Part I: Administrative Legislation

Chapter 1

GENERAL PROVISIONS

ARTICLE I
Adoption of Code
[Adopted 5-20-2021 by L.L. No. 4-2021]

§ 1-1. Code adopted; continuation of existing provisions.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Town of Dryden, as codified and consisting of Chapters 1 through 270, together with an Appendix, are hereby approved, adopted, and enacted as the Code of the Town of Dryden, hereinafter referred to as the "Code." 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.

§ 1-2. Code on file; additions and amendments.

A. A copy of the Code has been filed in the office of the Town Clerk and shall remain there for use and examination by the public until final action is taken on this local law. Following adoption of this local law such copy shall be certified to by the Clerk of the Town of Dryden by impressing thereon the Seal of the Town, as provided by law, and such certified copy shall remain on file in the office of the Town Clerk, to be made available to persons desiring to examine the same during all times while said Code is in effect.

B. Additions or amendments to the Code, when adopted in such form as to indicate the intent of the Town Board to make them a part thereof, shall be deemed to be incorporated into such Code so that reference to the "Code of the Town of Dryden" shall be understood and intended to include such additions and amendments. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained in the Code, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the Town Board deems desirable.

§ 1-3. Notice; publication.

In the event that notice of enactment of this local law is required due to amendments adopted by way of this local law to zoning or land use provisions, or is otherwise required by law, the Clerk of the Town of Dryden shall cause notice of the enactment of this local law to be given in the manner required by law. The notice of the enactment 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.

§ 1-4. Severability.

Each section of this local law and of the Code and every part of each section is an independent section or part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other sections or parts thereof.

§ 1-5. Repeal of inconsistent enactments.

All local laws and ordinances of a general and permanent nature, or parts of such local laws or ordinances, inconsistent with the provisions contained in the Code adopted by this local law are hereby repealed; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of the Town of Dryden which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.

§ 1-6. Enactments saved from repeal; matters not affected.

The repeal of local laws and ordinances provided for in § 1-5 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 Dryden prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.

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

D. Any agreement entered into or any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Dryden.

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

F. Any local law or ordinance of the Town of Dryden 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 Dryden 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, agreement or obligation.

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

I. The annexation or dedication of property.

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

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

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

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

N. Any local law or ordinance adopted subsequent to November 19, 2020.

§ 1-7. 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 Dryden, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.

B. In addition, the amendments and/or additions as set forth in Schedule A attached hereto and made a part hereof are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.)[1]

C. Throughout the Code:

(1) "Rec. Commission" is changed to "Recreation and Youth Commission."

(2) "Conservation Advisory Council" is changed to "Conservation Board."

(3) Chapter 245 is amended to change instances of "state board" to "Commissioner of Taxation and Finance."

§ 1-8. Titles and headings; editor's notes.

A. Chapter and article titles, headings and titles of sections and other divisions of the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.

B. Editor's notes indicating sources of sections, giving other information or referring to the statutes or to other parts of the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.

§ 1-9. Penalties for tampering with Code.

Any person who alters or tampers with the Code of the Town of Dryden in any manner whatsoever which will cause the legislation of the Town of Dryden 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.

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1. Editor's Note: In accordance with § 1-7B, the chapters, parts and sections which were added, amended, adopted or deleted by this local law are indicated throughout the Code by a history referring to Chapter 1, General Provisions, Article I. During routine supplementation, these histories will be replaced with the adoption date and number of this ordinance. Schedule A, which contains a complete description of all changes, is on file in the Town offices.

§ 1-10. When effective.

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

Chapter 7

BOARDS, COMMISSIONS AND COUNCILS

ARTICLE I

Attendance Requirements for Conservation Board and Recreation and Youth Commission

[Adopted 11-6-2002 by L.L. No. 1-2002]

§ 7-1. Purpose, authority.

By Local Law No. 4 of the year 2000 the Town of Dryden Conservation Board was created and by Local Law No. 1 of the year 2000 the Town of Dryden Recreation Commission was created.[2] The purpose of this article is to provide standards of minimum attendance by members of the Town of Dryden Conservation Board and the Town of Dryden Recreation Commission (herein "Recreation and Youth Commission") at meetings of the Conservation Board and Recreation and Youth Commission, and to provide for a procedure to remove any such members not meeting the minimum attendance requirements.

§ 7-2. Minimum attendance requirements.

A. Members of the Conservation Board and Recreation and Youth Commission are expected to attend all regularly scheduled monthly meetings and all specially scheduled meetings.

B. In the event that a member is absent from three consecutive regularly scheduled monthly meetings, or in the event a member is absent from five meetings within any one calendar year, then such member may be removed from the Conservation Board or Recreation and Youth Commission as herein provided.

§ 7-3. Procedure.

In the event a member of the Conservation Board or Recreation and Youth Commission has failed to meet the minimum attendance requirements set forth in § 7-2, then upon recommendation from the Conservation Board or Recreation and Youth Commission as the case may be, the Town Board may remove such member as herein provided:

A. Notice. Such member shall be mailed a written notice specifying the nature of the failure of such member to meet the minimum attendance requirements of § 7-2 above.

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

C. Public notice. Public notice of such hearing shall be given by posting a notice on the Town signboard in the vestibule of the Town Hall and by publishing a notice once in the official newspaper. Such posting and publication shall be at least 10 days prior to the date of the public hearing.

D. Conduct of hearing. The public hearing on the charges shall be conducted before

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2. Editor's Note: Local Law No. 4-2000 was superseded by L.L. No. 1-2004. Local Law 1-2000 was repealed by L.L. Nos. 4-2008 and 5-2008.

the Town Board. The member shall be given an opportunity to present evidence and to call witnesses to refute the charges. A record of such hearing shall be made. The decision of the Town Board shall be reduced to writing together with specific findings of the Town Board with respect to each charge against such member. A copy of such decision and such finding shall be mailed to the member.

E. Action by the Town Board. Following the hearing and upon a finding that such member has not met the minimum attendance requirements required by this article the Town Board may:

(1) Remove such member from the Conservation Board or Recreation and Youth Commission; or

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

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

§ 7-4. Removal for cause.

Nothing contained herein shall be deemed to limit or restrict the Town Board's authority to remove a member from the Conservation Board or Recreation and Youth Commission for cause (i.e., for other than the reasons enumerated herein). The procedural provisions of § 7-3, Procedure, shall govern any hearing to remove a member for cause.

§ 7-5. Leave of absence.

A. The provisions of § 7-2 shall not apply to any member who has applied for and been granted a leave of absence by the Town Board from their duties as a member of the Conservation Board or Recreation and Youth Commission. The Town Board may grant such leave of absence on such terms and for such period as it may deem appropriate; provided, however, no such leave of absence shall be for a period in excess of 11 months.

B. The provisions of § 7-2 shall not apply to any member who has been granted an excused absence by the Chairperson of the Conservation Board or Recreation and Youth Commission, as the case may be. To be a valid request for an excused absence, such request shall be made to the Chairperson of the Conservation Board or Recreation and Youth Commission, as the case may be, prior to the meeting. Grounds for excused absences shall include illness, vacation, business or employment reasons and personal or family activities.

§ 7-6. Effective date, applicability.

A. This article shall become effective upon filing with the New York Secretary of State.

B. This article shall apply to all members of the Town of Dryden Conservation Board or Recreation and Youth Commission regardless of the date of their appointment.

C. Prospective members of the Conservation Board and Recreation and Youth

Commission shall be notified of the requirements of this article prior to their appointment.

ARTICLE II
Conservation Board
[Adopted 3-11-2004 by L.L. No. 1-2004]

§ 7-7. History.

Local Law No. 4 of the year 2000 adopted by the Town Board of the Town of Dryden created the Town of Dryden Conservation Board (Conservation Board).[3] The Conservation Board prepared and filed with the Town Board the Open Space Inventory of the Town of Dryden dated May 15, 2003. By Resolution No. 92 (2003), the Town Board accepted and approved the open space inventory as the conservation open area inventory and open space index of the Town of Dryden. Following such acceptance and approval, General Municipal Law § 239-y permits the Town Board to designate the Conservation Board as a Conservation Board.

§ 7-8. (Re)designation.

The Conservation Board established by Local Law No. 4 of the year 2000 is hereby designated the Town of Dryden Conservation Board ("Conservation Board").[4]

§ 7-9. Purpose and duties.

A. To further assist the Town in the development of sound open area planning and ensure preservation of natural and scenic resources on the local level, the Conservation Board shall review each application referred to it by the Town Board, Building and Zoning Department, Planning Board, Zoning Board of Appeals, or other administrative body, including the Site Plan Review Board. The Town Board anticipates that the Conservation Board will serve as an advisory board, especially for actions designated as Type I under the New York Environmental Quality Review Act (Environmental Conservation Law Article 8) and the regulations promulgated thereunder (6 NYCRR Part 617), unlisted actions which are likely to trigger a positive declaration of significant adverse environmental impact.

B. The Conservation Board shall submit a written report to the referring body within such time as the body referring the same shall specify.

C. Developers and/or applicants are strongly encouraged to present their proposals to the Conservation Board for review and comment prior to formally submitting their application. There shall be no fee to submit proposals to the Conservation Board. The Town Board strongly encourages such early review and comment by the Conservation Board in order that projects will identify areas of significant environment concern early in the planning process and take appropriate steps to eliminate or mitigate the same to the maximum extent possible.

D. All such reports shall, in addition to review and comment on environmental concerns, include evaluation of the proposed use or development on the open area in terms of the open area planning objectives of the Town and shall include the effect of such use or development on the open space index. The report shall also

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3. **Editor's Note: Local Law No. 4-2000 was superseded by L.L. No. 1-2004.**

4. **Editor's Note: Local Law No. 4-2000 was superseded by L.L. No. 1-2004.**

make recommendations as to the most appropriate use or development of the open area and may include preferable alternative use proposals consistent with open areas conservation. A copy of every report shall be filed with the Town Board. All such reports shall be available for public inspection.

E. Nothing contained herein shall be deemed to extend the time limits contained in any ordinance, local law, statute or regulation.

§ 7-10. Additional duties.

The Conservation Board shall perform such additional duties as may be assigned to it by resolution of the Town Board.

§ 7-11. Membership. [Added 12-21-2017 by L.L. No. 7-2017]

The Conservation Board shall consist of nine full members, appointed by the Town Board, who shall serve for terms of three years (four of the initial members shall be appointed for two years and five of the initial members shall be appointed for three years). The Board may appoint two alternate members (designated first and second alternate in order of voting priority) to serve for terms of one year or part thereof ending on December 31 of the year of appointment. One full member shall be the Town representative to the Tompkins County Environmental Management Council. Any person residing within the Town of Dryden who is interested in the improvement and preservation of environmental quality shall be eligible for appointment. Each full member shall be entitled to one vote. The Chairperson shall, consistent with the voting priority established by the Town Board, designate an alternate member to substitute for a full member and vote in the event that a full member is unable to vote due to the full member's absence or recusal due to a conflict of interest.

§ 7-12. Continuation.

The Conservation Board shall continue to exercise the functions and responsibilities heretofore granted to the Conservation Board.

§ 7-13. Effective date.

This article shall take effect upon filing with the Secretary of State.

ARTICLE III
Recreation and Youth Commission
[Adopted 3-21-2013 by L.L. No. 3-2013]

§ 7-14. Short title.

This article shall be known as the "Town of Dryden Recreation and Youth Commission Law."

§ 7-15. Commission; membership; appointment.

A. A commission consisting of nine members, appointed by the Town Board, to be known as the Town of Dryden Recreation and Youth Commission, is hereby created. The members shall be divided into three classes, with the terms of the members in each class expiring December 31 of each year.

B. Terms.

(1) The terms of members currently serving on the Town of Dryden Recreation Commission shall expire on the effective date of this article.

(2) The terms of members currently serving on the Town of Dryden Youth Commission shall also expire on the effective date of this article.

C. Members.

(1) Following the effective date of this article, the Town Board may appoint nine members to the Recreation and Youth Commission. All members must be 16 years of age or older.

(2) One member shall be a faculty/staff member or administrator from Dryden Central School with knowledge of students and facilities (e.g., athletic director, guidance counselor, etc.). The Town Board may also appoint an alternate member from this class whose term shall also be the same as the regular member appointed under this subsection. Such alternate member shall serve in the absence of the regular member and shall have the same powers hereunder as the regular member. The Town Board may consult the Superintendent of Schools as to the appointment of the member and alternate member from this class.

(3) For the members initially appointed:

(a) Three members' terms shall expire December 31, 2013.

(b) Three members' terms shall expire December 31, 2014.

(c) Three members' terms shall expire December 31, 2015.

D. Following the expiration of the terms of the members appointed in Subsection C(3) above, appointment of members shall be for terms of three years.

E. Members are expected to attend all regularly scheduled and specially scheduled meetings. In the event that a member is absent from three consecutive meetings, or

in the event that a member is absent from five meetings within any one calendar year, such member may be removed pursuant to the provisions of Article II of this chapter.

F. A quorum shall consist of five members and a majority of the total members shall be required to adopt recommendations.

G. The Town Supervisor and/or his/her appointee(s) and the Town Recreation Director shall be ex officio nonvoting members of the Commission.

§ 7-16. Officers.

At the first meeting of each calendar year, the Commission shall elect from its membership, a Chair and a Vice Chair.

A. The Chair shall preside at all meetings. The Chair shall appoint all committees and all committee chairs;

B. The Vice Chair shall perform the duties of the Chair in the absence of the Chair.

§ 7-17. Rules.

A. The Commission shall adopt rules governing its procedure and the conduct of its members, which rules shall be submitted to the Town Board and approved by the Town Board prior to the time such rules (or any amendments thereto) shall become effective.

B. The Commission may establish subcommittees comprised in part with nonmembers. Subcommittees are empowered to make recommendations to the Commission. Subcommittee members are appointed by the Chair.

§ 7-18. Compensation; expenses.

Members shall serve without compensation except they may be reimbursed for their mileage and other prior approved disbursements pursuant to policies established by the Town Board.

§ 7-19. Prior approval required.

The Town Board has the power and the control of the fiscal affairs and expenditures of the Commission. The Town Board must approve all contracts and payment of claims. No act taken by the Commission shall bind the Town nor shall the Commission be authorized to commit any Town monies without the prior express approval of the Town Board.

§ 7-20. Mission; responsibility.

A. The mission of the Commission is to help provide a high quality of life for all Town residents by assisting in facilitating opportunities to participate in healthy and satisfying recreation and leisure activities, and supporting and increasing access of Town youth to programs that build skills, confidence, leadership, and supportive relationships with peers and adults.

B. The Commission shall act as an advisory body to the Recreation Department and Town Board, and as a liaison to the community, Dryden Central School District, the Villages of Dryden and Freeville and Tompkins County.

C. The Commission shall provide guidance for the Recreation Department in the following capacities: input and review of annual budget proposals, the operation of recreation and youth development programs, review of policy and guidelines for programs and the use of indoor and outdoor recreation facilities, and the development of creative ideas for providing recreation and youth development programs.

D. The Commission shall strive to provide programs dedicated to the positive development of youth, especially underserved youth.

E. The Commission shall review all requests for municipal funds for youth development programs and may recommend programs or program changes to the Town Board.

F. The Commission shall abide by all rules and procedures of the Town and shall observe all guidelines of other funding entities.

G. The Commission shall strive to provide youth with a voice in issues and matters before the Commission.

H. The Commission shall act in an advisory capacity to the Town Board on recreation, youth development and community matters in the following manner:

(1) Input in the interview and selection of the Recreation Director;

(2) Recommend funding allocations for community association grant and youth development programs;

(3) Indoor and outdoor recreational facilities;

(4) Recreation programs;

(5) Youth programs, with an emphasis on reaching underserved youth in the Dryden Central School District;

(6) Monitor Town-funded recreation and youth development programs for effectiveness and quality;

(7) Research and recommend, if applicable, additional programs and recreation facilities;

(8) By participation in the Tompkins County Comprehensive Youth Services Plan to ensure coordination with other youth service providers in order to maximize utilization of available resources;

(9) Explore alternative funding sources, especially grants;

(10) Encourage inclusive, comprehensive, local recreation and youth programs for all Town residents;

(11) Report to the Town Board on such other matters as the Town Board may

request.

I. The Commission shall act as a liaison to the community and Dryden Central School District, community associations, the Villages of Dryden and Freeville, the Recreation Department, and the Town Board by:

(1) Fostering a relationship between the community and Recreation Department to ensure that programs are developed and provided to meet community needs;

(2) Providing a forum for communication between the residents of the Town, community associations, and volunteer and school organizations that support community programs within the Town;

(3) Striving to increase public awareness of recreation and leisure opportunities, youth development opportunities and their respective benefits;

(4) Encouraging the development of volunteer-coordinated activities;

(5) Providing the Town Board, the Boards of Trustees of the Villages of Dryden and Freeville, and the Dryden Central School District Board of Education with copies of the minutes of its meetings.

§ 7-21. Needs assessments.

A. The Commission is empowered to assess the recreation and youth program needs and priorities of the community and make recommendations to meet these needs.

B. In order to comply with county and state funding requirements, every three to five years the Commission shall conduct a youth development needs assessment to:

(1) Analyze the existing youth services, determine gaps in services and design programs to avoid duplication;

(2) Analyze local, state and national trends in youth risk behavior in order to recommend programs;

(3) Encourage participation of youth who are normally not attracted to existing programs.

C. The Commission shall periodically:

(1) Analyze existing recreation opportunities and facilities, determine gaps in services and design programs to avoid duplication;

(2) Reassess programs to determine if they meet the needs for which they were originally designed;

(3) Survey residents of the Town to identify recreation interests and opportunities.

§ 7-22. Reports.

A. The Recreation Director shall deliver a quarterly report to the Commission.

B. Staff or a representative from each youth development program funded by the

Town shall attend Commission meetings regularly to report and advise the Commission and ensure the coordination of Commission-sponsored programming.

C. The Commission will annually review reports from community associations receiving the Town grants to ensure all obligations of the grant have been completed.

§ 7-23. Repealer.

A. Local Law No. 4 of the year 2008 (a local law repealing Local Law No. 1 of the year 2000 and Local Law No. 3 of the year 2002, which respectively established the Town of Dryden Recreation Commission, and clarified the terms of members and provided for an increase in the number of members; and to re-establish the Town of Dryden Recreation Commission) is hereby repealed.

B. Resolution No. 182 (1990) (Formation of Youth Commission) is hereby rescinded.

§ 7-24. Effective date.

This article shall take effect upon filing with the Secretary of State.

Chapter 14

CONTRACTS, PUBLIC

ARTICLE I
Withdrawal of Retained Percentages
[Adopted 4-11-1995 by L.L. No. 1-1995]

§ 14-1. Purpose.

General Municipal Law § 106 allows contractors with the Town of Dryden to substitute certain obligations, defined in such section, for amounts due contractors under public works contracts with the Town. General Municipal Law § 106-a permits the imposition of a service charge by the Town for receiving, handling and disbursing funds and coupons pursuant to General Municipal Law § 106. The purpose of this article is to establish a procedure for the safekeeping of obligations deposited with the Town and to establish a service charge for such safekeeping and the receiving, handling and disbursing funds and coupons due under such obligations.

§ 14-2. Definitions.

For the purposes of this article, the following terms shall have the meaning herein provided:

CONTRACT — A written contract between the Town and a contractor for the performance of a public works contract.

OBLIGATIONS — Those obligations defined in General Municipal Law § 106.

RETAINED PERCENTAGE — The amounts held by the Town from a contractor pursuant to the provisions of a contract for public works and General Municipal Law § 106-b.

SUPERVISOR — The Town Supervisor of the Town of Dryden, New York. The Supervisor is the fiscal officer of the Town.

TOWN — The Town of Dryden, Tompkins County, New York.

§ 14-3. Procedure.

A. When, pursuant to General Municipal Law § 106, a contractor desires to substitute obligations for retained percentages, the contractor shall notify the Town in writing of the exact nature of the obligations proposed to be tendered to the Town.

B. The Supervisor shall then determine if such obligations are of a type, amount and character which can be substituted for retained percentages. The Supervisor shall also determine the market value of the obligations proposed to be tendered to the Town by inquiry to a stock or bond brokerage firm which maintains a seat of the New York Stock Exchange and which firm has a place for the transaction of business in Tompkins County, New York.

C. The project engineer shall, from time to time as requested by the Town Supervisor, certify to the Supervisor the amount of the retained percentages due the contractor under the contract.

D. When the Supervisor has determined that the obligations proposed to be tendered are of a type, amount and character which can be substituted for retained

percentages, the contractor shall be so notified by the Supervisor. The Supervisor shall also notify the contractor of the market value of such obligations.

E. A contractor desiring to substitute obligations for retained percentages shall cause such obligations to be personally delivered to the Town Hall, 65 East Main Street, Dryden, New York, and upon such delivery, a receipt shall be given. Such obligation shall be transferred to the Town or accompanied by an assignment in blank. Upon receipt of such obligations transferred to the Town as herein provided, the Supervisor shall, subject to the provisions of this article and the provisions of General Municipal Law §§ 106 and 106-a, pay over to the contractor the amount of the retained percentage less the initial service charge provided for in § 14-5.

F. The Supervisor shall collect and pay over to the contractor the interest and income on the obligations according to the requirements of General Municipal Law § 106. In the event no such interest and income is received, or if insufficient interest and income are received, to cover the annual service charge, then the Supervisor shall collect such service charge from the contractor prior to redelivering the obligations to the contractor according to the terms of the contract between the Town and the contractor.

G. The Supervisor shall, from time to time, monitor the market value of the obligations. In the event the market value of such obligations shall decrease to an amount below the amount of retained percentage to which the Town is entitled, the Supervisor shall so notify the contractor, who must then deposit cash or additional obligations with the Town to equal the amount of retained percentage to which the Town is then entitled. No interest or income collected by the Supervisor shall be paid over to any contractor who has not maintained obligations of a sufficient value to equal the amount of the retained percentage to which the Town is entitled. Upon compliance by the contractor with the requirements of this subsection, the Supervisor shall pay over to any such contractor interest and income collected by the Supervisor and held by him pending compliance by the contractor with this subsection.

H. In the event the market value of such obligations shall increase, the contractor may substitute obligations of lesser denominations to equal the amount of the retained percentage to which the Town is then entitled. The service charge for such substitution is set forth in § 14-5.

§ 14-4. Safekeeping.

The Supervisor shall rent a safe deposit box in the name of the Town from a local bank or trust company and shall store all such obligations, coupons and assignments in blank in such safe deposit box.

§ 14-5. Service charge.

There is hereby imposed and the Supervisor shall collect as herein provided, a service charge to be paid by the contractor as follows:

A. For the initial deposit of obligations with the Supervisor: $70;

B. Annually, beginning one year from the date of the first deposit of such obligations:

$70;

C. For the substitution of obligations other than those initially deposited with the Supervisor (pursuant to § 14-3H above): $35;

D. For the deposit of additional obligations pursuant to § 14-3G above: no charge.

§ 14-6. Effective date.

This article shall take effect immediately upon filing as provided by law.

Chapter 22

DEFENSE AND INDEMNIFICATION

§ 22-1. Definitions.

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

EMPLOYEE — Includes a former employee, his estate or judicially appointed personal representative.

EMPLOYEES — Any person holding a position by election, appointment or employment in the service of the Town, but shall not include a volunteer, any person not compensated for his services or an independent contractor.

TOWN — The Town of Dryden.

§ 22-2. Defense of employee.

A. Upon compliance by the employee with the provisions of § 22-3 of this chapter, the Town shall provide for the defense of the employee in any civil action or proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting or in good faith purporting to act within the scope of his public employment or duties. Such defense shall not be provided where such civil action or proceeding is brought by or on behalf of the Town.

B. Subject to the conditions set forth in this chapter, the employee shall be represented by the Town Attorney or an attorney employed or retained by the Town for the defense of the employee. The Town Board shall employ or retain an attorney for the defense of the employee whenever: (1) the Town does not have a Town Attorney; (2) the Town Board determines based upon its investigation and review of the facts and circumstances of the case that representation by the Town Attorney would be inappropriate; or (3) a court of competent jurisdiction determines that a conflict of interest exists and that the employee cannot be represented by the Town Attorney. Reasonable attorney's fees and litigation expenses shall be paid by the Town to such attorney employed or retained, from time to time, during the pendency of the civil action or proceeding subject to certification by the Town Supervisor that the employee is entitled to representation under the terms and conditions of this chapter. Payment of such fees and expenses shall be made in the same manner as payment of other claims and expenses of the Town. Any dispute with respect to representation of multiple employees by the Town Attorney or by an attorney employed or retained for such purposes or with respect to the amount of the fees or expenses shall be resolved by the court.

C. Where the employee delivers process and a request for a defense to the Town Attorney or the Town Supervisor as required by § 22-3 of this chapter, the Town Attorney or the Supervisor, as the case may be, shall take the necessary steps including the retention of an attorney under the terms and conditions provided in Subsection B of this section on behalf of the employee to avoid entry of a default judgment, pending resolution of any question relating to the obligation of the Town

to provide a defense.

§ 22-3. Employee responsibilities.

A. The duties to defend provided in this chapter shall be contingent upon:

(1) Delivery to the Town Attorney or, if none, to the Town Supervisor of the original or a copy of any summons, complaint, process, notice, demand or pleading within five days after he is served with such document; and

(2) The full cooperation of the employee in the defense of such action or proceeding and defense of any action or proceeding against the Town based upon the same act or omission, and in the prosecution of any appeal.

B. Such delivery shall be deemed a request by the employee that the Town provide for his defense pursuant to this chapter, unless the employee shall state in writing that a defense is not requested.

§ 22-4. Benefits confined to employees as defined.

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

§ 22-5. Obligations of insurers.

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

§ 22-6. Immunity.

As otherwise specifically provided in this chapter, the provisions of this chapter shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, officer or employee by, in accordance with, or by reason, any other provision of state or federal statutory or common law.

§ 22-7. Applicability.

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

§ 22-8. When effective.

This chapter shall take effect immediately upon adoption and the compliance with the provisions of the Town Law and the Municipal Home Rule Law as they pertain to the adoption of local laws.

Chapter 40

JUSTICE COURT

ARTICLE I
Town Constables
[Adopted 4-17-2014 by L.L. No. 1-2014]

§ 40-1. Statutory authority.

This article is adopted pursuant to authority of Municipal Home Rule Law § 10(1)(ii)(a)(1) and (d)(3).

§ 40-2. Appointments; powers.

The Town Board of the Town of Dryden is hereby authorized to appoint not more than four Town constables to have powers in both civil and criminal matters as court attendants and enforcement officers for the Town of Dryden Justice Court.

§ 40-3. Constables to be peace officers; enforcement officers.

Such constables shall be part time, noncompetitive exempt employees of the Town and shall serve at the pleasure of the Town Board. They shall be peace officers as defined in the Criminal Procedure Law and enforcement officers as defined in the Uniform Justice Court Act.

§ 40-4. Constable need not be electors.

Persons appointed constables pursuant to this article need not be electors of the Town.

§ 40-5. Fixing hours, wages and terms of employment.

The Town Board shall fix the hours of work, wages, and terms of employment of the constables which wages shall be in lieu of any other fees or compensation.

§ 40-6. Local law to supersede.

Pursuant to Municipal Home Rule Law § 22, to the extent the provisions of this article are inconsistent with Town Law §§ 20 and 23, it is the intent of this article to supersede such sections.

§ 40-7. When effective.

This article shall take effect upon filing with the Secretary of State.

ARTICLE II
Traffic Violations Bureau
[Adopted 6-19-2014 by L.L. No. 2-2014]

§ 40-8. Statutory authority.

This article is adopted pursuant to authority given towns under of Municipal Home Rule Law § 10(1)(i) and General Municipal Law § 370, which permit a Town to authorize the Town justice court to establish a traffic violations bureau to assist the court in the disposition of certain infractions in relation to traffic violations.

§ 40-9. Establishment of Traffic Violations Bureau.

The Town of Dryden Justice Court is hereby authorized to establish a Traffic Violations Bureau as herein provided.

§ 40-10. Bureau limitations; parking tickets.

The traffic violations bureau is limited to the disposition of Village of Dryden parking tickets, to which the alleged violator pleads guilty. All fines assessed for a parking violation of a Village of Dryden ordinance or local law shall inure to the Village of Dryden. All non-guilty pleas shall be subject to adjudication and disposition in the court.

§ 40-11. Administration of Bureau.

The Town justices are authorized to make arrangements with any public officer designated by them as may be necessary, convenient or prudent to administer such bureau including accepting pleas of guilty, collecting fines designated by the court for pleas of guilty to such tickets, issuing receipts for such fines collected, accounting, at least monthly, for moneys received, and the payment to the Village Treasurer, at least monthly, all such monies received.

§ 40-12. Implementation of Bureau.

The Town justices are further authorized to do any and all acts, and take any and all steps necessary, convenient or prudent to implement the traffic violations bureau, provided such acts and steps are consistent with this article and General Municipal Law Article 14-B.

§ 40-13. Penalties for offenses.

The Town justices may designate the fines to be paid for parking tickets for those violators pleading guilty which fines may be satisfied at the bureau, provided such fines are within the limits established as penalties for such offenses.

§ 40-14. When effective.

This article shall take effect upon filing by the Secretary of State.

Chapter 48

LOCAL LAWS, ADOPTION OF

§ 48-1. Public notice.

The public notice required by Municipal Home Rule Law § 20, Subdivision 5, as amended by Chapter 45 of the Laws of 1974, effective March 12, 1974, before a public hearing can be held by the Town Board on a local law, shall be at least three days' notice instead of at least five days' notice.

§ 48-2. When effective.

This chapter shall take effective immediately upon its approval and filing in the manner provided by law.

Chapter 56

NOTICES AND NOTIFICATIONS

ARTICLE I
Notification of Information Security Breaches
[Adopted 4-13-2006 by L.L. No. 1-2006]

§ 56-1. Preface.

This article is adopted to comply with the requirements of State Technology Law § 208 which became effective December 7, 2005.

§ 56-2. Definitions.

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

BREACH OF SECURITY OF THE SYSTEM —

A. Unauthorized acquisition or acquisition without valid authorization of computerized data which compromises the security, confidentiality, integrity or personal information maintained by the Town. Good faith acquisition of personal information by an employee or agent of Town for the purposes of the Town is not a breach of the security of the system, provided that the private information is not used or subject to unauthorized disclosure.

B. In determining whether information has been acquired, or is reasonably believed to have been acquired, by an unauthorized person or a person without valid authorization, the Town may consider the following factors, among others:

   (1) Indications that the information is in the physical possession and control of an unauthorized person, such as a lost or stolen computer or other device containing information; or

   (2) Indications that the information has been downloaded or copied; or

   (3) Indications that the information was used by an unauthorized person, such as fraudulent accounts opened or instances of identity theft reported.

CONSUMER REPORTING AGENCY — Any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. A list of such consumer reporting agencies is compiled by the state attorney general.

PRIVATE INFORMATION —

A. Personal information in combination with any one or more of the following data elements, when either the personal information or the data element is not encrypted or encrypted with an encryption key that has also been acquired;

   (1) Social security number;

   (2) Driver's license number or nondriver identification card number; or

   (3) Account number, credit or debit card number, in combination with any

required security code, access code, or password which would permit access to an individual's financial account.

B. "Private information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

TOWN — The Town of Dryden, Tompkins County, New York, and any board, bureau, division, committee, commission, council, department, office or other entity performing a governmental or proprietary function of the Town, except judiciary of the Town.

§ 56-3. Disclosure of computerized private information.

When the Town owns or licenses computerized data that includes private information, it shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the system to any resident of New York State whose private information was, or is reasonably believed to have been, acquired by a person without valid authorization. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in § 56-5 of this article, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

§ 56-4. Notification of data breach.

When the Town maintains computerized data that includes private information which the Town does not own, the Town shall notify the owner or licensee of the information of any breach of the security of the system immediately following discovery, if the private information was, or is reasonably believed to have been, acquired by a person without valid authorization.

§ 56-5. Delay of notification by law enforcement.

The notification required by this section may be delayed if a law enforcement agency determines that such notification impedes a criminal investigation. The notification required by this section shall be made after such law enforcement agency determines that such notification does not compromise such investigation.

§ 56-6. Methods available for notification.

The notice required by this section shall be directly provided to the affected persons by one of the following methods:

A. Written notice;

B. Electronic notice, provided that the person to whom notice is required expressly consented to receiving said notice in electronic form and a log of each such notification is kept by the Town when it notifies affected persons in such form; provided further, however, that in no case shall any person or business require a person to consent to accepting said notice in said form as a condition of establishing any business relationship or engaging in any transaction;

C. Telephone notification, provided that a log of each such notification is kept by the

Town when it notifies affected persons; or

D. Substitute notice, which notice shall consist of all of the following:

(1) E-mail notice when the Town has an e-mail address for the subject persons;

(2) Conspicuous posting of the notice on such Town's website page, if the Town maintains one; and

(3) Notification to major statewide media.

§ 56-7. Information to be provided in notification.

Regardless of the method by which notice is provided, such notice shall include contact information for the Town and the name of the person making the notification and a description of the categories of information that were, or are reasonably believed to have been, acquired by a person without valid authorization, including specification of which of the elements of personal information and private information were, or are reasonably believed to have been, so acquired.

§ 56-8. Notification of New York residents.

A. In the event that any New York residents are to be notified, the Town shall notify the state attorney general, the consumer protection board, and the state officer of cyber security and critical infrastructure coordination as to the timing, content and distribution of the notices and approximate number of affected persons. Such notices shall be made without delaying notice to affected New York residents.

B. In the event that more than 5,000 New York residents are to be notified at one time, the Town shall also notify consumer reporting agencies as to the timing, content and distribution of the notices and approximate number of affected persons. Such notice shall be made without delaying notice to affected New York residents.

§ 56-9. When effective.

This article shall take effect upon filing with the Secretary of State.

ARTICLE II
Tax Bill Enclosures
[Adopted 12-10-2008 by L.L. No. 6-2008]

§ 56-10. Title.

This article may be cited as the "Supplemental Mailings with Tax Bills Authorization Local Law."

§ 56-11. Purpose.

The Town Board of the Town of Dryden adopts this article to promote the effective and efficient dissemination of information about changes in Town government, Town government operations and other general worthwhile information.

§ 56-12. Authority.

The Town Board of the Town of Dryden enacts this article under the authority granted by:

A. New York State Constitution, Article IX, § 2(c)(10).

B. New York Statute of Local Governments, § 10, Subdivision 1.

C. New York Municipal Home Rule Law, § 10, Subdivision 1(i) and (ii) and (12), and (14).

D. The supersession authority of New York Municipal Home Rule Law, § 10(1)(ii)d(3), specifically as it relates to what materials may be included with tax bills mailed to Town of Dryden taxpayers under this article, to the extent such grant of power is different than under Tax Law § 1826.

E. New York Town Law § 64, Subdivision 23 (General powers).

§ 56-13. Findings.

The Town Board of the Town of Dryden finds and declares that:

A. The Town is required to mail to Town taxpayers their tax bills. Tax Law § 1826 prohibits the mailing with the tax bills of any notice, circular, pamphlet, card, hand bill, printed or written notice of any kind other than which is authorized by law.

B. There are potential savings to taxpayers if certain items or information can be included with and mailed with tax bills. The inclusion of items or information with tax bills will save the postage, staff time and the expense of a separate mailing of such items or information. Tax bill mailings reach a large percentage of Town residents.

§ 56-14. Items or information which may be included with tax bills.

It shall be permissible for the following materials to be included with tax bills:

A. Items and information relating to changes in Town government, including elected

and appointed officials;

B. Items and information relating to administration of Town government, government operations and changes thereof and therein; and

C. Such other information as determined by the Town Board to be worthwhile to residents.

§ 56-15. Information and/or items which may not be included with tax bills.

