within 300 feet, or such additional distances as the Board of Appeals may deem advisable from the exterior boundaries of the land involved in such appeal, as the names of said owners appear on the last completed

assessment roll of the town.

- C. Such notice shall be by registered mail, return receipt requested, and the applicant shall furnish proof of compliance with the notification procedure. Any or all of the notices required by this section shall be issued by the Secretary of the Board of Appeals.
- D. Provided that due notice shall have been published as above provided and provided that there shall have been substantial compliance with the remaining provisions of the Subsection, the failure to give notice in exact conformance herewith shall not be deemed to invalidate action taken by the Board of Appeals in connection with the granting of any appeal of variance.
- E. Where the real property involved in any application for a variance lies within 500 feet of any boundary of any city, village or town or of the boundary of any existing or proposed county or state park or other recreation area or of the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway or of the existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines or of the existing or proposed boundary of any county or state owned land on which a public building or institution is situated, notice shall be forwarded to the County Planning Department for review in accordance with the provisions of §§ 239-1 and 239-m of Article 12-B of the General Municipal Law of the State of New York.
- F. If the land involved in an appeal lies within 500 feet of the boundary of any other municipality, the Secretary of the Board of Appeals shall also transmit to the Municipal Clerk of such other municipality a copy of the official notice of the public hearing thereon no later than the day after such notice appears in the official newspaper of the town.
- G. At least 10 days before the date of any public hearing, the Secretary of the Board of Appeals shall transmit to the Secretary of the Planning Board a copy of any appeal, together with a copy of the notice of such hearing. The Planning Board may submit to the Board of Appeals an advisory opinion on such appeal.
- H. Unless construction is commenced and diligently prosecuted within 12 months of the date of the granting of a variance, such variance shall become null and void.
- I. All appeals made to the Board of Appeals shall be in writing on forms prescribed by the Board and shall be accompanied by fees of such amount as have been established by the Town Board.
- J. Each appeal shall fully set forth the circumstances of the case. Every appeal or application shall refer to the specific provision of the chapter involved and shall exactly set forth, as the case may be, the interpretation that is claimed, the details of the variance that is applied for and the grounds on which it is claimed that the same should be granted.
- K. Every decision of the Board of Appeals shall be recorded in accordance with standard forms adopted by the Board and shall fully set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based. Every decision of the Board shall be made by resolution, and each such resolution shall be filed in the office of the Town Clerk by case number under one of following headings: interpretations or

variances, together with all documents pertaining thereto. The Board of Appeals shall notify the Zoning Officer and each member of the Town Board, the Secretary of the Planning Board and the Municipal Clerk of any affected municipality, giving notice of hearing, as set forth in this section, of its decision in each case.

- L. All provisions of this chapter relating to the Board of Appeals shall be strictly construed. The Board, as a body of limited jurisdiction, shall act in full conformity with all provisions of law and of this chapter and in strict compliance with all limitations contained; provided, however, that if the procedural requirements set forth in this chapter have been substantially observed, no applicant or appellant shall be deprived of the right of appeal.

ARTICLE IX
General Provisions

§ 203-34. Interpretation.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the purposes set forth in Article I. Except where expressly provided otherwise, it is not intended by this chapter to interfere with or abrogate or annul any easement, covenant or other agreement between parties. However, where this chapter imposes greater restrictions upon the use of land or buildings than are imposed or required by any other statute, ordinance, law, rules or regulations or by any other regulation, the provisions of this chapter shall control. Should the terminology of any section or part of this chapter conflict with some other section or part, the most restrictive provisions shall control.

ARTICLE X
Telecommunications Structures
[Added 10-13-2003 by L.L. No. 2-2003]

§ 203-35. Purpose.

This article of the Town of Callicoon Zoning Law concerning telecommunications towers is intended to supplement the balance of the Town of Callicoon Zoning Law while accommodating the telecommunications industry. It shall supersede only those provisions of the Town of Callicoon Zoning Law which are inconsistent herewith. All other provisions of the Town of Callicoon Zoning Law, those consistent herewith, are incorporated by reference, and the use and activities regulated hereby are subject to the Town of Callicoon Zoning Law unless specifically provided otherwise by this article. The town seeks to maintain concealed or reduced tower height, to minimize the visual impact, and to limit the number of towers.

§ 203-36. Application.

No telecommunications facility, except those approved prior to the effective date of this article, shall be used unless in conformity with the Town of Callicoon Zoning Law. No telecommunications facility shall hereafter be erected, moved, reconstructed, changed or altered unless in conformity with these regulations. No existing structure shall be modified to serve as a telecommunications facility unless in conformity with these regulations.

- A. No conditional use permit or renewal thereof or modification of a current conditional use permit relating to a telecommunications facility shall be authorized by the Planning Board

unless it finds that such telecommunications facility:

- (1) Is necessary to meet current or expected demands for service;
 - (2) Conforms with all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration and other federal agencies;
 - (3) Is considered a public utility in the State of New York;
 - (4) Is designed and constructed in a manner which minimizes visual impacts to the extent practical;
 - (5) Complies with all other requirements of this article unless expressly superseded herein; and
 - (6) Is the most appropriate site among those available within the technically feasible area for the location of a telecommunications facility.
- B. Applicants proposing new telecommunications facilities, physical expansions of existing telecommunications facilities or the location of telecommunications facilities within or on other existing structures shall require a conditional use permit and site plan review hereunder.
- C. Applicants proposing to collocate new telecommunications arrays on a previously approved telecommunications facility without extending the height thereof or otherwise physically expanding the facility, except for additional equipment buildings within previously designated fenced-in areas, shall not require a conditional use permit and site plan review.
- D. Application filing requirements for conditional use permit. Applicants for a conditional use permit for a wireless communications facility shall fulfill the requirements of a Type I action under SEQRA and shall, in addition, provide the following:
- (1) The applicant shall bear the burden of demonstrating by substantial evidence that a bona fide need and vendor exists for the facility and that no reasonable combination of locations, techniques or technologies will obviate the need for or mitigate the height or visual impact of the proposed telecommunications tower.
 - (2) A survey of all existing structures, buildings and utility structures within the Town outlining the opportunities for the use of these existing structures and buildings as an alternative to the proposed site. The applicant must demonstrate that the proposed wireless communications facility cannot be accommodated on an existing structure, building or utility structure. In the event that location on an existing structure, building or utility structure is not feasible, a written statement of the reasons for the unfeasibility shall be submitted to the Planning Board. The Planning Board may hire an independent technical expert in the field of radio frequency engineering, to verify if location on an existing structure, building or utility structure is not feasible and to evaluate the need for the proposed facility. The cost for such a technical expert shall be at the expense of the applicant and shall be fair and in line with similar costs in other communities. The failure of an applicant to demonstrate a good-faith effort to

collocate may be grounds for denial of the conditional use permit.