Under no circumstances shall it be permissible to include advertisements or political propaganda with tax bills.

§ 56-16. Prior approval required.

No person shall mail any item or information with any tax bill without the prior approval of the Town Board. Such approval shall be by resolution and a copy of such item or information shall be included in or attached to such resolution.

§ 56-17. Supersession of Tax Law § 1826.

To the extent this article conflicts with any provision of Tax Law § 1826, the provisions of this article shall control, it being the intent of this article to supersede such inconsistent provision.

§ 56-18. Effective date.

This article shall take effect immediately upon filing with the New York State Secretary of State and shall apply to all tax bills mailed for payment in 2009 and thereafter.

Chapter 62

OFFICERS AND EMPLOYEES

ARTICLE I
Term of Office of Town Clerk
[Adopted 9-5-2001 by L.L. No. 3-2001]

§ 62-1. Term of office.

The term of office of elective Town Clerk of the Town of Dryden shall be four years. Such four-year term shall commence on the first day of January following the first biennial Town election after the effective date of this article.

§ 62-2. Election of Town Clerk.

At the biennial Town election next following the effective date of this article, and every four years thereafter, the Town Clerk shall be elected for a term of four years.

§ 62-3. Town Law to be superseded.

This article shall supersede in its application to the Town of Dryden § 24 of the Town Law with respect to the term of office of the elective Town Clerk.

§ 62-4. Approval of article.

This article shall be submitted for approval to the electors of the Town of Dryden at the next general Town election to be held on November 6, 2001.

§ 62-5. Repealer.

Any other local law, ordinance or resolution inconsistent herewith is hereby repealed.

§ 62-6. When effective.

This article shall take effect immediately upon filing with the Secretary of State after approval by a majority of the electors voting thereon in accordance with the requirements of § 27 of the Municipal Home Rule Law.

Chapter 69

PUBLIC WORKS, DEPARTMENT OF

§ 69-1. Statutory provisions.

This chapter is adopted pursuant to New York Municipal Home Rule Law § 10(1)(ii)(a)(1) and New York Town Law § 32(1).

§ 69-2. Establishment of department.

There is hereby established the Town of Dryden Department of Public Works.

§ 69-3. Town Superintendent of Highways.

The Department of Public Works shall be headed by the Town Superintendent of Highways.

§ 69-4. Responsibilities of Town Superintendent of Highways.

Such Superintendent shall be responsible for the supervision and maintenance of the Town water districts, sewer districts and other improvement districts, Town parks and shall have such other duties as may be assigned to him by the Town Board by resolution, which duties shall not be inconsistent with law or be in diminution or impairment of his statutory powers, duties and functions as the Town Highway Superintendent.

§ 69-5. Charge expenses to appropriate districts or funds.

Expenses of supervision and maintenance of any such districts over which the Superintendent of Public Works has responsibility shall be charged back to the appropriate districts. Expenses of supervision and maintenance of Town parks shall be charged back the appropriate general fund account. In no event shall Town highway funds or accounts be charged for services or expenses which are properly chargeable to such districts or parks as set forth herein.

§ 69-6. Effective date.

This chapter shall take effect January 1, 1990, upon compliance with the applicable provisions of law pertaining to the adoption of local laws.

Part II: General Legislation

Chapter 105

ANIMALS

ARTICLE I
Dog Control
[Adopted 12-15-2010 by L.L. No. 2-2010]

§ 105-1. Short title.

This article may be cited as the "Town of Dryden Dog Control Law."

§ 105-2. Statutory authority.

This article is enacted pursuant to the provisions of Municipal Home Rule Law § 10 and Article 7 of the Agriculture and Markets Law, as amended by Chapter 59, Part T, of the laws of 2010 (effective January 1, 2011).

§ 105-3. Purpose.

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

§ 105-4. Definitions.

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

AT LARGE — An unleashed dog off the premises of the owner.

DOG CONTROL OFFICER — A person or persons appointed by the Town for the purpose of enforcing this article.

LEASHED — Restrained by a leash, attached to a collar or harness of sufficient strength to restrain the dog held by a person having the ability to control the dog.

NOISE DISTURBANCE — The making of any sound which is audible across a real property line for 15 minutes in any one-hour interval, which sound disturbs a reasonable person of normal sensitivities.

OWNER — The person entitled to claim lawful custody and possession of a dog and who is responsible for purchasing the license for such dog unless the dog is or has been lost and such loss was promptly reported to the Dog Control Officer, or to any peace officer. If a dog is not licensed, the term "owner" shall designate and cover any person or persons, firm, association or corporation who or which at any time owns or has custody or control of, harbors or is otherwise responsible for a dog which is kept in, brought into or comes into the Town. Any person owning or harboring a dog for a period of one week shall be held and deemed to be the "owner" of such dog for the purpose of this article. In the event that the "owner" of any dog found to be in violation of this article shall be under 18 years of age, any head of the household in which said minor resides shall be deemed to have custody and control of said dog and shall be responsible for any acts of the said dog in violation of this article.

REAL PROPERTY LINE — The imaginary line, including its vertical extension,

that separates one parcel of real property from another; or the vertical and horizontal boundaries of a dwelling unit that is in a multi-dwelling building.

RECOGNIZED REGISTRY ASSOCIATION — Any registry association that operates on a nationwide basis, issues numbered registration certificates and keeps such records as may be required by the Commissioner of Agriculture and Markets.

RESIDENTIAL — Any property used for human habitation.

B. Terms not defined herein or in Agricultural and Markets Law § 108 shall have their customary and usual meaning.

§ 105-5. Prohibited acts.

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

A. Run at large, unless the dog is leashed or unless it is accompanied by its owner or a responsible person and under the full control of such owner or person. For the purpose of this article, a dog or dogs hunting in company of a hunter or hunters shall be considered as accompanied by its owner.

B. Make sounds that create unreasonable disturbance across a residential real property line. **[Amended 1-16-2020 by L.L. No. 2-2020]**

C. Cause damage or destruction to public or private property, defecate, urinate or otherwise commit a nuisance upon the property of other than the owner or person harboring the dog.

D. Bite, chase, jump upon or otherwise harass any person in such a manner as to reasonably cause intimidation or put such a person in reasonable apprehension of bodily harm or injury.

E. Chase, leap on or otherwise harass bicycles, motor vehicles, and any equine, including any rider thereon.

F. Kill or injure any dog, cat, other household pet or domestic animal.

G. Be unlicensed when four months of age or older.

H. Not have a valid Town identification tag on its collar while at large, whether or not leashed.

§ 105-6. Female dogs. [Amended 1-18-2012 by L.L. No. 1-2012]

Female dogs, while such are in season (heat), shall not be left outside unattended, unless they are in a secure enclosure. If a female dog in season (heat) is off the premises of the owner, such dog shall be leashed. Any female dog found to be in violation of this section is subject to seizure by the Dog Control Officer, or any peace officer, and upon seizure shall be removed to a safe place of confinement, at the expense of the owner.

§ 105-7. Conditions for keeping dogs.

All premises occupied or used by dogs shall be kept in a clean, sanitary condition. Failure to provide adequate food, water or space shall subject dogs to seizure and

confinement. "Adequate" shall mean sufficient for age, size and number of dogs on the premises.

§ 105-8. Licensing of dogs; fees.

A. License required. All dogs in the Town over the age of four months shall be licensed by the Town Clerk. A person applying for a dog license shall present a current certificate of rabies vaccination at the time of making application for a license or for the renewal of an existing license. Unless the license application includes a certificate signed by a licensed veterinarian or an affidavit acceptable to the Town Clerk and signed by the owner showing that the dog has been spayed or neutered, the dog shall be deemed to be unspayed or unneutered, as the case may be. Such certificate or affidavit shall not be required if the same has previously been provided to the Town Clerk and noted in the dog's license record.

B. Expiration of license.

(1) Except as otherwise provided herein, a license shall be issued or renewed for a period of at least one year, provided, that no license shall be issued for a period expiring after the last day of the eleventh month following the expiration date of the current rabies certificate for the dog being licensed. All licenses shall expire on the last day of the last month of the period for which they are issued.

(2) The owner may license a dog for two or three years, subject to the license expiration and rabies certificate expiration provisions in Subsection B(1) above.

C. License fees.

(1) The annual license fee for a spayed or neutered dog shall be $11, which fee includes a mandated state surcharge of $1 for the purpose of carrying out a state-mandated program of animal population control.

(2) The annual license fee for an unspayed or unneutered dog shall be $23, which fee includes a mandated state surcharge of $3 for the purpose of carrying out a state-mandated program of animal population control.

D. Purebred license.

(1) The owner of five or more unaltered purebred dogs registered by a Recognized Registry Association may make application to the Town Clerk for a purebred license in lieu of the individual licenses required herein. Such license shall cover only purebred dogs, whether unaltered or spayed or neutered.

(2) Application for a purebred license shall be on a form provided by the Town Clerk. All dogs over four months of age must be listed and included in the purebred license. Purebred licenses shall be issued for one year and renewed annually.

(3) Copies of registry papers for every purebred dog on the application, or a comprehensive list of registry numbers and associations, shall be provided to the Town Clerk, along with the license application, and a current certificate of rabies vaccination for each dog on the application.

(4) The application fee for a purebred license is:

(a) For five to 20 dogs: $100 plus the mandated state surcharge of $1 per spayed or neutered dog on the application for the purpose of carrying out a state-mandated program of animal population control, and $3 per unspayed or unneutered dog on the application for the purpose of carrying out a state-mandated program of animal population control.

(b) For 21 or more dogs: $200 plus the mandated state surcharge of $1 per spayed or neutered dog on the application for the purpose of carrying out a state-mandated program of animal population control, and $3 per unspayed or unneutered dog on the application for the purpose of carrying out a state-mandated program of animal population control.

(5) No purebred license is transferable. Upon change of ownership of any dog licensed under a purebred license, the new owner shall make application for a license, except when the new owner holds a valid purebred license and adds the dog to such purebred license.

(6) One identification tag per purebred license shall be provided by the Town.

E. License fee waivers. The Town requires a license for any guide dog, hearing dog, service dog, war dog, working search dog, detection dog, police dog and therapy dog, however, only the license fee is waived. The mandated state surcharges cannot be waived by the Town and shall be collected. The owner may purchase a special identification tag for a $4 fee.

F. Purchase of licenses and renewals; replacement identification tags; no refund of fees.

(1) All dog licenses and renewals thereof shall be purchased from the Town Clerk.

(2) The Town Clerk may issue a replacement identification tag for a fee of $3.

(3) No license fee or portion thereof will be refunded in the event a dog is lost, stolen, sold, given away, surrendered or deceased before the expiration of the license term.

G. Use of fees. All fees called for in Subsections C through F above shall be used for funding the administration of this chapter of the Code of the Town of Dryden.

H. Additional fee for enumerated unlicensed dog. In addition to the license and other fees provided for herein, the owner of a dog identified as unlicensed during a dog enumeration shall be charged an additional fee of $10 at the time of licensing. All such additional fees under this subsection shall be used to pay the expenses incurred by the town during such enumeration. **[Amended 1-16-2020 by L.L. No. 2-2020]**

§ 105-9. Seizure of dogs; redemption; disposition; impoundment fee.

The Dog Control Officer, or any peace officer, shall seize any unlicensed dog whether on or off the owner's premises and/or any dog not wearing a tag, not identified and not on the owner's premises.

A. If a dog seized is not wearing an identification tag (license tag), it shall be held for a period of no less than five days.

B. If a dog seized is wearing an identification tag, the owner shall be promptly notified either in person or by certified mail. If the owner is notified in person, the dog shall be held for a period of no less than seven days; if notified by mail, no less than nine days.

C. The fees for any seizure and impoundment of a dog in violation of Article 7 of the Agriculture and Markets Law or of this article are as follows:

(1) For the first impoundment: $25 to the Town, plus the prevailing kennel charge.

(2) For the second impoundment: $50 plus $10 per day or fraction thereof to the Town for each day of impoundment, plus the prevailing kennel charge.

(3) For the third impoundment: $75 plus $10 per day or fraction thereof to the Town for each day of impoundment, plus the prevailing kennel charge.

D. If not redeemed, the owner shall forfeit all title to the dog and it shall be released to an authorized humane society or kennel to be adopted or euthanized.

E. The owner of any seized dog not wearing an identification tag at time of seizure shall pay an "unidentified dog fee" of $15 to the Town Clerk at the time of redemption in addition to any license, impoundment, kennel or other fees called for herein. Such fee shall apply whether or not such dog was licensed at the time of seizure.

§ 105-10. Record of seizure.

Upon seizure of any dog, the Dog Control Officer, or any peace officer, shall make a record of the matter. The record shall include date of seizure, breed, general description, sex, identification tag number, time of release to owner, location or release, and name and address of owner, if any.

§ 105-11. Complaints.

Any person who observes a dog in violation of any section of this article may file an accusatory instrument, under oath, with the Town Clerk or with the Dog Control Officer or any peace officer, specifying the violation, the date of violation, the damage caused and including place(s) violation occurred and the name and address of the dog owner, if known. Any such accusatory instruments filed with the Town Clerk or Dog Control Officer shall be promptly filed with the Town Justice Court.

§ 105-12. Enforcement.

Any Dog Control Officer of the Town shall, and all peace officers may, administer and enforce the provisions of this article and for that purpose shall have the authority to issue appearance tickets and to seize dogs, either on or off the owner's premises, if witnessed to be in violation of this article.

§ 105-13. Impeding Dog Control Officer unlawful.

No person shall hinder, resist or oppose the Dog Control Officer or peace officer authorized to administer or enforce the provisions of this article in the performance of such officer's duties.

§ 105-14. Disclaimer of liability.

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

§ 105-15. Penalties for offenses.

A violation of this article shall constitute a violation as defined by the Penal Law and shall be punishable by a fine of not less than $25, nor more than $75, except that i) where the person was found to have violated this section or former Section 2 of the Town of Dryden Dog Ordinance within the preceding five years, the fine shall be not less than $75, nor more than $150, and ii) where the person was found to have committed two or more such violations within the preceding five years the fine shall be not less than $150 nor more than $250. These penalties shall be in addition to any other penalty provided by law.

§ 105-16. Severability.

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

§ 105-17. When effective.

This article shall take effect January 1, 2011, after filing with the Secretary of State of the State of New York.

Chapter 113

BINGO AND GAMES OF CHANCE

ARTICLE I

Bingo

[Adopted 2-3-1960; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

§ 113-1. Conduct authorized.

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

§ 113-2. Sunday games.

Any game of bingo conducted within the Town pursuant to a license issued in accordance with this chapter and the applicable statutes may be operated by authorized organizations on the first day of the week, commonly known as "Sunday," after 1:00 p.m.

ARTICLE II
Games of Chance
[Adopted 6-10-1980 by L.L. No. 1-1980]

§ 113-3. Title.

This article shall be known as the "Town of Dryden Games of Chance Law."

§ 113-4. Definitions. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

As used in this article, the terms "authorized organization" and "games of chance" shall have the meanings assigned to those terms in § 186 of the General Municipal Law.

§ 113-5. Games of chance authorized.

Authorized organizations may, upon obtaining the appropriate license from the Town Clerk, conduct games of chance within the Town of Dryden as provided in Article 9-A of the General Municipal Law and as further provided in this article. Such games of chance shall be conducted in accordance with all of the laws of the State of New York and with the rules and regulations adopted by the New York State Gaming Commission and as further provided in this article.

§ 113-6. Restrictions.

The conduct of games of chance shall be subject to the restrictions imposed by § 189 of Article 9-A of the General Municipal Law and of the rules and regulations of the New York State Gaming Commission.

§ 113-7. Sunday games.

Games of chance may be conducted on Sunday pursuant to this article except for Easter Sunday. No games of chance shall be conducted on Christmas Day or New Year's Eve.

§ 113-8. Enforcement.

The chief law enforcement officer of Tompkins County shall exercise control over and supervision of all games of chance conducted under a duly authorized license. That chief law enforcement officer shall have all those powers and duties as set forth for the enforcement of Article 9-A of the General Municipal Law.

§ 113-9. When effective.

This article shall take effect upon its passage by at least the majority affirmative vote of the total voting power of the Town Board of the Town of Dryden and after a proposition therefore is submitted at a general or special election in the Town of Dryden and approved by a vote of the majority of qualified electors in the Town of Dryden voting thereon, and upon its filing with the office of Secretaries of State and upon the compliance with all of the provisions of the General Municipal Law and Municipal Home Rule Laws of the State of New York.

Chapter 118

BUILDING CODE ADMINISTRATION AND ENFORCEMENT

§ 118-1. Purpose and intent.

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

§ 118-2. Definitions.

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

BUILDING PERMIT — A permit issued pursuant to § 118-4 of this chapter. The term "building permit" shall also include a building permit which is renewed, amended or extended pursuant to any provision of this chapter.

CERTIFICATE OF COMPLIANCE — A certificate issued pursuant to § 118-7B of this chapter stating that materials and products meet specified standards or that work was done in compliance with approved construction documents.

CERTIFICATE OF OCCUPANCY — A certificate issued pursuant to § 118-7B of this chapter stating that a structure meets specified standards, the construction was done in compliance with approved construction documents, meets all applicable codes, and is habitable.

CODE ENFORCEMENT OFFICER — The Code Enforcement Officer appointed pursuant to § 118-3B of this chapter.

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

COMPLIANCE ORDER — An order issued by the Code Enforcement Officer pursuant to § 118-15A of this chapter.

ENERGY CODE — The State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time. The Energy Code includes 19 NYCRR Part 1240.

INSPECTOR — An inspector appointed pursuant to § 118-3D of this chapter.**[Amended 2-19-2015 by L.L. No. 2-2015]**

OPERATING PERMIT — A permit issued pursuant to § 118-10 of this chapter. The term "operating permit" shall also include an operating permit which is renewed, amended or extended pursuant to any provision of this chapter.

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

PERSON — Includes an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or

commercial entity of any kind or description.

STOP-WORK ORDER — An order issued pursuant to § 118-6 of this chapter.

TEMPORARY CERTIFICATE — A certificate issued pursuant to § 118-7D of this chapter.

TOWN — The Town of Dryden, exclusive of the Villages of Dryden and Freeville.

UNIFORM CODE — The New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time. The Uniform Code includes 19 NYCRR Part 1220 (Residential Code), Part 1221 (Building Code), Part 1222 (Plumbing Code), Part 1223 (Mechanical Code), Part 1224 (Fuel Gas Code), Part 1225 (Fire Code), and Part 1226 (Property Maintenance Code).

§ 118-3. Code Enforcement Officer and inspectors.

A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this chapter. The Code Enforcement Officer shall have the following powers and duties:

(1) To receive, review, and approve or disapprove applications for building permits, certificates of occupancy, certificates of compliance, temporary certificates and operating permits, and the plans, specifications and construction documents submitted with such applications;

(2) Upon approval of such applications, to issue building permits, certificates of occupancy, certificates of compliance, temporary certificates and operating permits, and to include in building permits, certificates of occupancy, certificates of compliance, temporary certificates and operating permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;

(3) To conduct construction inspections, inspections to be made prior to the issuance of certificates of occupancy, certificates of compliance, temporary certificates and operating permits, firesafety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this chapter;

(4) To issue stop-work orders;

(5) To review and investigate complaints;

(6) To issue orders pursuant to Subsection A of § 118-15, Enforcement; penalties for offenses; penalties for offenses, of this chapter;

(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 this Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy

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

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

B. The Code Enforcement Officer shall be appointed by the Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

C. In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this chapter.

D. One or more inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this chapter. Each inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

E. In addition to administering and enforcing the provisions of this chapter, the Uniform Code, and the Energy Code, the Code Enforcement Officer shall administer and enforce Chapter 270, Zoning, Chapter 240, Subdivision of Land, Chapter 183, Mobile Homes, Electrical Code, and Chapter 155, Flood Damage Prevention. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

F. The compensation for the Code Enforcement Officer and inspectors shall be fixed from time to time by the Town Board of the Town.

G. The Code Enforcement Officer, Acting Code Enforcement Officer and inspector(s) shall not engage in any activity inconsistent with their duties, or with the interests of the Town; nor shall they, during the term of their employment, be engaged directly or indirectly in any building business, in the furnishing of labor, materials, supplies, or appliances for, or the supervision of, the construction, alteration, demolition, or maintenance of a building or the preparation of plans or specifications thereof within the Town of Dryden. This provision shall not prohibit any employee from engaging in any such activities in connection with the construction of a building or structure owned by them for their own personal use and occupancy, or for the use and occupancy of members of their immediate families, and not constructed for resale.

§ 118-4. Building permits.

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

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

(1) Construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.38 square meters);

(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 load-bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component;

(b) The removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;

(c) The enlargement, alteration, replacement or relocation of any building system; or

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

C. Exemption not deemed authorization to perform noncompliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in Subsection B of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

D. Applications for building permits. Applications for a building permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or 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 subdivision 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:

(1) All work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code; and

(2) All work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

K. Fee. The fee specified in or determined in accordance with the provisions set forth in § 118-16, Fees, of this chapter 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.

§ 118-5. Construction inspections.

A. Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The permit holder shall notify the Code Enforcement Officer when any element of work described in Subsection B of this section is ready for inspection.

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

(1) Work site prior to the issuance of a building permit;

(2) Footing and foundation;

(3) Preparation for concrete slab;

(4) Framing;

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

(6) Fire resistant construction;

(7) Fire resistant penetrations;

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

(9) Energy Code compliance; and

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

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

D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 118-16, Fees, of this chapter must be paid prior to or at the time of each inspection performed pursuant to this section.

§ 118-6. Stop-work orders.

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

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

(2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or

(3) Any work for which a building permit is required which is being performed without the required building permit, or under a building permit that has become invalid, has expired, or has been suspended or revoked.

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

(1) Be in writing;

(2) Be dated and signed by the Code Enforcement Officer;

(3) State the reason or reasons for issuance; and

(4) If applicable, state the conditions which must be satisfied before work will be permitted to resume.

C. Service of stop-work orders. The Code Enforcement Officer shall cause the stop-work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop-work order, personally or by certified mail; 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 § 118-15, Enforcement; penalties for offenses, of this chapter or under any other applicable local law or state law. Any such other

remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a stop-work order.

§ 118-7. Certificates of occupancy; certificates of compliance.

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

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

   (1) A written statement of structural observations and/or a final report of special inspections; and

   (2) Flood hazard certifications.

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

   (1) The building permit number, if any;

   (2) The date of issuance of the building permit, if any;

   (3) The name, address and Tax Map number of the property;

   (4) If the certificate of occupancy or certificate of compliance is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy or certificate of compliance is issued;

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

   (6) The type of construction of the structure;

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

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

(9) Any special conditions imposed in connection with the issuance of the building permit; and

(10) The signature of the Code Enforcement Officer issuing the certificate of occupancy or certificate of compliance and the date of issuance.

D. Temporary certificate. The Code Enforcement Officer shall be permitted to issue a temporary certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a building permit. However, in no event shall the Code Enforcement Officer issue a temporary certificate unless the Code Enforcement Officer determines: (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely; (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational; and (3) 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.

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

F. Fee. The fee specified in or determined in accordance with the provisions set forth in § 118-16, Fees, of this chapter must be paid at the time of submission of an application for a certificate of occupancy, certificate of compliance or for temporary certificate.

§ 118-8. Notification regarding fire or explosion.

The chief of any fire department providing firefighting 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.

§ 118-9. Unsafe building and structures. [Amended 5-18-2017 by L.L. No. 4-2017]

Unsafe buildings, structures and equipment in the Town shall be identified and addressed in accordance with the following procedures:

A. The reason for the determination that the building, structure or equipment is unsafe

shall be made and documented by the Code Enforcement Officer.

B. The owner of the building, structure or equipment deemed to be unsafe shall be notified of the determination by regular and certified mail as to the specifics of the determination and notified that the building, structure or equipment shall not be used until the noncompliant issues are remedied and reinspected by the Code Enforcement Officer or Inspector making the original determination.

§ 118-10. 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 Tables 5003.1.1(1), 5003.1.1(2), 5003.1.1(3), 5003.1.1(4) of the 2015 edition of the International Fire Code (a publication currently incorporated by reference in 19 NYCRR Part 1225); **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

(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 one year in the case of any operating permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each operating permit shall be specified in the operating permit. An operating permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

F. Revocation or suspension of operating permits. If the Code Enforcement Officer determines that any activity or building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code, such operating permit shall be revoked or suspended.

G. Fee. The fee specified in or determined in accordance with the provisions set forth in § 118-16, Fees, of this chapter must be paid at the time of submission of an application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit.

§ 118-11. 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 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 chapter shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control (OFPC) and the New York State Fire Administrator under Executive Law § 156-e and Education Law § 807-b.

D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 118-16, Fees, of this chapter must be paid prior to or at the time each inspection is performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

§ 118-12. Complaints.

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this chapter, or any other local law or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

A. Performing an inspection of the conditions and/or activities alleged to be in violation and documenting the results of such inspection;

B. If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § 118-15, Enforcement; penalties for offenses, of this chapter;

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.

§ 118-13. Recordkeeping.

A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

(1) All applications received, reviewed and approved or denied;

(2) All plans, specifications and construction documents approved;

(3) All building permits, certificates of occupancy, certificates of compliance,

temporary certificates, stop-work orders, and operating permits issued;

(4) All inspections and tests performed;

(5) All statements and reports issued;

(6) All complaints received;

(7) All investigations conducted;

(8) All other features and activities specified in or contemplated by §§ 118-4 through 118-12, inclusive, of this chapter; 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.

§ 118-14. 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 § 118-13, Recordkeeping, of this chapter 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.

§ 118-15. 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 chapter. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a compliance order. The Compliance Order shall: (1) be in writing; (2) be dated and signed by the Code Enforcement Officer; (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this chapter; (4) specify the provision or provisions of the Uniform Code, the Energy Code, or this chapter which is/are violated by the specified condition or activity; (5) specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; (6) direct that compliance be

achieved within the specified period of time; and (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the compliance order, or a copy thereof, to be served on the owner of the affected property 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, 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 or the Energy Code. **[Amended 5-18-2017 by L.L. No. 4-2017]**

C. Civil penalties. In addition to those penalties prescribed by state law, any person who violates any provision of the Uniform Code, the Energy Code or this chapter, or any term of 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 Office pursuant to any provision of this chapter, shall be liable for a civil penalty of no less than $100 per day and no greater than $250 per day for each day or part thereof during which the violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the Town. **[Amended 5-18-2017 by L.L. No. 4-2017]**

D. Injunctive relief. An action or proceeding may be instituted in the name of the Town in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this chapter, or any term or condition of any building permit, certificate of occupancy, certificate of compliance, temporary certificate, stop-work order, operating permit, compliance order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this chapter. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this chapter, or any stop-work order, compliance order or other order obtained under the Uniform Code, the Energy Code or this chapter, an action or proceeding may be commenced in the name of the Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board of the Town.

E. Exterior property maintenance violations. In the event that a property owner fails to comply with the compliance order of the Code Enforcement Officer to remedy violations of the provisions of the all applicable sections of the Uniform Code, the Energy Code or this chapter pertaining to exterior property and the maintenance of exterior property, within the period stated in the compliance order, the Town shall have the following remedies in addition to all remedies set forth in state, local or other applicable law: **[Added 5-18-2017 by L.L. No. 4-2017]**

(1) If the property owner fails to remedy the condition(s) constituting the violation within the period stated in the compliance order, the Code Enforcement Officer shall present a compliance and remediation plan ("the plan") to the Town Board. The plan shall detail how the Town may cause the condition(s) to be corrected through reasonable measures and shall include an estimate of the direct cost of such measures, plus legal costs and administrative costs of the Town for administering, supervising and handling such work in accordance with the provisions of this chapter.

(2) If the Town Board adopts the plan, notice of the Town's intent to remedy the violation will be provided to the property owner by personal service pursuant to the New York Civil Practice Law and Rules. The notice shall include the following:

(a) A copy of the proposed Plan;

(b) That the Town intends to remedy the conditions constituting the violation;

(c) That the property owner will be billed for the cost of implementing the plan, in the amount set forth in the plan, and that upon the property owner's failure to do so, the cost will be added to the property tax bill for the property;

(d) That the property owner has 30 days from the date of service of the notice to remedy the condition or request a public hearing before the Town Board on the plan and the estimated cost thereof.

(3) If the property owner requests a public hearing in writing, the Town Board will conduct such hearing and shall publish notice of such hearing and provide a copy of the notice to the property owner by regular and certified mail at least 10 days before the hearing.

(4) After such public hearing, the Town Board shall determine whether to modify the plan and/or the cost of measures to remedy the violation.

(5) If the Town causes the violation to be remedied in accordance with the plan, the property owner shall receive a bill for the cost of the remediation as set forth in the plan, with a notice that if the cost remains unpaid after 30 days, the Town will take the necessary steps to have the cost added to the property owner's next property tax bill. The bill shall be mailed to the property owner by regular and certified mail.

(6) If the sum stated in the bill is not paid within 30 days after mailing thereof to the property owner, the Town may file a certificate with the Tompkins County Department of Assessment stating the cost of abatement and administrative and legal costs to the Town, as detailed in the bill, together with a statement identifying the property and property owner. The Tompkins County Department of Assessment shall in the preparation of the next assessment roll assess such unpaid costs upon such property. Such amount shall be included as a special ad valorem levy (administered as a move tax) against such property, shall constitute a lien, and shall be collected and enforced in the same

manner, by the same proceedings, at the same time, and under the same penalties as are provided by law for collection and enforcement of real property taxes in the Town of Dryden. The assessment of such costs shall be effective even if the property would otherwise be exempt from real estate taxation.

F. Unsafe structures. In the event that the Code Enforcement Officer has condemned any structure located in the Town as an unsafe structure or a structure unfit for human occupancy pursuant to the applicable sections of the Uniform Code, as subsequently renumbered and/or amended, the Town shall have the following remedies in addition to all remedies set forth in state, local or other applicable law: **[Added 5-18-2017 by L.L. No. 4-2017]**

(1) The Code Enforcement Officer shall report recommendations for repair or demolition of the structure in a written report to the Town Board.

(2) The Town Board shall consider the report, and if it decides to proceed, schedule a public hearing. Notice of the public hearing shall be published and provided to the property owner by personal service pursuant to the New York Civil Practice Law and Rules at least 10 days before the date of the hearing.

(3) The Town Board may contract with an engineer or architect to inspect the structure and make recommendations to the Town Board.

(4) If, after the public hearing, the Town Board determines that the structure can safely be repaired, it may order the property owner to repair the structure within the time frame set forth in the order. If the Town Board determines that the structure cannot safely be repaired, and should be demolished and removed, the Town Board may order such demolition and removal within the time frame set forth in the order.

(5) Subject to the provisions of Subsection F(6) below, if the property owner fails to repair or demolish and remove the structure within the time period set forth in the Town Board's order, the Town Board may issue a directive that the Town cause the structure to be repaired or demolished and removed, and bill the property owner for the reasonable direct cost of such repair or demolition and removal, plus legal costs and administrative costs of the Town for administering, supervising and handling such work in accordance with the provisions of this chapter.

(6) Prior to issuing a directive that the Town cause the structure to be repaired or demolished and removed, the Town shall apply to the Supreme Court of Tompkins County for an order pursuant to this chapter, declaring: (1) that the structure is in need of repair or demolition and removal; (2) that the Town may repair or demolish and remove the structure; (3) determining the cost of such repair or demolition and removal that will be billed to the property owner pursuant to this chapter; and (4) granting a judgment against the property owner in the amount to be billed to the property owner. If the property owner refuses to grant the Town and its representatives access to the structure and the Town is unable to obtain access pursuant to other provisions of law, the Town may seek an order pursuant to this chapter directing the property owner to give the Town and its representatives access to the structure for purposes of

determining whether the structure can safely be repaired or should be demolished and removed.

(7) If the sum stated in the bill is not paid within 30 days after mailing thereof to the property owner, the Town may file a certificate with the Tompkins County Department of Assessment stating the cost of repair or demolition and removal and administrative costs to the Town, as detailed in the bill, together with a statement identifying the property and property owner. The Tompkins County Department of Assessment shall in the preparation of the next assessment roll assess such unpaid costs upon such property. Such amount shall be included as a special ad valorem levy (administered as a move tax) against such property, shall constitute a lien, and shall be collected and enforced in the same manner, by the same proceedings, at the same time, and under the same penalties as are provided by law for collection and enforcement of real property taxes in the Town of Dryden. The assessment of such costs shall be effective even if the property would otherwise be exempt from real estate taxation.

G. Collection of unpaid fines and penalties. In the event that a property owner fails to pay fines imposed by Town Court for violation of the provisions of the Uniform Code, the Energy Code, Chapter 233, Stormwater Management and Erosion and Sediment Control, of the Code of the Town of Dryden, or this chapter, and/or any civil penalties imposed pursuant to the aforementioned codes and laws, and such fines and penalties remain unpaid 30 days after they were levied, the Town may file a certificate with the Tompkins County Department of Assessment stating the amount of the unpaid fine or penalty, together with a statement identifying the property and landowner. The Tompkins County Department of Assessment shall in the preparation of the next assessment roll assess such unpaid costs upon such property. Such amount shall be included as a special ad valorem levy (administered as a move tax) against such property, shall constitute a lien, and shall be collected and enforced in the same manner, by the same proceedings, at the same time, and under the same penalties as are provided by law for collection and enforcement of real property taxes in the Town of Dryden. The assessment of such costs shall be effective even if the property would otherwise be exempt from real estate taxation. **[Added 5-18-2017 by L.L. No. 4-2017]**

H. 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 § 118-6, Stop-work orders, of this chapter, in any other section of this chapter, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in § 118-6, Stop-work orders, of this chapter, in any other section of this chapter, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of § 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty

specified in Subdivision (2) of § 382 of the Executive Law. **[Amended 2-19-2015 by L.L. No. 2-2015]**

§ 118-16. Fees.

A fee schedule shall be established by resolution of the Town Board of the Town following a public hearing on at least 10 days, prior notice. Such fee schedule may thereafter be amended from time to time by like resolution and public hearing. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of building permits, amended building permits, renewed building permits, certificates of occupancy, certificates of compliance, temporary certificates, operating permits, firesafety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this chapter.

§ 118-17. Intermunicipal agreements.

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

§ 118-18. Partial invalidity.

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

§ 118-19. Repealer.

Upon the effective date of this chapter, Local Law No. 1 of the year 1988 (a local law providing for the enforcement of the New York State Uniform Fire Prevention and Building Code) and Local Law No. 3 of the year 1992 (a local law pertaining to permits, inspections and fees under the Uniform Fire Prevention and Building Code and other ordinances and local laws), are hereby repealed.

§ 118-20. When effective.

This chapter shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with § 27 of the Municipal Home Rule Law.

Chapter 124

CEMETERIES AND BURIAL GROUNDS

§ 124-1. Applicability.

This chapter shall apply to that area of the Town of Dryden which is outside of the limits of the Villages of Dryden and Freeville.

§ 124-2. State legislation to prevail.

This chapter shall not apply to any burial ground or cemetery that is subject to the provisions of any state law regulating the same such as the Religious Corporations Law, Executive Law, Not-for-Profit Corporation Law or Public Health Law.

§ 124-3. Compliance required.

No person shall cause the remains of a human being to be buried, or establish a burial ground for such purpose in the Town of Dryden in any ground not set apart and recognized as a municipal, religious or not-for-profit corporation cemetery without first complying with the provisions of this chapter.

§ 124-4. Town Board approval required for burial grounds.

A place for the burial of human remains may only be established upon filing with the Town Board an application for approval of such use and upon depositing with a recognized bank adequate and appropriate funds for the perpetual maintenance of said grounds.

§ 124-5. Adoption of rules and regulations.

The Town Board shall adopt rules and regulations consistent with the provisions of this chapter and which address the form of the application, information to be required on the application, the amount of deposit to insure perpetual care of the place for the burial of human remains, the place where said deposits shall be maintained, the records to be maintained, the frequency and content of reports to the Town Board and such other information as will help the Town Board monitor the provisions and intent of the chapter.

§ 124-6. When effective.

This chapter shall take effect after adoption and upon publication and posting as required by law.

Chapter 129

CROSS-CONNECTION CONTROL

ARTICLE I
Purpose, Interpretation, Severability and Definitions

§ 129-1. Purpose, interpretation and severability.

A. The purpose of this chapter is to safeguard potable water supplies by preventing backflow into public water systems.

B. This chapter is to be interpreted reasonably. In applying this chapter, enforcement officials shall recognize that different circumstances result in varying degrees of hazard, and that the degree of protection or prevention required in each situation should be commensurate with the degree of hazard.

C. If any article, section, paragraph, subdivision, clause, phrase or provision of this chapter shall be adjudicated invalid or unconstitutional, the validity of this chapter as a whole, or any part thereof other than the part so adjudicated to be invalid or unconstitutional, shall not be affected.

§ 129-2. Definitions.

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

AIR-GAP SEPARATION — A physical break between a supply pipe and a receiving vessel. The air gap shall be at least double in the diameter of the supply pipe, measured vertically above the top rim of the vessel, in no case less than one inch.

APPROVED CHECK VALVE — A check valve that seats readily and completely. It must be carefully machined to have free moving parts and assured watertightness. The face of the closure element and valve seat must be bronze, composition, or other noncorrodible material which will seat tightly under all prevailing conditions of field use. Pins and bushings shall be of bronze or other noncorrodible, nonsticking material, machined for easy, dependable operation. The closure element, e.g., clapper, shall be internally weighted or otherwise internally equipped to promote rapid and positive closure in all sizes where this feature is obtainable.

APPROVED DOUBLE CHECK VALVE ASSEMBLY — An assembly of at least two independently acting check valves, including tightly closing shutoff valves on each side of the check valve assembly and suitable leak detector drains plus connections available for testing the watertightness of each check valve. This device must be approved as a complete assembly.

APPROVED REDUCED-PRESSURE-PRINCIPLE BACKFLOW PREVENTION DEVICE — A device incorporating two or more check valves and an automatically operating differential relief valve located between the two checks, two shutoff valves, and equipped with necessary appurtenances for testing. The device shall operate to maintain the pressure in the zone between the two check valves, less than the pressure on the public water supply side of the device. At cessation of normal flow, the pressure between check valves shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve shall operate to maintain this reduced pressure by discharging to the atmosphere. When the inlet pressure is two pounds per square inch or less, the relief valve shall open to the atmosphere, thereby providing an air gap in the device. To be approved, these devices must be readily accessible for maintenance and testing and installed in a location where no part of the valve will be submerged.

The enclosure must be self-draining, so that the large amount of water which the relief valve may vent will be disposed of reliably without submergence of the relief valve. This device must also be approved as a complete assembly.

APPROVED WATER SUPPLY — Any water supply approved by the New York State Department of Health.

AUXILIARY SUPPLY — Any water supply on or available to the premises other than the approved public water supply.

CERTIFIED BACKFLOW PREVENTION DEVICE TESTER — A person who is examined annually by the water purveyor and found competent for the testing of backflow prevention devices. He shall be provided with an appropriate identification card which must be renewed annually. Failure to perform his duties competently and conscientiously will result in prompt withdrawal of his certification.

CROSS-CONNECTIONS — As used in these regulations means any unprotected connection between any part of a water system used or intended to supply water for drinking purposes and any source or system containing water or substance that is not or cannot be approved as equally safe, wholesome, and potable for human consumption.

VACUUM BREAKER, NONPRESSURE TYPE — A vacuum breaker which is designed so as not to be subjected to static line pressure.

VACUUM BREAKER, PRESSURE TYPE — A vacuum breaker designed to operate under conditions of static line pressure.

WATER SUPERVISOR — The consumer or a person on the premises charged with the responsibility of complete knowledge and understanding of the water supply piping within the premises and for maintaining the consumer's water system free from cross-connections and other sanitary defects, as required by regulations and laws.

ARTICLE II
Protection of Public Water System at Service Connection

§ 129-3. Where protection is required.

A. Each service connection from a public water system for supplying water to premises having an auxiliary water supply shall be protected against backflow of water from the premises into the public water system, unless the auxiliary water supply is approved as an additional source by the water purveyor and is satisfactory to the public health agency having jurisdiction with regard to quality and safety, or the auxiliary water supply is properly abandoned.

B. Each service connection from a public water system for supplying water to premises, on which any substance other than the supplied water is handled under pressure in such fashion as to permit entry into the water system, shall be protected against backflow of the water from the premises into the public system. This shall include the handling of process waters and waters originating from the public water supply system which may have been subject to deterioration in sanitary or chemical quality.

C. Each service connection from a public water system for supplying water to premises on which any substance that is unusually toxic or a danger to human health is or may be handled in liquid form, or in solid or gaseous form if such substance is intended to be used after conversion to liquid form, even if such substance is not under pressure, shall be protected against backflow of the water from the premises into the public water system. Examples of such premises include, but are not limited to, plating factories, premises on which cyanide is handled and hospitals. This subsection is not intended to apply to normal residential installations.

D. Backflow prevention devices shall be installed on the service connection to any premises that have internal cross-connections, unless such cross-connections are abated to the satisfaction of the water purveyor. It shall be the responsibility of the water purveyor to provide and maintain these protective devices and each one must be of a type acceptable to the State Health Department.

§ 129-4. Type of protection.

The protection device required shall depend on the degree of hazard as tabulated below:

A. At the service connection to any premises where there is an approved auxiliary water supply handled in a separate piping system with no known cross-connection, the public water supply shall be protected by an approved double check valve assembly.

B. At the service connection on any premises on which there is an auxiliary water supply where cross-connections are known to exist which cannot be presently eliminated, or where the auxiliary water supply is not approved, the public water supply system shall be protected by an air gap separation or an approved reduced-pressure-principle backflow prevention device.

C. At the service connection to any premises on which a substance that would be objectionable (but not necessarily hazardous to health if introduced into the public

water supply) is handled so as to constitute a cross-connection, the public water supply shall be protected by an approved double check valve assembly.

D. At each service connection from a public water system for supplying water to premises on which any substance that is unusually toxic or a danger to human health is or may be handled, in liquid form, or in solid or gaseous form if such substance is intended to be used after conversion to liquid form, even if it is not under pressure, the public water supply shall be protected by an air-gap separation or an approved reduced-pressure-principle backflow prevention device.

E. At each service connection from a public water system for supplying water to premises on which any substance that is unusually toxic or dangerous to human health is or may be handled under pressure, the public water supply shall be protected by an air gap separation or an approved reduced-pressure-principle backflow prevention device.

F. At the service connection to any sewage treatment plant or sewage pumping station, the public water supply shall be protected by an air gap separation. The air gap shall be located as close as practicable to the water meter and all piping between the water meter and receiving tanks shall be entirely visible. If these conditions cannot be reasonably met, the public water supply shall be protected with an approved reduced pressure principle backflow prevention device.

ARTICLE III
Protection of Potable Water System Within Premises

§ 129-5. Separate drinking water systems.

Whenever the Plumbing Inspector determines that it is not practical to protect drinking water systems on premises against entry of water from a source or piping system or equipment that cannot be approved as safe or potable for human use, an entirely separate drinking water system shall be installed to supply water at points convenient for consumers.

§ 129-6. Fire systems.

Water systems for fighting fire, derived from a supply that cannot be approved as safe or potable for human use shall, wherever practicable, be kept wholly separate from drinking water pipelines and equipment. In cases where the domestic water system is used for both drinking and firefighting purposes, approved backflow prevention devices shall be installed to protect such individual drinking water lines as are not used for firefighting purposes. Any auxiliary firefighting water supply which is not approved for potable purposes, but which is so connected that it may be introduced into potable water piping during an emergency, shall be equipped with an approved automatic chlorination machine. It is hereby declared that it is the responsibility of the person or persons causing the introduction of said unapproved or unsafe water into the pipelines to see:

A. That a procedure be developed and carried out to notify and protect users of this piping system during the emergency;

B. That special precautions be taken to disinfect thoroughly and flush out all pipelines which may become contaminated before they are again used to furnish drinking water. In the event the means of protection of water consumers is by disinfection of the auxiliary firefighting supply, the installation and its use shall be thoroughly reliable;

C. The public water supply must be protected against backflow from such dual domestic fire systems, as detailed in § 129-7.

§ 129-7. Process waters.

Potable water pipelines connected to equipment for industrial processes or operations shall be protected by a suitable backflow prevention device located beyond the last point from which drinking water may be taken, which device shall be provided on the feed line to process piping or equipment. In the event the particular process liquid is especially corrosive or apt to prevent reliable action of the backflow prevention device, air gap separation shall be provided. These devices shall be tested by the water user at least once a year; or more often in those instances where successive inspections indicate repeated failure. The devices shall be repaired, overhauled or replaced whenever they are found to be defective. These tests must be performed by a qualified backflow prevention device tester and records of tests, repairs, and replacement shall be kept and made available to the water purveyor and the health department upon request.

§ 129-8. Sewage treatment plants and pumping stations.

Sewage pumps shall not have priming connections directly off any drinking water systems. No connections shall exist between the drinking water system and any other piping, equipment or tank in any sewage treatment plant or sewage pumping station.

§ 129-9. Plumbing connections.

A. Where the circumstances are such that there is special danger to health by the backflow of sewage, as from sewers, toilets, hospital bedpans and the like, into a drinking water system, a dependable device or devices shall be installed to prevent such backflow.

B. The purpose of these regulations is not to transcend local plumbing regulations, but only to deal with those extraordinary situations where sewage may be forced or drawn into the drinking water piping. These regulations do not attempt to eliminate at this time the hazards of back-siphonage through flushometer valves on all toilets, but deal with those situations where the likelihood of vacuum conditions in the drinking water system is definite and there is special danger to health. Devices suited to the purpose of avoiding back-siphonage from plumbing fixtures are roof tanks, barometric loops or separate pressure systems separately piped to supply such fixtures, recognized approved vacuum or siphon breaker and other backflow protective devices which have been proved by appropriate tests to be dependable for destroying the vacuum.

C. Inasmuch as many of serious hazards of this kind are due to water supply piping which is too small, thereby causing vacuum conditions when fixtures are flushed or water is drawn from the system in other ways, it is recommended that water supply piping that is too small be enlarged whenever possible.

§ 129-10. Pier and dock hydrants.

Backflow protection by a suitable backflow prevention device shall be provided on each drinking water pierhead outlet used for supplying vessels at piers or waterfronts. These assemblies must be located where they will prevent the return of any water from the vessel into the drinking water pipeline or into another adjacent vessel. This will prevent such practices as connecting the ship fire-pumping or sanitary pumping system with a dock hydrant and thereby pumping contaminated water into the drinking water system, and thence to adjacent vessels or back into the public means.

§ 129-11. Marking safe and unsafe water lines.

A. Where the premises contain dual or multiple water systems and piping, the exposed portions of pipelines shall be painted, banded or marked at sufficient intervals to distinguish clearly which water is safe and which is not safe. All outlets from secondary or other potentially contaminated systems shall be posted as being contaminated and unsafe for drinking purposes. All outlets intended for drinking purposes shall be plainly marked to indicate that fact.

B. Water supervisor. The health department and the water purveyor shall be kept informed of the identity of the person responsible for the water piping on all

premises concerned with these regulations. At each premises, where it is necessary in the opinion of the water purveyor, a water supervisor shall be designated. This water supervisor shall be responsible for the installation and use of pipelines and equipment and for the avoidance of cross-connections.

C. In the event of contamination or pollution of the drinking water system due to a cross-connection on the premises, the local health officer and water purveyor shall be promptly advised by the person responsible for the water system so that appropriate measures may be taken to overcome the contamination.

ARTICLE IV
Recourse for Noncompliance

§ 129-12. Protection of water supply.

No water service connection to any premises shall be installed or maintained by the water purveyor, unless the water supply is protected as required by state regulations and this rule.

§ 129-13. Backflow prevention device.

Service of water to any premises may be discontinued by the water purveyor, if a backflow preventive device required by this rule and regulation is not installed, tested, and maintained; if any defect is found in an installed backflow preventive device; if it is found that a backflow preventive device has been removed or bypassed; if unprotected cross-connections exist on the premises. Service will not be restored until such conditions or defects are corrected.

ARTICLE V
Delegation of Town's Authority

§ 129-14. Authorized delegate.

The municipality is hereby authorized to delegate all or any part of its power, authority and/or responsibilities under this chapter and under the CCC Law, to the extent permitted by applicable law, to an authorized delegate, such as the Commission or an authorized representative of the Commission. In the event that the municipality does delegate all or any part of its power, authority and/or responsibilities to an authorized delegate, such delegate shall be deemed to be acting with the full power and authority of the municipality in regard to such matters, to the extent such power and authority exists under applicable law and to the extent such power and authority may be so delegated under applicable law. In the event that the municipality so delegates its power, authority or responsibility in regard to a particular matter discussed in this chapter, then, for the purposes of interpreting the text of this chapter referring to such matter, each and every reference in such text to "the municipality" may be understood to be a reference to the municipality's authorized delegate, such as, for example, as a reference to "the Commission."

§ 129-15. Agreement among member municipalities.

The delegation of power, authority or responsibility described in § 129-14 above may be made by written agreement among the municipalities that are members of the Commission. In such an agreement, the municipality may authorize the entity to which the municipality is thereby delegating its power, authority or responsibility, such as the Commission, to: (i) appoint an administrator for a backflow prevention program designed to implement the provisions and fulfill the requirements of this chapter and the CCC Law who shall be an employee of the authorized delegate; or (ii) select and engage an engineering or contracting or similar firm or person to act as administrator for the backflow prevention program; or (iii) administer the backflow prevention program itself; or (iv) combine options (i), (ii) and (iii) in structuring, and assigning the various tasks of, the administration of the program. In the event that the municipality so empowers its authorized delegate, and its authorized delegate takes any of the foregoing actions, the municipality's authorized delegate may grant to the program administrator any and all such power, authority or responsibility as has been delegated to the authorized delegate, and as the municipality's authorized delegate deems necessary or appropriate, to develop, implement, administer and enforce the terms of a backflow prevention program on behalf of the municipality. Such delegation to the program administrator shall be made only to the extent permissible under applicable law.

ARTICLE VI
Installation and Servicing of Water Distribution Systems

§ 129-16. Responsibilities of owners or operators.

All persons within the municipality that own or operate any water distribution system, or component of a water distribution system, that is connected to the public water supply system of the municipality (each, a "user"), as well as all persons that perform installation, repair, modification or servicing of any part of such users' water distribution system, shall take all steps necessary or appropriate to minimize the occurrence of backflow into the public water supply system and any resultant damage. Such steps shall include, but shall not be limited to, control of fire hydrant flow, maintaining maximum possible pressure during repairs, follow-up flushing and bacterial testing. Users of the public water supply system, and persons that intend to perform installation, repair, modification or servicing of any part of such users' water distribution system, shall contact the municipality, or its designated agent, to obtain the information regarding the potential causes of and problems resulting from back-flow into the public water supply, as well as the measures necessary or appropriate to prevent backflow in accordance with the New York State Cross-Connection Control Law and NYS Department of Health requirements, that such persons may require in order to achieve and maintain compliance with this chapter.

§ 129-17. Survey of users.

A. Each user of the public water system who, under applicable New York State law, may be considered to be a potentially hazardous user, shall cooperate, to the extent reasonably possible, in enabling the municipality, utilizing either its own personnel or independent contractors or a combination of both, to perform surveys of such user's water distribution system in order to determine if such user is a potentially hazardous user.

B. Any person selected by the municipality to perform such surveys, whether an employee of the municipality or an independent contractor, shall demonstrate to the satisfaction of the municipality that such person has received such training as is necessary or appropriate to perform the surveys in a thorough and accurate manner.

§ 129-18. Certification of potentially hazardous users.

A. Each user that receives written notice of having been identified, under applicable New York State law, as a potentially hazardous user shall be obligated, immediately upon receipt of such notice, to obtain and deliver to the municipality, or to the municipality's designated agent, as stated in such notice, written certification: (i) certifying whether the hazard described in the notice does or does not exist; and (ii) if such hazard does exist, certifying that a New York State Health Department approved backflow prevention device: (a) has been properly installed; and (b) is fully operational. The written certification must be signed by a licensed professional engineer who has adequate training, in the opinion of the municipality or its designated agent, in sanitary engineering, including in backflow prevention systems, water distribution and hydraulics. Any inspection and/or testing performed in connection with the preparation of the written certification must be performed by

a person who has received certification from the State of New York Department of Health as a certified backflow prevention device tester (such person referred to in this chapter as a "certified backflow prevention device tester"), who has performed such inspection and/or testing under the supervision of the professional engineer who signs the written certification. The certification shall be dated, signed and sealed by the certified backflow prevention device tester not later than 72 hours following the performance of any necessary tests at the site, and, if no testing was performed, not later than 48 hours following physical inspection of the site.

B. In the event that a user receives written notification from the municipality, or its designated agent, that such user's certification:

(1) Is materially deficient in regard to the scope, nature or detail of information provided;

(2) Contains any material errors; or

(3) Provides information indicating that the user's backflow prevention device or system is inadequate or unsatisfactory, then this subsequent notice shall have the same effect as the initial notice described in Subsection A above, that is, immediately upon receipt of this subsequent notice, the user shall be obligated to obtain and deliver to the municipality, or to the municipality's designated agent, as stated in such notice, a certification as described in Subsection A above, which certification, in addition to the requirements of Subsection A above, specifically states the manner in which the defect identified in the subsequent notice has been cured.

C. In the event that the user has failed to deliver either:

(1) The certification described in Subsection A above within 30 days of the date of the initial notice to the user; or

(2) The certification described in Subsection B above within 15 days of the subsequent notice to the user, then such user shall be in violation of this chapter and subject to such penalties as are provided for herein and under all other applicable law.

D. Each user shall pay a filing fee established by the municipality for the filing of the above-described certifications. Such fees may vary depending upon the nature of the user's business, the volume of water used by the user, and the size, age and location of the user's facilities.

E. All surveys of user's water distribution systems and all certifications delivered in accordance with this chapter shall be and remain the property of the municipality.

F. Each user who has been identified as a potentially hazardous user and has been sent a notice in accordance with Subsection A above shall be required to deliver to the municipality, or its designated agent, an updated certification as described in Subsection A above not less than once during every twelve-month period following the date of the initial notice to the user stating that the user has been identified as a potentially hazardous user. The municipality may deliver notices of such requirement for updated certifications to users periodically. In any case that the

municipality has notified a user that a certification is defective as described in Subsection B above, the municipality may require, by delivery of written notice to the user, that the user deliver to the municipality additional written certifications, as described in Subsection A above, once in each four-month period during the 12 months following delivery of the defective certification.

G. In the event that any user that has previously been identified as a potentially hazardous user by having received a notice as described in Subsection A above intends to install any backflow prevention device at its premises, prior to installation of such device, the user shall deliver to the municipality, or to the municipality's designated agent, a written statement, prepared by a New York State licensed professional engineer, describing the device and a copy of the user's plans for its installation. The user shall not install such device until the user has received the municipality's, or the municipality's designated agent's, written approval to such plans, and such approval as may be required from the Tompkins County Health Department. If the installation of the device deviates substantially from such plans, the user shall obtain the municipality's, or the municipality's designated agent's, written approval, and such approval as may be required from the Tompkins County Health Department, to such deviation.

§ 129-19. Penalties for offenses.

A. In the event that a user of the public water supply fails to comply with any term or provision of this chapter, the user shall be in violation of this chapter, and such user shall be subject to the imposition of such penalties as are provided in accordance with the Cross-Connection Control Law, and/or in accordance with this chapter and/or in accordance with any other applicable law. In addition, a violation of this chapter shall constitute a violation under the Penal Law of the State of New York. If no other penalties are provided, a violation of this chapter shall be deemed to be a misdemeanor, and the violator shall be subject to a fine of up to $1,000 and imprisonment for up to one year. Each week's continued violation shall constitute a separate offense. The provisions of the Criminal Procedure Law, and any other law applicable to misdemeanors, shall govern criminal prosecutions of violations of this chapter.

B. In addition to any other penalties provided in the Cross-Connection Control Law, or any other applicable law, if a user fails to provide to the municipality, or to the municipality's designated agent, any certification required in accordance with § 129-18 of this chapter, the user shall be subject to a fine. This fine shall not exceed $25 for each day beyond the 180th day following the date of the original notice to the user (as described in § 129-18A of this chapter) multiplied by the number of inches of diameter of the largest pipe supplying public water to such user's premises.

C. In addition to any other penalties provided for herein, the municipality may institute any appropriate action or proceeding to prevent the unlawful installation, repair, modification, maintenance or use of a water distribution system that is connected to the public water supply in violation of the requirements of this chapter, the Cross-Connection Control Law or other applicable law.

§ 129-20. Residential users.

A. Residential users shall be considered potentially hazardous users if a determination is made by the municipality that: (i) an activity conducted at the residential property; or (ii) a circumstance specific to the residential property establishes an equivalent degree of hazard as might be found in the situation of a potentially hazardous nonresidential user. Examples of such activities and circumstances include, but are not limited to, the presence of boiler feed inhibitors, antifreeze loops and single-walled heat exchangers. Residential swimming pools and double-walled heat exchanger systems shall not be considered potential hazards.

B. Residential users also shall be considered potentially hazardous users if:

(1) The residential user obtains its water supply from a private well in addition to the public water supply service. In this case, the residential user must either comply with all currently applicable requirements of the NYS Cross-Connection Control Law and of the NYS Department of Health Cross-Connection Control Guide, or abandon use of the private well supply in a proper manner.

(2) The residential user owns, operates, installs or relocates a lawn sprinkler system which employs underground lawn sprinklers. Such a residential user shall be required to install acceptable reduced-pressure-zone devices in accordance with the conditions of Subpart 5-1.31(a) of the NYS Cross-Connection Control Law. Residential users who own, operate, install or relocate a "pop-up" lawn sprinkler system, rather than a strictly underground sprinkler system, shall likewise be required to install an acceptable reduced-pressure-zone device under said Subpart 5-1.31(a), unless such owners apply in writing to the municipality for a waiver of this requirement and receive written confirmation from the municipality of such waiver. The requirement described in this Subsection B(2) shall not apply to lawn sprinkler systems that are six inches or more above grade.

§ 129-21. Private hydrants.

Owners and operators of private hydrants which are not under the control of the public water supplier shall be required to install acceptable reduced-pressure-zone devices in accordance with Part 5-1.31(a) of the NYS Cross-Connection Control Law. The foregoing requirement shall apply whether the private hydrants are used to augment firefighting systems, for lawn fertilization, for tree spraying or for any other purposes.

§ 129-22. Multiple customer distribution systems.

A. A "multiple customer distribution system," according to the New York State Department of Health, includes all strip shopping centers, malls and similar water distribution networks. For the purposes of this chapter, the term "multiple customer distribution system" shall also include any system providing water to any single nonresidential building or group of nonresidential buildings that are occupied by two or more entities which entities are not all owned by a common owner or by one another or are not all engaged in the conduct of the same activities at the location served by said water system. All multiple customer distribution systems shall be

identified as potentially hazardous users, because there is generally no communication with the municipality regarding changes in individual customers using such systems. Owners of such systems, and/or their agents, shall install acceptable reduced-pressure-zone protection in such systems within the common service portion of such systems and as close within such systems to the water meter as is reasonably practical.

B. In the event that: (i) the owner of multiple customer distribution systems, and/or the owner's agent, submits to the municipality, or the municipality's designated agent, a detailed written description, satisfactory to the municipality, or its designed agent, of (a) the system and its users and (b) any change in any of the users of such system within 30 days of such change; and (ii) the municipality, or its designated agent, determines that no user of such system is a potentially hazardous user, and that the system otherwise complies with all applicable backflow prevention laws, the multiple customer distribution system shall be entitled to a waiver of compliance with the requirements of Subsection A above. Failure on the part of the owner and/or the owner's agent to deliver the notification of change of users described in (b) above shall automatically make void any waiver from compliance with the requirement to install adequate reduced-pressure-zone protection in the multiple customer distribution system.

Chapter 140

ELECTRICAL CODE

§ 140-1. Title.

This chapter shall be known as "the Electrical Code of the Town of Dryden."

§ 140-2. Purpose.

Since there is danger to life and property inherent in the use of electrical energy, this chapter is enacted to regulate the installation, alteration of wiring for electric light, heat or power and signal systems operating on 50 volts or more, in or on all real property within the Town of Dryden, exclusive of the Villages of Dryden and Freeville.

§ 140-3. National code adopted.

All electrical installations heretofore mentioned shall be made in conformity with the requirements of the National Electrical Code except where the provisions of this chapter or any other local ordinance or building Code of the Town of Dryden shall differently prescribe, in which event, compliance with the provisions of such local law, ordinance or Building Code shall be recognized as proper compliance with this chapter. The requirements of the National Electrical Code shall be those known as National Fire Association Pamphlet #70, as approved and adopted by the American Standards Association.

§ 140-4. Electrical Inspector.

A. The Town Board of the Town of Dryden shall appoint by resolution one or more qualified Electrical Inspectors, who, upon their appointment, are hereby authorized and deputized as agents of the Town of Dryden to make inspections and reinspections of all electrical installations heretofore and hereafter described, and to approve or disapprove the same. In no event, however, will the cost or expense of such inspections and reinspections be a charge against the Town of Dryden.

B. A qualified Electrical Inspector means a person who: **[Added 5-11-2006 by L.L. No. 4-2006]**

(1) Has passed the New York State Civil Service Examination and is currently eligible for appointment as an Electrical Inspector according to the rules of the Civil Service Commission;

(2) Has been certified as a Residential Electrical Inspector (for single- or two-family residential home construction) by the International Association of Electrical Inspectors; or

(3) Has been certified as a Master Electrical Inspector for all other types of construction by the International Association of Electrical Inspectors.

§ 140-5. Duties of Electrical Inspectors.

A. It shall be the duty of the Inspector to report in writing to the Building Inspector or

Zoning Enforcement Officer, whose duty it shall be to enforce all the provisions of this chapter, all violations of or deviations from or omissions of the electrical provisions of the National Electrical Code, and of all local laws, local ordinances, and building codes as referred to in this chapter insofar as any of the same apply to electrical wiring. The Inspector shall make inspections and reinspections of electrical installations in and on properties in the Town of Dryden upon the written request of an authorized official of the Town of Dryden or as herein provided. The inspector is authorized to make inspections and reinspections of electrical wiring installations, devices, appliances, and equipment, in and on properties within the Town of Dryden where he deems it necessary for the protection of life and property. In the event of an emergency, it is the duty of the Inspector to make electrical inspections upon the oral request of an official or officer of the Town of Dryden.

B. It shall be the duty of the Inspector to furnish written reports to the proper officials of the Town of Dryden and owners and/or lessees of property where defective electrical installations and equipment are found upon inspection. He shall authorize the issuing of a certificate of compliance when electrical installations and equipment are in conformity with this chapter. He shall direct that a copy of the certificate of compliance be sent to the Town of Dryden to the attention of the Building Inspector or Zoning Enforcement Officer.

§ 140-6. Violations.

It shall be a violation of this chapter for any person, firm or corporation to install or cause to be installed, or to alter electrical wiring for light, heat or power in or on properties in the Town of Dryden until an application for inspection has been filed with the authorized and appointed inspector of the Town of Dryden. It shall be a violation of this chapter for a person, firm or corporation to connect or cause to be connected electrical wiring, in or on properties for light, heat or power, to any source of electrical energy supply, prior to the issuance of a temporary certificate, or a certificate of compliance, by the Inspector.

§ 140-7. Penalties for offenses.

Any person, firm or corporation who shall violate any of the provisions of this chapter or any rule or regulation made pursuant thereto shall be guilty of a violation, and upon conviction thereof may be punished by a fine of not more than $100, and each day on which such violation continues shall constitute a separate offense.

§ 140-8. Chapter not applicable in certain cases.

The provisions of this chapter shall not apply to the electrical installations in mines, ships, railway cars, automotive equipment, or the installations or equipment employed by a railway, electrical or communication utility in the exercise of its function as a utility, and located outdoors or in buildings used exclusively for that purpose. This chapter shall not apply to any work involved in the manufacture, assembly, test or repair of electrical machinery, apparatus, materials and equipment by a person, firm or corporation engaged in electrical manufacturing as their principal business. It shall not apply to any building which is owned or leased in it entirety by the government of the United States or the State of New York. It shall not apply to any construction unless a building permit is required by the Town of Dryden.

§ 140-9. No waiver or assumption of liability.

This chapter shall not be construed to relieve from or lessen the responsibility of any person owning, operating, controlling or installing any electrical wiring, devices, appliances, or equipment for loss of life or damage to person or property caused by any defect therein, nor shall the Town of Dryden or the Inspector be deemed to have assumed any such liability by reason of any inspection made pursuant to this chapter.

§ 140-10. Severability.

If any part or provision of this chapter or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons or circumstances and the Town Board of the Town of Dryden hereby declares that it would have passed this chapter or the remainder thereof had such invalid application or invalid provision been apparent.

§ 140-11. Repealer.

All local law and parts of local laws or local ordinances inconsistent with this chapter are hereby repealed.

§ 140-12. When effective.

This chapter shall take effect immediately upon its approval and filing in the manner so provided by law.

Chapter 147

FARMING

§ 147-1. Legislative intent; purpose.

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

B. Farming, as defined herein, reinforces the special quality of life enjoyed by residents of the Town, provides the visual benefit of open space, and generates economic benefits and social well-being within the community. Therefore, the Town of Dryden emphasizes to newcomers and non-farmers that this Town encourages agriculture and requests newcomers and non-farmers to be understanding of the nature of day-to-day operations.

C. It is the general purpose and intent of this chapter to maintain and preserve the rural tradition and character of the Town of Dryden, to permit the continuation of agricultural practices, to protect the existence and operation of farms, and to encourage the initiation and expansion of farms and agricultural businesses.

D. For the purpose of reducing future conflicts between farmers and non-farmers, it is important that notice to be given to future neighbors about the nature of agricultural practices.

§ 147-2. Definitions.

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

AGRICULTURAL PRACTICES — Includes all activities conducted on a farm, necessary to the operation of a farm.

FARM — Includes livestock, dairy, poultry, fur-bearing animal, aquaculture, fruit, vegetable and field crop farms, plantations, orchards, nurseries, greenhouses, or other similar operations used primarily for the raising of agricultural or horticultural commodities.

§ 147-3. Right to undertake agriculture practices.

Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in farming practices within the Town of Dryden at any and all such times and all such locations as are reasonably necessary to conduct the business of farming. For any activity or operation, in determining the reasonableness of the time, place and methodology of such operation, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge and improved technologies.

§ 147-4. Notice to prospective neighbors.

The following notice shall be included in building permits, special permits, permits issued in site plan review and in any other situation where a permit is required to be issued by the Town of Dryden and on plats of subdivisions submitted for approval

pursuant to Town Law § 276 and Chapter 240, Subdivision of Land, of the Code of the Town of Dryden, New York.

"This property may border a farm, as defined in Town of Dryden Local Law No. 1 of the year 1992, a local law known as the Right-to-Farm Law. Residents should be aware that farmers have the right to undertake good or acceptable farm practices which may generate dust, odor, smoke, noise, and vibration."

§ 147-5. Severability.

A. If any part of this chapter for any reason is held to be unconstitutional or invalid, such decision shall not affect the remainder of this chapter.

B. Nothing contained herein shall be construed as being inconsistent with any other local law, ordinance, rule or regulation of the Town of Dryden, the intention of this chapter being to supplement and complement other local laws, ordinances, rules or regulations.

§ 147-6. When effective.

This chapter shall be effective immediately upon filing, as provided by the Municipal Home Rule Law.

Chapter 151

FEES AND CHARGES

ARTICLE I
Reimbursement of Development Review Expenses
[Adopted 9-6-2000 by L.L. No. 5-2000]

§ 151-1. Legislative findings, intent and purpose.

A. The Town Board hereby finds and determines that in order to protect and safeguard the Town of Dryden, its residents and their property with respect to certain land developments within the Town, all buildings, highways, drainage facilities, water and sewer facilities, other utilities and parks within developments should be designed and constructed in a competent and workmanlike manner and in conformity with all applicable governmental codes, rules and regulations and dedicated and conveyed to the Town in a legally sufficient manner, that in order to assure the foregoing, it is essential for the Town to have competent engineers retained by the Town to review and approve plans and designs, make recommendations to the Town Board and Planning Board, inspect the construction of highways, drainage, water and sewer, other facilities and parks to be dedicated to the Town and to recommend their acceptance by the Town, and to have competent attorneys retained by the Town to negotiate and draft appropriate agreements with developers, obtain, review and approve necessary securities, insurance and other legal documents, review proposed deeds and easements to assure the Town is obtaining good and proper title and to generally represent the Town with respect to legal disputes and issues with respect to developments, and that the cost of retaining such competent engineers and attorneys should ultimately be paid by those who seek to profit from such developments rather than from general Town funds which are raised from taxes paid by taxpayers of the Town.

B. This article is enacted under the authority of Municipal Home Rule Law § 10(1)(ii)(a)(12) and (d)(3) and Municipal Home Rule Law § 22. To the extent Town Law §§ 274-a, 274-b, 276, 277 and 278 do not authorize the Town Board, Site Plan Review Board or Town Planning Board to require the reimbursement to the Town of legal and engineering expenses incurred by the Town in connection with the review and consideration of applications for site plan review, special permits, subdivision approval, and for the approval, amendment or extension of planned unit developments, it is the expressed intent of the Town Board to change and supersede such statutes. More particularly, such statutes do not authorize the deferral or withholding of such approvals in the event such expenses are not paid to the Town. It is the expressed intent of the Town Board to change and supersede Town Law §§ 274-a, 274-b, 276, 277 and 278 to empower the Town to require such payment as a condition to such approvals.

§ 151-2. Definitions.

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

APPLICANT — Any person, firm, partnership, association, corporation, company or organization of any kind who or which requests the Town through its Planning Board, Site Plan Review Board or Town Board to approve a development or application.

DEVELOPER — Any person, firm, partnership, association, corporation, company or organization of any kind who or which constructs or proposes to construct one or more

highways, drainage facilities, water, sewer or other facilities, utilities or parks within or in conjunction with a development and to convey or dedicate same to the Town.

DEVELOPMENT — Includes an application for site plan approval, special permit approval, subdivision approval, or planned unit development approval.

DRAINAGE FACILITY — All surface water drainage facilities, including but not limited to detention and retention basins, storm sewers and their appurtenances, drainage swales and ditches, and any easements through or over land on which said facilities may be constructed or installed in or in connection with a development.

HIGHWAY — Includes a street, avenue, road, square, place, alley, lane, boulevard, concourse, parkway, driveway, overpass and underpass and also includes all items appurtenant thereto, including but not limited to bridges, culverts, ditches, shoulders and sidewalks in or in connection with a development.

PARK — An area of land located within a development which is open to the public and devoted to active or passive recreation.

PLANNED UNIT DEVELOPMENT — A planned unit development established under Article X, Planned Unit Development Districts, of Chapter 270, Zoning, of the Town Code (including environmental review pursuant to the New York State Environmental Quality Review Act).

SITE PLAN REVIEW — Uses allowed with site plan review pursuant to the zoning ordinance of the Town (including environmental review pursuant to the New York State Environmental Quality Review Act).

SPECIAL PERMITS — Uses allowed by special permit pursuant to Chapter 270, Zoning (including environmental review pursuant to the New York State Environmental Quality Review Act).