- (3) A map showing the locations of all existing and future wireless communications facilities in the Town and within a five-mile radius of the proposed tower site for the carrier. The applicant must demonstrate the need for the proposed facility showing the impracticality of upgrading or expanding an existing site, and must project long-range facility expansion needs within the Town based on a market demand. The Planning Board may hire an independent technical expert in the field of radio frequency engineering, to evaluate the impracticability of upgrading or expanding an existing site. The cost for such a technical expert shall be at the expense of the applicant and shall be fair and in line with similar costs in other communities. The failure of an applicant to demonstrate a good faith effort to demonstrate the impracticality of upgrading or expanding an existing site may be grounds for denial of a conditional use permit.
- (4) Proposed location of antenna, mount and equipment shelter(s), with total elevation dimensions above ground level of the highest point.
- (5) Proposed security barrier, indicating type and extent as well as point of controlled entry.
- (6) Drawings, dimensioned and to scale, which show the ultimate appearance and operation of the wireless telecommunications facility at full build out, including representations of the proposed mount, antennas, equipment shelters, cable runs, driveways, parking areas and any other construction or development attendant to the wireless communications facility, including the screening or proposed barrier. The barrier drawing shall be cut away to show the view behind the barrier.
- (7) Materials of the proposed facility specified by generic type and specific treatment. These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier.
- (8) Colors of the proposed facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cable as well as cable runs, and security barrier.
- (9) Landscape plan including existing trees and shrubs, by dominant species and current height, and those proposed to be added, identified by species and size of specimen at installation.
- (10) The following material shall be provided to allow the Planning Board to determine the level of visual impact and the appropriateness of the facility:
 - (a) Existing (before condition) color photographs of views of the site from key viewpoints both inside and outside of the Town, including but not limited to state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, scenic roads and scenic viewsheds identified in the Town Comprehensive Plan and from any other locations where the site is visible to a large number of residents or visitors. The Planning Board shall determine the appropriate key viewpoints from which the

site shall be photographed.

- (b) Proposed (after condition) simulations. Each of the existing condition photographs shall have the proposed wireless communications facility superimposed on to it to show what would be seen from the key viewpoints if the proposed facility is built.
- (11) The names(s), address(es), and qualifications of the person(s) preparing the application and his or her signature(s) attesting to the truth and completeness of the information contained therein as well as his/her professional license number as an engineer with expertise in radio communications facilities or architect licensed to do business within the State of New York; the name(s) and address(es) of the property owner, proposed operator and applicant; the postal address and section, block and lot number of the property on the Town of Callicoon Tax Map; the Zoning District in which the property is situated; a listing of all required existing and proposed setbacks. If an installation is pursuant to a lease agreement, the parties, the duration in terms of renewal and a copy of the lease is to be provided and certified that the proposed antenna(s) will not cause interference with existing communications devices.
 - (12) A photometric plan of all lighting on the site, including tower lighting if required (quantity, quality of light and the pattern it forms).
 - (13) A report by a professional engineer licensed in New York State, certifying that any proposed shared use will not diminish the structural integrity and safety of any existing structure, and explaining what modifications, if any, will be required in order to so certify. A soils report prepared by a professional engineer with expertise in radio communications facilities shall also be submitted to support the design specifications of the foundation for any new tower, and anchors for the guy wires, if used.
 - (14) A completed visual environmental assessment form addendum. This addendum shall be accompanied by a visual impact assessment which shall include:
 - (a) A Zone of Visibility Map, which shall be provided in order to determine locations where the tower may be seen.
 - (b) Visual representations of "before" and "after" views from key viewpoints both inside and outside of the town, including but not limited to state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers. The Board shall determine the appropriate key sites at a presubmission conference with the applicant.
 - (c) Assessment of alternative tower designs and color schemes.
 - (d) Assessment of the visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.
 - (e) Review of those alternative sites determined to be feasible from an engineering perspective to determine which would be in the best interest of preserving the aesthetic and natural character of the neighborhood.

- (15) A certified copy of the Federal Communications Commission (FCC) license to operate the telecommunications facility.
- (16) If land is leased, documentation of intent from the landowner to allow use and affirming the landowner's responsibility to remove the tower if abandoned, obsolete or unused for more than 12 months.
- (17) A letter of intent committing the owner and successors in interest of any proposed new tower to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. Failure to abide by the conditions outlined in the letter may be grounds for revocation of any Conditional Use Permit granted. The letter shall commit the new tower owner and his/her successor in interest to:
 - (a) Respond in or within 90 days to a request for information from a potential shared-use applicant.
 - (b) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers.
 - (c) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charge may include but is not limited to a pro-rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity and depreciation, and all the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
- (18) Documentation that the proposed tower adequately addresses all aspects of aviation safety in view of known local aviation traffic as well as federal aviation regulations.
- (19) All property owners abutting adjacent municipalities, and all other owners within 500 feet of the landowner of the parcel of the proposed telecommunications site, including guy wires, shall be notified by certified mail at least 10 days prior to the Planning Board meeting expected to consider granting conditional use approval for such a structure. This responsibility shall be the applicant's, and such applicant shall provide proof of notification as part of his/her final application.
- (20) A site location alternative analysis, including an analysis of the location priorities set forth herein, describing the locations of other sites considered, the availability of those sites, the extent to which other sites do or do not meet the provider's service or engineering needs, and the reason why the subject site was chosen. The analysis shall address the following issues:
 - (a) How the proposed location of the wireless telecommunications tower or antennas relates to the objective of providing full wireless communications services within the Town of Callicoon.
 - (b) How the proposed location of the wireless telecommunications tower/facility relates to the location of any existing antennas or towers within or near the Town of Callicoon area.

- (c) How the proposed location of the wireless telecommunications tower/facility relates to the anticipated need for additional antennas or towers within and near the Town of Callicoon by the applicant, and by other providers of wireless telecommunications services within the area.
 - (d) How the proposed location of the wireless telecommunications tower/facility relates to the Town's goal of maintaining concealed or reduced tower height with groups of towers within close proximity to one another rather than isolated, taller towers with many users at greater tower heights at random locations throughout the Town of Callicoon.
 - (e) The Planning Board may waive one or more of the application filing requirements of this article if it finds that such information is not needed for a thorough review of a proposed wireless communications facility, based upon a specific request by the applicant.
- (21) Within 21 days of filing an application for a conditional use permit, the applicant shall arrange for a crane test or, if not feasible, a balloon with tails to resemble a crane-like structure, at the proposed site, to illustrate the height of the proposed facility. The date, time, location and duration of such test shall be approved by the Planning Board and advertised in an official newspaper designated by the Town at least 10 days, but no more than 30 days, prior to the test.
- (22) An applicant for approval of a communications structure shall include with the application evidence of written contract with all wireless service providers who supply service within the Town for the purpose of assessing the feasibility of collocated facilities.

§ 203-37. Location.

- A. Wireless communications facilities shall only be located upon the grant of site plan approval and a conditional use permit. Applicants seeking approval for wireless communications facilities shall comply with the following:
- (1) If feasible, new wireless communication facilities shall be located on existing structures, including but not limited to buildings, water towers, existing communications facilities, silos, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one or more wireless communications facilities. The applicant shall have the burden of proving that there are no feasible existing structures on which to locate.
 - (2) If the applicant demonstrates that it is not feasible to locate on an existing structure, wireless communications facilities shall be camouflaged to the greatest extent possible, including but not limited to the use of compatible building materials and colors, screening, landscaping placement within trees, and the use of stealth technology to disguise the facility as specified hereinafter and as determined by the Planning Board.