SUBDIVISION — A subdivision of land pursuant to Chapter 240, Subdivision of Land (including environmental review pursuant to the New York State Environmental Quality Review Act).

TOWN — The Town of Dryden.

UTILITIES — All water, sewer, drainage, gas, electric, telephone, cable television facilities and any easements through or over which said facilities may be constructed or installed in or in connection with a development.

§ 151-3. Reimbursement of fees and expenses.

A. Site plan review.

(1) The applicant, in connection with an application for a site plan approval in the Town, shall reimburse the Town for all reasonable and necessary engineering expenses incurred by the Town in connection with the review and consideration of such site plan review application.

(2) A developer who constructs, or proposes to construct, one or more highways, drainage facilities, utilities or parks within or in conjunction with an approved site plan by the Town shall reimburse the Town for all reasonable and necessary legal and engineering expenses incurred by the Town in connection with the inspection and acceptance by the Town of such highways, drainage

facilities, utilities and parks and the dedication of same to the Town.

B. Special permits.

(1) The applicant, in connection with an application for approval of a special permit in the Town, shall reimburse the Town for all reasonable and necessary engineering expenses incurred by the Town in connection with the review and consideration of such special permit application.

(2) A developer who constructs, or proposes to construct, one or more highways, drainage facilities, utilities or parks within or in conjunction with an approved special permit by the Town shall reimburse the Town for all reasonable and necessary legal and engineering expenses incurred by the Town in connection with the inspection and acceptance by the Town of such highways, drainage facilities, utilities and parks and the dedication of same to the Town.

C. Subdivisions.

(1) The applicant, in connection with an application for approval of a subdivision in the Town, shall reimburse the Town for all reasonable and necessary engineering expenses incurred by the Town in connection with the review and consideration of such subdivision application.

(2) A developer who constructs, or proposes to construct, one or more highways, drainage facilities, utilities or parks within or in conjunction with an approved subdivision by the Town shall reimburse the Town for all reasonable and necessary legal and engineering expenses incurred by the Town in connection with the inspection and acceptance by the Town of such highways, drainage facilities, utilities and parks and the dedication of same to the Town.

D. Planned unit development.

(1) An applicant, in connection with an application for the approval, amendment or extension of a planned unit development in the Town, shall reimburse the Town for all reasonable and necessary engineering expenses incurred by the Town in connection with the review and consideration of such planned unit development application.

(2) A developer who constructs or proposes to construct one or more highways, drainage facilities, utilities or parks within or in conjunction with a planned unit development in the Town shall reimburse the Town for all reasonable and necessary legal and engineering expenses incurred by the Town in connection with the inspection and acceptance by the Town of such highways, drainage facilities, utilities and parks and the dedication of same to the Town.

E. Stormwater pollution prevention plans. **[Added 12-13-2007 by L.L. No. 5-2007]**

(1) The applicant, in connection with the approval of a stormwater pollution prevention plan (SWPPP), shall reimburse the Town for all reasonable and necessary engineering, certified inspector, certified professional, licensed professional or qualified professional expenses incurred by the Town in connection with the review and consideration of such SWPPP.

(2) A developer who constructs, or proposes to construct, one or more drainage facilities or stormwater management and erosion and sediment control facilities in connection with an approved SWPPP shall reimburse the Town for all reasonable and necessary engineering, certified inspector, certified professional, licensed professional or qualified professional expenses incurred by the Town in connection with the inspection, approval, and if applicable, acceptance by the Town of such facilities and the dedication of the same to the Town.

§ 151-4. Exceptions.

A. The following developments are hereby excepted from the application of this article: any division of land that does not meet the definition of "subdivision" in Chapter 240, Subdivision of Land.

B. Notwithstanding anything to the contrary contained in this article, an applicant or developer shall not be required to reimburse the Town for any part of a legal or engineering fee incurred by the Town for services performed in connection with matters, including but not limited to those resulting from complaints by third parties, as to which the Town Board determines the applicant or developer had no responsibility or was beyond the reasonable control of the applicant or developer.

§ 151-5. Deposit and payment of fees.

A. Simultaneously with the filing of an application for approval of a development and prior to the commencement of any construction of buildings, highways, drainage facilities, utilities or parks therein, the applicant or developer, as the case may be, shall deposit with the Town Supervisor a sum of money, as determined in § 151-6 of this article, which sum shall be used to pay the costs incurred by the Town for engineering and legal services as described in § 151-3 of this article.

B. Upon receipt of such sums, the Town Supervisor shall cause such 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 and the name of the applicant or developer and project for which such sums were deposited.

C. Upon receipt and approval by the Town Board of itemized vouchers from an engineer and/or attorney for services rendered on behalf of the Town pertaining to the development, the Town Supervisor shall cause such vouchers to be paid out of the monies so deposited, and shall furnish copies of such vouchers to the applicant or developer at the same time such vouchers are submitted to the Town.

D. The Town Board shall review and audit all such vouchers and shall approve payment of only such engineering and legal fees as are reasonable in amount and necessarily incurred by the Town in connection with the review, consideration and approval of developments and the inspection and acceptance of highways, drainage facilities, utilities and parks within or in conjunction with such developments. For purpose of the foregoing, a fee or part thereof is reasonable in amount if it bears a reasonable relationship to the average charge by engineers or attorneys to the Town for services performed in connection with the approval or construction of a similar development, and in this regard, the Town Board may take into consideration the

size, type and number of buildings to be constructed, the amount of time to complete the development, the topography of the land on which such development is located, soil conditions, surface water, drainage conditions, the nature and extent of highways, drainage facilities, utilities and parks to be constructed and any special conditions or considerations as the Town Board may deem relevant; and a fee or part thereof is necessarily incurred it was charged by the engineer or attorney for a service which was rendered in order to protect or promote the health, safety or other vital interests of the residents of the Town, protect public or private property from damage from uncontrolled, surface water run-off and other factors, assure the proper and timely construction of highways, drainage facilities, utilities and parks, protect the legal interests of the Town including receipt by the Town of good and proper title to dedicated highways and other facilities and the avoidance of claims and liability, and such other interests as the Town Board may deem relevant.

E. If at any time during or after the processing of such application or in the construction, inspection or acceptance of buildings, highways, drainage facilities, utilities or parks there shall be insufficient monies on hand to the credit of such applicant or developer to pay the approved vouchers in full, or if it shall reasonably appear to the Town Supervisor that such monies will be insufficient to meet vouchers yet to be submitted, the Town Supervisor shall cause the applicant or developer to deposit additional sums as the Supervisor deems necessary or advisable in order to meet such expenses or anticipated expenses.

F. In the event that the applicant or developer fails to deposit such funds or such additional funds, the Town Supervisor shall notify, as applicable, the Chairperson of the Planning Board, Town Board and/or Town's Code Enforcement Officer of such failure, and any review, approval, building permit or certificates of occupancy may be withheld by the appropriate Board, officer or employee of the Town until such monies are deposited.

G. After final approval, acceptance and/or the issuance of a certificate of occupancy relating to any specific development, and after payment of all approved vouchers submitted regarding such development, any sums remaining on account to the credit of such applicant or developer shall be returned to such applicant or developer, along with a statement of the vouchers so paid.

§ 151-6. Deposit amounts.

The amount of the initial deposit for the various developments covered by this article shall be as set forth in a schedule of deposits established from time to time, by resolution of the Town Board. Said schedule shall remain in effect and shall apply to all applicants and developers until amended or revised by subsequent resolution.

§ 151-7. Application fees.

The deposits required by this article shall be in addition to any application fees as may be required by other laws, rules, regulations or ordinances of the Town, and shall not be used to offset the Town's general expenses of legal and engineering services for the several Boards of the Town, nor its general administration expenses.

§ 151-8. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this article 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, subdivision, section or part thereof directly involved in the controversy in which such judgment is rendered.

§ 151-9. When effective.

This article shall take effect immediately upon filing in the office of the Secretary of State.

Chapter 155

FLOOD DAMAGE PREVENTION

ARTICLE I
Statutory Authorization and Purpose

§ 155-1. Findings.

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

§ 155-2. 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 participation in the National Flood Insurance Program.

§ 155-3. Objectives.

The objectives of this chapter are:

A. To protect human life and health;

B. To minimize expenditure of public money for costly flood control projects;

C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. To minimize prolonged business interruptions;

E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;

F. To help maintain a stable tax base by providing for the sound use and development

of areas of special flood hazard so as to minimize future flood blight areas;

G. To provide that developers are notified that property is in an area of special flood hazard; and

H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

ARTICLE II
Terminology

§ 155-4. Word usage.

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

§ 155-5. Definitions.

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

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

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

AREA OF SHALLOW FLOODING — A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD — Is the land in the floodplain within a community subject to a one-erpcent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-99, V, VO, VE, or V1-30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

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

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

BREAKAWAY WALL — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BUILDING — Any structure built for support, shelter, or enclosure for occupancy or storage.

CELLAR — Has the same meaning as "basement."

COASTAL HIGH HAZARD AREA — The area subject to high-velocity waters including, but not limited to, hurricane wave wash. The area is designated on a firm as Zone V1-30, VE, VO or V.

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 located within the area of special flood hazard.

ELEVATED BUILDING — A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

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 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 defined but no water surface elevation data is 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 — The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood.

FLOOD or FLOODING — A general and temporary condition of partial or complete inundation of normally dry land areas from:

A. The overflow of inland or tidal waters;

B. The unusual and rapid accumulation or runoff of surface waters from any source.

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

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

FLOOR — The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction.

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. The term does not include long-term storage, manufacture, 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.

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

MANUFACTURED HOME — 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 also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

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

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

NATIONAL GEODETIC VERTICAL DATUM (NGVD) — As corrected in 1929, is a vertical control used as a reference for establishing elevations within the floodplain.

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of this chapter.

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

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 § 155-14B of this chapter.

SAND DUNES — Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

START OF CONSTRUCTION — The initiation, excluding planning and design, of any phase of a project, physical alteration of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials.

STRUCTURE — A walled and roofed building, a manufactured home, or a gas or liquid storage tank, that is principally above ground.

SUBSTANTIAL IMPROVEMENT —

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure, excluding land values, either:

   (1) Before the improvement or repair is started; or

   (2) If the structure has been damaged and is being restored, before the damage occurred.

B. For the purposes of this definition, "substantial improvement" is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

   (1) Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

   (2) Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE — A grant of relief from the requirements of this chapter which permits

construction or use in a manner that would otherwise be prohibited by this chapter.

ARTICLE III
General Provisions

§ 155-6. Lands to which this chapter applies.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of Town of Dryden.

§ 155-7. Basis for establishing areas of special flood hazard.

The areas of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHBM), or Flood Insurance Rate Map (FIRM) No. 01-06, effective May 15, 1985, is hereby adopted and declared to be a part of this chapter. The FHBM or FIRM is on file at the office of the Town Clerk, 65 East Main Street, Dryden, New York.

§ 155-8. Interpretation; conflict with other provisions.

A. This chapter is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986, and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

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.

§ 155-9. Severability.

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

§ 155-10. Penalties for offenses.

No structure 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 Dryden 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 sent to the Federal Emergency Management Agency.

§ 155-11. 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 Dryden, 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

§ 155-12. Designation of Local Administrator. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

The Code Enforcement Officer is hereby appointed Local Administrator to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

§ 155-13. Establishment of development permit.

A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in § 155-7. Application for a development 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.

A. Application stage. The following information is required, where applicable:

   (1) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures;

   (2) Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;

   (3) When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 155-15C(1);

   (4) Certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 155-16B; and

   (5) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

B. Construction stage. Upon placement of the lowest floor, or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the as-built elevation of the lowest floor, or floodproofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certificate 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.

§ 155-14. Duties and responsibilities of Local Administrator.

Duties of the Local Administrator shall include, but not be limited to:

A. Permit application review.

(1) Review all development permit applications to determine that the requirements of this chapter have been satisfied.

(2) Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.

(3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this chapter, "adversely affects" means physical damage to adjacent properties. A hydraulic engineering study may be required of the applicant for this purpose.

(a) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this chapter.

(b) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.

(4) Review all development permits for compliance with the provisions of § 155-15E, Encroachments.

B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 155-7, Basis for establishing areas of special flood hazard, 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 § 155-15D(4) in order to administer § 155-16, Specific standards, and § 155-17, Floodways.

C. Information to be obtained and maintained.

(1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.

(2) For all new or substantially improved floodproofed structures:

(a) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and

(b) Maintain the floodproofing certifications required in §§ 155-15 and 155-16.

(3) Maintain for public inspection all records pertaining to the provisions of this chapter including variances, when granted, and certificates of compliance.

D. Alteration of watercourses.

(1) Notify adjacent communities and the New York State Department of

Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

(2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

E. Interpretation of FHRM, FIRM or FBFM boundaries.

(1) The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.

(2) Base flood elevation data established pursuant to §§ 155-7 and/or 155-14B, when available, shall be used to accurately delineate the area of special flood hazards.

(3) The Local Administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

F. Stop-work orders.

(1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the Local Administrator. Disregard of a stop-work order shall be subject to the penalties described in § 155-10 of this chapter.

(2) All floodplain development found noncompliant with the provisions of this law and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order by the Local Administrator. Disregard of a stop-work order shall be subject to the penalties described in § 155-10 of this chapter.

G. 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 that the development is in compliance with the requirements of this chapter.

H. Certificate of compliance.

(1) It shall be unlawful to use or 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 either the development permit or the approved variance.

(2) All other development occurring within the area of special flood hazard will have upon completion a certificate of compliance issued by the Local Administrator.

(3) All certificates shall be based upon the inspections conducted subject to § 155-14G and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

ARTICLE V
Provisions for Flood Hazard Reduction

§ 155-15. General standards.

In all areas of special flood hazards, the following standards are required:

A. Anchoring.

(1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

(2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

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

(2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

C. Utilities.

(1) Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.

(2) All 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.

(4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

D. Subdivision proposals.

(1) All subdivision proposals shall be consistent with the need to minimize flood damage.

(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(3) All subdivision proposals shall have adequate drainage provided to reduce

exposure to flood damage.

(4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or five acres.

E. Encroachments.

(1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the area of special flood hazards set forth in § 155-14A(3), Permit review. This may require the submission of additional technical data to assist in the determination.

(2) In all areas of special flood hazard in which base flood elevation data is available pursuant to § 155-14B or 155-15D(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.

(3) In all areas of the special flood hazard where floodway data is provided or available pursuant to § 155-14B, the requirements of § 155-17, Floodways, shall apply.

§ 155-16. Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in § 155-7, Basis for establishing areas of special flood hazard, and § 155-14B, Use of other base flood and floodway data, the following standards are required:

A. Residential construction. New construction and substantial improvements of any resident structure shall:

(1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.

(2) Have fully enclosed areas below the lowest floor that 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:

(a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and

(c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided they permit the automatic entry and exit of floodwaters.

B. Nonresidential construction.

(1) New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be floodproofed to the base flood level.

(a) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following 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;

[2] The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and

[3] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided they permit the automatic entry and exit of floodwaters.

(b) If the structure is to be floodproofed:

[1] A licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

[2] A licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

(2) The Local Administrator shall maintain on record a copy of all such certificates noted in this section.

C. Construction standards for areas of special flood hazards without base flood elevations.

(1) New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor (including basement) elevated at least two feet above the highest adjacent grade next to the proposed foundation of the structure.

(2) Fully enclosed areas below the lowest floor that are subject to flooding shall

be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:

(a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and

(c) Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

§ 155-17. Floodways.

Located within areas of special flood hazard are areas designated as floodways (see definition in Article II). The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by § 155-14B, all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

ARTICLE VI
Variance Procedure

§ 155-18. Appeals Board.

A. The Zoning Board of Appeals as established by the Town of Dryden 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 § 155-18D 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.

§ 155-19. 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 § 155-18D(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 reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this chapter.

C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

(1) The criteria of Subsections A, D, E, and F of this section are met;

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats 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:

(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. 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 that the cost of flood

insurance will be commensurate with the increased risk.

Chapter 159

FRESHWATER WETLANDS

§ 159-1. Statutory authority.

Pursuant to § 24-0501 of the New York State Freshwater Wetland Act (Article 24 of the New York Environmental Conservation Law), the Town of Dryden shall fully undertake and exercise its regulatory, authority with regard to activities subject to regulation under the Act in freshwater wetlands, as shown on the Freshwater Wetlands Map, as such map may from time to time be amended, filed by the Department of Environmental Conservation pursuant to the Act, and in all areas adjacent to any such freshwater wetland up to 100 feet from the boundary of such wetland. Such regulatory authority shall be undertaken and exercised in accordance with all of the procedures, concepts and definitions set forth in Article 24 of the New York Environmental Conservation Law and Title 23 of Article 71 of such law relating to the enforcement of Article 24, as such law may from time to time be amended.

§ 159-2. Filing.

This chapter, adopted on the date set forth below, shall take effect upon the filing with the Clerk of the Town of Dryden of the final Freshwater Wetland Map by the New York State Department of Environmental Conservation pursuant to § 24-0301 of the Freshwater Wetlands Act applicable to any or all lands within the Town of Dryden.

§ 159-3. When effective.

This chapter shall take effect immediately upon adoption and filing in the manner so provided by law.

Chapter 168

HIGHWAY SPECIFICATIONS

ARTICLE I
Design Specifications

§ 168-1. Definitions.

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

AASHTO — The American Association of State Highway and Transportation Officials.

APPROVAL OF THE TOWN — The approval in writing by the Town Highway Superintendent.

ASP — Aluminized steel pipe.

ASTM — Shall stand for ASTM International, originally known as the American Society for Testing and Materials.

CULVERT — Any structure whether of single or multiple span construction with an interior width of five feet or less.

GUIDERAIL — A rail that serves to guide vehicle movement in the right direction or to control the sideways movement of a vehicle.

HDPE — High-density polyethylene pipe.

HIGHWAY — All land encompassing highways constructed, improved, and dedicated or conveyed to the Town and (after such dedication or conveyance) maintained by the Town and shall include all necessary sluices, drains, ditches, swales, waterways, embankments, retaining walls, bridges on such highway (and under the jurisdiction and control of the Town) and culverts, and the approaches of any such bridge or culvert (beginning at the back of the abutments). The term does not include sidewalks or boardwalks or renewals thereof.

JOB-MIX DESIGN — The selection of proportions of ingredients to make the most economical use of available materials to produce a material mix of the required properties.

MATERIAL TEST REPORTS — The reporting of the properties of a substance in comparison with a standard or specification.

MODIFIED PROCTOR — The maximum dry density of a soil determined in accordance with ASTM Standard D1557.

NYCRR — The official compilation of Codes, Rules, and Regulations of the State of New York.

NYSDEC — The New York State Department of Environmental Conservation.

NYSDOT — The New York State Department of Transportation.

PRODUCT DATA SHEET — Printed documentation detailing the specifications of a product.

RCP — Reinforced concrete pipe.

ROAD — The portion of the highway, improved, designed, or ordinarily used for vehicular travel, inclusive of the shoulder.

ROADBED — The portion of the highway, improved, designed, or ordinarily used for

vehicular travel, exclusive of the sidewalk, berm or shoulder.

SHOP DRAWING — A scale drawing to be used as a design guide in the workship of a manufacturer.

TOWN — Shall refer to the Town of Dryden.

TOWN SUPERINTENDENT — The Town Superintendent of Highways.

TRAVEL LANE — That portion of the roadbed located between the center line and shoulder.

UL — Underwriters Laboratory.

WORK — The entire construction or the various separately identifiable parts thereof required to be provided. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction.

§ 168-2. General.

A. These specifications shall apply to all new highway construction in the Town outside of the Villages of Dryden and Freeville when such highway is proposed to be dedicated or conveyed to the Town with the future maintenance thereof to be the obligation of the Town.

B. Highways shall be a minimum of 60 feet in width. Highways shall intersect each other at between 80 and 90°. The minimum center-line grade shall be 0.5% and the maximum center-line grade shall be 10%. The minimum radius for intersecting highways shall be 25 feet. Wider highways may be required where deep cuts and fills, safety issues, pedestrian facilities, bicycle facilities or special maintenance needs exist. Additional widths may also be required adjacent to drainage structures or where there is potential for future traffic growth. All improvements shall be centered in the highway. Exceptions will be allowed only with the written approval of the Town. Highways may be constructed in preexisting widths narrower than 60 feet, which were reserved for this purpose. There shall be no obstructions to a clear line of sight, such as trees, bushes, buildings, fences, etc. within the highway. **[Amended 5-17-2012 by L.L. No. 3-2012]**

C. Total roadbed width and shoulders shall be a minimum of 30 feet. Total roadbed width for two-lane highways shall be 20 feet and shoulder widths shall be five feet. Refer to Figure No. 1, Typical Highway Cross-Section.[5] Figure No. 1 indicates the minimum material thicknesses. Depending on the future use of the street, the Town may require greater thicknesses. In rock cut sections, the backslope beyond the highway shall be a minimum of 1:1.

D. Geometric design features for local highways should be consistent with a minimum design speed of 30 mph. The design for all other highways shall be appropriate for the use intended and must be approved by the Town.

E. Where superelevation is required the cross slope of the roadbed shall not exceed

5. **Editor's Note: Figure No. 1 is included as an attachment to this chapter.**

8%.

F. Stopping sight distance shall be in accordance with AASHTO Standards but no less than 300 feet (back from the intersection).

G. The minimum radius for horizontal and vertical curves shall be 150 feet and 100 feet, respectively. The minimum radius for intersecting edges of shoulder and roadbed shall be 40 feet and 45 feet, respectively.

H. Highway culverts:

(1) Shall be a minimum of 18 inches in diameter for ASP and 15 inches in diameter for smooth interior HDPE or RCP unless hydraulic calculations by a licensed professional engineer indicate otherwise. Culverts shall have a minimum of 15 inches of approved material covering them.

(2) Culverts shall be placed in natural waterways and low points in the roadbed grade. Where culverts cross the roadbed, the top of culvert shall not extend above the elevation of the roadbed subgrade.

(3) All culverts shall be installed with end sections at the inlet and outlet. See Paragraph B, l, m, ii, in Material Specifications[6] for the type to be installed for each pipe type.

(4) Culverts with inverts deeper than four feet below the road shoulder or roadside grades greater than 3:1 will require guide rail to be installed as approved by the Town. Guide rail shall be designed in accordance with NYSDOT Standards. Guide rail sections of less than 150 feet shall be box beam guide rail.

(5) All culverts and buried drainage pipe shall have a minimum slope of 0.5%.

(6) All buried drainage pipe inverts shall be a minimum of 2.5 feet and a maximum of eight feet deep below the roadbed.

(7) Refer to Attachment No. 1, Driveway Culvert and Drainage Policy, for specifications relating to driveway culverts.[7]

I. Perforated underdrain pipe, wrapped in geotextile fabric, may be required by the Town for low wet areas, where side hill seepage is encountered or in any other area where groundwater will impair the integrity of the roadbed. Refer to Figure No. 3, Details.[8]

J. All dead-end highways shall terminate with a turnaround. Refer to Figure No. 4, Typical Turn-A-Round.[9]

K. Swales:

(1) Shall be designed to the minimum dimensions shown on Figure No. 1 and have

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6. **Editor's Note: So in original.**
7. **Editor's Note: Said attachment is included as an attachment to this chapter.**
8. **Editor's Note: Figure No. 3 is included as an attachment to this chapter.**
9. **Editor's Note: Figure No. 4 is included as an attachment to this chapter.**

a grade of between 1% and 10%.

(2) Dry rip rap, of the weight and diameter required by the NYSDEC Guidelines for Urban Erosion and Sediment Control, latest edition, shall be provided in all swales with grades exceeding 5% and shall extend up the slopes of the swale to the elevation of the ten-year rainfall event.

(3) The center line of all open grassed swales must be a minimum 10 feet from the outside edge of the roadbed. The depth of the swales shall be a minimum of two feet and a maximum of four feet deeper than the outside edge of pavement.

(4) A concrete swale may be utilized in place of a grassed swale only with the approval of the Town. If either cannot meet the grade requirements, an alternate design may be submitted for consideration.

(5) The side slopes of an open swale shall not be greater than 3:1. The Town may require steeper slopes for cuts in rock, or steep hill cuts.

L. Where subsurface storm drainage, curbed sections, concrete gutters or paved swales are proposed, provisions for drainage of the road subbase will be required. Refer to Figure No. 2, Road Section with Gutter or Curb.[10] The highway drainage design shall be approved by the Town prior to the start of construction.

M. Construction documents shall be signed and sealed by a New York State licensed professional engineer and submitted to the Town for consideration. No construction shall begin until the plans are approved by the Town. Documents shall include, as a minimum:

(1) Stormwater pollution prevention plan consistent with NYSDEC GP-02-01 and all Town local laws.

(2) Erosion and sediment control plan consistent with all Town local laws.

(3) Highway layout plans and center-line profiles.

(4) Highway cross sections every 50 feet. Sections to include depth of subbase, base distance from edge of roadbed to bottom of open swale, and depth of open swale from edge of shoulder.

(5) Utility plans and profiles of all below-ground utilities including highway culverts, closed drainage systems, sanitary sewers and water mains.

(6) Construction details of all components of the work.

(7) Technical specifications for all products proposed for use in the work.

N. Water mains and sanitary sewers located on Town property must be designed in accordance with the Town's specifications and must be approved by the Town prior to acceptance. Water mains and sanitary sewers shall be constructed within the highway limits (with the exception of crossings) in the backslope of the swale, not in the shoulders or roadbed area.

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10. Editor's Note: Figure No. 2 is included as an attachment to this chapter.

O. Cable, phone, electric, and gas utilities shall be installed outside of the highway line with the exception of crossings.

P. The developer, at the developer's expense, will correct any deviation from the approved plans and specifications. The developer is also responsible to obtain and pay for all permits required by any local, state or federal agency. Copies of all permits shall be submitted to the Town prior to beginning construction.

Q. Highway cuts.

(1) No open cutting of a roadbed will be permitted after placement of a top course except as approved in writing by the Town.

(2) Repairs of highway cuts. Asphalt paved and surface treated roads shall be repaired to the full depth of the highway section per Figure No. 1. Fill material below the subbase shall be bank-run gravel or select on site fill material approved by the Town prior to disturbance.

R. Waivers. Waivers from any of these specifications, to the extent permitted by other laws and unless specifically delegated to a Town officer elsewhere in these specifications, shall be granted only by the Town in writing prior to taking any action.

S. In addition to the highway dedication map, As-constructed drawings shall be provided and include the following:

(1) Center-line plan and profile.

(2) Location and inverts of all water mains, water valves, hydrants, water services with curb box, sanitary sewer mains, manholes, sanitary laterals, storm sewers, drainage inlets, driveway culverts and highway culverts.

(3) Edge of pavements and swale center lines.

ARTICLE II
Material Specifications

§ 168-3. Geotextile materials.

A. Available manufacturers. Subject to compliance with product specifications, manufacturers offering products that may be incorporated in the work include, but are not limited to, the following:

(1) Amoco Fabrics and Fibers Co.

(2) Hoechst Celanese Corp.

(3) Nicolon Mirafi Group.

B. Drainage fabric. Nonwoven geotextile specifically manufactured as a drainage geotextile; made from polyolefins, polyesters, or polyamides; and with the following minimum properties determined according to ASTM D 4759 and referenced standard test methods:

Property	Value
Puncture resistance (pounds)	50
Tear strength (pounds)	40
Grab tensile strength (pounds)	110
Apparent opening size (sieve)	50
Water flow rate (gallons per minute per square foot)	150

C. Soil stabilization fabric. Woven or nonwoven fabric consisting of continuous chain polymeric filaments or yarns of polyester with the following certifiable property values:

Property	Minimum Value	Test Method
Puncture strength	125 pounds	ASTM D751 (mod.)
Mullen burst strength	430 psi	ASTM D3786
Grab tensile strength	220 pounds	ASTM D1682
Equivalent opening size (sieve)	40-80	US Std. sieve

§ 168-4. Subbase course material.

Evenly graded bank-run gravel which is sound, durable, free of other deleterious materials and free of boulders in excess of three inches along the longest dimension with no more than 8% by weight finer than the No. 200 sieve.

§ 168-5. Base course material.

Naturally or artificially graded crushed bank-run stone or crushed gravel, which is sound, durable and free of organic and other deleterious material. Material shall have a plasticity index of five or less for material passing No. 40 sieve, shall have less than 20%

loss based on the NYSDOT Magnesium Sulfate Soundness Test (STM II) and gradation conforming to the following limits:

Percent Passing by Weight	Sieve Size
100%	2 inches
30% to 65%	1/4 inch
5% to 40%	No. 40
0% to 8%	No. 200

§ 168-6. Bedding stone.

Clean, sound, durable, sharp-angled fragments of rock of uniform quality and conforming to NYSDOT Material Designation 703-0201, Size Designation No. 1.

§ 168-7. Drainage stone.

Clean, sound, durable, sharp-angled fragments of rock of uniform quality and conforming to NYSDOT Material Designation 703-0201, Size Designation No. 2.

§ 168-8. Bank-run gravel.

Shall be approved by the Town subject to a sieve analysis from the source of supply. It shall be sound, durable, and free of organic or other deleterious material with no more than 10% by weight finer than the No. 200 sieve and material exceeding six inches in the largest dimension.

§ 168-9. Cushion sand.

Clean, hard, durable, uncoated particles, free from lumps of clay and all deleterious substances conforming to the following limits of gradation when dry:

Percent Passing by Weight	Sieve Size
100%	1/4 inch
0% to 35%	No. 50
0% to 10%	No. 100

§ 168-10. Select fill.

Imported or excavated on-site sand, loam, or clay material free from organic material and debris. Material to be unfrozen and containing only small amounts of rock not exceeding six inches in the largest dimension.

§ 168-11. Riprap.

Sharp-angled fragments of rock of uniform quality and conforming to NYSDOT Figure 620-1, Stone Filling Gradation Requirements, and Table 620-2.

§ 168-12. Bituminous materials.

A. Hot-mix asphalt concrete. Must meet the requirements specified in NYSDOT Standard Specifications, 401-2.01 through 401-2.06, for the material and composition of the following courses.

(1) Asphalt concrete, Type 3 Binder (Item No. 403.13).

(2) Asphalt concrete, Type 7 Top (Item No. 403.16).

B. Tack coat. Must meet the requirements specified in NYSDOT Standard Specifications for asphalt emulsion for tack coat, Material Designation 702-90.

C. Bituminous joint and crack filler. Must meet the requirements specified in NYSDOT Standard Specifications for miscellaneous asphalt cements, Material Designation: 702-0700.

§ 168-13. Highway culverts.

A. Highway culverts used in the construction of Town roads shall be ASP, HDPE or RCP meeting the requirements of Sections 706 and 707 of the NYSDOT Standard Specifications, current addition, as amended. Refer to Attachment No. 1, Driveway Culvert and Drainage Policy, for specifications relating to driveway culverts.[11]

B. Flared-end sections. ASP-Galvanized, with toe plate; HDPE-galvanized, with toe plate, one size larger than the pipe diameter; RCP-precast concrete.

§ 168-14. Drainage inlets and manholes.

A. Drainage inlets. Reinforced pre-cast concrete drainage inlets in accordance with ASTM C478. AASHTO HS-20-44 design loading. Shape and inside dimensions in accordance with requirements shown on Drawings. Base and riser sections to have a minimum six inch thickness and lengths as necessary to meet invert and rim elevations.

B. Manholes. Reinforced precast concrete manholes in accordance with ASTM C478. Utilize rubber O-rings for jointing between sections. Copolymer polypropylene encapsulated steel manhole steps, in accordance with ASTM C478, spaced at 12 inches on center and formed integral with manhole section. Align steps with eccentric riser section, clear inside dimension 48 inches.

C. Frames and grates. Heavy-duty cast iron. Uniform quality, close grained, free from blow holes, shrinkage, cracks and other defects. Plugging of defective castings not permitted. Grates to seat in any position without rocking.

D. Grade rings. Precast concrete only.

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11. Editor's Note: Said attachment is included as an attachment to this chapter.

ARTICLE III
Construction Specifications

§ 168-15. Highway embankment.

A. Remove vegetation, debris, unsatisfactory soil materials, obstructions, and deleterious materials from ground surface prior to placement of fills. Plow, strip, or break up sloped surfaces steeper than one vertical to four horizontal so that fill material will bond with existing surface.

(1) When existing ground surface has a density less than that specified, break up ground surface, pulverize, moisture condition to optimum moisture content, and compact to required depth and percentage of maximum density.

B. Place select fill material to subgrade elevations in maximum eight-inch horizontal lifts. Adjust the moisture content of embankment fill to within 2% of optimum by either air-drying or addition of water prior to compaction. Spread wet embankment fill in eight-inch loose lift and disc to expedite air drying. Remove rock particles larger than four inches.

C. If on-site soils are not available, a well-graded bank-run gravel shall be imported.

D. Compact embankment fill to or above 95% "'Modified Proctor" maximum density with a smooth drum roller, or other sufficient compaction equipment, weighing at least seven tons and operating in the vibratory mode.

E. Slope the subgrade as shown on Figure No. 1, Typical Highway Cross-Section.[12] Proof-roll the final subgrade to avoid ponding of surface water. Proof-rolling shall be accomplished with a smooth drum roller weighing at least 30 tons and operating in the vibratory mode. Any settlement or movement of the subgrade ahead of or under the roller that indicates a potential soft area will require removal and replacement with suitable compacted granular material.

§ 168-16. Roadbed excavation.

A. Remove vegetation, debris, unsatisfactory soil materials, obstructions, and deleterious materials from ground surface. Excavate subsoil to the depth required to provide a uniform surface of solid and undisturbed ground for the placement of aggregate subbase course.

B. Excavate swales, if applicable, to the minimum depth shown below the center-line finish grade elevation.

C. Where the bottom of the roadbed excavation is found to be unstable or to include deleterious material, which in the judgment of the Town should be removed, excavate and remove and backfill the over-excavation with compacted base course material.

D. Compact the subgrade to or above 95% "Modified Proctor" density with a smooth drum roller, or other sufficient compaction equipment, weighing at least 30 tons.

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12. Editor's Note: Figure No. 1 is included as an attachment to this chapter.

Operate compactor in the static mode for compaction of silty soils and in the vibratory mode for soils containing larger fractions of sand and gravel.

E. Slope the subgrade as shown on Figure No. 1, Typical Highway Cross-Section.[13] Proof-roll the final subgrade to avoid ponding of surface water. Proof-rolling shall be accomplished with a smooth drum roller weighing at least 30 tons and operating in the vibratory mode. Any settlement or movement of the subgrade ahead of or under the roller that indicates a potential soft area will require removal and replacement with suitable compacted granular material.

F. Install underdrains wherever groundwater seepage is encountered or in low, wet areas.

§ 168-17. Disposal of unsuitable and excess excavated material.

A. Load, remove, and dispose of all unsuitable and excess excavated material. Cover all loads leaving the site and using public highways.

B. Construction debris, trash, and any other objectionable solid waste regulated by 6 NYCRR Part 360 will not be permitted to be buried on the project site.

§ 168-18. Roadbed subbase course.

A. Prior to placing the geotextile fabric and aggregate subbase course, verify that the Highway Superintendent has observed proof-rolling of the subgrade.

B. Place the geotextile fabric on prepared subgrade across the width of the roadbed and lap in accordance with manufacturer's instructions. Remove any rocks or debris from subgrade surface that could puncture the fabric.

C. Lap drainage fabric with stabilization fabric where underdrains are indicated to be installed.

D. Place subbase course material in layers of uniform thickness, conforming to indicated cross-section and thickness. Maintain grades, elevations, cross-slopes and optimum moisture content for compaction.

E. Compact subbase course to 95% "Modified Proctor" maximum dry density with a smooth drum compactor weighing at least 30 tons and operating in the vibratory mode. Use mechanical tamping equipment in areas inaccessible to drum compactor. When a compacted subbase course is indicated to be more than six inches thick, place material in equal layers, except no single layer shall be more than six inches or less than three inches in thickness when compacted.

F. Slope the subbase course to provide drainage of surface water to swales as shown on Figure No. 1, Typical Highway Cross-Section. Proof-roll the final subbase course material with a fully loaded, ten-wheeled dump truck weighing at least 18 tons prior to placing asphalt concrete pavements.

§ 168-19. Roadbed base course.

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13. Editor's Note: Figure No. 1 is included as an attachment to this chapter.

A. Prior to placing the base course material, verify that the Highway Superintendent has observed proof-rolling of the subbase course. Proof-rolling shall be conducted in the same manner as for the subgrade.

B. Place base course material in layers of uniform thickness, conforming to indicated cross-section and thickness. Maintain optimum moisture content for compaction. When a compacted subbase course is indicated to be more than six inches thick, place material in equal layers, except no single layer more than six inches or less than three inches thickness when compacted.

C. Compact base course to 95% "Modified Proctor" maximum dry density.

D. Slope the base course to provide drainage of surface water to swales as shown on Figure No. 1, Typical Highway Cross-Section. Proof-roll the final base course material with a fully loaded, ten-wheeled dump truck weighing at least 18 tons prior to placing asphalt concrete pavements.

§ 168-20. Shoulders.

The construction of the shoulders shall conform to the same requirements as the construction of the subgrade, subbase course, and base course. The shoulders will be constructed at the same time as the roadbed, utilizing the same material, placement and lift requirements. The final course will be of two layers: a binder with a minimum of 2.5 inches and a top coat with a minimum of 1.5 inches to cover the base and bring the level of the shoulder to the level of the pavement.

§ 168-21. Roadbed pavement.

Prior to paving, verify that the Highway Superintendent has observed proof-rolling of the base course. Proof-rolling shall be conducted in the same manner as for the subgrade. Prior to paving, the base course shall be brought to line and grade conforming to the cross-section and profile as shown on the plans any voids or settlements shall be filled and compacted to grade with base course material.

A. Written approval of the base by the Highway Superintendent is required before placement of the binder. There will be a minimum of 14 days between the placement of the binder and the top unless otherwise approved by the Highway Superintendent. Placement of pavement will not be allowed when the ambient air temperature is below 60° F. or above 95° F.

B. The surface shall be free from irregularities to provide a reasonably smooth and uniform surface to receive the bituminous concrete material. Unstable corrugated areas shall be removed and replaced with base material. Manhole covers, drop inlets, catch basins, curb and any other structure within the roadbed area shall be protected against the application of the bituminous concrete material.

C. Two layers are required: a binder and a top course. The binder will be a minimum of 2.5 inches and the top a minimum 1.5 inches. Placement of the materials will be consistent with the NYSDOT Standard Specifications for Construction and Materials, latest edition.

§ 168-22. Roadbed drainage.

A. Bedding. For storm sewer pipe, place bedding stone at trench bottom across entire width of trench in such thickness that a minimum of six inches will be under the bottom of the pipe. For underdrain tubing, place a minimum of four inches of bedding stone beneath the invert. Place balance of aggregate encasement to depth and width shown on the drawings.

B. Pipe and tubing.

(1) Install corrugated polyethylene plastic pipe and couplings in accordance with manufacturer's instructions. Install plastic perforated pipe, in accordance with ASTM D2321 and manufacturer's instructions.

(2) Lift or roll pipe in position. Do not drop or drag pipe over prepared bedding. Lay pipe at downstream end and progress upstream true to grades and alignment with unbroken continuity of the invert. Begin work at existing catch basin if applicable.

(3) Shore pipe to required position; retain in place until after compaction of adjacent fills. Ensure pipe remains in correct position and to required slope.

(4) Lay pipe to invert elevations shown on drawings. Do not displace or damage pipe when compacting.

C. Drainage inlets and manholes.

(1) Place precast concrete drainage inlets and manholes on leveled bedding stone and at required elevation to maintain pipe invert elevations shown on drawings.

(2) Install pipe flush with the inside face of drainage inlet and manhole wall. Seal voids between pipe and knockout with cement grout inside and outside of drainage inlet.

(3) Do not begin backfilling until cement grout seal is completely set.

(4) Maintain drainage by installing frame and grate flush with temporary finished grade and bring to final elevation at time of paving with precast concrete grade ring and grout frame permanently in place.

(5) Mount frame level in grout to required elevations and secured to top of drainage inlet. Align inlet frames to match the line of curbing. Set grate in frame and correct deficiency in casting such that grate will seat in position without rocking.

(6) Verify installation of manhole steps to avoid conflict with inlet and outlet pipes.

§ 168-23. Landscaping.

A. Preparation of subgrade for landscaped areas.

(1) Limit preparation to areas that will be planted in immediate future.

(2) Loosen subgrade to a minimum depth of four inches. Remove stones larger

than 1 1/2 inches in any dimension and sticks, roots, and rubbish.

(3) Provide subgrade with an even, smooth surface ready to receive topsoil.

B. All disturbed natural areas within the highway or proposed drainage easements shall be restored with a minimum two inches of topsoil and reseeded with a grass mixture compatible with the surrounding environment.

C. For late fall construction and prior to winter, seed rough-graded areas with a temporary conservation mix of winter rye, winter wheat and annual ryegrass.

D. No trees or shrubs shall be planted in the highway without prior written approval from the Town. Any trees or shrubs planted in the highway become the property of the Town.

E. All areas out of the paved area must be provided with an established ground cover approved by the Town.

ARTICLE IV
Quality Assurance

§ 168-24. General.

A. Subgrade, subbase and base shall not be laid in excess of 500 lineal feet without being rolled and thoroughly compacted.

B. Copies of all invoices for material used in the construction of the roadbed and roadbed drainage structures must be provided to the Highway Superintendent.

C. Highways and above- and below-grade improvements therein shall be guaranteed against defects and poor workmanship for a period of two years from the time of acceptance by the Town.

D. Provide UL certificate for any repairs made to underground electric services damaged by developer operations.

E. Prior to acceptance by the Town, the developer shall deliver to the Town a complete release of all liens arising out of the construction of the improvements proposed to be dedicated or conveyed to the Town, or receipts showing payment in full thereof, and if required in either case, an affidavit that so far as the developer has personal knowledge or information, the releases and receipts include all labor and materials for which a lien could be filed.

§ 168-25. Submittals.

A. Material source for roadbed subbase and base course.

(1) Submit name and address of imported aggregate material suppliers. Provide materials from the same source throughout the construction. Change of source requires approval by the Town.

(2) Submit the following test reports directly to the Highway Superintendent:

(a) Analysis of aggregate materials performed in accordance with ASTM C136 and within past three months.

B. Asphalt pavements:

(1) Provide product data sheets for each product specified. Include technical data and tested physical and performance properties.

(2) Provide job-mix designs for each job mix proposed for the work.

(3) Shop drawings. Indicate pavement markings, lane separations, and defined parking spaces. Indicate dedicated handicapped spaces with international graphics symbol.

(4) Material test reports. Indicate and interpret test results for compliance of materials with requirements indicated.

(5) Material certificates. Provide certificates signed by manufacturers certifying materials comply with specifications.

C. Drainage products:

(1) Provide product data sheets for storm sewer pipe and tubing.

(2) Shop drawings. Include plans, elevations, details, and attachments for the following:

(a) Precast concrete manholes and drainage inlets, including frames, covers, and grates.

(b) Cast-in-place concrete manholes and other structures, including frames and covers.

§ 168-26. Compaction.

A. Will meet 95% of maximum density and within 2% ± optimum moisture content.

B. The developer will pay for verification of compaction by an independent testing agency. The testing agency must have a New York State licensed professional engineer on staff to certify the results. Compaction tests will be at the discretion of the Town or their representative and the number of test locations will average approximately one site per 100 feet of highway.

C. If tests indicate work does not meet specified requirements, remove work, replace, compact, and retest.

D. Seal compacted fill surfaces at the end of each construction day. Slope grade such that surface water will not pond adjacent to original excavation.

§ 168-27. Inspections.

A. Schedule inspections of the highway construction in accordance with Attachment No. 2, Inspection Schedule for Proposed Town Highways.[14] Notify the Highway Superintendent a minimum of 24 hours in advance of each inspection. Such inspection by the Town Highway Superintendent, or designated representative, does not obligate the Town to accept the highway upon offering for dedication nor relieves the builder and/or developer from complying with the requirements of these specifications.

B. The developer is required to coordinate with the Highway Superintendent for inspection before and after applying topsoil, seeding and mulching. The developer, at the developer's expense, will correct any deviation from the approved plans and specifications.

C. Inspect interior of drainage pipe and culverts to determine whether line displacement or other damage has occurred. Make inspection after pipe or culvert has been installed and backfill is in place, and again at completion of work. If inspection indicates poor alignment, displaced or collapsed pipe, or other defect, correct such defect and reinspect.

§ 168-28. Tolerances.

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14. Editor's Note: Attachment No. 2 is included as an attachment to this chapter.

A. Excavation for utility structures and trenches. Within plus or minus two inches.

B. Top surface of backfilling. Within plus or minus one inch.

C. Top surface of base course: within 1/2 inch, cross-slope within 1/4 inch when measured with a ten-foot straightedge.

D. Maximum variation from intended elevation of culvert invert: 1/2 inch.

E. Maximum offset of pipe from true alignment: three inches.

F. Maximum variation in profile of storm structure from intended position: 1/8%.

§ 168-29. Protection.

A. Protect excavations by methods required to prevent cave-in or loose soil from falling into excavation.

B. Protect bottom of excavations and soil adjacent to and beneath structures from freezing.

C. Protect, support and maintain all underground and surface structures to remain and other obstructions encountered. Restore structures which may have been disturbed.

D. Encase all existing underground gas, electric, telephone, and cable utilities exposed during construction in cushion sand during backfilling of excavated areas.

E. Where completed compacted areas are disturbed by subsequent construction operations or adverse weather, scarify surface, reshape and compact to required density prior to further construction.

F. Where settling is measurable or observable at excavated areas during warranty period, remove surface, add backfill material, compact and replace bituminous concrete material.

§ 168-30. Performance bond/letter of credit/escrow account.

A. The Town may, at its discretion, require a performance bond, letter of credit or an escrow account in a form acceptable to the Town Attorney and in an amount established by the Town Board. This security is for the purpose of insuring that sufficient funds are available to enable the Town to complete infrastructure improvements required of the development in conjunction with the plans and approvals in the event the developer fails to complete work to be dedicated to the Town.

B. Retainage in the amount of such credit may be held by the Town until one year following installation of final top course or acceptance of the road by the Town, whichever is later.

C. The as-constructed drawings certified by a New York State-licensed professional engineer must be provided prior to release of any security held by the Town.

Chapter 183

MOBILE HOMES

ARTICLE I
Mobile Home Parks
[Adopted 6-26-1971 by Ord. No. 71-2]

§ 183-1. Title.

This article shall be known and cited as the Town of Dryden Mobile Home Park Ordinance.

§ 183-2. Purpose. [Amended 10-1-1987]

A. It is the purpose of this article to promote the health, safety, comfort, convenience and the general welfare of the community and to protect and preserve the property of the Town of Dryden and its inhabitants by regulating mobile homes and mobile home parks in the Town of Dryden, New York.

B. Mobile homes shall only be allowed in mobile home parks which are established or extended pursuant to this article. Mobile home parks may only be established or extended in those areas of the Town of Dryden which are served by municipal water and sewer services."

§ 183-3. Definitions.

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

HEALTH AUTHORITY — The legally designated health authority or its authorized representative of the Town of Dryden.

INTERNAL STREET — Is a road situated within the mobile home park.

MOBILE HOME —

A. A portable unit designed and built to be towed on its own chassis, comprised of frame and wheels, connected to utilities, and designed without a permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity as well as two or more separately towable components designed to be joined into one integral unit capable of being again separated into the components for repeated towing.

B. A mobile home should not be confused with a travel trailer which is towed by an automobile, can be operated independently of utility connections, is limited in width to eight feet, in length to 32 feet, and is designed to be used principally as a temporary vacation dwelling.

MOBILE HOME LOT — A parcel of land for the placement of a single mobile home and the exclusive use of its occupants. Allowable structures in addition to the mobile home shall be as follows: a one-car garage or a one-car carport; a patio, either open or enclosed; an addition attached or connected to the mobile home, but such addition shall not exceed more than 30% of the total square footage of the mobile home proper; and one storage building which shall not exceed 120 square feet in dimension. There will be no separate structures other than those hereinabove specified. All structures shall be subject to set-back requirements and lot area as specified in § 183-5A of this article.

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.

MOBILE HOME STAND — That part of an individual lot which has been reserved for the placement of the mobile home, appurtenant structures or additions.

PERMIT — A written permit issued by the authority permitting the construction, alteration, and extension of a mobile home park under the provisions of this article and regulations issued hereunder and the Zoning Ordinance of the Town of Dryden.

PERSON — Any individual, firm, trust, partnership, public or private association or corporation.

RIGHT-OF-WAY — That portion of designated land set aside for the installation of utilities and/or sidewalks, curbs, gutters or other unrestricted uses.

SERVICE OR RECREATIONAL BUILDING — A structure housing operational office, recreational, park maintenance and other facilities built to conform to required standards.

§ 183-4. Procedures for application for special permit.

A. A preliminary application for a special permit must be obtained from and filed with the Code Enforcement Officer. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

B. The preliminary application must contain:

   (1) A legal description of property on which the Proposed park will be located.

   (2) A sketch map of the proposed park must be enclosed with said application and must contain:

      (a) General layout plan of the proposed park including the estimated number of lots, lot size locations, recreation areas, accessory buildings, service buildings.

      (b) Abutting property owners and their existing property use.

      (c) Proposed access and ingress routes and internal streets.

      (d) Present and proposed method of sewer and water service and other utility lines.

      (e) Any unusual special land features such as streams, creeks, areas subject to flooding and areas of steep slopes in excess of 10%.

   (3) Said application, when completed, filed and fee deposited, shall be submitted to the Town Board at its next scheduled regular meeting.

C. Town board action, referral to the Town Planning Board.

   (1) The Town Board shall hold, and give notice of, a public hearing upon such application by publishing in the official Town Newspapers at least five days prior to the date of said hearing. Any rescheduled hearing shall require due

notice just as the initial hearing.

(2) Within 45 days after said hearing, the Town board shall either deny the application for a special permit or shall refer such application to the Town Planning Board. The applicant or his representative shall present engineering plans, Health Department approvals and other approvals as required by this article to the Planning Board, and may be requested to attend Planning Board meetings in order to insure compliance with all of the provisions and requirements of the within Ordinance.

(3) Upon a determination by the Planning Board that the applicant has fully complied with all such provisions and requirements the Planning Board shall recommend in writing the final approval of the application to the Town Board. Such approval by the Planning Board shall be a prerequisite to the issuance of a special permit to the applicant by the Town Board. Upon receipt of such final approval by the Planning Board, the Town Board shall direct the Town Code Enforcement Officer to issue the special permit to the applicant. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

(4) Said special permit shall expire 12 months from the date of issuance, unless there has been substantial progress in the construction, alteration and/or extension of said Mobile Home Park.

§ 183-5. Location of mobile home parks.

No mobile home park shall hereafter be established, located maintained, altered or expanded in any district of the Town of Dryden except in the specified districts as defined and established by the Zoning Ordinance of the Town of Dryden as it may from time to time be amended, and upon compliance with all the provisions of this article.

A. Size of lots and yards. Every lot shall meet the following minimum requirements:

(1) Lot area per mobile home - 5,000 square feet.

(2) Front yard set-back from mobile home lot line, 20 feet.

(3) Side yard set-back depth from mobile home lot line, 10 feet.

(4) Rear yard set-back depth from mobile home lot line, 10 feet.

(5) All mobile homes shall be located at least 90 feet from the center line of any State Road and at least 70 feet from the center line of any other public road.

(6) The mobile home lot line hereinabove referred to shall be the boundary line as established on the engineering plans.

(7) All mobile homes shall be located at least 25 feet from the mobile home park property lines.

B. Skirts. Each mobile home owner shall be required to enclose the bottom portion of the mobile home with either a metal or wood skirt or other durable material, properly ventilated, within 60 days after arrival in park.

C. Landscaping. The appropriate landscaping requirements for the mobile home park

shall be determined by mutual agreement between the Town Planning Board and the applicant.

§ 183-6. Streets and parking.

A. General requirements. A safe and convenient vehicular access shall be provided from abutting public streets or roads. The Planning Board may require additional entrances or exits whenever they deem it necessary for the public safety and welfare.

B. Access. The entrance road connecting the park streets with a public street or road shall have a minimum road pavement width of 20 feet and a total width of 36 feet including rights-of-way.

C. Internal streets. Surfaced roadways shall be of adequate width to accommodate anticipated traffic including emergency vehicles, and in any case shall meet the following minimum requirements:

(1) Where parking is permitted on both sides, a minimum width pavement of 28 feet will be required.

(2) A minimum road pavement width of 22 feet will be required where parking is limited to one side.

(3) A minimum road pavement width of 18 feet will be required where off-street parking is provided. Each off-street parking space shall have an area at least nine feet wide and 20 feet long, not including maneuvering to access areas.

(4) The paved portions of such streets shall be finished with a smooth, hard and dust-free surface which shall be durable and well-drained under normal use and weather conditions.

(5) All streets shall be constructed, graded and levelled as to permit the safe passage of emergency vehicles at a speed reasonable and prudent.

(6) Cul-de-sac shall be provided in lieu of closed end streets, a turn around having an outside roadway diameter of at least 90 feet, or an equivalent "T" turnaround shall be provided.

D. Two parking spaces must be provided for each mobile home lot.

E. The appropriate lighting, including, but not limited to spacing and kind of lighting units, as will provide necessary illumination for the safety of pedestrians and vehicles, shall be determined by mutual agreement between the Town Planning Board and the applicant.

§ 183-7. Sanitary facilities.

A. Water - general requirements. An adequate supply of water shall be provided for mobile homes, service buildings and other accessory buildings as designated by this article, which water supply system shall be approved by the Tompkins County Health Department or other authorities having jurisdiction thereof.

B. Sewage - general requirements.

(1) An adequate and approved system shall be provided in all parks for conveying and disposing of sewage from mobile homes, service buildings and other accessory facilities. Such systems must be designed, constructed and maintained in accordance with the Tompkins County Health Department's standards and regulations.

(2) Sewage treatment and/or discharge - where the sewer lines of the mobile home park are not connected to a public sewer, all proposed sewage disposal facilities shall be approved by the County Department of Health prior to construction.

(3) Storm drainage pipes, ditches, etc. may be required by the Planning Board.

(4) Garbage and refuse. Each mobile home park shall provide sanitary equipment to prevent littering of the grounds and premises with rubbish, garbage and refuse and all containers shall have tightly fitting covers. Regular disposal shall be provided for all rubbish, trash and garbage. All areas shall be kept free of abandoned or inoperable vehicles, trash and junk.

§ 183-8. Electrical distribution system and individual electrical system; general requirements.

Every park shall contain an electrical wiring system consisting of wiring fixtures, equipment and appurtenances which shall be installed and maintained in accordance with local electric power company's specifications and regulations.

§ 183-9. Fuel supply and storage.

A. General requirements - fuel oil supply systems. All fuel oil supply systems, provided for mobile homes, service buildings and other structures shall be installed and maintained in conformity with the rules and regulations of the authority having jurisdiction when provided.

B. Specific requirements.

(1) All fuel oil tanks shall be placed not less than five feet from any exit.

(2) Supports or standards for fuel storage tanks are to be of noncombustible material.

C. Gas supply - natural. Natural gas piping systems installed in mobile home parks shall be maintained in conformity with utility company practices.

D. Liquefied gas.

(1) Such system shall be provided with safety devices to relieve excessive pressures and shall be arranged so that the discharge terminates at a safe location.

(2) Systems shall have at least one accessible means for shutting off gas. This means shall be located outside of individual mobile homes.

(3) All Liquid Propane Gas piping shall be well-supported and protected against mechanical injury.

(4) Storage tanks shall not be less than 100 lbs. and must be located not less than five feet from any exit.

§ 183-10. Recreational areas and open spaces.

A. Every Mobile Home Park shall have a recreation area for the public use of persons living in the park, the minimum size of such area shall be 5,000 square feet plus 200 square feet per mobile home furnished by the applicant.

B. The Planning Board, as a condition of approval, may establish such conditions on the use, and maintenance of open spaces as it deems necessary to assure the preservation of such open spaces for their intended purposes.

§ 183-11. License for operation and maintenance of mobile home park. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

After such time that all rules, regulations, codes and provisions of the Mobile Home Park Ordinance have been met, the Code Enforcement Officer of the Town of Dryden will issue a license for operation and maintenance of a mobile home park. Said applicant will file a licensing fee of $25 for every 10 homes or portion thereof. Said license is for twelve-month period.

A. Renewal of license. Approval of the license renewal shall be automatic upon demonstration that the design and maintenance of the park is in accordance with the requirements at the time of approval of the initial permit.

B. Transfer of license. All licenses are transferable upon written notification to the Zoning Officer.

§ 183-12. Application of ordinance.

A. The provisions of the Ordinance shall supersede local laws, ordinances, codes or regulations to the extent that such laws, ordinances, codes or regulations are inconsistent with the provisions of the Ordinance provided that nothing herein contained shall be construed to prevent the adoption and enforcement of a law, ordinance or regulations which is more restrictive or establishes a higher standard for mobile home parks than those provided in this article, and such more restrictive requirement or higher standard shall govern during the period in which it is in effect.

B. In a case where a provision of the Ordinance is found to be in conflict with a provision of a zoning, building, electrical, plumbing, fire safety, health, water supply or sewage disposal law or ordinance, or regulations, the provisions or requirements which is more restrictive or which establishes a higher standard shall prevail.

§ 183-13. Penalties for offenses.

A violation of this article is an offense punishable by a fine not exceeding $50 or by

imprisonment for a period not exceeding 60 days or both. Each week's continued breach shall constitute a separate additional violation. In addition, the Town Board shall have such other remedies as are provided by law to enforce the provisions of this article.

§ 183-14. Invalidity.

If a term, part, provisions, section, subsection or paragraph of this article shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to invalidate the remaining terms, parts, provisions and paragraphs.

§ 183-15. Effective date.

This article shall be in force and effect immediately upon adoption and publication as provided by law.

ARTICLE II
Mobile Homes Outside of Mobile Home Parks
[Adopted 4-12-1988]

§ 183-16. Title.

This article shall be cited as the "Town of Dryden Mobile Home Ordinance."

§ 183-17. Purpose.

It is the purpose of this article to promote the health, safety and general welfare of the inhabitants of the Town of Dryden, Tompkins County, New York, by the regulation of site design for mobile home lots, and the establishment of site installation and occupancy standards for all mobile homes located on mobile home lots in the Town. This article does not apply to mobile homes in mobile home parks or to mobile home parks.

§ 183-18. Definitions.

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

AMERICAN CONCRETE INSTITUTE (ACI) — The organization which publishes standards for concrete foundations and other concrete structures. Such standards may be different from local building code requirements, in which case, the more stringent requirements will control.

ANSI-NFPA STANDARDS — The standards and/or specification promulgated by the National Fire Protection Association and National Conference of States on Building Codes and Standards, Inc., and published as ANSI A225.1 NFPA 501 A Manufactured Home Installations 1982, or its most recent counterpart, however identified.

COMMERCIALLY MANUFACTURED AND INSTALLED — Designed and intended for use with a mobile home and installed according to manufacturer's instructions and complying with all appropriate codes, laws, rules, regulations, ordinances, and local laws.

CONSTRUCTION PERMIT — A permit issued by the Town authorizing the construction of a mobile home lot.

ENFORCEMENT OFFICER — The person or persons, by whatever title designated by the Town Board, charged with the enforcement and inspections required under this article.

FRONT SETBACK LINE — A line marking the minimum distance from the center of the road right-of-way. (Also see "yards.")

HOUSE ROOF SYSTEMS — Designed and constructed of materials permitted in the construction of single-family dwellings by the New York Uniform Fire Prevention and Building Code.[15]

HOUSE SIDING SYSTEM — Designed and constructed of materials permitted in the construction of single-family dwellings by the New York Uniform Fire Prevention and Building Code.

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15. Editor's Note: See Ch. 118, Building Code Administration and Enforcement.

INSTALLATION PERMIT — A permit issued by the Town authorizing the installation of an individual mobile home.

MOBILE HOME — A structure, transportable in one or more sections, and while being transported is eight body feet or more in width or 40 body feet or more in length or, when installed on a lot, is at least 320 square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. The term shall include any structure which meets the size requirements herein set forth, and for which the manufacturer has filed the certification required by the United States Department of Housing and Urban Development and which structure complies with the National Manufactured Home Construction and Safety Standards. A mobile home is identified as such by the existence of the seal required by the United States Department of Housing and Urban Development. Unless the context requires otherwise, the term "mobile home" shall include a double-wide mobile home, but the term "double-wide mobile home" shall not include a single-wide mobile home. A double-wide mobile home includes at least two such sections transported separately and designed and intended to be joined together as a single dwelling unit when placed on a site. A mobile home should not be confused with a travel trailer, which is towed by a motor vehicle and which can be operated independently of utility connections and is limited in width while being transported to eight body feet in length to 32 body feet and is designed to be used principally as a temporary dwelling and does not require a HUD seal.**[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

MOBILE HOME LOT — A parcel of land (outside a mobile home park) for the placement of one mobile home for the exclusive use of the owners. All placements and structures shall be subject to set back requirements and lot area as specified in this article, and in Chapter 270, Zoning, whichever is more restrictive.

MOBILE HOME STAND —

A. That part of a mobile home lot which has been constructed for the placement of the mobile home and accessory buildings or structures. A mobile home stand shall be constructed and consist of either:

   (1) Ten inches of compacted gravel;

   (2) A concrete slab at least six inches thick and reinforced according to the standards of the American Concrete Institute (ACI);

   (3) Six inches of compacted gravel with a reinforced concrete runner on each side of the stand to provide support, such a runner to be a minimum of two feet wide, four inches thick and the length to extend to within two feet of each end of the home body;

   (4) Masonry piers installed into the ground at least three feet below grade; or

   (5) A stand as defined in ANSI-NFPA standards of installation of manufactured homes.

B. A mobile home stand shall not have an elevation exceeding 1.5 feet from the surrounding mean elevation and the site shall be sloped to provide drainage away

from the stand. All stands shall be suitably graded to permit the rapid surface drainage of water.

MOBILE HOME SUPPORT SYSTEM — Installation instructions provided by the manufacturer of a mobile home, or if unavailable, designed by a registered professional engineer, architect, or as set forth in NFPA-ANSI Standards.

OCCUPANCY CERTIFICATES — Written authorization from the Enforcement Officer to occupy a mobile home lot and the mobile home placed thereon.

PARKING SPACE — An off-street space available for parking of one motor vehicle and which is an area at least nine feet wide and 20 feet long, not including maneuvering area and access drives.

PERMANENT RESIDENCE — Residence for a period in excess of 60 days.

PERSON — An individual, partnership, corporation or association.

PROFESSIONALLY DESIGNED AND BUILT —

A. Designed and built according to plans prepared and sealed by a licensed professional engineer or architect; or

B. Designed and built according to plans so that upon completion the construction will be architecturally consistent with the design of other buildings on said lot and be aesthetically pleasing.

REAR SETBACK LINE — A line marking the minimum distance from the rear lot line (also see "yards").

ROAD — Road, street, avenue, right-of-way or other public line marking the exterior boundary of the public ownership or right-of-way. (Not to be confused with the traveled or maintained portion of a road.)

SECONDARY ADDITIONS — Expanded rooms, enclosed patios, or structural additions that are added to the mobile home on the mobile home stand.

SIDE SETBACK LINE — A line marking the minimum distance from the side lot lines. (Also see "yards.")

SINGLE OWNERSHIP — Refers to any individual, partnership or corporation owning a parcel of land.

SKIRTING (MANUFACTURED) — A new durable vinyl or aluminum product sold commercially and designed and intended as an enclosure for the space between the mobile home and mobile home stand.

SKIRTING WALL — Material of a weatherproof nature that is used to enclose the space between the mobile home and the mobile home stand. Skirting wall shall be masonry, or pressure-treated lumber or other material that would be permitted by the New York State Uniform Fire Prevention and Building Code for enclosing a crawl space of a single-family home with no cellar. The skirting wall shall be installed with its bottom edge below the frost line to eliminate any frost heave.

STORAGE — Refers to the placement of articles not in use.

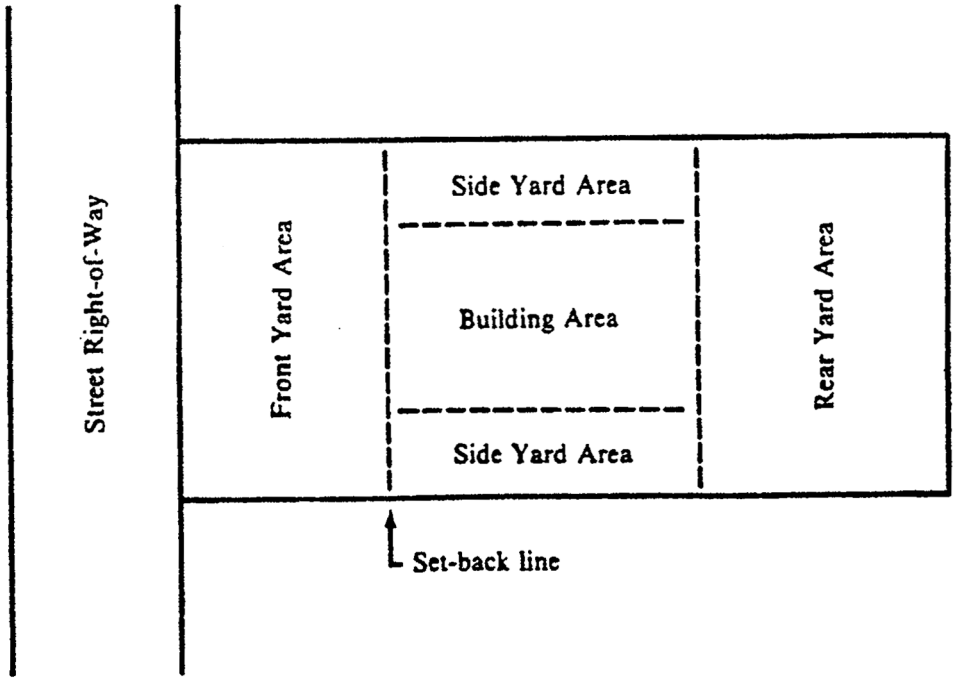
STORAGE BUILDINGS —

A. PORTABLE — A structure with less than 150 square feet of floor space, manufactured or sold in kit form, is easily movable on its own support system not requiring a permanent foundation and not requiring a building permit.

B. PERMANENT — A structure over 150 square feet for which a building permit is required and which must comply with the New York Uniform Fire Prevention and Building Code[16] and Chapter 270, Zoning.

TEMPORARY RESIDENCE — Residence for a period of less than 60 days.

YARD — A yard is an open space other than a court on a lot, unoccupied and unobstructed from the ground upwards, except as otherwise permitted (See illustration for location of front, side and rear yards.)



§ 183-19. Inspection and enforcement.

A. Prohibition.

(1) No person shall occupy or permit to be occupied any mobile home on any mobile home lot without first complying with the provisions of this article.

(2) All mobile homes in the Town of Dryden shall comply with all applicable laws, codes, rules and regulations, ordinances and local laws.

B. This article shall be enforced by the Enforcement Officer, who is authorized and has the right in the performance of duties, to enter any mobile home or mobile home lot to make such inspections as are necessary to determine compliance with this

16. Editor's Note: See Ch. 118, Building Code Administration and Enforcement.

article or any other applicable laws, codes, rules and regulations, ordinances and local laws. Such entrance and inspection shall be accomplished at reasonable times, or at any time in an emergency and whenever it is necessary to protect the public interest. Owners, agents, operators or occupants of a mobile home or mobile home lot shall be responsible for providing access within their control for the Enforcement Officer, in the furtherance of official duties.

C. Duties of enforcement officer. It shall be the duty of the Enforcement Officer:

(1) To make initial inspections for occupancy certificates for mobile homes placed on mobile home lots;

(2) To investigate all complaints made under this article;

(3) To enforce this article by inspection for compliance, and in the case of violations to prosecute the responsible persons in a court of competent jurisdiction; and

(4) To request the Town Board to take appropriate legal action on all violations of this article, and to provide such applications and forms as are necessary to implement the provisions of this article.

D. Violations.

(1) Upon determination by the Enforcement Officer that there has been a violation of any provision of this article, notice of such violations may be given to the person responsible for obtaining or maintaining the construction/installation certificate for the mobile home or mobile home lot in violation. Such notice shall be in writing and shall state the nature of the violation and the remedial actions necessary to correct it. The notice shall also specify the dates by which remedial action must be taken to correct such violation.

(2) The Enforcement Officer may bring an appropriate legal proceeding to punish the responsible person for such violation or in an appropriate case, and with the prior approval of the Town Board, a proceeding to enjoin such violation.

(3) Whenever the Enforcement Officer determines that an emergency exists which requires immediate action to protect the public health, safety or welfare, he may issue an order stating the existence of such emergency and require that such action be taken as may be deemed necessary to protect the public health, safety and welfare.

E. Penalties for offenses.

(1) A violation of this article is an offense punishable by a fine not exceeding $100, or by imprisonment for a period not exceeding 15 days or both. Each day's continued breach shall constitute a separate, additional violation. In addition the Town Board shall have such other remedies as are provided by law to enforce the provisions of this article.

(2) Occupancy/installation certificates may be invalidated for a conviction of a violation of this article if the violation has not been corrected.

F. Variances. When unnecessary hardships or practical difficulties make strict compliance with any requirement of this article unreasonable or impossible, an appeal may be taken to the Town of Dryden Board of Appeals from those provisions of this article. The Zoning Board of Appeals shall act in strict compliance with established case law, the Town Law, and may vary or modify the provisions of this article only as minimally as may be necessary upon the required showings and facts as presented.

G. Effect of partial invalidity. Should any section or provision of this article be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this article which shall remain in full force and effect.

H. Interpretation. The provisions of this article shall be held to be minimum requirements. Whenever the requirements of this article are at variance with the requirements of any other lawfully adopted codes, rules, regulations, ordinances, or local law, the more restrictive, or those imposing the higher standards, shall prevail.

I. Existing mobile homes and mobile home lots. Mobile homes and mobile home lots lawfully placed in the Town of Dryden on the effective date of this article may be maintained in their existing placement unless they:

(1) Are moved; or

(2) Are improved, or restored after damage, and the improvement or restoration affects 50% or more of its total floor area.

J. When effective. This article shall take effect and be in force from and immediately after its passage, publication of notice of adoption and posting as required by law.

§ 183-20. Mobile home lots.

A. Mobile homes lots may be located in any zone permitted in Chapter 270, Zoning, as amended from time to time.

B. Applications for installation permits and occupancy certificates shall be filed with the Enforcement Officer. The application shall be in writing, signed by the applicant, and shall include but not be limited to the following:

(1) Name and address of applicant.

(2) Address and location of the land or premises on which the mobile home is or is proposed to be located.

(3) Sketch drawing to scale of the mobile home lot showing the location or proposed location of the mobile home and any other structures, buildings or improvements to be placed on the lot, with dimensions and information to demonstrate compliance with the provisions of this article.

(4) Satisfactory evidence that the mobile home lot will have an approved individual water supply and individual sewage disposal system or is on municipal water and/or sewer.

(5) The application and accompanying information shall be filed in duplicate with

the Enforcement Officer.

(6) The application shall contain such other information as the Enforcement Officer deems reasonably necessary to insure compliance with this article.