- (3) The clustering of towers and structures on the same site should be considered if collocation cannot be facilitated.
 - (4) The applicant must submit documentation of the legal right to install and use the proposed facility mount at the time of applications for site plan approval and for a conditional use permit.
 - (5) Scenic landscapes and vistas. New freestanding wireless communications facilities shall avoid being located within open areas that are visible from public roads, recreational areas or residential development. All ground-mounted wireless communications facilities shall be surrounded by a buffer of appropriate dense tree growth or shall be camouflaged by design to minimize adverse visual and aesthetic impacts.
 - (6) The use of repeaters and other alternative technologies is strongly encouraged to reduce or minimize the height and aesthetic intrusion of towers in the Town.
- B. Towers shall be set back from all property lines the greater of a distance that is equal to the height of the tower or the required setback or buffering distance set forth in the Town of Callicoon Zoning Code.
- C. All structures, buffers, setbacks, fences and other appurtenances shall be located on one lot and shall not extend over lot lines.
- D. The location of the tower and equipment building shall comply with all natural resource protection standards of this article.
- E. A telecommunications facility shall be permitted on a property with an existing use subject to the following conditions:
- (1) The telecommunications facility shall be fully automated and unattended on a daily basis and shall be visited only for periodic maintenance.
 - (2) Minimum lot area. The minimum lot area required shall apply, provided the land remaining for accommodation of the principal use on the lot shall also continue to comply with the minimum lot area for the district.
 - (3) Minimum setbacks. The minimum setback required shall apply, provided the land remaining for accommodation of the principal use on the lot shall also continue to comply with the minimum setback for the district.
 - (4) Access. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.

§ 203-38. Construction standards.

A. Collocation requirements.

- (1) Shared use of existing structures (for example, municipal water towers, multistory buildings, church steeples and farm silos) and existing or approved towers shall be given preference over construction of new towers. Where shared use of all existing tall structures and existing or approved towers is found to be impractical, the

applicant shall investigate shared usage of an existing tower site for its ability to accommodate a new tower and accessory uses.

- (2) No telecommunications tower shall have constructed thereon or attached thereto any platform, catwalk, crow's nest, or like structures except during periods of construction or repair.
- B. Antennas and their supporting structures shall be securely mounted to withstand the wind loads for the place of installation in accordance with the New York State Building Law.
 - C. Antennas and their supporting structures shall be constructed and maintained in conformance with all building, electrical, fire prevention and other applicable Laws adopted by the Town Board, be in conformity with all construction or performance standards (including but not limited to approved fastening devices and techniques that insure proper mounting, approved materials and methods for electrical connections, adequate structural support, etc.), be in conformance with the rules and regulations of any governmental entity having jurisdiction over such antennas or support structure including, without limitation, the Federal Communications Commission.
 - D. No permit shall be issued for any transmitting antenna that interferes with reception or transmission of any FCC approved communication device or antenna. If interference does result from the operation of a transmitting antenna, the owner of the most recently installed antenna shall immediately eliminate the interference or cease operations of the facility. If continued interference occurs, the conditional use permit will be revoked immediately.

§ 203-39. Dimensional requirements.

Wireless communications facilities shall comply with the following requirements:

- A. Height and fall zone.
 - (1) The total height of any mount or accessory elements attached to any structure shall be measured from the ground level to the top of the mount or the top of the uppermost accessory affixed to the mount, whichever is higher. Maximum height of a wireless communications facility is limited to 150 feet above ground level (AGL).
 - (2) A fall zone around any tower constructed as part of a telecommunications facility must have a radius at least equal to the height of the tower and any antenna(s) upon its zenith. The entire fall zone may not include public roads, must be located on property either owned or leased by the applicant or for which the applicant has obtained an easement, and may not contain any structure other than those associated with the telecommunications facility. If the facility is attached to an existing structure, release may be granted by specific permission of the Town of Callicoon Planning Board on a case-by-case basis.
- B. Setbacks.
 - (1) All wireless communications facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed: habitable dwelling, business or institutional use, accessory structure, or public recreation area shall be the height of

the facility/mount, including any antennas or other appurtenances. This setback is considered the "fall zone." Additional setbacks may be required by the Planning Board to provide for the public safety.

- (2) In the event that an existing structure or building is proposed as a mount for a wireless communications facility, a fall zone shall not be required unless the Planning Board finds that a substantially better design will result from an increased setback. In making such a finding, the Planning Board shall consider both the visual and safety impacts of the proposed use.
- C. The maximum area permitted to be cleared shall be no more than 50 feet in extent from the outer edge of the primary structure's footprint. During construction and installation of facilities and structures, only the minimum amount of existing vegetation shall be cleared.

§ 203-40. Performance standards.

All wireless communications facilities shall comply with the performance schedule set forth in this article.

- A. Camouflage. Wireless communications facilities shall be the least obtrusive and the most appropriate to the proposed site, as determined by the Planning Board.
- B. All wireless communications facilities shall be designed to blend into the surrounding environment through the use of design and color except in such instances where color is dictated by federal or state authorities such as the Federal Aviation Administration.
- C. A wireless communications facility which is roof-mounted on a building shall be concealed within or behind existing architectural features to limit its visibility from public ways and shall be stepped back from the front facade in order to limit its impact on the building's silhouette.
- D. A wireless communications facility which is side-mounted on a building shall be painted or constructed of materials to match the color of the building material directly behind it.
- E. The Planning Board may require the use of stealth technology to camouflage groundmounts.
 - (1) Camouflage by vegetation. If wireless communications facilities are not camouflaged from public viewing by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Ground-mounted wireless communications facilities shall provide a vegetative buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility, or a combination of both. The Planning Board shall determine the types of trees and plant materials and depth of the needed buffer based on site conditions. Such buffer shall be maintained in a healthy state or replaced as necessary to provide continuing camouflaging.
 - (2) Camouflage by design. To the extent that any wireless communications facility extends above the height of the vegetation immediately surrounding it, the facility shall be camouflaged by design to minimize the adverse visual aesthetic impact

unless otherwise required by the Planning Board. Wireless communications facilities shall be camouflaged to resemble or mimic a native coniferous species of tree or by other examples, new construction of a silo, flagpole, clock tower, bell tower, cross tower, steeples or other innovative replications of a structure that would be consistent with the character of the community as determined by the Planning Board.

- F. An eight-foot-high security fence shall completely surround the tower (guy wires, if used) and equipment building.
- G. An evergreen screen, around the security screen, consisting of a row of eight-foot-high evergreen trees planted 10 feet on center maximum, shall be located around the perimeter of the security fence. The Planning Board may, however, modify or waive screening requirements if the site is entirely or partially wooded so as to provide existing screening. Existing on-site vegetation shall be preserved to the maximum extent possible.
- H. The tower and antenna shall be designed and constructed to all applicable standards of the American National Standards Institute TAI/EIA-222-F Manual, as amended, and withstand wind gusts of up to 100 miles per hour.
- I. A new antenna may not be located on a building or structure that is listed or eligible for listing on the State or National Register of Historic Places or within 1,000 feet of such a structure.
- J. Within 45 days of initial operation or modification of a telecommunications tower, the owner or operator shall submit to the Code Enforcement Officer a written certification by a professional engineer with expertise in radio communications facilities or architect that the operating facility is in compliance with the application submitted, any conditions imposed and all other provisions of this legislation. The Town may confirm and periodically reconfirm compliance as necessary to insure that the tower continues to comply with its applications and all conditions imposed, and, if found not to be in compliance, the use of the facility shall immediately be required to cease, and the provisions pertaining to abandonment or discontinuance of use shall be invoked.
- K. All equipment proposed for a wireless telecommunications facilities shall be authorized under the FCC guidelines for evaluating the environmental effects of radio-frequency radiation (FCC guidelines). If new, more restrictive standards are adopted by any appropriate federal or state agency, the facility shall be made to comply within a reasonable time, as determined by the Town Code Enforcement Officer, or continued operations may be restricted or prohibited by the Planning Board. The cost of verification of compliance shall be borne by the owner and/or operator of the facility.

§ 203-41. Lighting and noise.

- A. Wireless communications facilities shall not be artificially lighted or display strobe lights unless required by the Federal Aviation Administration (FAA) or other applicable authority. Security lighting of equipment structures and other facilities on site shall be shielded from abutting properties. There shall be total cutoff of all light at the property lines of the parcel to be developed, and footcandle measurements at the property line shall be 0.0 initial footcandles when measured at grade.

- B. Notwithstanding the preceding subsection, an applicant may be compelled to add FA-style lighting and marking or security lighting if, in the judgement of the Planning Board, such a requirement would be of direct benefit to public safety.
- C. When a facility has power equipment on site, including both temporary equipment such as tools and generators or permanent equipment including but not limited to HVAC and emergency generators, steps shall be taken to minimize, to the maximum extent feasible, the amount of noise heard off site.
- D. The facility and its appurtenant structures and equipment shall not generate noise in excess of 50 decibels at the property line.

§ 203-42. Signs.

No signs shall be permitted on either the tower or equipment building, except for those signs required by law or containing such information as owner contact information, warnings and no trespassing signs. Each of the signs shall not exceed two square feet in total area. Absolutely no commercial advertising shall be permitted on any wireless telecommunications tower or equipment building. All signs shall comply with the Town's sign regulations.¹²

§ 203-43. Equipment shelters and accessory structures.

- A. Equipment shelters for wireless communications facilities shall be designed consistent with one of the following standards:
 - (1) Equipment shelters shall be designed to be architecturally compatible, both in style and materials, with principal structures on the site, as determined by the Planning Board; or
 - (2) Equipment shelters shall be camouflaged behind an effective year-round landscape buffer equal to the height of the proposed building. The Planning Board shall determine the types of plant materials and depth of the needed buffer based on site conditions. Such buffer shall be maintained in a healthy state or replaced as necessary to provide continuing camouflaging.
- B. Accessory structures for wireless communications facilities shall be permitted if the structures are constructed for the sole and exclusive use and operation of the communications facility, are the minimum size necessary to meet the needs of the specific site, and meet the following requirements:
 - (1) Accessory structures may not include office, long-term vehicle storage, other outdoor storage or other uses that are not needed to send or receive wireless communications transmissions.
 - (2) Accessory structures must be less than 500 square feet and 15 feet in height or 700 square feet and 12 feet in height.
 - (3) Accessory structures must be camouflaged behind an effective year-round landscape

12. Editor's Note: See § 203-14, Signs.

- buffer equal in height to the proposed structure. Such buffer shall be maintained in a healthy state or replaced as necessary to provide continuing camouflaging.
- (4) In residential zones, the use of compatible building materials such as wood, brick or stucco is required for all accessory structures, which shall be designed to match architecturally the exterior of residential structures in the neighborhood, as determined by the Planning Board. In no case will metal exteriors be allowed for accessory structures.
 - (5) All equipment shelters and accessory structures on one lot shall be architecturally uniform.

§ 203-44. Access and parking.

- A. A road and parking plan shall be provided to ensure adequate emergency and service access and shall meet the requirements of the Planning Board, Any driveway shall meet the requirements of the Planning Board and the highway authority of the road on which the driveway fronts.
- B. Maximum use of existing public and private roads shall be made, consistent with safety and aesthetic considerations.
- C. Road construction shall minimize ground and vegetation disturbance. Road grades shall follow natural contours to reduce soil erosion potential and to ensure that roads are esthetically compatible with the character of the surrounding area.
- D. The Planning Board may require an erosion and sedimentation control plan and refer the site plan to the County Soil and Water Conservation District, Town Engineers and/or Town Planner for review.
- E. Unpaved roads shall be considered unless conditions require paving, as determined by the Planning Board, in consultation with the appropriate authorities or consultants.
- F. Access roads, driveways or parking areas shall provide adequate interior turnarounds such that service vehicles will not have to back out onto a public thoroughfare.

§ 203-45. Environmental standards.

- A. Wireless communications facilities shall not be located in wetlands or in regulated wetland buffer areas, in endangered or threatened species' habitats, water bodies, or historic or archaeological sites.
- B. No hazardous waste shall be discharged on the site of any wireless communications facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
- C. If applicable, additional storm water runoff generated by the use shall be contained on site.
- D. All construction and maintenance debris shall be removed within 30 days of site

completion.

- E. The portion of the site not actually used for the tower, accessory structures and access to the tower shall be restored to prior condition so no eyesores remain within 30 days after the construction is completed.
- F. Ground-mounted equipment for wireless communications facilities shall not generate noise in excess of 50 decibels at the property line.

§ 203-46. Safety standards.

- A. Radio frequency radiation (RFR) standards. All equipment proposed for a wireless communications facility shall be authorized per the FCC guidelines. The owner of the facility shall submit evidence of compliance with the FCC guidelines on a yearly basis to the Planning Board. If new, more restrictive standards are adopted by any appropriate federal or state agency, the facility shall be made to comply, or continued operations may be restricted by the Planning Board. The cost of verification of compliance shall be borne by the owner and operator of the facility.
- B. Security barrier. All wireless communications facilities shall be provided with security measures such as fencing, anti-climbing devices, electronic monitoring, or other methods sufficient to prevent unauthorized entry and vandalism. Fencing shall have a locking security gate. Electrified fence, barbed or razor wire shall be prohibited.
- C. Structural soundness and fall zone. Wireless communications facilities shall be designed by a licensed professional engineer with expertise in radio communications facilities to withstand overturning and failure. In the event of failure, facilities shall be designed so that they will fall within the setback area of the site and/or away from adjacent residential properties. The Planning Board shall require a foundation design and certificate of safety from the carrier to document structural soundness.

§ 203-47. Application fee.

The applicant shall pay an application fee established periodically by the Town Board, in addition to the standard conditional use permit fee, and shall reimburse the Town the cost of expert consultants the Planning Board hires to assist it to evaluate the application and its impact on the community, as set forth below.

§ 203-48. Consultant fees.