C. If a proposed mobile home lot will, when constructed in accordance with plans submitted as part of the application, comply with the provisions of this article, the Enforcement Officer shall issue a construction/installation permit. At such time as construction is complete and a mobile home has been placed on said lot and if such construction and placement is in compliance with the provisions of this article, the Enforcement Officer shall issue an occupancy certificate. No mobile home or mobile home lot shall be occupied until an occupancy certificate has been issued.

D. No changes shall be made to a mobile home lot or mobile home, which will make the mobile home lot or mobile home in violation of this article or any other applicable code, law, rule, regulation, ordinance or local law.

E. All mobile homes hereafter placed on any mobile home lot shall conform to and comply with all applicable mobile home construction requirements in effect as of the date of manufacture of the mobile home.

F. Lot size. All mobile home lots (not in a mobile home park) shall be at least one acre in size and have a minimum usable area such that a circle with 150-foot diameter may be inscribed within the usable area.

G. Yards. Mobile homes and mobile home stands shall not be installed closer than 70 feet from the center line of any road, and no closer than 25 feet from any rear property line and no closer than 15 feet from any side lot line. Secondary additions, carports and individual storage structures shall be subject to the same setback requirements.

H. Each mobile home lot shall be provided with a mobile home stand and mobile home support system constructed according to the provisions of this article. Mobile homes shall be installed on the mobile home stand and mobile home support system according to the provisions of this article.

I. Single-wide mobile homes shall be enclosed with manufactured skirting or a skirting wall within 60 days of placement of the mobile home on the mobile home lot. Double-wide mobile homes on mobile home lots shall be enclosed with a skirting wall within 60 days of placement of the mobile home on the mobile home lot.

J. Portable storage buildings shall be a manufactured or kit type or be professionally designed and built. Permanent storage buildings require a building permit and must meet the setback requirements outlined in this article.

K. Carports or awnings. Attached or freestanding carports and awnings must be commercially manufactured and installed or be professionally designed and built.

L. Steps and decks. Steps and decks must be either commercially manufactured and installed or be professionally designed and built.

M. Solid fuel installations. All solid fuel installations must be approved by the agency

having jurisdiction thereof and the owner of the mobile home shall apply for and obtain all required approvals.

N. Additions to mobile home are treated as per § 270-16.2. For all secondary additions, exterior design and construction shall be compatible with the existing home exterior sheathing and roofing treatment. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

O. For each mobile home on a mobile home lot one parking space shall be provided. Such space and the required access driveway shall be the same as required for a single-family dwelling by Chapter 270, Zoning.

P. No outdoor storage of furniture, operable or inoperable machinery, appliances, unlicensed or inoperable vehicles or trailers or similar items shall be permitted. All such items shall be stored in approved storage buildings or inside enclosed carports.

Q. Each mobile home stand shall be connected to a septic system which will be used exclusively for that mobile home located on said stand.

R. Every mobile home lot and mobile home stand shall comply with Chapter 140, Electrical Code, of the Code of the Town of Dryden and all the requirements of the public utility furnishing electricity to the site. All fuel supply and storage systems shall be installed and maintained in accordance with all applicable codes, laws, rules and regulations ordinances and local laws governing such systems.

S. Mobile home stands with natural gas shall have an approved manual shutoff valve. The gas outlet shall be equipped with an approved cap to prevent accidental discharge of gas when the outlet is not in use. All natural gas supply systems shall be installed and maintained in conformity with the public utility company standards.

T. Liquefied petroleum gas

(1) Mobile homes provided with liquefied petroleum gas systems shall have approved safety devices to relieve excessive pressure and shall discharge at a safe location.

(2) Such systems shall have at least one accessible approved manual shutoff valve located outside of the mobile home.

(3) All piping shall be well supported and protected against mechanical injury.

(4) Storage tanks shall not be less than 100 pounds and be located not less than five feet away from any exit.

U. Fuel oil.

(1) Mobile homes with fuel oil storage tanks shall have the tanks securely supported and fastened in place.

(2) Tanks shall be equipped with permanently installed and secured piping.

(3) Tanks shall be at least 275 gallons' capacity.

(4) Fuel oil storage tank installations shall be screened from public view.

V. All mobile homes placed on mobile home lots after the enactment of this article, shall be a minimum of 672 square feet. (i.e., 12 body feet wide by 56 body feet long).

W. Responsibility of mobile home lot occupants.

(1) Occupants of mobile homes shall comply with the requirements of this article and shall maintain the mobile home lot, facilities and equipment in good repair and in a clean and sanitary condition.

(2) Sufficient garbage containers with tight-fitting covers shall be utilized for the storage and disposal of garbage and rubbish. Containers shall be screened from public view.

Chapter 190

NOTIFICATION OF DEFECTS

§ 190-1. Written notice of defect required.

No civil action shall be maintained against the Town or Town Superintendent of Highways for damages or injuries to person or property sustained by reason of any street, highway, bridge or culvert being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous or obstructed condition of such street, highway, bridge or culvert was actually given to the Town Clerk or Town Superintendent of Highways, and there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of; but 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 street, highway, bridge or culvert, unless written notice thereof, specifying the particular place, was actually given to the Town Clerk or Town Superintendent of Highways and there was a failure or neglect to cause such snow or ice to be removed, or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 190-2. Sidewalks; Town responsibilities.

No civil action shall be maintained against the Town or Town Superintendent of Highways for damages or injuries to person or property sustained by reason of any defect in a Town sidewalk or in consequence of the existence of snow or ice upon any of its sidewalks, unless such sidewalks have been constructed or are maintained by the Town or the Superintendent of Highways of the Town pursuant to statute, nor shall any action be maintained for damages or injuries to person or property sustained by reason of such defect or in consequence of such existence of snow or ice unless written notice thereof, specifying the particular place, was actually given to the Town Clerk or to the Town Superintendent of Highways, and there was a failure or neglect to cause such defect to be remedied, such snow or ice to be removed, or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 190-3. Transmittal of written notices. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

The Town Superintendent of Highways shall transmit in writing to the Town Clerk within 10 days after the receipt thereof all written notices received by him pursuant to this chapter and Subdivisions (1) and (2) of § 65-a of the Town Law. The Town Clerk shall cause all written notices received by her pursuant to this chapter and Subdivisions (1) and (2) of § 65-a of the Town Law, to be presented to the Town Board within five days of the receipt thereof or at the next succeeding Town Board meeting, whichever shall be sooner.

§ 190-4. Repealer.

A. This chapter shall supersede in its application to the Town of Dryden Subdivisions (1), (2) and (3) of § 65-a of the Town Law.

B. This chapter repeals Local Law No. 1 of the year 1977.

§ 190-5. When effective.

This chapter shall take effect immediately upon its filing in the office of the Secretary of State in accordance with the provisions of the Municipal Home Rule Law.

Chapter 197

PARKS AND RECREATION AREAS

ARTICLE I
Dryden Lake Park Vehicle Restrictions
[Adopted 8-11-1992 by L.L. No. 2-1992]

§ 197-1. Definitions.

A. For the purposes of this article, the following terms are defined as follows:

AUTHORIZED EMERGENCY VEHICLES — Every ambulance, police vehicle, fire vehicle, civil defense emergency vehicle, emergency ambulance service vehicle, environmental emergency response vehicle, hazardous materials emergency vehicle and ordinance disposal vehicle of the Armed Forces of the United States.

MOTOR VEHICLE — Every vehicle operated or driven which is propelled by any power other than muscular power, except: (a) an electrically driven mobility assistance device operated or driven by a person with a disability; (b) authorized emergency vehicles; and (c) vehicles used by Town of Dryden personnel in connection with maintenance, repair and replacement. For the purposes of this article, vehicles shall also include a snowmobile, all-terrain vehicle, farm-type tractors, farm equipment, self-propelled machines and self-propelled caterpillar or crawler-type equipment, including off-highway motorcycles, motorcycles, motorbikes and go-carts.

VEHICLE — Every device in, upon, or by which any person or property is or may be transported or drawn.

B. For further definition and clarification of certain words and phrases used in this section of this article, refer to the New York Vehicle and Traffic Law.

§ 197-2. Restrictions.

No person shall operate any vehicle or motor vehicle (except authorized emergency vehicles), either licensed or unlicensed, on, over or along that section of Town of Dryden property commencing on the south line of the Village of Dryden and extending generally southeasterly to the bounds of East Lake Road and intending to describe that portion of Town of Dryden property or property under license to the Town of Dryden from the people of the State of New York constituting a portion of Dryden Lake Park. The provisions of this section shall not apply to an individual who has been issued a permit by the Town Clerk of the Town of Dryden to use a vehicle or motor vehicle for transporting a handicapped person on, over or along such restricted property.

§ 197-3. Handicapped permit.

The Town Clerk of the Town of Dryden is hereby authorized to promulgate rules and regulations, forms and permits for issuance to duly qualified handicapped persons to operate vehicles or motor vehicles in contravention of the provisions of § 197-2 above.

§ 197-4. Penalties for offenses.

Any person convicted of violating this article on the first such conviction may be punished by a fine not exceeding $250 and by a period of imprisonment not exceeding

15 days. Upon a second such conviction of said person, the fine shall not exceed $500 or and/or 90 days' imprisonment, and for a third and all subsequent convictions of said person the fine shall not exceed $1,000 and the period of imprisonment shall not exceed one year for each such conviction.

§ 197-5. When effective.

This article shall take effect upon its adoption and filing as provided by law.

Chapter 202

RENEWABLE ENERGY FACILITIES

ARTICLE I
General

§ 202-1. Title.

This chapter may be cited as the "Renewable Energy Facilities Law of the Town of Dryden, New York."

§ 202-2. Purpose.

The Town Board of the Town of Dryden adopts this chapter to promote the effective and efficient use of the Town's renewable nonpolluting energy resources through renewable energy conversion systems (RECS) and wind energy conversion systems (WECS), without harming public health and safety, and to avoid jeopardizing the welfare of the residents.

§ 202-3. Authority.

The Town Board of the Town of Dryden enacts this chapter under the authority granted by:

A. New York State Constitution, Article IX, § 2(c)(6) and (10).

B. New York Statute of Local Governments, § 10(1), (6), and (7).

C. New York Municipal Home Rule Law, § 10(1)(i) and (ii) and § 10(1)(ii)a(6), (11), (12), and (14).

D. The supersession authority of New York Municipal Home Rule Law, § 10(1)(ii)d(3), specifically as it relates to determining which body shall have power to grant special use permits under this chapter, to the extent such grant of power is different than under Town Law § 274-b.

E. New York Town Law, Article 16 (Zoning).

F. New York Town Law § 130(1) (Building Code), (3)(Electrical Code), (5)(Fire Prevention), (7)(Use of streets and highways), (7-a)(Location of Driveways), (11)(Peace, good order and safety), (15) (Promotion of public welfare), (15-a) (Excavated Lands), (16)(Unsafe buildings), (19)(Trespass), and (25)(Building lines).

G. New York Town Law § 64(17-a) (protection of aesthetic interests), (23)(General powers).

§ 202-4. Findings.

The Town Board of the Town of Dryden finds and declares that:

A. Residents of the Town of Dryden may face energy shortages and increasing energy prices and the local generation of electricity and promotion of alternative home heating resources can provide the community with clean and reliable electricity and home heating, contribute to local and statewide energy self-reliance and diversify and strengthen the local economy.

B. Benefit; impact on viewshed.

(1) The generation of electricity from properly sited small wind turbines and other renewable energy sources can be a cost effective mechanism for reducing on-site electric costs with a minimum of environmental impacts.

(2) Large-scale multiple-tower wind energy facilities may present significant potential impacts on viewsheds, wildlife and neighboring properties because of their large size, lighting, shadow flicker effects and noise level.

C. The use of other small-scale renewable energy conversion systems (other than small wind turbines) can reduce reliance on petroleum-based home heating products and electricity generated from fossil fuels, thereby decreasing the air and water pollution that results from the use of conventional energy sources and contributing to the long-term health of global ecosystems.

D. Permitting and regulating the use of renewable, nonpolluting energy and regulating the location and installation of small wind turbines and other renewable energy conversion systems is necessary to protect and promote the safety and welfare of Town residents.

§ 202-5. Definitions.

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

EAF — The Environmental Assessment Form used in the implementation of the SEQRA as that term is defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

MECHANICAL WIND TURBINE — A wind energy conversion system that converts wind energy to mechanical power.

RENEWABLE ENERGY CONVERSION SYSTEM (RECS) — A renewable energy conversion system other than a WECS or a solar energy system (as that term is defined in Chapter 270, Zoning) and includes but is not limited to heat pump systems and wood, wood pellet, hay and other types of biomass stoves.**[Amended 2-16-2017 by L.L. No. 3-2017]**

RENEWABLE ENERGY FACILITY — A small wind energy conversion system or a small renewable energy conversion system as those terms are defined herein.

SEQRA — The New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.

SITE — The parcel of land where the WECS or RECS is to be placed. The site could be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements.

SMALL RENEWABLE ENERGY CONVERSION SYSTEM (SMALL RECS) — A renewable energy conversion system designed for on-site home, farm, or commercial use primarily to reduce on-site consumption of public utility energy.

SMALL WIND ENERGY CONVERSION SYSTEM (SMALL WECS) — A wind

energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which is intended to primarily reduce on-site consumption of utility power.

TOTAL HEIGHT — The height of the tower and the furthest vertical extension of the WECS or RECS.

WIND ENERGY CONVERSION SYSTEM (WECS) — A machine that converts the kinetic energy in the wind into electrical or mechanical energy (commonly known as a "wind turbine" or "windmill").

WIND ENERGY FACILITY — Any wind energy conversion system, small wind energy conversion system, or wind measurement tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures.

WIND MEASUREMENT TOWER — A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction. Temporary (no more than two years) towers may be allowed as part of a Small WECS application, where the requested tower meets all height, setback and other requirements of this chapter.

§ 202-6. Permits required.

A. No renewable energy facility shall be constructed, reconstructed, modified, or operated in the Town of Dryden except in compliance with this chapter.

B. Small WECS.

(1) No WECS other than a small WECS shall be constructed, reconstructed, modified, or operated in the Town of Dryden. No wind measurement tower shall be constructed, reconstructed, modified, or operated in the Town of Dryden, except in conjunction with and as part of an application for a small WECS.

(2) No RECS other than a small RECS shall be constructed, reconstructed, modified, or operated in the Town of Dryden.

C. No small WECS shall be constructed, reconstructed, modified, or operated in the Town of Dryden except pursuant to a special use permit issued pursuant to this chapter.

D. No small RECS shall be constructed, reconstructed, modified, or operated in the Town of Dryden except pursuant to a special use permit issued pursuant to this chapter.

E. This chapter shall apply to the area of the Town of Dryden outside the Village of Dryden and the Village of Freeville.

F. No transfer of the real property on which a small WECS or small RECS is situated shall eliminate the liability of the owner of such property from compliance with this chapter and the conditions of the special use permit issued for such WECS or RECS.

G. Notwithstanding the requirements of this section, replacement in kind or

modification of a small WECS or small RECS may occur without Town Board approval when:

(1) There will no increase in total height;

(2) No change in the location of the small WECS;

(3) No additional lighting or change in facility color; and

(4) No increase in noise produced by the small WECS.

§ 202-7. Applicability.

A. The requirements of this chapter shall apply to all renewable energy facilities proposed, operated, modified, or constructed after the effective date of this chapter.

B. Renewable energy facilities constructed and placed in operation prior to the effective date of this chapter shall not be required to meet the requirements of this chapter; provided, however, that no modification or alteration to an existing renewable energy facility shall be allowed without full compliance with this chapter.

C. Renewable energy facilities are allowed as accessory uses. renewable energy facilities constructed and installed in accordance with this chapter shall not be deemed expansions of a nonconforming use or structure.

D. Notwithstanding anything to the contrary in this chapter, no special use permit shall be required for mechanical wind turbines less than 50 feet tall; tower, pole or other independently structurally mounted RECS with a total height less than the structure served, or for heat pump systems or wood, wood pellet, hay and other types of biomass stoves. **[Amended 2-16-2017 by L.L. No. 3-2017]**

§ 202-8. Abandonment of use.

A small WECS or small RECS which is not used to produce electricity for 12 successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner within 24 months after notice from the Town Board. Failure to comply with this section or with any and all conditions that may be attached to a special use permit shall constitute grounds for the revocation of the permit by the Town of Dryden, after notice and a hearing before the Town Board.

§ 202-9. Hearing required.

A. Public hearing and decision on special use permits. The Town Board shall conduct a public hearing within 62 days from the day a complete application is received. Public notice of said hearing shall be printed in the official newspaper at least five days prior to the date thereof. The Town Board shall decide the application within 62 days after the close of the public hearing. The time within which the Town Board must render its decision may be extended by mutual consent of the applicant and the Board. The decision of the Town Board on the application after the holding of the public hearing shall be filed in the office of the Town Clerk within five business days after such decision is rendered, and a copy thereof mailed to the applicant.

B. Notice to applicant, county planning agency and adjacent owners. At least 10 days before such hearing, the Town Board shall mail notices thereof to the applicant and to the county planning agency, as required by Town Law § 274-b and General Municipal Law § 239-m, which notice shall be accompanied by a full statement of such proposed action. The Town Board shall also mail notice of such application and public hearing to the owners of all property adjacent to the proposed tower site and/or within 500 feet of the proposed tower site.

C. Compliance with SEQRA. The Town Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

D. Conditions attached to the issuance of special use permits. The Town Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of any other required permits to be issued by the Town.

§ 202-10. Fees. [Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

Application fee shall be established by resolution of the Town Board following procedures as set forth in § 118-16.

§ 202-11. Enforcement; penalties for offenses; remedies for violations.

A. The Town Board shall by resolution appoint such Town employees, including the Code Enforcement Officers, to enforce this chapter. Such appointees shall have the authority to issue appearance tickets pursuant to the provisions of the Criminal Procedure Law.

B. Penalties for offenses.

(1) Any person owning, controlling or managing any building, structure or land who shall undertake a wind energy facility in violation of this chapter or in noncompliance with the terms and conditions of any permit issued pursuant to this chapter, or any order of the enforcement officer, and any person who shall assist in so doing, shall be guilty of an offense and subject to a fine of not more than $1,000 or to imprisonment for a period of not more than six months, or subject to both such fine and imprisonment. Every such person shall be deemed guilty of a separate offense for each day such violation shall continue.

(2) The Town may also institute a civil proceeding to collect civil penalties in the amount of $350 for each violation. Each week said violation continues shall be deemed a separate violation.

C. In case of any violation or threatened violation of any of the provisions of this chapter, including the terms and conditions imposed by any special use permit issued pursuant to this chapter, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, or to prevent any illegal act.

§ 202-12. Severability.

Should any provision of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§ 202-13. When effective.

This chapter shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law.

ARTICLE II
Small Wind Energy Conversion Systems (WECS)

§ 202-14. Intent.

This article regulates and provides standards for small wind energy conversion systems (WECS) designed for on-site home, farm, and commercial use, and that are primarily used to reduce on-site consumption of public utility generated and distributed electricity. The intent of this article is to encourage the development of small wind energy systems and to protect the public health, safety, and community welfare.

§ 202-15. Permitted areas.

Small WECS may be permitted upon issuance of a special use permit on any parcel meeting the standards of this chapter in any zoning district.

§ 202-16. Applications.

Applications for small WECS special use permits shall include:

A. Name, address, telephone number of the applicant. If the applicant will be represented by an agent, the name, address and telephone number of the agent, as well as an original signature of the applicant authorizing the agent to represent the applicant is required.

B. Names and addresses.

(1) Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner:

(a) Confirming that the property owner is familiar with the proposed applications; and

(b) Authorizing the submission of the application.

(2) The names and mailing addresses of all owners of all property adjacent to the proposed tower site and/or within 500 feet of the proposed tower site.

C. Address of each proposed tower site, including Tax Map parcel number.

D. Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.

E. Additional items.

(1) A completed short EAF and a visual EAF addendum.

(2) The Board may require submission of a more detailed visual analysis based on the results of the visual EAF addendum including a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

(3) Applicants must have a preapplication conference with the Town Code Enforcement Officer to address the scope of the required visual assessment.

§ 202-17. Development standards.

All small WECS shall comply with the following standards. Such systems shall also comply with all the requirements established by other sections of this article that are not in conflict with the requirements contained in this section.

A. Only one small WECS (or, where authorized, a temporary wind measurement tower) per lot shall be allowed. Adjoining lots shall be treated as one lot for purposes of this limitation. More than one small WECS per lot may be allowed if the applicant adequately demonstrates that the electrical or mechanical power needs of the individual user exceed the power generation capability of one WECS.

B. Small WECS shall be used primarily to reduce the on-site consumption of public utility-provided electricity, or as a primary source of electricity when the applicant is not connected to the electricity grid.

C. Tower heights shall be limited to a maximum of 140 feet.

D. The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports.

E. The maximum turbine power output is limited to 10 kW unless the applicant demonstrates to the reasonable satisfaction of the Town Board that a larger turbine is necessary to meet the historical and/or projected energy needs of the applicant. The applicant shall submit documentation supporting the increased turbine size including copies of electrical bills, an energy audit or electrical power requirements of any new or proposed equipment.

F. The system's tower and components shall be painted a nonreflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.

G. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g., public parks, roads, trails) and from adjacent properties.

H. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.

I. All on-site electrical wires associated with the system shall be installed underground except for "tie-ins" to a public utility company and public utility company transmission poles, towers and lines. This standard may be modified by the Town Board if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.

J. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference,

the system operator shall promptly mitigate the harmful interference or cease operation of the system.

K. At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm therefrom. No brand names, logo or advertising shall be placed or painted on the tower or components where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system housing in an unobtrusive manner.

L. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:

(1) Tower-climbing apparatus located no closer than 12 feet from the ground.

(2) A locked anticlimb device installed on the tower.

(3) A locked, protective fence at least six feet in height that encloses the tower.

M. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any aboveground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three feet to eight feet above the ground.

N. The minimum height above the ground of the lowest part of the wind turbine blade shall be at least 15 feet.

O. All small RECS tower structures shall be designed and constructed to be in compliance with applicable provisions of the New York State Uniform Fire Prevention Building Code, National Electric Code and generally accepted engineering practices.

P. All small WECS shall be equipped with manual and automatic overspeed controls. The conformance of rotor and overspeed control design and fabrication with good engineering practices shall be certified by the manufacturer.

Q. No WECS shall be so constructed or operated so as to create artificial habitat for raptors or raptor prey. Electrical boxes, perching opportunities, etc., shall to the maximum extent practicable be minimized.

R. A small WECS shall not be located closer to any adjacent property's line, right-of-way, easement, public highway or power line than the total height of the facility plus 10 feet.

S. Small WECS shall be set back at least 1,000 feet from any important bird area as identified by New York Audubon and from state-listed wetlands. The Town Board may consider applications for small WECS within 1,000 feet of an important bird area or state-listed wetland upon a recommendation from the Conservation Board.

T. All small WECS shall be maintained in good condition and in accordance with all requirements of this section.

ARTICLE III
Small Renewable Energy Conversion Systems (RECS)

§ 202-18. Intent.

This article regulates and provides standards for small RECS, designed for on-site home, farm, and small commercial use, and that are primarily used to reduce on-site consumption of public utility-generated and -distributed electricity. The intent of this article is to encourage the development of such renewable energy systems and to protect the public health, safety, and community welfare.

§ 202-19. Permitted areas.

Small RECS may be permitted upon issuance of a special use permit on any parcel meeting the standards of this chapter in any zoning district.

§ 202-20. Small RECS not regulated.

Small RECS mounted on the structure being served, are not regulated under this chapter. Small RECS mounted on a tower, pole or structure other than the structure being served, and whose total elevation is not higher than the highest elevation of the structure served are not regulated under this chapter.

§ 202-21. Applications.

Applications for small RECS special use permits shall include:

A. Names and addresses.

(1) Name, address, telephone number of the applicant. If the applicant will be represented by an agent, the name, address and telephone number of the agent, as well as an original signature of the applicant authorizing the agent to represent the applicant is required.

(2) The names and mailing addresses of all owners of all property adjacent to the site and/or within 500 feet of the proposed site.

B. Name, address, telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner:

(1) Confirming that the property owner is familiar with the proposed applications; and

(2) Authorizing the submission of the application.

C. Address of the proposed small RECS site, including Tax Map parcel number.

D. If proposed structure will exceed the height of the roofline of the building being served, application must be accompanied by an engineer's drawing.

E. Additional items.

(1) A completed short EAF and a visual EAF addendum.

(2) The Board may require submission of a more detailed visual analysis based on the results of the visual EAF addendum including computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

(3) Applicants must have a preapplication conference with the Town Code Enforcement Officer to address the scope of the required visual assessment.

§ 202-22. Development standards.

All small RECS shall comply with the following standards. Such systems shall also comply with all the requirements established by other sections of this article that are not in conflict with the requirements contained in this section.

A. Only one small RECS per lot shall be allowed. Adjoining lots shall be treated as one lot for purposes of this limitation. More than one small RECS may be allowed if the applicant adequately demonstrates that the electrical or mechanical power needs of the individual user exceed the power generation capability of one RECS.

B. Small RECS shall be used primarily to reduce the on-site consumption of public utility-provided electricity or as a primary source of electricity when the applicant is not connected to the electricity grid.

C. Pole height shall be limited to a maximum 15 feet.

D. The allowed height shall be reduced if necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports.

E. The system's structure and components shall be painted a nonreflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate nonreflective surfaces to minimize any visual disruption.

F. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g., public parks, roads, trails) and from adjacent properties.

G. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.

H. All on-site electrical wires associated with the RECS shall be installed underground except for "tie-ins" to a public utility company and public utility company transmission poles, towers and lines. This standard may be modified by the Town Board if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.

I. At least one sign shall be posted on the tower at a height of five feet warning of

electrical shock or high voltage and harm therefrom. No brand names, logo or advertising shall be placed or painted on the tower or components where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system housing in an unobtrusive manner.

J. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:

(1) Tower-climbing apparatus located no closer than 12 feet from the ground.

(2) A locked anticlimb device installed on the tower.

(3) A locked, protective fence at least six feet in height that encloses the tower.

K. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any above-ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.

L. All small RECS tower structures shall be designed and constructed to be in compliance with applicable provisions of the New York State Uniform Fire Prevention Building Code, National Electric Code and generally accepted engineering practices.

M. A small RECS shall not be located closer to any adjacent property's line, right-of-way, easement, public highway or power line than the total height of the facility plus 10 feet.

N. All small RECS shall be maintained in good condition and in accordance with all requirements of this section.

Chapter 210

SEPTAGE AND SLUDGE DISPOSAL

§ 210-1. Legislative findings and purpose.

The Town Board finds:

A. That currently there exists a difference of opinion among experts as to whether it can be dangerous for humans to consume crops grown on land used for the spreading of septage or sludge or to drink milk or consume products of animals which graze on such land;

B. That until more definitive information is available, there is a need for careful management of available open land;

C. That the septage receiving facility at the Ithaca Area Wastewater Treatment Plant is operational and is prepared to receive septage generated or originating within the Town;

D. That the Town's manpower and financial resources are such that the Town would have serious difficulty regulating and monitoring the disposal of septage or sludge generated or originating outside of the Town while striving to effectively regulate and monitor that which is generated within the Town;

E. That the inability of the Town to regulate and monitor the disposal of septage or sludge coming into the Town from outside sources could result in serious health problems for Town residents and environmental damage to property and land within the Town;

F. That the purpose of this chapter is to protect and preserve the health, safety and welfare of the residents of the Town by regulating land use and the disposal of septage and sludge within the Town;

G. That this chapter relates to the property, affairs and government of the Town and its adoption is authorized by the Municipal Home Rule Law of the State of New York and § 27-0711 of the Environmental Conservation Law of the State of New York.

§ 210-2. Definitions.

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

DISPOSAL (DISPOSE) — The discharge, deposit, injection, dumping, spilling, spreading, leaking or placing of any septage or sludge into or on any land or water.

PERSON — Any individual, public or private corporation, political subdivision, government agency, department or bureau of the states, municipality, industry, copartnership, association, firm, trust, estate or any other legal entity.

SEPTAGE — The contents of a septic tank, cesspool or other individual sewage treatment facility which receives domestic sewage wastes.

SLUDGE — Any solid, semisolid or liquid waste generated or deposited from municipal or private sewage treatment plants.

STORAGE — The containment of any septage or sludge, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such septage or sludge.

TOWN — The Town of Dryden. Whenever this chapter refers to any action which is to be taken or authorized by the "Town," the provision shall be deemed to refer to the Town Board unless otherwise specified.

§ 210-3. Prohibited acts.

A. No septage or sludge shall be transported into or within the Town for disposal or storage within the Town.

B. No land, structure or other facility within the Town shall be used for the disposal or storage of septage or sludge, whether generated or originating within or outside of the Town.

C. No person shall dispose of any septage or sludge generated or originating within the Town except at the septage receiving facility of the IAWWT Facility.

D. No person being the owner, driver, helper, manager or operator of any truck or other vehicle used in the collection, transportation or disposal of septage or sludge shall allow any of said material from said vehicle to fall, leak or blow from such vehicle upon any of the streets, highways, sidewalks or public places in the Town, or upon any property in the Town, whether real or personal, public or private.

§ 210-4. Certification after landspreading; use restriction.

Land which has heretofore been used for a landspreading facility of septage or sludge shall not hereafter be used for agriculture until such time as the Town Board receives certification in writing from an independent professional engineer licensed by the State of New York that the content in said soil of pathogens, heavy metals and other substances known to be harmful to humans is within limits established at the time of said certification by the New York State Department of Environmental Conservation. In no event shall such land be used for agriculture until at least 60 months have elapsed since such landspreading occurred.

§ 210-5. Penalties for offenses; enforcement.

A. Any person who violates any provision of this chapter shall be guilty of a Class A misdemeanor and shall be punished by such fine or imprisonment, or both, as shall be provided by the New York State Penal Law. Each day of continued violation shall be deemed a separate violation of this chapter.

B. This chapter may be enforced by any police officer or by any officer of the Town or by any employee of the Town if so authorized by resolution of the Town Board. Any such enforcement official is authorized to issue appearance tickets for any violation of this chapter.

§ 210-6. Civil remedies.

Nothing in this chapter shall be deemed to impair or diminish any cause of action

or remedy which the Town may have under any other local law, under any statute, ordinance or regulation or under the common law; provided, however, that in the case of a conflict, those terms or rules of law which are more restrictive shall control. In addition thereto, the Town may enforce this chapter by injunction.

§ 210-7. Liability for expenses.

Any person adjudged in a criminal or civil proceeding to have violated this chapter shall be liable to the Town for all expenses incurred by the Town in connection with the proceeding, including the reasonable attorney's fees of the Town in connection therewith.

§ 210-8. Severability.

If any clause, sentence, paragraph, subdivision, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment is rendered.

§ 210-9. Effective date.

This chapter shall become effective July 1, 1989.

Chapter 214

SEWER CONNECTION AND CONSTRUCTION

ARTICLE I
General Provisions[17]

§ 214-1. Preamble.

A. Whereas, the federal government has enacted and amended the Federal Water Pollution Control Act, now known as the Federal Clean Water Act (33 U.S.C. § 1251 et seq.), and the Environmental Protection Agency of the United States of America, and the Department of Environmental Conservation of the State of New York are directing and supervising the implementation of applicable federal and state laws and regulations;

B. Whereas, the City of Ithaca, and the Town of Ithaca, and the Town of Dryden have entered into an agreement for the construction and improvement of the public wastewater system as a joint municipal project and which will be owned, operated, and financed jointly by said municipalities;

C. Whereas, the municipality desires to provide that use of the above-described public wastewater system will conform to the best required sanitary engineering practices; and

D. Whereas, the municipality desires to regulate the use of the public wastewater system operated by it;

E. Now, therefore, the Municipal Board enacts this chapter to be known as "The Intermunicipal Sewer Use Law."

§ 214-2. Definitions.

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

BUILDING DRAIN — That part of the lowest horizontal piping of a sanitary drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer.

BUILDING SEWER — Also referred to herein as house sewer or sewer connection, shall mean the extension from the building drain to the public sewer or other place of disposal.

CONTAMINATION — An impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease.

CONTRACTING MUNICIPALITY — A municipality, such as the Village of Cayuga Heights, or other municipality, with whom the municipality has entered or may enter into an agreement whereby the said municipality agrees to receive and treat sewage discharge and waste through its municipal sewage works.

GARBAGE — Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

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17. Note: The Rules, Regulations and Penalties of the Board of Public Works of the City of Ithaca regarding water supply, sewage disposal and air conditioning, as amended, apply in the Town of Dryden.

INDUSTRIAL WASTES — The liquid or wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

NATURAL OUTLET — Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

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

pH — The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

POLLUTION — The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

PRETREATMENT — The reduction of the amount of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes, process changes, or by other means, except as prohibited by 40 CFR 403.6, General Pretreatment Regulation for Existing and New Sources of Pollution.

PROPERLY SHREDDED GARBAGE — The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

PUBLIC SEWER — A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

PUBLICLY OWNED TREATMENT WORKS (POTW) — A treatment works as defined by Section 212 of the Federal Clean Water Act (33 U.S.C. § 1292). This includes any sewers that convey wastewater to the POTW but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment.

SANITARY SEWER — A sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

SEWAGE — A combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.

SEWAGE WORKS — All facilities for collecting, pumping, treating, and disposing of sewage.

SEWER — A pipe or conduit for carrying sewage.

SEWER INSPECTOR or SEWER SUPERINTENDENT — Any person appointed by the Municipal Board who shall be the Board's authorized agent and representative in the administration and enforcement of this chapter and shall exercise those powers delegated to him in this chapter or which may be reasonably required to carry out such powers. Until such time as a Sewer Inspector or Sewer Superintendent is appointed, any such powers shall be exercised by such person or persons as the Municipal Board may designate.

SIGNIFICANT INDUSTRIAL USER — A user which consists of:

A. All industries subject to categorical pretreatment standards;

B. Industries having substantial impact, either singly or in combination with other industries, on the operation of the treatment works;

C. Manufacturing industries using priority pollutants; and

D. Those industries discharging more than 25,000 gallons per day of process waste.

ARTICLE II
Use of Public Sewers Required

§ 214-3. Placing or depositing objectionable waste.

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the municipality, or in any area under the jurisdiction of said municipality, any human or animal excrement, garbage, or other objectionable waste.

§ 214-4. Discharging polluted waters.

It shall be unlawful to discharge to any natural outlet within the municipality or in any area under the jurisdiction of said municipality, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

§ 214-5. Unlawful construction.

Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

§ 214-6. Connection to public sewer required; exception.

A. Except as otherwise provided in this article, the owner of any house, building, or any property used for human occupancy, employment, recreation, commerce, manufacturing, or other purpose, situated within the municipality and abutting on any street, thoroughfare, or right-of-way in which there is located a municipality public sewer or if such municipality public sewer is otherwise available or accessible to such house, building, or property, is hereby required at his expense to connect with the municipality public sewer and, also, at his expense, to install suitable plumbing and toilet facilities therein and to connect such facilities directly with the public sewer in accordance with the provisions of this chapter, and even if sewage collection and disposal facilities are provided by any other public agency in such area.

B. Except as otherwise provided herein, such connection must be made within 45 days after date of official notice to do so, except that any new building or construction completed after the date on which such public sewer became available for connection shall be connected to such public sewer prior to occupancy or use of such building.

C. Notwithstanding the foregoing provisions of this section, no house or building which was connected to a private sewage disposal system when a public sewer became available in or through any sewer district heretofore established shall be required to connect with any such public sewer until the expiration of 10 years after such public sewer became available for connection, unless:

   (1) Such connection is required by the Tompkins County Health Department or other public body or agency having similar jurisdiction; or

(2) Such private sewage disposal facilities are not functioning satisfactorily or require substantial alterations or additions thereto.