The Planning Board and/or Zoning Board of Appeals may retain consultants to assist in reviewing the application, its renewal, or an application for a variance related to a pending application, with consultant fees to be paid by the applicant. These consultants may include the Town Engineer, Town Planner, the Town's Attorney, one or more commercial communications facility consultants, or other consultants as determined by the Planning Board and/or the Zoning Board of Appeals. At the beginning of the review process the applicable Board may require the applicant to fund an escrow account from which the Town may draw to ensure reimbursement of consultant fees. During review of the applications, the applicable Board may require the applicant to add funds to the escrow account as the applicable Board deems necessary. If the

required funds are not added to the escrow account, review of the application by the applicable Board shall be suspended until such time, if any, as payment of said funds is made. Any remaining funds in the escrow account after payment of all consultant fees will be returned to the applicant.

§ 203-49. Application for site plan approval.

- A. Application filing requirements for site plan approval. All applicants for a wireless communications facility shall fulfill the site plan requirements of the Zoning Law and shall, in addition, provide the following:
- (1) Proof that the applicant or co-applicant is an FCC- licensed carrier.
 - (2) A statement justifying the need for the tower including drive test data, a coverage analysis from an existing tower sites and from a test transmitter located at the proposed site.
 - (3) A statement certified by a professional engineer with expertise in radio communications facilities and approved by the Planning Board, that the installation of the proposed antenna, including reception and transmission functions, will not interfere with the radio or television service enjoyed by surrounding residential and non residential properties or with public safety communications.
 - (4) A statement, certified by a professional engineer with expertise in radio communications facilities and approved by the Planning Board, documenting the structural soundness of the wireless communications facility.
 - (5) Proof that the wireless communications facility shall be fully automated and requiring only occasional maintenance of the facility and site.
- B. All wireless communications facilities requiring a conditional use permit shall comply with the following requirements:
- (1) Location of other facilities. The applicant shall provide a map of the Township and a five-mile radius of the proposed facility showing the location of other existing, approved, and proposed wireless communications facilities within the Town and all bordering municipalities outlining opportunities for collocation use as an alternative to the proposed site. The applicant must demonstrate that the proposed wireless communications facility cannot be accommodated on an existing, approved, or proposed communications tower structure or facility due to one or more of the following reasons:
 - (a) The antenna would exceed the structural capacity of the existing, approved, or proposed wireless communications facility, as documented by a qualified professional engineer with expertise in radio communications facilities, and the existing, approved, or proposed facility cannot be reinforced, modified, or replaced to accommodate the planned or equivalent antenna at a reasonable cost.
 - (b) The antenna would cause interference materially impacting the usability of other existing, approved or proposed antenna at the facility as documented by a

qualified professional engineer with expertise in radio communications facilities, and the interference cannot be prevented at a reasonable cost.

- (c) Existing, approved, or proposed wireless communications facilities cannot accommodate the antenna at a height necessary to function as documented by a qualified professional engineer with expertise in radio communications facilities.
- (2) The applicant shall sign an instrument which shall be maintained by the Code Enforcement Officer, agreeing to encourage and promote the joint use of telecommunications towers within the Town and committing to encourage and not to obstruct, exclude or delay the joint use of any tower where such use is technologically feasible and fair and just market compensation is offered for such use.
- (a) Use of duplex antennas (also known as dual-function antennas) which electronically combine the functions of transmit and receive antennas (rather than spatial diversity antenna arrays which rely on antennas being physically separated) and dual-band/antennas (allowing two or more providers of different types of commercial wireless services to share a common antenna) is encouraged.
 - (b) Antennas shall be mounted on towers so as to present the smallest possible silhouette, profile or cross-section.
 - (c) When the Code Enforcement Officer determines that the application is complete, the Planning Board shall meet to consider the application and shall issue its determination as to whether or not to grant a site plan approval and a conditional use permit within 45 days after their meeting. All determinations shall be in writing, supported by substantial reasons based on evidence, on the record, and mailed to the applicant. If an applicant feels that a conditional use permit or site plan approval has been unfairly denied, he may follow the procedures for appeals set forth in the Town of Callicoon Municipal Code.

§ 203-50. Conditional use permit review criteria.

Communications facilities shall be subject to all the ordinary review criteria applicable to conditional uses plus the following:

- A. The Planning Board shall be satisfied that the tower for the communications facility is the minimum height necessary for the service area and that the site chosen is the one that will afford the opportunity to construct the lowest height communications tower possible, taking into consideration all lands available within a reasonable distance including those which may lie within adjoining municipalities.
- B. The need for additional buffer yard treatment shall be evaluated. Proximity of the communications structure to existing or platted residential properties shall be considered in applying such requirements. Existing trees on the site which serve to provide a natural buffer shall be preserved unless absolutely required to be removed for purposes of access or safety.

- C. Visual assessment data shall be used to determine how the communications facility will appear once constructed in relation to the surrounding natural environment and from the perspective of adjacent or nearby residents as well as travelers. Camouflaging or relocation of the structure may be required. The Planning Board shall also consider alternative sites in assessing visual impacts and the imposing of conditions as may be required to minimize such impacts, including requirements that any tower be of a shape, contour and finish (either painted or unpainted) that minimizes its visual impact. The Planning Board may also require a tower to be in the shape of a tree, flagpole, church steeple or other similar tall structures. Accessory structures shall similarly maximize the use of building materials, colors and textures designed to blend with natural surrounding.
- D. All communications structures shall be lighted for safety in a manner consistent with industry best practices and where lighted additional setbacks may be imposed to shield adjacent properties from the effects of such lighting.
- E. Should any tower cease to be used as a communications facility, the owner or operator or then owner of the land on which the tower is located shall be required to remove the same within one year from the abandonment of use. Failure to do so shall authorize the Town of Callicoon to remove the facility and charge back the cost of removal to the foregoing parties. The Town of Callicoon may also file a municipal lien against the land to recover the costs of removal and attorney's fees.
- F. The Planning Board, in addition to any other authority conferred under Town Law and local ordinance is authorized to attach the following conditions on the granting of a conditional use permit/site plan approval for a telecommunications facility:
 - (1) Increase setback, sideline and rear-line requirements.
 - (2) Utilization of "stealth" or "camouflage" techniques to minimize the visual impact of the facility.
 - (3) Measures to secure the facility from intruders including fences and chained entryways.
 - (4) Bonding.
 - (5) Collocation.
 - (6) Clustering of towers and structures on a common site.
 - (7) Landscaping utilizing mature plantings.

§ 203-51. Modifications.

A modification of a wireless communications facility may be considered equivalent to an application for a new facility and will require a conditional use permit when the following events apply:

- A. The applicant intends to alter the terms of the conditional use permit by changing the number of facilities permitted on site or by changing the technology used for the facility.
- B. The applicant intends to add any equipment or additional height not specified in the

original conditional use permit.

§ 203-52. Monitoring and maintenance.

The applicant shall maintain the wireless communications facility in good condition, including but not limited to structural integrity of the mount and security barrier, painting, maintenance of stealth technology camouflaging, and maintenance of the buffer areas and landscaping. Communications facilities over 100 feet in height shall be inspected annually by a professional engineer with expertise in radio communications facilities approved by the Planning Board, and a copy of the inspection report submitted to the Town of Callicoon Code Enforcement Officer.

§ 203-53. Annual inspections.