(3) In either of the foregoing cases, a written notice shall be served upon the owner or occupant of any such building by the Tompkins County Health Department, the Municipal Board, or its duly authorized agent, which shall set forth the reasons requiring connection to the public sewer and such connection must be made by any such owner or occupant within 30 days after the date of any such notice.

D. The provisions of Subsection C of this section shall apply to any such house or building located in any sewer district hereinafter established except as modified by and subject to such rules, regulations, or resolutions which may be adopted by the Municipal Board.

§ 214-7. Exemption from connection requirement.

Where there are unusual and extreme practical difficulties in requiring a house or building to be connected with a public sewer as required in this article, the Municipal Board may exempt an owner of such house or building from the requirement of connecting with the public sewer under such terms and conditions as it may require and until such time as such exemption is canceled by the Municipal Board, provided that:

A. The owner of any such property shall have filed a written appeal to the Municipal Board setting forth the circumstances, the practical difficulties encountered, and such other pertinent information as the Board may require; and

B. The Tompkins County Health Department has consented to such exemption.

§ 214-8. Building permit required.

No house or building shall be connected to the public sewer unless a valid building permit has been issued for the construction, repair, or alteration of said house or building.

ARTICLE III
Private Sewage Disposal

§ 214-9. Connection to private system.

The building sewer shall be connected to a private sewage disposal system complying with the provisions of this article whenever:

A. A public sewer is not available; or

B. Permission to connect to private sewage disposal facilities has been granted under the provisions of Article II.

§ 214-10. Application for connection.

Application for connection to such private sewage disposal facilities shall be made to the Tompkins County Health Department and any such facility shall be constructed and maintained in accordance with the requirements of said Department.

§ 214-11. Availability of public sewer.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with this chapter within 45 days unless this requirement is modified under the circumstances provided for in §§ 214-6 and 214-7 of Article II.

§ 214-12. Sanitary operation and maintenance; no cost to Town.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the municipality.

ARTICLE IV
Building Sewers and Connections

§ 214-13. Permit required.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Sewer Inspector or other authorized person.

§ 214-14. Classes of building sewer permits; revocation of permit.

There shall be two classes of building sewer permits: (a) for residential and commercial service; and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the municipality. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Sewer Inspector. At the time the application is filed, a permit and inspection fee shall be charged in such amount as the Municipal Board may from time to time establish for such purpose. Such permit shall be kept at the site of the work and be available for inspection by any officer or agent of the municipality. Any applicant for a permit shall be required to furnish a sufficient insurance policy or bond protecting the municipality against any liability for injuries to persons or property or to indemnify the municipality against any loss or damage which it may sustain.

A. Notwithstanding anything hereinbefore contained, the issuance of the permit shall be subject to such further requirements as may be required by any contracting municipality. The Municipal Board may designate such contracting municipality as its agent for the purpose of issuing permits.

B. The Municipal Board or its duly designated agent may revoke such permit upon written notification to the person to whom it was granted if the work is not being done in compliance with the requirements of this chapter and any applicable rules and regulations, or is not being performed in a competent manner, or is not being completed within a reasonable time after the commencement thereof, or is endangering or may reasonably endanger persons or property, or upon such other ground as the Municipal Board or its duly designated agent may deem to be justifiable.

§ 214-15. Costs borne by owner; indemnification of Town.

All costs and expenses incident to the installation and connection of the building sewer and the repair, maintenance, and replacement thereof shall be borne by the owner. The owner shall indemnify the municipality from any loss or damage that may directly or indirectly be occasioned by any such installation, connection, repair, maintenance, and replacement and any work done in connection therewith.

§ 214-16. Separate sewer for each building; exception.

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court,

yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

§ 214-17. Use of old building sewers.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Sewer Inspector or other authorized person, to meet all requirements of this chapter.

§ 214-18. Materials and methods of sewer construction.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe and the connection thereof to the public sewer, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules or regulations of:

A. The municipality;

B. Those contained in Chapter 245 of the Municipal Code of the City of Ithaca, New York, or other applicable laws, rules, and regulations of said City, as the same may be from time to time amended as they apply to sewer services; and

C. In addition, when the contracting municipality is the Village of Cayuga Heights or any other contracting municipality, any additional requirements contained in any duly adopted ordinance or law of said municipality.

§ 214-19. Connections to conform to building and plumbing codes, etc.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules or regulations of the municipality or the procedures set forth in the appropriate specifications of the ASTM and WPCF Manual of Practice No. 9. All such connections shall be watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Sewer Superintendent before installation.

§ 214-20. Elevation of building sewer.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

§ 214-21. Certain waters prohibited from draining into public sewer.

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

§ 214-22. Building sewer inspections.

The applicant for the building sewer permit shall notify the Sewer Inspector, or other

authorized person and, in the case of a contracting municipality, the authorized person of said municipality, when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of said authorized person.

§ 214-23. Installations to be guarded by barricades and lights.

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

ARTICLE V
Drainage and Discharge

§ 214-24. Prohibition against draining or discharging into sanitary sewer.

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

§ 214-25. Allowed stormwater and unpolluted drainage discharges.

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Sewer Inspector or other person authorized by the Municipal Board. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Sewer Inspector or other authorized person, to a storm sewer, combined sewer, or natural outlet.

§ 214-26. Prohibited discharges.

No person shall discharge or cause to be discharged into any public sewer or sanitary sewer any waters, wastes, or any materials, which are prohibited by the laws, ordinances, or other applicable rules and regulations of any contracting municipality and, in addition thereto, and without limiting the generality of the foregoing, any of the following:

A. Any storm or surface water, drainage, or flow from roofs, cellars, cistern tank, springs, wells, or swimming pools, or, except as may be permitted by the contracting municipality and the Municipal Board, any discharge from a vehicle's wash rack (unless preceded by a grease, oil, and sand interceptor approved by the Sewer Inspector), or wash motor or from any air-conditioning machine or refrigerator unit.

B. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

C. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides, radioactive materials, or isotopes, or other substances, the discharge of which are either prohibited entirely or beyond certain limits as provided in and by the ordinances, laws, rules, and regulations of any contracting municipality receiving such waters and wastes for treatment or by any rules, regulations, or laws of the Municipal Board or by any applicable federal or state laws, rules, or regulations.

D. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of the contracting municipalities or other agencies having jurisdiction over discharge to the receiving waters.

§ 214-27. Actions of and requirements by authorized officials.

If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which contain the substances and possess the characteristics described in other provisions of this article or which may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Sewer Inspector or other authorized person may:

A. Reject the wastes and sever the connection and cause the removal of any sewer, sewer pipe, or drain through which such substances are discharged;

B. Require pretreatment to an acceptable condition for discharge to the public sewers;

C. Require control over the quantities and rates of discharge; and/or

D. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of this chapter or any other law, ordinance, rule, or regulation of the municipality or contracting municipality.

E. No action shall be taken under Subsection A of this section unless the municipality shall give the owner or occupant of the premises at least 48 hours' notice in writing stating the action to be taken and the grounds therefor, except that such notice shall not be required if immediate action is necessary to prevent injury to the public sewer system or any part thereof in the reasonable discretion of the municipality or any authorized officer or employee of the municipality or contracting municipality.

§ 214-28. Grease, oil and sand interceptors.

Grease, oil, and sand interceptors shall be provided when, in the opinion of the Municipal Board, its duly authorized representative or the contracting municipality, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients.

§ 214-29. Measurements, tests, and analyses; control manholes.

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property.

§ 214-30. Special agreements.

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the municipality and any industrial concern whereby an industrial waste of unusual strength or character may be accepted for treatment

subject to payment therefor by the industrial concern and provided that all requirements and conditions of any contracting municipality are met.

§ 214-31. Statutory provisions.

All provisions of WPCF Manual of Practice No. 3, Regulation of Sewer Use, 1975, Article V, Use of Public Sewers, and updates thereof shall be considered a part of this chapter.

ARTICLE VI
Disorderly Conduct

§ 214-32. Violators subject to arrest.

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

ARTICLE VII
Sewer Inspector

§ 214-33. Right of entry.

The Sewer Inspector and other duly authorized employees or representatives of the municipality, and of any contracting municipality, bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of the law, all the foregoing not to be carried out beyond a point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment. The foregoing shall also apply for the purposes of but not limited to inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within any duly negotiated easements between the municipality and any private property owner. NYSDEC and USEPA officials shall have the same powers and authority of inspection enjoyed by the Sewer Inspector or other duly authorized employees or representatives of the municipality as pertains to commercial or industrial discharges to the system.

ARTICLE VIII
Violations and Penalties

§ 214-34. Notices of violation; cessation of violation; time limit.

Any person found to be violating any provision of this chapter except Article VI shall be served by the municipality with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

§ 214-35. Penalties for offenses.

Any person who shall continue any violation beyond the time limit provided for in Article VIII, § 214-34, shall be guilty of a misdemeanor, and on conviction thereof, shall be fined in the amount not exceeding $500 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

§ 214-36. Liability.

Any person violating any of the provisions of this chapter shall become liable to the municipality for any expense, loss, or damage occasioned the municipality by reason of such violation.

ARTICLE IX
Administrative Provisions

§ 214-37. Effect on other provisions; repealer.

All local laws or ordinances or parts of ordinances in conflict with the provisions of this chapter are hereby repealed, however, the provisions of such laws or ordinances which may have been incorporated into this chapter shall survive as part of this chapter as aforesaid.

§ 214-38. Amendments.

Notwithstanding any other provision in this chapter, or any general law, the following procedures shall apply in the event of any modification or amendment of this Intermunicipal Sewer Use Law:

A. Any municipality proposing to amend this chapter, at least 30 days prior to any public hearing, shall send written notice of the proposed amendment to the clerks of the other municipalities, to the Chairman of the Joint Sewer Committee, and, in addition, a copy of such notice shall also be served on the Superintendent of Public Works. Any municipality entitled to such notice may waive strict compliance with this provision.

B. Each municipality and the Joint Sewer Committee, within 10 days after receipt of such notice, shall send written comments with respect to the proposed amendment. Failure to do so shall not deprive the rights of the Committee or any municipality to present its comments at a later date.

C. Any such procedures may also be governed by any regulations proposed by the Joint Sewer Committee and adopted pursuant to any applicable provisions of any intermunicipal agreement between the parties.

§ 214-39. Severability.

The invalidity of any section, clause, sentence, or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.

§ 214-40. When effective.

This chapter shall become effective immediately.

Chapter 218

SEWER RENTS

ARTICLE I
Dryden Sewer Districts
[Adopted 12-13-1994 by L.L. No. 2-1994]

§ 218-1. Title.

This article shall be known as the "Dryden Sewer Districts Sewer Rent Law."

§ 218-2. Authority.

This sewer rent law is enacted pursuant to Article 14-F of the New York General Municipal Law.

§ 218-3. Application.

This sewer rent law shall apply to the Turkey Hill Sewer District, Monkey Run Sewer District, Dryden Sewer District #2 and any future sewer districts established by the Town Board of the Town of Dryden which collect and transport, in whole or in part, wastewater from its origin via any such sewer system to the Ithaca Area Wastewater Treatment Facility.

§ 218-4. Basis of charge of sewer rents.

The basis of the charge for sewer rents shall be on the consumption of water on the premises connected with and served by the sewer system. Water shall be measured by means of a water meter and shall include all water furnished the premises. In the event that there is no water meter connected to the premises served by the sewer system, then a minimum sewer rent shall be charged and collected as hereinafter provided.

§ 218-5. Payment dates; penalties; and enforcement.

A. Billing of sewer rents shall be quarterly with bills due on January 1; April 1; July 1; and October 1. Each bill shall be for the preceding quarter.

B. Payment of the sewer rents shall be made within 20 days of billing without penalty.

C. Any payment received after 20 days of billing shall include a 10% penalty of the amount due.

D. On October 1 of each year, the amounts of all past due bills, plus penalties, shall be certified by the Town Clerk and shall be collected and enforced in the same manner and at the same time as provided by law for the collection and enforcement of Town taxes.

§ 218-6. Calculation of sewer rent.

Each district shall charge and collect for the use of the sewer system the sewer rent rates as provided in this article. In computing the sewer rent, the following shall apply:

A. The water meter for the premises connected to the sewer system shall be read and the water consumption computed for each billing period.

B. Based upon the water usage, the calculation of the sewer rent shall be made by multiplying the number of gallons consumed in the billing period by $0.2339 per 100 gallons. The product shall be the sewer rent for the billing period. **[Amended 1-18-2012 by L.L. No. 2-2012; 11-19-2015 by L.L. No. 4-2015; 11-19-2015 by L.L. No. 5-2015; 1-4-2018 by L.L. No. 2-2018; 1-4-2018 by L.L. No. 3-2018]**

C. In the event that the product computed according to Subsection B above is less than $23.39, then the bill shall be rounded up to $23.39, which shall be a minimum bill for each billing period. In the event the premises are not connected to a water meter, then a minimum bill as set forth herein shall be imposed for each billing period, until such time as a water meter is installed. All premises served by a sewer system shall have a water meter installed within nine months of connection of the premises to the sewer system. **[Amended 1-18-2012 by L.L. No. 2-2012; 11-19-2015 by L.L. No. 4-2015; 11-19-2015 by L.L. No. 5-2015; 1-4-2018 by L.L. No. 2-2018; 1-4-2018 by L.L. No. 3-2018]**

§ 218-7. Sewer rent fund.

A. Revenues derived from sewer rents, including penalties, shall be credited to a special fund for each respective district, to be known as the "Turkey Hill Sewer District Sewer Rent Fund," "Monkey Run Sewer District Sewer Rent Fund," "Dryden Sewer District #2 Sewer Rent Fund," etc. Moneys in such fund shall be used in the following order:

(1) For the payment of the costs of operation, maintenance, and repairs of the sewer system or such part or parts thereof for which sewer rents have been established and imposed.

(2) For the payment of the interest on and amortization of, or payment of, indebtedness which has been or shall be incurred for the construction of sewage treatment and disposal works with necessary appurtenances including pumping stations, or for the extension, enlargement, or replacement of, or addition to, such sewer system, or part or parts thereof.

(3) For transportation charges imposed by any other municipality or entity for the transport of sewage via such other municipalities sewer mains, interceptors or lines.

B. Such revenues from sewer rents shall not be used:

(1) To finance the cost of any extension or any part of a sewer system (other than any sewage treatment or disposal works with necessary appurtenances including pumping stations) to serve unsewered areas if such part has been constructed wholly or partly at the expense of the real property especially benefitted; or

(2) For the payment of the interest on, and the amortization or payment of, indebtedness which is to be paid in the first instance from assessments upon the benefitted real property.

§ 218-8. Repealer.

Local Law No. 2 of the year 1989, adopted by the Town Board on May 16, 1989, and filed with the Secretary of State on May 26, 1989, is hereby repealed.

§ 218-9. When effective.

This article shall take effect upon filing with the Secretary of State and the compliance with the provisions of the New York General Municipal Law.

ARTICLE II
Cortland Road Sewer District
[Adopted 4-8-2004 by L.L. No. 2-2004]

§ 218-10. Title.

This article shall be known as the "Town of Dryden Cortland Road Sewer District Sewer Rent Law."

§ 218-11. Authority.

This sewer rent law is enacted pursuant to Article 14-F of the New York General Municipal Law.

§ 218-12. Application.

This sewer rent law shall apply to the Cortland Road Sewer District, any future sewer district extensions or sewer districts established by the Town Board of the Town of Dryden which collect and transport, in whole or in part, wastewater from its origin via any such sewer system to the Village of Dryden Wastewater Treatment Facility.

§ 218-13. Basis of charge of sewer rents.

The basis of the charge for sewer rents shall be on the consumption of water on the premises connected with and served by the sewer system. Water shall be measured by means of a water meter and shall include all water furnished the premises. In the event that there is no water meter connected to the premises served by the sewer system, then a minimum sewer rent shall be charged and collected as hereinafter provided.

§ 218-14. Payment dates; penalties; and enforcement.

A. Billing of sewer rents shall be quarterly with bills due on January 15; April 15; July 15; and October 15. Each bill shall be for the preceding quarter.

B. Payment of the sewer rents shall be made within 20 days of billing without penalty.

C. Any payment received after 20 days of billing shall include a 10% penalty of the amount due.

D. On October 1 of each year, the amounts of all past due bills, plus penalties, shall be certified by the Town Clerk and shall be collected and enforced in the same manner and at the same time as provided by law for the collection and enforcement of Town taxes.

§ 218-15. Calculation of sewer rent.

The district shall charge and collect for the use of the sewer system the sewer rent rates as provided in this article. In computing the sewer rent, the following shall apply:

A. The water meter for the premises connected to the sewer system shall be read and the water consumption computed for each billing period.

B. Based upon the water usage, the calculation of the sewer rent shall be made by multiplying the number of gallons consumed in the billing period by the rates set forth herein. The product shall be the sewer rent for the billing period. **[Amended 4-19-2007 by L.L. No. 2-2007; 8-14-2008 by L.L. No. 3-2008; 6-15-2017 by L.L. No. 5-2017]**

Sewer Rates	Rate
First 1,250 gallons (minimum)	$72.19
Next 13,750 gallons (per thousand)	$5.65
Next 25,000 gallons (per thousand)	$8.18
Next 20,000 gallons (per thousand)	$8.78
Next 40,000 gallons (per thousand)	$9.40
Next 100,000 gallons (per thousand)	$10
Next ALL gallons (per thousand)	$10

C. In the event that the product computed according to Subsection B above is less than $72.19, then the bill shall be rounded up to $72.19, which shall be a minimum bill for each billing period. In the event the premises are not connected to a water meter, then a minimum bill as set forth herein shall be imposed for each billing period, until such time as a water meter is installed. All premises served by the sewer system shall have a water meter installed within three months of connection of the premises to the sewer system. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

§ 218-16. Sewer rent fund.

A. Revenues derived from sewer rents, including penalties, shall be credited to a special fund for the sewer district, to be known as the "Cortland Road Sewer District Sewer Rent Fund." Moneys in such fund shall be used in the following order:

(1) For the payment of the costs of operation, maintenance, and repairs of the sewer system or such part or parts thereof for which sewer rents have been established and imposed.

(2) For the payment of the interest on and amortization of, or payment of, indebtedness which has been or shall be incurred for the construction of sewage treatment and disposal works with necessary appurtenances including pumping stations, or for the extension, enlargement, or replacement of, or addition to, such sewer system, or part or parts thereof.

(3) For transportation charges imposed by any other municipality or entity for the transport of sewage via such other municipalities sewer mains, interceptors or lines.

B. Such revenues from sewer rents shall not be used:

(1) To finance the cost of any extension or any part of a sewer system (other than any sewage treatment or disposal works with necessary appurtenances

including pumping stations) to serve unsewered areas if such part has been constructed wholly or partly at the expense of the real property especially benefitted; or

(2) For the payment of the interest on, and the amortization or payment of, indebtedness which is to be paid in the first instance from assessments upon the benefitted real property.

§ 218-17. Repealer.

Local Law No. 4 of the year 1983, adopted by the Town Board on June 29, 1983 and filed with the Secretary of State on July 18, 1983, is hereby repealed, except that such repeal shall not effect any sewer rents accrued as of March 31, 2004.

§ 218-18. When effective.

This article shall take effect upon filing with the Secretary of State and the compliance with the provisions of the New York General Municipal Law, and for all billing periods which begin on and after April 15, 2004.

ARTICLE III
Sewer District No. 1
[Adopted 1-17-2013 by L.L. No. 1-2013]

§ 218-19. Title.

This article shall be known as the "Town of Dryden Sewer District No. 1 Sewer Rent Law.

§ 218-20. Authority.

This sewer rent law is enacted pursuant to Article 14-F of the New York General Municipal Law.

§ 218-21. Application.

This sewer rent law shall apply only to Dryden Sewer District No. 1, and any future sewer districts established by the Town Board of the Town of Dryden which collect and transport, in whole or in part, wastewater from its origin via any such sewer system to the Village of Cayuga Heights Wastewater Treatment Facility.

§ 218-22. Basis of charge of sewer rents.

The basis of the charge for sewer rents shall be on the consumption of water on the premises connected with and served by the sewer system. Water shall be measured by means of a water meter and shall include all water furnished the premises. In the event that there is no water meter connected to the premises served by the sewer system then a minimum sewer rent shall be charged and collected as hereinafter provided.

§ 218-23. Payment dates; penalties; and enforcement.

A. Billing of sewer rents shall be quarterly with bills due on January 1; April 1; July 1; and October 1. Each bill shall be for the preceding quarter.

B. Payment of the sewer rents shall be made within 20 days of billing without penalty.

C. Any payment received after 20 days of billing shall include a 10% penalty of the amount due.

D. On October 1 of each year, the amounts of all past due bills, plus penalties, shall be certified by the Town Clerk and shall be collected and enforced in the same manner and at the same time as provided by law for the collection and enforcement of Town taxes.

§ 218-24. Calculation of sewer rent.

The district shall charge and collect for the use of the sewer system the sewer rent rates as provided in this article. In computing the sewer rent, the following shall apply:

A. The water meter for the premises connected to the sewer system shall be read and the water consumption computed for each billing period.

B. Based upon the water usage, the calculation of the sewer rent shall be made by multiplying the number of gallons consumed in the billing period by $0.5151 per 100 gallons. The product shall be the sewer rent for the billing period. **[Amended 12-17-2015 by L.L. No. 7-2015; 1-4-2018 by L.L. No. 1-2018]**

C. In the event that the product computed according to Subsection B above is less than $51.51, then the bill shall be rounded up to $51.51, which shall be a minimum bill for each billing period. In the event the premises are not connected to a water meter, then a minimum bill as set forth herein shall be imposed for each billing period, until such time as a water meter is installed. All premises served by a sewer system shall have a water meter installed within nine months of connection of the premises to the sewer system. **[Amended 12-17-2015 by L.L. No. 7-2015; 1-4-2018 by L.L. No. 1-2018]**

§ 218-25. Sewer rent fund.

A. Revenues derived from sewer rents, including penalties, shall be credited to a special fund for the sewer district, to be known as the "Dryden Sewer District No. 1 Sewer Rent Fund." Moneys in such fund shall be used in the following order:

(1) For the payment of the costs of operation, maintenance, and repairs of the sewer system or such part or parts thereof for which sewer rents have been established and imposed.

(2) For the payment of the interest on and amortization of, or payment of, indebtedness which has been or shall be incurred for the construction of sewage treatment and disposal works with necessary appurtenances including pumping stations, or for the extension, enlargement, or replacement of, or addition to, such sewer system, or part or parts thereof.

(3) For transportation charges imposed by any other municipality or entity for the transport of sewage via such other municipalities sewer mains, interceptors or lines.

B. Such revenues from sewer rents shall not be used:

(1) To finance the cost of any extension or any part of a sewer system (other than any sewage treatment or disposal works with necessary appurtenances including pumping stations) to serve unsewered areas if such part has been constructed wholly or partly at the expense of the real property especially benefited; or

(2) For the payment of the interest on, and the amortization or payment of, indebtedness which is to be paid in the first instance from assessments upon the benefited real property.

§ 218-26. When effective.

This article shall take effect upon filing with the Secretary of State and the compliance with the provisions of the New York General Municipal Law.

ARTICLE IV
Peregrine Hollow Sewer District
[Adopted 1-17-2013 by L.L. No. 2-2013]

§ 218-27. Title.

This article shall be known as the "Peregrine Hollow Sewer District Sewer Rent Law."

§ 218-28. Authority.

This sewer rent law is enacted pursuant to Article 14-F of the New York General Municipal Law.

§ 218-29. Application.

This sewer rent law shall apply only to the Peregrine Hollow Sewer District.

§ 218-30. Basis of charge of sewer rents.

The basis of the charge for sewer rents shall be on the consumption of water on the premises connected with and served by the sewer system. Water shall be measured by means of a water meter and shall include all water furnished the premises. In the event that there is no water meter connected to the premises served by the sewer system, then a minimum sewer rent shall be charged and collected as hereinafter provided.

§ 218-31. Payment dates; penalties; and enforcement.

A. Billing of sewer rents shall be quarterly with bills due on January 1; April 1; July 1; and October 1. Each bill shall be for the preceding quarter.

B. Payment of the sewer rents shall be made within 20 days of billing without penalty.

C. Any payment received after 20 days of billing shall include a 10% penalty of the amount due.

D. On October 1 of each year, the amounts of all past due bills, plus penalties, shall be certified by the Town Clerk and shall be collected and enforced in the same manner and at the same time as provided by law for the collection and enforcement of Town taxes.

§ 218-32. Calculation of sewer rent.

The district shall charge and collect for the use of the sewer system the sewer rent rates as provided in this article. In computing the sewer rent, the following shall apply:

A. The water meter for the premises connected to the sewer system shall be read and the water consumption computed for each billing period.

B. Based upon the water usage, the calculation of the sewer rent shall be made by multiplying the number of gallons consumed in the billing period by $0.3245 per 100 gallons. The product shall be the sewer rent for the billing period. **[Amended 11-19-2015 by L.L. No. 6-2015; 1-4-2018 by L.L. No. 4-2018]**

C. In the event that the product computed according to Subsection B above is less than $32.45, then the bill shall be rounded up to $32.45, which shall be a minimum bill for each billing period. In the event the premises are not connected to a water meter, then a minimum bill as set forth herein shall be imposed for each billing period, until such time as a water meter is installed. All premises served by a sewer system shall have a water meter installed within nine months of connection of the premises to the sewer system. **[Amended 11-19-2015 by L.L. No. 6-2015; 1-4-2018 by L.L. No. 4-2018]**

§ 218-33. Sewer rent fund.

A. Revenues derived from sewer rents, including penalties, shall be credited to a special fund for the sewer district, to be known as the "Peregrine Hollow Sewer District Sewer Rent Fund." Moneys in such fund shall be used in the following order:

(1) For the payment of the costs of operation, maintenance, and repairs of the sewer system or such part or parts thereof for which sewer rents have been established and imposed.

(2) For the payment of the interest on and amortization of, or payment of, indebtedness which has been or shall be incurred for the construction of sewage treatment and disposal works with necessary appurtenances including pumping stations, or for the extension, enlargement, or replacement of, or addition to, such sewer system, or part or parts thereof.

(3) For transportation charges imposed by any other municipality or entity for the transport of sewage via such other municipalities sewer mains, interceptors or lines.

B. Such revenues from sewer rents shall not be used:

(1) To finance the cost of any extension or any part of a sewer system (other than any sewage treatment or disposal works with necessary appurtenances including pumping stations) to serve unsewered areas if such part has been constructed wholly or partly at the expense of the real property especially benefited; or

(2) For the payment of the interest on, and the amortization or payment of, indebtedness which is to be paid in the first instance from assessments upon the benefited real property.

§ 218-34. When effective.

This article shall take effect upon filing with the Secretary of State and the compliance with the provisions of the New York General Municipal Law.

ARTICLE V
SS8 Sewer Benefit District
[Adopted 12-12-2019 by L.L. No. 5-2019]

§ 218-35. Title.

This article shall be known as the "Town of Dryden SS8 Sewer Benefit District Sewer Rent Law." This article shall apply to Sewer Benefit District SS8 as established by the Town Board of the Town of Dryden by acceptance of the consolidation plan for sewer benefit districts SS2, SS4, SS5, SS6, SS7 on October 17, 2019, and finalized after a public hearing on November 21, 2019.

§ 218-36. Authority.

This sewer rent law is enacted pursuant to Article 14-F of the New York General Municipal Law.

§ 218-37. Basis of charge of sewer rents.

The basis of the charge for sewer rents shall be on a unit basis and water usage basis as herein set forth. In calculating such charges, the following shall apply:

A. Each single-family dwelling shall be one unit.

B. The number of units assigned to a boarding house or for student housing shall be determined by dividing the number of lawful potential occupants by three. Any fraction shall be increased to the next whole number.

C. Residences other than single-family dwellings shall be counted as one unit for the first apartment therein, plus 3/4 of a unit for each additional apartment.

D. Each trailer or mobile home in a mobile home park shall equal one unit.

E. Each laundromat shall equal 10 units.

F. Each car wash shall be assigned two units for each four bays. Any fraction shall be increased to the next whole number.

G. Commercial establishments with less than five full-time employees or equivalent shall be assigned 1 1/4 units. The number of units to be assigned commercial establishments with six or more full-time employees or equivalent shall be determined by dividing the number of employees by three. Any fraction shall be increased to the next whole number.

§ 218-38. Payment dates; penalties; and enforcement.

A. Payment of the sewer rents shall be made within 20 days of billing without penalty.

B. Any payment received after 20 days of billing shall include a 10% penalty of the amount due.

C. If payment of the amount due, plus penalty, if applicable, is not made within 60 days of when due, then the amount due plus penalty shall be certified to the Town

Clerk and the Town Board and shall be collected and enforced in the same manner and at the same time as may be provided by law for the collection and enforcement of Town taxes.

§ 218-39. Measurement of water usage.

The District shall install or shall cause to be installed water meters for each user of the sewage system in the District for the purposes of measuring water usage and calculating the sewer rent charges. The District may impose a charge for the installation and the cost of the water meter.

§ 218-40. Calculation of sewer rent.

The District shall charge and collect for the use of the SS8 Sewer District the sewer rents as provided in this article. In computing the sewer rent, the following shall apply:

A. The water meter for the premises connected to the sewer system shall be read and the water usage computed for each billing period.

B. As of January 1, 2020, annual sewer rates shall be established at a rate of $6.00/ 1,000 gallons used for treatment of wastewater originating from properties located within the Town of Dryden sewer district SS8.

   (1) Since the sewer district will contract with the Town of Ithaca, Cornell University, and the Ithaca Area Wastewater Treatment Plant (IAWWTP), all of which are located within Tompkins County, New York, for the transportation, treatment and disposal of sewage from the district, the direct costs to the district shall be paid by the users of the sewer system. Billing for this service shall be conducted as set forth by the Special Joint Committee that operates and oversees the IAWWTP according to the operating agreements in effect at the time this law takes effect as may be amended from time to time.

C. In the event that the product computed according to Subsection B above is less than $30, then the bill shall be rounded up to $30, which shall be a minimum bill for each billing period. In the event the premises are not connected to a water meter, then a minimum bill as set forth herein shall be imposed for each billing period, until such time as a water meter is installed. All premises served by a sewer system shall have a water meter installed within nine months of connection of the premises to the sewer system.

D. The District may impose additional sewer rents on a per unit and/or water usage basis for users of the sewer system to pay for the District costs of operation, maintenance and repairs of the sewer system other than those direct costs to be billed in Subsection B above.

E. Amendments to sewer rents established under this article may be made by Board resolution.

§ 218-41. Sewer rent fund.

Revenues derived from sewer rents, including penalties and interest, shall be credited to a special fund, to be known as the "sewer rent fund." Moneys in such fund shall be used

in the following order:

A. For the payment of the costs of operation, maintenance, and repairs of the sewer system or such part or parts thereof for which sewer rents have been established and imposed.

B. For the payment of the interest on and amortization of, or payment of indebtedness which has been or shall be incurred for the construction of the sewer system or such part or parts thereof for which sewer rents have been established and imposed, other than indebtedness, and the interest thereon, which is to be paid in the first instance from assessments upon benefited real property).

C. For the construction of sewage treatment and disposal works with necessary appurtenances including pumping stations, or for the extension, enlargement, or replacement of, or additions to, such sewer systems, or part or parts thereof. Such revenues from sewer rents shall not be used: (1) to finance the cost of any extension or any part of a sewer system (other than any sewage treatment or disposal works with necessary appurtenances including pumping stations) to serve unsewered areas if such part has been constructed wholly or partly at the expense of the real property especially benefited; or (2) for the payment of the interest on, and the amortization of, or payment of, indebtedness which is to be paid in the first instance from assessments upon the benefited real property.

§ 218-42. When effective.

This article shall take effect upon tiling with the Secretary of State and the compliance with the provisions of the New York General Municipal Law.

Chapter 222

SEWER USE

ARTICLE I
General Provisions

§ 222-1. Purpose and applicability.

A. The purposes of this chapter are the following:

(1) To set forth uniform requirements for contributors into the wastewater collection and treatment system currently owned jointly by the City of Ithaca, the Town of Ithaca, and the Town of Dryden (hereinafter collectively referred to as the "municipalities") and to enable the municipalities to comply with all applicable requirements under New York and federal law, including, without limitation, the Clean Water Act of 1977, as amended, and the General Pretreatment Regulations promulgated thereunder at 40 CFR Part 403. Additional municipalities may in the future join in the ownership of this wastewater collection and treatment system.

(2) To prevent the introduction of pollutants into the municipalities' publicly owned treatment works ("POTW") which will:

(a) Interfere with its operations, including interference with the use or disposal of municipal sludge;

(b) Pass-through or otherwise be incompatible with the POTW;

(c) Limit opportunities to recycle and reclaim municipal and industrial wastewaters and sludges; or

(d) Endanger the health or safety of sewer workers.

(3) To prevent new sources of infiltration and inflow and, to the extent possible, eliminate existing sources of infiltration and inflow; and

(4) To provide for equitable distribution and recovery of the cost of the municipal wastewater system.

B. This chapter shall apply to all users of the POTW in the municipalities and to persons who are, by resolution, agreement, contract, or permit with the municipalities, Special Joint Subcommittee, or POTW, users of the POTW.

§ 222-2. Administration.

Except as otherwise provided herein, the Special Joint Subcommittee and its representative, the Chief Operator, shall have the authority to administer, implement, and enforce the provisions of this chapter. To the extent practicable and consistent with the requirements of the General Pretreatment Regulations set forth at 40 CFR Part 403, the Special Joint Subcommittee shall keep officials in the City of Ithaca, Town of Ithaca, Town of Dryden, and any other municipality which contracts with the municipalities to discharge wastewater to the POTW reasonably informed of implementation and enforcement activities involving users located in their respective municipalities, and shall consult with such officials in appropriate implementation and enforcement activities with respect to users located in their respective municipalities.

§ 222-3. Definitions and word usage.

A. Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

ACT — The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq., and the regulations promulgated thereunder, as amended from time to time.

APPROVAL AUTHORITY — The Regional Administrator of the EPA, unless and until New York State receives EPA approval of a state pretreatment program. Once New York State receives such approval, then the approval authority will be the Commissioner of the DEC.

AUTHORIZED REPRESENTATIVE — An authorized representative of an industrial user shall be:

(1) A responsible corporate officer, if the user is a corporation, provided that the responsible corporate officer is:

(a) A president, vice president, secretary, or treasurer of the corporation in charge of a principal business function;

(b) Any other person who performs similar policy- or decision-making functions for the corporation; or

(c) The manager of a facility or facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), provided that the manager has received the authority to sign documents in accordance with corporate procedures.

(2) A general partner or proprietor, if the user is a partnership or sole proprietorship, respectively;

(3) A member of the governing board or executive office of a governmental entity, if the user is a governmental facility; or

(4) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facility from which the industrial discharge originates, or has overall responsibility for environmental matters for the company; provided, however, that the authorization is made, in writing, by the individual described above, and the written authorization is submitted to the Chief Operator.

BYPASS — The intentional diversion of waste streams from any portion of an industrial user's treatment facility.

CFR — Code of Federal Regulations.

CATEGORICAL PRETREATMENT STANDARD — A national pretreatment standard which applies to a specific industrial subcategory and is published at 40 CFR Chapter I, Subchapter N.

CHIEF OPERATOR — The person appointed by the City of Ithaca and approved by the Special Joint Subcommittee to supervise the operation of the POTW, or his or her duly-authorized representative, including the Pretreatment Coordinator.

The Chief Operator or his or her representative shall be the Special Joint Subcommittee's authorized agent and representative in the administration and enforcement of this chapter.

COOLING WATER — The water discharged from any use, such as air conditioning, cooling, or refrigeration, to which the only pollutant added is heat.