- A. Telecommunications facilities shall be inspected annually at the applicant's expense, for structural integrity, and a copy of the inspection report shall be promptly transmitted to Code Enforcement Officer. The structural inspection shall be performed by a New York State licensed professional engineer.
- B. The annual inspection report shall describe the structural integrity, maintenance issues and repairs needed or made, if any.
- C. In the event that the structural inspection indicates structural deficiencies, the deficiencies must be remedied by the applicant, at the applicant's expense, within a reasonable time period set by the Code Enforcement Officer.
- D. Telecommunications facilities shall be annually inspected, at the applicant's expense, for radio emissions, and a copy of the inspection report shall be promptly transmitted to the Code Enforcement Officer. Radio emission inspections shall be performed by a New York State licensed professional engineer specializing in electrical engineering with expertise in radio communications facilities.
- E. The radio emission inspection report shall describe the power density levels of the electromagnetic energy generated from the facility, including the cumulative effects of collocated antennas.
- F. In the event that the radio emission inspection indicated the electromagnetic energy generated from the facility is above the allowable limits of the applicable state or federal standards in effect at the time, the applicant shall cease all use of the facility until such time, as it proves to the satisfaction of the Code Enforcement Officer that the power density levels of the electromagnetic energy to be generated at the facility are within the applicable standards.

§ 203-54. Abandonment or discontinuation of use.

- A. Any wireless communications facility that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of the facility shall physically remove it within 90 days of receipt of a notice by the town to remove. "Physically remove" shall include, but not be limited to:
 - (1) Removal of antennas, mount, equipment shelters and security barriers from the

subject property.

- (2) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
 - (3) Restoring the location of the facility to its natural condition, with the exception of landscaping and grading.
- B. Towers and antennas shall be removed if the owner's or user's conditional use permit for these facilities has expired or been terminated, or if the facilities are no longer being used by the FCC licensee. Towers and antennas shall be removed if there is not at least one operator with a valid conditional use permit using the tower. Potential or planned future use of any facility for commercial communications service is not sufficient to avoid the requirement for removal.
- C. If the removal of towers and antennas is required, accessory buildings and other structures shall also be removed unless:
- (1) The landowner wishes to retain these structures and communicates this in writing to the Planning Board; and
 - (2) The retention of these structures will comply with the Zoning Law; and
 - (3) The Planning Board agrees that removal of these structures is not required.
- D. Each applicant seeking a conditional use permit for a wireless communications facility shall provide a written contract with the Town agreeing to be fully responsible for removal, and indemnifying the Town for the costs of removal of antennas, accessory buildings and supporting structures such as towers when removal is required.
- E. If a proposed wireless communications facility will be owned by an entity other than an FCC licensed carrier which will use that facility, the carrier shall provide to the Planning Board a copy of a contract between the facility owner and the FCC licensed carrier in which the owner agrees to remove the facility, including any tower, antennas and accessory structures, and indemnify the Town for the costs of such removal, when these facilities are no longer being used by an FCC licensed operator with a valid conditional use permit.
- F. A decision to require removal shall be the responsibility of the Planning Board after consulting with the Code Enforcement Officer and the Town Attorney. Removal shall occur within 90 days of the Planning Board's decision to require removal unless the Planning Board has agreed to an extension of that time. If not removed within the designated period the Town shall have the right to compel removal, with all costs to be borne by the conditional use permit holder who owns and/or previously used the facilities. Removal costs may also be recovered from the owner of the tax parcel on which the facilities are located.
- G. When towers are removed, site reclamation shall be completed to the satisfaction of the Planning Board within 90 days of structure removal. Reclamation shall include landscaping and removal of structures, utility lines and accessory structures, and shall encompass the building site and buffer area controlled by the facility owner.
- H. If the carrier fails to remove the facility, the Town will have the authority to enter the

property and remove the facility, with the costs of removal assessed against the property.

§ 203-55. Bonding and insurance.

- A. Before obtaining or renewing a conditional use permit, the applicant shall provide financial surety in an amount and form acceptable to the Town Board (in consultation with the Planning Board and the Attorney for the Town of Callicoon) to ensure full and complete performance of all conditions imposed by the Planning Board as a requirement of the conditional use permit, including but not limited to adequate construction of the facility and its access road, the proper maintenance and continued vitality of the plantings and landscaping, the removal of the tower and ancillary facilities upon the abandonment or decommissioning by the applicant and reclamation of the site.
- B. Such bond is to be renewed annually.
- C. A certificate of insurance shall be provided to the Town of Callicoon, to the attention of the Town Clerk, with a limit of no less than \$1,000,000 and be maintained and renewed annually.

§ 203-56. Duration of conditional use permit.

- A. Every conditional use permit shall be limited to the applicant, and assignment or transfer of the conditional use permit or any of the rights thereunder shall be made only with the approval of the Planning Board except in the case of an assignment or transfer to a corporate affiliate or successor of the applicant.
- B. The conditional use permit shall expire after two years from date of approval by the Planning Board.
 - (1) Renewal must not be unreasonably withheld if the applicant is in conformance with the original approval and all conditions attached thereto.
 - (2) Not less than 60 days prior to the expiration of a conditional use permit, the holder of the permit must submit to the Planning Board a renewal application. If the holder fails to submit a renewal application within 60 days the conditional use permit will expire.
 - (3) The renewal application will contain the following;
 - (a) A current updated build-out plan;
 - (b) A conditional use permit renewal form;
 - (c) Statement of need that a structure is still in use and is still necessary to provide satisfactory service to its customers;
 - (d) The most recent structural and safety inspection reports for all structures on site;
 - (e) Color photographs of the structure from all directions; and
 - (f) Other materials or information deemed necessary by the Planning Board.
 - (4) Within 45 days of the submission of a completed application for a conditional use permit renewal and determination by the Code Enforcement Officer that the

application is technically sufficient, the Planning Board shall act on the application. A copy of its decision shall be mailed to the applicant.

- C. The applicant has one calendar year from date of approval of the conditional use permit to commence construction and 14 months from date of approval of the conditional use permit to complete construction. If construction is neither begun nor completed within these time frames, the Conditional Use permit shall expire.

§ 203-57. Jurisdiction.

This legislation shall regulate the placement, construction and modification of wireless telecommunications facilities on private and public lands throughout the Town of Callicoon except that the following types of installations are excluded from the scope of this legislation:

- A. Amateur radio facilities with antennas mounted on supporting structures less than 100 feet in height.
- B. Residential antennas for receiving television, and AM and FM radiobroadcast signals.
- C. Customer-premises antennas for receiving microwave or satellite signals providing such antennas are less than one meter (39.4 inches) in height or diameter and are mounted on a support structure less than 12 feet in height or protrude less than 1 1/2 meters above the top of the building on which it is mounted, whichever is less.

§ 203-58. Neighbor and intermunicipal notification.

In order to keep adjoining property owners and neighboring municipalities informed and to facilitate the possibility of directing that existing structures in neighboring municipalities be considered for shared use, the Board shall require that:

- A. An applicant who proposes a new telecommunications tower shall notify the legislative body of each municipality that borders the Town of Callicoon, in writing, the Sullivan County Planning Board and the Director of the Sullivan County Emergency Services. Notification shall include the exact location of the proposed tower, and a general description of the project, including, but not limited to, the height of the tower and its capacity for future shared use. Proof of said notification shall be provided to the Planning Board at the time of application.
- B. The applicant shall be required to mail notice of the public hearing pertaining to a site plan approval and conditional use permit directly to all landowners whose property is located within 500 feet of the boundary lines of the parcel on which a new tower is proposed. Said mailing shall be by certified mail, return receipt requested, and proof of mailing shall be submitted to the Board at the time of hearing. Such mailing shall be made at least 14 days prior to the public hearing.
- C. Notice of public hearing shall also be mailed to the Administrator of any federal or state parklands from which the proposed tower would be visible if constructed. Notification shall be by certified mail, return receipt requested, and shall be made at least 14 days before the hearing. Documentation of this mailing shall be submitted to the Board prior to the public hearing.

- D. All the requirements of General Municipal Law § 239 shall be complied with, and verification thereof shall be provided to the Planning Board at the commencement of the public hearing.

ZONING

230 Attachment 1

Town of Callicoon

Schedule of Use Regulations Part 1

District Name and Intent	Permitted Uses	Conditional Uses	Accessory Uses	Development Standards
CD Conservation District This district is intended to protect sensitive natural areas from overdevelopment, recognizing these lands cannot be used for certain activities without directly affecting the health and safety of neighboring property owners or the community as a whole.	(1) Agriculture, except intensive livestock operations (2) Nurseries, commercial greenhouses, vineyards, orchards, wood lots and other horticulture and forestry enterprises (3) Wildlife preserves and hunting and fishing camps (4) Cemeteries (5) Stables, commercial (6) Single-family dwellings (7) Fire, ambulance and essential services	(1) Summer or day camps (2) Campgrounds (3) Mining, drilling and extraction operations (4) Sawmills and other industries (5) Ski areas and golf courses (6) Intensive livestock operations (7) Boarding homes and adult homes (8) Dog kennels and animal hospitals (9) Hotels and motels (10) Machinery storage (11) Receiving, transmission, or relay towers	(1) Signs (2) Parking areas (3) Home occupations (4) Gardens (5) Farm stands (6) Carports and private garages (7) Swimming pools (8) Private stables (9) Accessory uses customary to agricultural activities	Lot Size: 0% to 15% slope: 3 acres Greater than 15%: See performance standards, § 203-9D. Average lot width, 200 feet Lot frontage: 100 feet Lot coverage: 10,000 square feet Yards: Front: 35 feet Side: 35 feet Rear: 35 feet Height: 35 feet
RU Rural District This district is intended to allow the town to grow while providing a reasonable measure of protection for agricultural activities and encouraging the preservation of open spaces and the rural character of the town. It is designed to accommodate growth but under carefully controlled conditions protecting the public health and safety.	(1) Agriculture, except intensive livestock operations (2) Nurseries, commercial greenhouses, vineyards, orchards, wood lots and other horticultural and forestry enterprises (3) Wildlife preserves and hunting and fishing camps (4) Cemeteries (5) Stables, commercial (6) Single-family dwellings (7) Government facilities (8) Fire, ambulance and essential services	(1) Summer or day camps (2) Campgrounds (3) Mining, drilling and extraction operations (4) Sawmills and other wood processing industries (5) Ski areas and golf courses (6) Intensive livestock operations (7) Boarding homes and adult homes (8) Dog kennels and animal hospitals (9) Hotels and motels (10) Machinery storage (11) Restaurants and taverns (12) 2-family and multiple dwellings (13) Health-care institutions (14) Junkyards (15) Farm and garden stores and feed and fertilizer businesses (16) Auction barns (17) Mobile home parks (18) Convenience retail establishments (19) Receiving, transmission, or relay towers	(1) Signs (2) Parking areas (3) Home occupations (4) Gardens (5) Farm stands (6) Carports and private garages (7) Swimming pools (8) Private stables (9) Accessory uses customary to contracting activities	Lot size: 0% to 15% slope: 2 acres Greater than 15% slope: See performance standards, § 203-9D. Average lot width: 150 feet Lot frontage: 75 feet Lot coverage: 10,000 square feet Yards: Front: 35 feet Side: 35 feet Rear: 35 feet Height: 35 feet

ZONING

230 Attachment 2

Town of Callicoon

Schedule of Use Regulations Part 2

District Name and Intent	Permitted Uses	Conditional Uses	Accessory Uses	Development Standards
<p>SD Settlement District This district is intended to provide areas for low- to medium-density residential development plus the ancillary activities that normally accompany housing development. It is also intended that this district serve to guide housing development toward areas of the town which can safely accommodate it.</p>	<ul style="list-style-type: none"> (1) Agriculture, except intensive livestock operations (2) Nurseries, commercial greenhouses, vineyards and forestry enterprises (3) Wildlife preserves and hunting and fishing camps (4) Funeral homes (5) Single-family dwellings (6) Two-family dwellings (7) Fire, ambulance and essential services (8) Government facilities 	<ul style="list-style-type: none"> (1) Multiple dwellings (2) Churches and synagogues (3) Medical institutions (4) Hotels and motels (5) Convenience retail establishments (6) Animal hospitals [Added 5-9-1991 by L.L. No. 1-1991] 	<ul style="list-style-type: none"> (1) Signs (2) Parking areas (3) Home occupations (4) Gardens (5) Farm stands (6) Swimming pools (7) Private stables on at least 3 acres (8) Carports and private garages (9) Accessory uses customary to agricultural activities 	<p>Lot size: 0% to 15% slope: 1 acre Greater than 15% slope: See performance standards, § 203-9D.</p> <p>NOTE: Lot sizes may be reduced by 30% where both central water and central sewage facilities are provided.</p> <p>Average lot width: 100 feet Lot frontage: 100 feet Lot coverage: 10,000 square feet</p> <p>Yards: Front: 35 feet Side: 35 feet Rear: 25 feet Height, 30 feet</p>
<p>BD Business Development District This district is intended to provide areas within the town for the expansion of existing developed areas and the development of new services and industry. It is further intended to allow opportunities for more-intense land use which would be inappropriate in other areas for reasons of health and safety.</p>	<ul style="list-style-type: none"> (1) Single-family dwellings (2) Funeral homes (3) Convenience retail establishments (4) Churches and synagogues (5) Business and professional offices (6) Restaurants and taverns (7) Gas stations (8) Commercial greenhouses (9) Other retail stores (10) Fire, ambulance and essential services (11) Government facilities 	<ul style="list-style-type: none"> (1) 2-family and multiple dwellings (2) Health-care institutions (3) Hotels and motels (4) Vehicle and equipment sales operations (5) Machinery storage (6) Animal hospitals (7) Wholesale and warehousing uses (8) Manufacturing (9) Research and design laboratories not generating hazardous wastes (10) Amusement centers, indoor (11) Boarding homes (12) Auction barns 	<ul style="list-style-type: none"> (1) Signs (2) Parking areas (3) Home occupations (4) Gardens (5) Farm stands (6) Carports and private garages (7) Swimming pools (8) Private stables on at least 3 acres (9) Accessory uses customary to commercial and industrial activities 	<p>Lot size: 0% to 15% slope: 1 acre Greater than 15% slope: See performance standards, § 203-9D.</p> <p>NOTE: Lot sizes may be reduced by 30% where both central water and central sewage facilities are provided.</p> <p>Average lot width: 100 feet Lot frontage: 50 feet Lot coverage: 10,000 square feet</p> <p>yards: Front: 35 feet Side: 35 feet Rear: 25 feet Height: 50 feet</p>

ZONING

230 Attachment 3

Town of Callicoon

Schedule of Use Regulations Part 3

District Name and Intent	Permitted Uses	Conditional Uses	Accessory Uses	Development Standards
RB Rural Business District This district is intended to provide for the expansion and development of new services and commercial enterprises while preserving the rural character of the town. It is designed to accommodate growth under controlled conditions to protect the public health and safety.	(1) Single-family dwellings (2) Convenience retail establishment (3) Churches and synagogues (4) Business and professional offices (5) Restaurants and taverns (6) Gas stations (7) Agriculture, except intensive livestock operations (8) Stables (9) Government facilities (10) Funeral homes (11) Nurseries, commercial greenhouses, vineyards, orchards, wood lots and other horticultural and forestry enterprises (12) Farm and garden stores and feed and fertilizer business (13) Cemeteries (14) Stables, commercial (15) Vehicle and equipment sales operations (16) Wildlife preserves and hunting and fishing camps (17) Fire, ambulance and essential services	(1) 2-family dwellings and multiple dwellings (2) Health-care institutions (3) Hotels and motels (4) Machinery storage (5) Animal hospitals (6) Manufacturing (7) Research and design laboratories not generating hazardous waste (8) Amusement centers, indoor (9) Boarding homes and adult homes (10) Car wash establishments (11) Other retail stores (12) Wholesale and warehousing uses (13) Auction barns (14) Campgrounds (15) Mining, drilling and extractive operations (16) Sawmills and other wood processing industries (17) Ski areas and golf courses (18) Mobile home parks	(1) Signs (2) Parking areas (3) Home occupations (4) Gardens (5) Farm stands (6) Swimming pools (7) Private stables on at least 3 acres (8) Carports and private garages (9) Accessory uses customary to agricultural, contracting, commercial and industrial activities	Lot size: 0% to 15% slope: 2 acres Greater than 15% slope: See performance standards, § 203-9D. NOTE: Lot sizes may be reduced by 30% when both central water and central sewage facilities are provided. Average lot width: 150 feet Lot frontage: 75 feet Lot coverage: 10,000 square feet Yards: Front: 35 feet Side: 35 feet Rear: 35 feet Height: 35 feet

Chapter DL

DISPOSITION LIST

The following is a chronological listing of the legislation of the Town of Callicoon, New York, adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] The last legislation reviewed for the original publication of the Code was the investment policy, adopted 4-9-1990. A complete listing, including disposition, of all legislation reviewed in conjunction with the original publication of the Code is on file in the office of the Town Clerk.

§ DL-1. Disposition of legislation.

Enact-ment	Adoption Date	Subject	Disposition
L.L. No. 1-1990	11-12-1990	Senior citizens tax exemption	Ch. 189, Art. II
L.L. No. 1-1991	5-9-1991	Zoning amendment	Ch. 203
L.L. No. 2-1991	11-18-1991	Dumps and dumping	Ch. 182, Art. I
L.L. No. 1-1992	2-10-1992	Subdivision of land	Ch. 185
L.L. No. 2-1992	3-9-1992	Unsafe buildings amendment	Ch. 97
L.L. No. 3-1992	3-9-1992	Records management program	Ch. 176, Art. I
_____	3-9-1992	Procurement Policy	Ch. 54
_____	4-13-1992	Jury duty	Ch. 48, Art. I
_____	6-8-1992	Fees	NCM
L.L. No. 4-1992	8-10-1992	Adoption of Code	Ch. 1, Art. I
_____	12-21-1992	Fees	NCM
_____	7-12-1993	Fees	NCM
_____	12-20-1993	Drug-free workplace	Ch. 50, Art. I
_____	4-11-1994	Sexual harassment	Ch. 50, Art. II
_____	6-20-1994	Returned checks	Ch. 62

L.L. No. 1-1994	7-11-1994	Tax bill notices	Ch. 189, Art. III
Res. _____	7-11-1994	Water rates amendment	Ch. 79
_____	10-10-1994	Civil rights employment	Ch. 50, Art. III
	10-24-1994	Minimum standard workday	Ch. 50, Art. IV
L.L. No. 1-1995	2-20-1995	Senior citizens tax exemption amendment	Ch. 189, Art. II
L.L. No. 2-1995	3-13-1995	Unsafe buildings amendment	Ch. 97
L.L. No. 3-1995	4-10-1995	Fire prevention and building construction; zoning amendments	Chs. 121, 203
L.L. No. 4-1995	4-10-1995	Retirement incentive program	Ch. 60, Art. II
L.L. No. 1-1996	6-10-1996	Impound fees for dogs	Superseded by L.L. No. 2-2000
L.L. No. 1-1997	4-14-1997	Subdivision of land amendment	Ch. 185
L.L. No. 2-1997	12-15-1997	Tax exemption for capital improvements	Ch. 189, Art. IV
L.L. No. 1-1999	6-14-1999	Games of chance	Ch. 130
L.L. No. 1-2000	5-8-2000	Right to farm	Ch. 100, Art. I
L.L. No. 2-2000	11-13-2000	Dogs and cats	Ch. 112
L.L. No. 1-2002	12-9-2002	Town Attorney	Ch. 49, Art. I
L.L. No. 1-2003	7-14-2003	Senior citizens tax exemption	Ch. 189, Art. II
L.L. No. 2-2003	10-13-2003	Zoning amendment (tele-communications)	Ch. 203
L.L. No. 1-2004	9-13-2004	Junkyards amendment	Ch. 137
L.L. No. 1-2005	8-8-2005	Veterans' real property tax exemption	Ch. 189, Art. V
L.L. No. 1-2006	9-11-2006	Outdoor furnaces	Ch. 128
L.L. No. 1-2007	5-14-2007	Administration and enforcement of uniform construction codes	Ch. 121, Art. III

L.L. No. 1-2008	1-14-2008	Cold war veterans real property tax exemption	Ch. 189, Art. VI
L.L. No. 2-2008	11-10-2008	Planning Board alternate members	Ch. 52, Art. I
Res. No. 9-2009	6-11-2009	Water District amendment	Ch. 79
Res. No. 16-2010	8-20-2010	Procurement policy amendment	Ch. 54
L.L. No. 1-2011	12-13-2010	Flood damage prevention	Ch. 125
L.L. No. 2-2011	12-13-2010	Dogs and cats amendment	Ch. 112
L.L. No. 1-2012	7-9-2012	Forestry operations and commercial logging	Ch. 126
Res. No. 22-2012	10-8-2012	Workplace violence prevention policy	Ch. 50, Art. V
L.L. No. 1-2013	2-11-2013	Road use and preservation	Ch. 178

**OFFICIALS
OF THE
TOWN OF CALLICOON**

Town Hall
19 Legion Street
PO Box 687
Jeffersonville, New York 12748
Telephone: (845) 482-5390

2013

Supervisor
THOMAS R. BOSE

CHARLES SCHADT, **Council**
HOWARD FUCHS, **Council**
DAVID KUEBLER, **Council**
SCOTT GAEBEL, **Council**

Town Clerk
JANET BRAHM

Town Attorney
MARVIN NEWBERG, ESQ.