DEC — The New York State Department of Environmental Conservation.

DIRECT DISCHARGE — The discharge of treated or untreated wastewater directly to the waters of the State of New York or of the United States.

DISCHARGE — See "indirect discharge."

DOMESTIC SOURCE — Any residence, building, structure, facility, or installation from which there is or may be discharged to the POTW only sanitary sewage.

EPA — The U.S. Environmental Protection Agency.

FIVE-DAY BIOCHEMICAL OXYGEN DEMAND ("BOD5") — The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five days at 20° C., expressed in terms of weight and concentration [milligrams per liter (mg/l)].

GARBAGE — The solid waste from the preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

INDIRECT DISCHARGE — The introduction of pollutants into the POTW from any source, other than a domestic source, regulated under Section 307(b), (c), or (d) of the Act.

INDUSTRIAL USER — A source of indirect discharge.

INDUSTRIAL WASTE — Any liquid, gaseous, or solid waste substance, or a combination thereof, resulting from any process of industry, manufacturing, trade, or business, from any process related to services or activities performed by any public or private institution or facility, or from the development or recovery of any natural resources.

INTERFERENCE — A discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal and which is a cause of a violation of any requirement of the POTW's SPDES permit (including an increase in the magnitude or duration of a violation), or of the prevention of sewage sludge use or disposal by the POTW in accordance with applicable federal, state, or local statutes and regulations or permits issued thereunder, as set forth in 40 CFR 403.3(k).

MUNICIPALITIES — The City of Ithaca, Town of Ithaca, and Town of Dryden, collectively, as well as any other municipalities which may in the future become owners of the Ithaca Area Wastewater Treatment Facility. "Municipality" used in the singular form shall mean any one of the municipalities.

NATIONAL PRETREATMENT STANDARD, PRETREATMENT STANDARD, or STANDARD — Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act

which applies to industrial users, including prohibitive discharge limits established pursuant to 40 CFR 403.5, and categorical pretreatment standards.

NEW SOURCE — Any building, structure, facility, or installation, as described in 40 CFR 403.3(m), from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section.

PASS-THROUGH — A discharge which exits the POTW into waters of New York State or the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's SPDES permit (including an increase in the magnitude or duration of a violation).

PERSON — Any individual, partnership, firm, company, public or private corporation or authority, association, joint-stock company, trust, estate, governmental entity, agency or political subdivision of a municipality, of the State of New York, or of the United States, or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.

pH — The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

POLLUTANT — Any element or property of sewage, agricultural, industrial, commercial or municipal waste, leachate, heated effluent, dredged spoil, solid waste, incinerator residue, garbage, chemical wastes, biological materials, radioactive materials, rock, sand, and cellar dirt which is discharged into the POTW.

POTW TREATMENT PLANT — That portion of the POTW designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

PRETREATMENT — The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes, or other means, except as prohibited by 40 CFR 403.6(d).

PRETREATMENT REQUIREMENT — Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an industrial user.**[Amended 7-14-1998 by L.L. No. 6-1998]**

PUBLICLY OWNED TREATMENT WORKS or POTW — The treatment works, as defined by Section 212 of the Act, owned by the municipalities and known as the Ithaca Area Wastewater Treatment Facility. This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes those sewers, pipes, and other conveyances which convey wastewater to the POTW's treatment plant. For the purposes of this chapter, POTW shall also include any sewers and other facilities that convey wastewater to the POTW treatment plant from persons who

are, by permit, resolution, contract, or agreement with the municipalities, Special Joint Subcommittee, or POTW, users of the POTW.

SANITARY SEWAGE — Liquid and water-carried human and domestic wastes from residences, commercial buildings, industrial plants and institutions, exclusive of groundwater, stormwater and surface water and exclusive of industrial wastes.

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

SEPTAGE — All liquids and solids in and removed from septic tanks, holding tanks, cesspools, or chemical toilets, including, but not limited to, those serving private residences, commercial establishments, industries, and institutions. Septage shall not contain pollutants which the Chief Operator determines may cause problems at the POTW.

SEWER — A pipe or conduit that carries wastewater.

SEWERAGE SYSTEM — Any device, equipment, or works used in the transportation, pumping, storage, treatment, recycling, and reclamation of wastewater.

SIGNIFICANT INDUSTRIAL USER — All industrial users subject to categorical pretreatment standards, and any other industrial user that discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Chief Operator on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement. Upon a finding that an industrial user meeting the foregoing criteria has no reasonable potential for violating any pretreatment standard or requirement or for adversely affecting the POTW's operation, the Chief Operator may at any time, upon his or her own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user. Such a determination may not be made, however, if the industrial user is subject to a categorical pretreatment standard.

SLUDGE — Waste containing varying amounts of solid contaminants removed from water, sanitary sewage, wastewater or industrial wastes by physical, chemical, or biological treatment.

SLUG — Any discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or noncustomary batch discharge.

SPDES PERMIT — A State Pollutant Discharge Elimination System permit issued pursuant to Section 402 of the Act, 33 U.S.C. § 1342, and Article 17 of the New York Environmental Conservation Law.

SPECIAL JOINT SUBCOMMITTEE — A subcommittee of the City of Ithaca's Board of Public Works which is charged with oversight of the POTW, as provided for by agreement among the City of Ithaca and Towns of Ithaca and Dryden. This

subcommittee currently consists of representatives from the City of Ithaca and Towns of Ithaca and Dryden, and may in the future include representatives from other municipalities which become joint owners of the POTW.

SUSPENDED SOLIDS — The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering in accordance with the current standard methods.

TOXIC POLLUTANT — Any pollutant or combination of pollutants listed as toxic in regulations promulgated by EPA under Section 307(a) of the Act, or other Acts, or in regulations promulgated under New York State law.

USER — Any domestic source or industrial user which discharges wastewater to the POTW.

WASTEWATER — The liquid and water-carried industrial, nondomestic or domestic wastes, including sewage, industrial waste, other wastes, or any combination thereof, from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is discharged into the POTW.

WASTEWATER DISCHARGE PERMIT or PERMIT — The document issued to industrial users by the Chief Operator for the discharge of wastewater, as set forth in § 222-15 of this chapter.

WATERS OF THE STATE — All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, border upon, or are within the jurisdiction of the state.

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

ARTICLE II
Regulation of Wastewater Discharges

§ 222-4. General discharge prohibitions.

A. No user may introduce into the POTW any pollutant(s) which cause pass-through or interference. These general prohibitions and the specific prohibitions in § 222-5 of this chapter apply to each user introducing pollutants into the POTW whether or not the user is subject to national pretreatment standards or any other national, state, or local pretreatment requirements.

B. An industrial user shall have an affirmative defense in any action brought against it alleging pass-through or interference where the industrial user can demonstrate that it did not know or have reason to know that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference, and either:

(1) The industrial user was in compliance with the local limits for each pollutant that caused pass-through or interference directly prior to and during the pass-through or interference; or

(2) If no local limits for the pollutant(s) which caused pass-through or interference have been developed, the industrial user's discharge directly prior to and during the pass-through or interference did not change substantially in nature or constituents from the user's prior discharge activity when the POTW was regularly in compliance with its SPDES permit requirements and applicable requirements for sewage sludge use or disposal.

§ 222-5. Specific discharge prohibitions.

In addition to the provisions of § 222-4 above, the following discharges to the POTW by any user are specifically prohibited:

A. Stormwater and surface waters, roof runoff, and subsurface drainage. These discharges shall be made only to such sewers as are specifically designated by the Chief Operator as storm sewers, or directly to waters of the state, as may be permitted under an applicable SPDES permit. All existing discharges to the POTW of such waters shall be disconnected within 120 days of the effective date of this chapter. Groundwater and noncontact cooling water may be discharged to the POTW only if so authorized by a wastewater discharge permit, and only if the Chief Operator determines that sufficient hydraulic reserve capacity exists at the POTW to accommodate such discharges. Authorization for such discharges may be revoked by the Chief Operator in his discretion at any time if he or she determines that the POTW's reserve capacity is no longer sufficient or is needed for other potential discharges, or that such discharge is detrimental in any way to the POTW. Existing unpermitted discharges of groundwater and noncontact cooling water shall be disconnected within 120 days of the effective date of this chapter.

B. Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause a fire or explosion hazard in the POTW or be injurious in any other way to the POTW, its

operation, or the health or safety of the POTW's workers. At no time shall a user discharge a waste stream with a closed cup flash point of less than 140° F. or 60° C. using the test methods specified in 40 CFR § 261.21. Unless specifically authorized to do so by permit, no user shall discharge any quantity of the following materials: gasoline, kerosene, naphtha, benzene, toluene, xylene, fuel oil, ethers, ketones, aldehydes, chlorates, perchlorates, bromates, carbides, hydrides and sulfides, dry-cleaning fluids, and any other substance which the Chief Operator, DEC, or the EPA has notified the user is a fire hazard or explosive hazard to the system. The preceding list of substances is not a comprehensive list of prohibited substances. If a substance meets the general criteria set out in the first two sentences of this subsection, it is prohibited. **[Amended 7-14-1998 by L.L. No. 6-1998]**

C. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the POTW, including, but not limited to: grease, garbage with particles greater than 1/2 inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, rubber, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

D. Wastewater having a pH less than 5.5 standard units, or greater than 11.0 standard units, or wastewater having any other corrosive or caustic property capable of causing damage or hazard to structures, equipment, and/or personnel at the POTW. Wastewater having a pH greater than 9.5 standard units, but in no case greater than 11.0 standard units, may be discharged to the POTW only if so authorized by a wastewater discharge permit, and only if the Chief Operator determines that the wastewater will not pose a hazard to or harm the POTW or treatment plant workers, will not cause pass-through or interference, and will not raise the costs of operating the POTW.

E. Wastewater containing pollutants in sufficient quantity or concentration to cause the discharge of toxic pollutants in toxic amounts from the POTW into its receiving waters, or to exceed the limitations set forth in a national pretreatment standard, in a pretreatment requirement, including the pollutant limitations referenced herein at § 222-6, or in a wastewater discharge permit issued pursuant to this chapter.

F. Any pollutants which, either singly or by interaction with other wastes, result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause POTW worker health and safety problems, or which create a public nuisance, or which create conditions sufficient to prevent entry into the sewers or other portions of the POTW for maintenance and repair.

G. Any substance which may cause the POTW's effluent or other product of the POTW such as residues, sludges, or scums, to be unsuitable for disposal in any manner permitted by law or for reclamation and reuse, or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the Act; or with any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid

Waste Disposal Act, the Clean Air Act, or state criteria applicable to the sludge management method being used.

H. Any pollutants, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.

I. Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

J. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 40° C. (104° F.). **[Amended 7-14-1998 by L.L. No. 6-1998]**

K. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits necessary to comply with applicable state or federal regulations.

L. Any sludges or deposited solids resulting from an industrial pretreatment process. Sludges from food processing pretreatment processes may be discharged only if specifically allowed by permit.

M. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass-through.

N. Any trucked or hauled pollutants, except at discharge points designated by the POTW.

§ 222-6. Specific pollutant limitations.

In addition to the discharge prohibitions set forth in §§ 222-4 and 222-5 above, the POTW has developed specific discharge limitations, hereafter referred to as local limits, to prevent pass-through and interference and to protect the safety and health of POTW workers. In no case shall a user's discharge to the POTW violate the local limits, as they may be amended from time to time, and which are set forth in separate laws adopted by the municipalities.

§ 222-7. Categorical pretreatment standards. [Amended 7-14-1998 by L.L. No. 6-1998]

Categorical pretreatment standards which the EPA has promulgated for specific industrial subcategories are hereby incorporated by reference. Where categorical pretreatment standards are more stringent than the local limits, industrial users in those subcategories shall comply with the more stringent categorical pretreatment standards in accordance with the compliance timetables for each categorical pretreatment standard mandated by the EPA.

If EPA modifies an existing categorical pretreatment standard or promulgates a new categorical pretreatment standard for a particular industrial subcategory, and that modified or new categorical pretreatment standard contains limitations more stringent than the local limits, then upon its effective date the modified or new categorical

pretreatment standard shall immediately supersede, for industrial users in that subcategory, the local limits. The Chief Operator shall notify all affected industrial users of the applicable requirements under the Act, as well as of all requirements imposed by Subtitles C and D of the Resource Conservation and Recovery Act.

§ 222-8. Modification of categorical pretreatment standards.

A. Pursuant to 40 CFR 403.7, where the POTW achieves consistent removal of pollutants limited by a categorical pretreatment standard, the Special Joint Subcommittee may apply to the approval authority for modification of the discharge limits for a specific pollutant covered in the relevant categorical pretreatment standard in order to reflect the POTW's ability to remove said pollutant. The Special Joint Subcommittee may modify pollutant discharge limits contained in a categorical pretreatment standard only if the requirements of 40 CFR 403.7 are fulfilled and prior approval from the approval authority is obtained.

B. Pursuant to 40 CFR 403.13, an industrial user may apply to the approval authority for a fundamentally different factors variance from an applicable categorical pretreatment standard if the factors relating to its discharge are fundamentally different from the factors considered by the EPA in establishing the standard. Such a variance cannot be granted without the approval of the approval authority.

§ 222-9. State requirements.

Requirements and limitations on discharges set by the DEC shall apply in any case where they are more stringent than federal requirements and limitations or local limits.

§ 222-10. Right of revision.

The municipalities reserve the right to establish by amendment to this or other local laws more stringent limitations or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in § 222-1A of this chapter. The Chief Operator also has the right to require a specific industrial user to comply with more stringent limitations or requirements than appear in this or other laws if deemed necessary to comply with the objectives presented in § 222-1A of this chapter. No variances from the limitations or requirements in this or other local laws will be allowed without approval of both the Chief Operator and the approval authority.

§ 222-11. Dilution prohibited in absence of treatment.

Except where expressly authorized to do so by an applicable pretreatment standard or pretreatment requirement, no industrial user shall ever increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with either a pretreatment standard or pretreatment requirement.

§ 222-12. Alternative discharge limits.

A. Where appropriate, the Chief Operator may impose mass limitations, concentration limitations, or both types of limitations on an industrial user's discharge. Mass limitations shall not be less stringent than the equivalent concentration-based

limitations set forth in any applicable pretreatment standard or pretreatment requirement.

B. Where wastewater from a process regulated by a categorical pretreatment standard is mixed prior to treatment with wastewaters other than those generated by the regulated process, the Chief Operator may fix alternative discharge limits applicable to the mixed effluent. Such alternative discharge limits shall be derived by using the combined waste stream formula as specified in 40 CFR 403.6(e).

§ 222-13. Pretreatment.

Each industrial user shall provide necessary wastewater treatment as required to comply with the requirements of this chapter, including all national pretreatment standards and pretreatment requirements. Any facilities required to pretreat wastewater to a level which will achieve compliance with this chapter shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Chief Operator for review, and shall be acceptable to the Chief Operator before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent which complies with the provisions of this chapter, including compliance with pretreatment standards or pretreatment requirements. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Chief Operator prior to the user's initiation of such changes. Bypasses are prohibited, except as allowed by 40 CFR 403.17.

§ 222-14. Accidental discharges.

A. Plans and procedures. All permitted industrial users, and all other industrial users which store or use on site any substance which, if discarded, would be considered hazardous waste, as that term is defined by the Resource Conservation and Recovery Act and its regulations, shall undertake measures to prevent the accidental discharge to the POTW of prohibited materials or other substances regulated by this chapter. Facilities to prevent the accidental discharge of prohibited materials and other substances shall be provided and maintained at the industrial user's own expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Chief Operator for review, and shall be approved by the Chief Operator before construction of the facility. All existing industrial users required to undertake accidental discharge prevention measures shall submit such a plan within 60 days of the effective date of this chapter. No industrial user which commences discharging into the POTW after the effective date of this chapter and required to submit such a plan shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the Chief Operator. Review and approval of such plans and operating procedures shall not relieve the industrial user of the responsibility to modify the user's facility as necessary to meet the requirements of this chapter.

B. Telephone notice. In the case of an accidental discharge by any industrial user, it is the responsibility of the industrial user to telephone immediately and notify the Chief Operator of the incident. The notification shall include location of discharge, type of waste, concentration and volume of pollutants and wastewater, and any and

all corrective actions taken by the user.

C. Written notice. Within five days following an accidental discharge, the industrial user shall submit to the Chief Operator a detailed written report describing the cause of the discharge and the measures which have been and shall be taken by the user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to persons, animals, aquatic life, property, or natural resources; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this chapter or other applicable law.

D. Notice to employees. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of an accidental discharge. Employers shall ensure that all employees who may cause or allow such a discharge to occur, or who may know or have reason to know thereof, are advised of the emergency notification procedures.

ARTICLE III
Wastewater discharge permits

§ 222-15. Permit required.

All significant industrial users, and all other industrial users which discharge any conventional pollutants in excess of the surcharge threshold levels described in § 222-47 below, shall obtain and maintain current wastewater discharge permits. All industrial users whose discharges are of a type specifically identified in this chapter as requiring a wastewater discharge permit (such as, for example, a discharge with a pH greater than 9.0 standard units, or a discharge of noncontact cooling water) shall also obtain and maintain current permits. Existing industrial users which are required to but do not have a current wastewater discharge permit as of the effective date of this chapter shall apply to the Chief Operator for such a permit within 30 days after the effective date of this chapter. Existing industrial users which are not required as of the effective date of this chapter to obtain such a permit, but which thereafter become required to obtain such a permit, shall file an application for said wastewater discharge permit with the Chief Operator within 30 days of notification by the Chief Operator that the user must obtain a permit. All industrial users which are required to have such a permit and which propose to begin discharging wastewater to the POTW after the effective date of this chapter shall obtain a wastewater discharge permit before commencing such a discharge. An application for said wastewater discharge permit shall be filed with the Chief Operator at least 60 days prior to the proposed connection or discharge to the facility. The requirement to obtain said industrial wastewater permits shall be in addition to the requirements to obtain sewer connection or other permits which may be set forth in other laws.

§ 222-16. Permit application requirements.

A. To obtain a new wastewater discharge permit, or to renew an expiring permit, the industrial user shall complete and file with the Chief Operator an application in the form prescribed by the Chief Operator, and accompanied by the appropriate fee as indicated on the application. In support of the application for a wastewater discharge permit, the Chief Operator may require the industrial user to submit, in units and terms appropriate for evaluation, the following information:

   (1) Name, address, and location of the user (if different from the address);

   (2) SIC number with at least three digits according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;

   (3) Wastewater constituents and characteristics, including, but not limited to, the concentrations of pollutants referenced in §§ 222-6 and 222-47 of this chapter, as determined by a New York Department of Health-certified analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(h) of the Act and contained in 40 CFR Part 136, as amended, and results of said sampling and analysis, identifying the nature and concentration of regulated pollutants contained in each regulated discharge stream, shall be attached as exhibits to the application;

(4) Time and duration of discharges;

(5) Average daily and maximum daily wastewater flow rates, identified separately by regulated discharge streams, and including daily, monthly, and seasonal variations, if any;

(6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, and appurtenances by size, location, and elevation;

(7) Description of activities, facilities, and plant processes on the premises, including all materials which are or could be discharged;

(8) Where known, the nature and both daily maximum and average concentrations of any pollutants in the discharge which are limited by any applicable national pretreatment standards or pretreatment requirements, and a statement regarding whether or not any applicable pretreatment requirement or pretreatment standard is being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the industrial user to meet the applicable pretreatment standard or pretreatment requirement;

(9) If additional pretreatment and/or O&M will be required to meet the above-described pretreatment standards or pretreatment requirements, the shortest schedule by which the industrial user will provide such additional pretreatment or O&M, which shall not be later than the compliance date established for the applicable pretreatment standard or pretreatment requirement;

(a) The following conditions shall apply to this schedule:

[1] The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial user to meet the applicable pretreatment standard or pretreatment requirement (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, attaining and maintaining compliance, etc.).

[2] No increment referred to in Subsection A(9)(a)[1] shall exceed nine months.

[3] Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the Chief Operator, including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the Chief Operator.

(10) Each product produced by the user, if any, by type, amount, process or processes and rate of production;

(11) Type and amount of raw materials processed by the user (average and maximum per day);

(12) Number and type of user's employees, user's hours of operation and proposed or actual hours of operation of pretreatment system;

(13) Completed New York State Industrial Chemical Survey;

(14) Name, title, and telephone number of the authorized representative of the industrial user;

(15) A list of any environmental control permits held by or for the user; **[Added 7-14-1998 by L.L. No. 6-1998]**

(16) Any other information as may be deemed by the Chief Operator to be necessary to evaluate the permit application.

B. The Chief Operator shall evaluate the data furnished by the industrial user and may require additional information. After evaluation and acceptance of the data furnished, the Chief Operator may issue a wastewater discharge permit subject to terms and conditions provided herein.

§ 222-17. Permit conditions.

Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable laws and regulations established by the municipalities or Special Joint Subcommittee. In addition, wastewater discharge permits may contain the following:

A. The unit charge or schedule of user charges and fees for the wastewater to be discharged to the POTW;

B. Limits on average and maximum wastewater constituents and characteristics, based on applicable national pretreatment standards and pretreatment requirements.

C. Limits on average and maximum rate and time of discharge, and requirements for flow measurement, regulation, and equalization;

D. Requirements for installation and maintenance of pretreatment facilities and of inspection and sampling facilities;

E. Specifications for monitoring programs which may include specification of pollutants to be monitored, sampling locations, frequency of sampling, number, types and standards for tests and reporting schedules;

F. Compliance schedules for the installation of pretreatment equipment and performance of O&M (but in no event may a compliance deadline in a permit be later than a national pretreatment standard compliance deadline);

G. Requirements for submission of reports, including technical reports and discharge reports;

H. Requirements for maintenance and retention of records relating to wastewater discharges and pretreatment equipment operation and maintenance records for a minimum of three years, and affording the Chief Operator access thereto for inspection and copying;

I. Requirements for advance notification to the Chief Operator of any change in operations, and for advance approval by the Chief Operator of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater disposal system;

J. Requirements for immediate notification to the Chief Operator of all discharges that could cause problems to the POTW, including any slug discharges and any other accidental discharges;

K. A statement of the Chief Operator's right to enter industrial users' premises and inspect their facilities and operations;

L. A statement of permit duration in accordance with § 222-19 hereof, and in no case more than five years;

M. A statement of permit transferability in accordance with § 222-20 hereof;

N. A statement of applicable civil and criminal penalties for violation of pretreatment standards and pretreatment requirements, and of any applicable compliance schedule;

O. Other conditions as deemed appropriate by the Chief Operator to ensure compliance with this chapter and the Act.

§ 222-18. Permit modifications.

A. Wastewater discharge permits may be modified by the Chief Operator upon 30 days' notice to the permittee. Modifications may be made for the following, or other similar, reasons:

(1) Promulgation of or changes to a pretreatment standard or pretreatment requirement;

(2) Changes in processes used by the permittee, or changes in discharge volume or character;

(3) Changes in design or capability of any part of the POTW;

(4) Changes to the POTW's SPDES permit; and

(5) Discovery that the permitted discharge causes or contributes to pass-through or interference at the POTW or poses a risk to POTW worker health or safety.

B. Any modifications or amendments to the wastewater discharge permit which include more stringent limitations than those contained in the prior permit may include a reasonable time schedule for compliance therewith, but no compliance deadline therein shall be later than the deadline for compliance with an applicable categorical pretreatment standard.

§ 222-19. Duration of permits.

Wastewater discharge permits shall be issued for a specified time period not to exceed five years. A wastewater discharge permit may be issued for a period less than a year or may be stated to expire on a specific date. An industrial user shall apply for wastewater discharge permit reissuance, on a form prescribed by the Chief Operator, at least 90 days prior to the expiration of the user's existing permit. If a timely and complete application is made for permit reissuance, and the permit is not reissued before the existing permit expires, then the terms of the user's existing permit shall remain in effect after its expiration date until the permit is reissued.

§ 222-20. Permit transfer.

Wastewater discharge permits are issued to a specific industrial user for a specific operation. A wastewater discharge permit shall not be reassigned, transferred, or sold to a new owner, new user, or be applicable to different premises or to a new or changed operation without the approval of the Chief Operator, which must be obtained in writing at least 30 days in advance of the proposed transfer date. No such approval shall be granted absent submission to the Chief Operator of a written agreement between the existing and proposed new permittee which sets forth the date for and terms of the transfer of the wastewater discharge permit and all responsibilities, obligations, and liabilities thereunder. Any succeeding owner or user shall comply with the terms and conditions of the existing wastewater discharge permit and all of the terms and requirements of this chapter.

§ 222-21. Permit decisions.

A. The Chief Operator shall provide all interested persons with notice of decisions concerning the issuance, modification, or transfer of wastewater discharge permits. Any person, including the industrial user to whom the wastewater discharge permit was issued, may petition the Special Joint Subcommittee for review of the wastewater discharge permit issuance, modification, or transfer decision within 20 days of the date on which the decision was issued. Failure to submit a timely petition for review shall be deemed to be a waiver of wastewater discharge permit review, and the Chief Operator's decision shall become final.

B. A petition for review must set forth the wastewater discharge permit provisions or decision objected to, the reasons for the objection, and the alternative provisions, if any, which the petitioner seeks to have included in the wastewater discharge permit.

C. The effectiveness of a wastewater discharge permit shall not be stayed pending the Special Joint Subcommittee's review of the petition. The Special Joint Subcommittee's decision concerning the petition for review shall be a final administrative action.

ARTICLE IV
Reporting Requirements Monitoring, and Inspections

§ 222-22. Reporting requirements.

All industrial users must submit the reports required by 40 CFR Part 403 or the Chief Operator. The Chief Operator shall specify the content of such reports to the industrial users. These reports include the following:

A. Baseline monitoring reports, to be submitted by existing industrial users subject to categorical pretreatment standards within 180 days after the effective date of the categorical pretreatment standard. These reports are to be submitted by new sources and sources that become industrial users after the promulgation of an applicable categorical pretreatment standard, at least 90 days prior to commencement of discharge. These reports shall contain the information required in 40 CFR 403.12(b), including a statement whether pretreatment standards are being met on a consistent basis, and, if not, whether additional O&M and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements. This statement shall be reviewed by an authorized representative of the industrial user and certified to by a qualified professional. **[Amended 7-14-1998 by L.L. No. 6-1998]**

B. Report on compliance with categorical pretreatment standards, to be submitted by existing sources within 90 days following the date for final compliance with an applicable categorical pretreatment standard, or in the case of a new source, following commencement of the introduction of wastewater to the POTW. This report shall contain the information required in 40 CFR 403.12(d), including the nature and concentration of all pollutants in the discharge from each regulated process, and the average and maximum daily flow for these process streams. This report further shall state whether pretreatment standards are being met on a consistent basis, and, if not, whether additional O&M and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements. This statement shall be reviewed by an authorized representative of the industrial user and certified to by a qualified professional. **[Amended 7-14-1998 by L.L. No. 6-1998]**

C. Periodic reports on continued compliance, to be submitted by all permitted industrial users subject to pretreatment standards or pretreatment requirements after the compliance date of such standard or pretreatment requirement, or, in the case of a new source, after commencement of the discharge into the POTW. All such industrial users shall submit such reports to the Chief Operator during the months of June and December, unless required more frequently or at different times in the pretreatment standard, pretreatment requirement, or by the wastewater discharge permit. All industrial users must include in such report all sampling results for pollutants limited by a pretreatment standard, pretreatment requirement, or wastewater discharge permit, if the sampling and analyses were performed in accordance with § 222-24 of this chapter, even if the sampling was performed more frequently than required by the pretreatment standard, pretreatment requirement, or wastewater discharge permit. In addition, such reports shall include a record of measured or estimated average and maximum daily flows for the reporting period. **[Amended 7-14-1998 by L.L. No. 6-1998]**

D. Compliance schedule reports, to be submitted by all industrial users required to submit compliance schedules or who have compliance schedules imposed on them by the Chief Operator.

E. Notification in advance of any substantial change in the volume or character of pollutants in an industrial user's discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification pursuant to § 222-22K of this chapter, to be submitted by all industrial users. No industrial user shall introduce new wastewater constituents or substantially change the volume or character of its wastewater constituents without such advance notification and advance written approval of the Chief Operator.

F. Notification of change in production level, to be submitted by industrial users operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based standard. These notifications shall be submitted to the Chief Operator within two business days after the industrial user has a reasonable basis to know that the production level will significantly change within the next calendar month.

G. Notification of discharges that could cause potential problems to the POTW, including slug loadings and accidental discharges, to be submitted by all industrial users to the POTW immediately when the slug loading or discharge containing the potential problem occurs. If the immediate notification is oral, a written notice specifying the nature and cause of the discharge, and steps taken to eliminate the cause, must be submitted to the POTW within five days.

H. Notification of violation, as described in § 222-24 below.

I. Upset notifications, to be submitted by industrial users subject to categorical pretreatment standards. Such an industrial user may avail itself of the upset provisions of 40 CFR 403.16 only where there is an exceptional incident in which there is unintentional and temporary noncompliance with the categorical pretreatment standard because of factors beyond the reasonable control of the industrial user. The upset notification must be submitted to the Chief Operator within 24 hours of the industrial user's becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days), and the industrial user must comply with all requirements of 40 CFR 403.16.

J. Bypass notification, to be provided by all industrial users in advance of the bypass, if possible, or within 24 hours from the time the industrial user becomes aware of the bypass, if the bypass is unanticipated. The industrial user must further comply with all of the requirements regarding bypass set forth in 40 CFR 403.17.

K. Notification of hazardous waste discharge:

(1) Notification.

(a) All industrial users shall notify the Chief Operator, the EPA Regional Waste Management Division Director, and the Director of DEC's Division of Hazardous Substance Regulation in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification shall include

the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months.

(b) All existing industrial users shall have filed such notifications by February 19, 1991. All industrial users who commence discharging after August 23, 1990, shall file the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this section need be submitted only once for each hazardous waste discharged. However, all industrial users must notify the Chief Operator in advance, in accordance with § 222-22E of this chapter, of any change in their wastewater discharges. The notification requirement set forth herein does not apply to any pollutants already reported under the self-monitoring requirements set forth in § 222-22A, B, and C above.

(2) Industrial users are exempt from the requirements of § 222-22K(1) during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR § 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new regulations under Section 3001 of the Resource Conservation and Recovery Act identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the Chief Operator, the EPA Regional Waste Management Waste Division Director, and the Director of DEC's Division of Hazardous Substance Regulation of the discharge of such substance within 90 days of the effective date of such regulations.

(4) In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

§ 222-23. Signatory requirements.

A. All reports required to be submitted to the Chief Operator shall include the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

B. This certification statement shall be signed by an authorized representative of the industrial user.

§ 222-24. Monitoring and analysis.

A. If the industrial user's sampling indicates a violation, the user shall notify the Chief Operator within 24 hours of becoming aware of such violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Chief Operator within 30 days after becoming aware of the violation. The industrial user is not required to resample, however, if the Chief Operator performs sampling at the industrial user's facility at a frequency of at least once per month, or if the Chief Operator performs sampling at the industrial user's facility between the time when the industrial user performs its initial sampling and the time when said user receives the results of the sampling.

B. The frequency and location of monitoring shall be prescribed in the wastewater discharge permit and shall not be less frequent than prescribed in § 222-22C. At the discretion of the Chief Operator, the required monitoring and analysis may be performed by the POTW in lieu of the industrial user, in which event the industrial user is not required to submit the report or compliance certification required therein.

C. All analyses shall be performed in accordance with procedures established by the EPA pursuant to Section 304(h) of the Act and contained in 40 CFR Part 136 and amendments thereto, or with any other test procedures approved by the EPA. Sampling shall be performed in accordance with the techniques approved by the EPA and shall be performed in such a manner and at such a time that the resulting analytical data is representative of conditions occurring during the reporting period. Samples of the industrial user's wastewater discharges shall be collected at each point of discharge to the POTW sewerage system. Where 40 CFR Part 136 does not include sampling or analytical techniques for the pollutants in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the Chief Operator or other parties, approved by the EPA.

§ 222-25. Recordkeeping requirements.

A. Recordkeeping.

(1) All industrial users shall maintain records of all information resulting from any monitoring activities of wastewater discharges. Such records shall include for

all samples:

(a) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;

(b) The dates analyses were performed;

(c) Who performed the analyses;

(d) The analytical techniques/methods used; and

(e) The results of such analyses.

(2) All industrial users shall also maintain records regarding pretreatment equipment operation and maintenance.

B. All industrial users shall keep copies of all such records and reports of operation and maintenance, and monitoring activities and results, for a minimum of three years. The records and reports of monitoring activities and results shall be maintained regardless of whether such monitoring activities are required by this chapter or the Act. Each industrial user shall make all records required to be maintained available for inspection and copying by EPA, DEC, and the Chief Operator. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user or the POTW, or when requested by EPA, DEC, or the Chief Operator.

§ 222-26. Monitoring facilities.

The Chief Operator may require any industrial user to provide, operate and maintain, at the industrial user's own expense, sampling, monitoring and/or metering facilities at the point or points in the facility selected by the Chief Operator to allow inspection, sampling, and flow measurement of discharges to the sewerage system and/or internal piping systems. Sampling and monitoring facilities may be located as approved by the Chief Operator to allow direct access by POTW personnel without the necessity of notice to the industrial user. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The sampling and monitoring facilities shall be provided in accordance with the Chief Operator's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification to the industrial user by the Chief Operator that such facilities must be built.

§ 222-27. Inspection and sampling.

A. The Chief Operator may inspect the facilities of any industrial user to ascertain whether the purposes and requirements of this chapter and the Act are being met. Persons or occupants of premises where wastewater is created or discharged, or where records pertaining to such discharges are kept, shall allow POTW representatives ready access at all times to all parts of the premises for the purposes of inspection, sampling, records examination and copying, or the performance of any of their other duties. The Chief Operator, EPA, and DEC shall have the right to set up without notice on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring, metering operations, and records

copying. Where a user has security measures in force which would require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that upon presentation of suitable identification, personnel from the POTW, EPA, and DEC, or their designated agents, will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

B. Where so requested in advance by an industrial user, and when taking a sample of industrial wastewater, the POTW representative shall gather sufficient volume of sample when practicable so that the sample can be split into two equal volumes. One of the volumes shall be given to the industrial user, and the other shall be retained by the POTW representative for analysis.

§ 222-28. Slug control plans.

At least once every two years, the Chief Operator shall evaluate whether each significant industrial user needs a plan to control slug discharges. The significant industrial user shall comply with the provisions of any such slug control plan which the Chief Operator determines to be necessary, including, but not limited to:

A. A description of discharge practices, including nonroutine batch discharges;

B. A description of stored chemicals;

C. Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5(b), with procedures for follow-up written notification within five days; and

D. If necessary, procedures to prevent adverse impact from accidental spills, including those procedures set forth in 40 CFR 403.8(f)(2)(vi)(D).

§ 222-29. Confidential information.

A. In accordance with 40 CFR 403.14, any information and data concerning a user which is contained in or obtained from reports, questionnaires, permit applications, permits, monitoring programs, and inspections shall be available to the public and governmental agencies without restriction, unless the user specifically claims, and is able to demonstrate to the satisfaction of the public official with custody of the records, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such claim of confidentiality must be asserted at the time of submission in the manner prescribed on the application form or instructions or by stamping or writing the words "CONFIDENTIAL BUSINESS INFORMATION" on each page containing such information. If no claim is made, such public official may make the information available to the public without further notice.

B. Notwithstanding any claim of confidentiality, any information and data provided to the Chief Operator which is effluent data, as defined at 40 CFR 2.302 (including, but not limited to, wastewater constituents and characteristics), shall be available to the public without restriction. All other information and data shall be available to the public at least to the extent provided by 40 CFR 2.302.

C. Information determined by the public official with custody of the records to be confidential shall not be made available for inspection by the public, except as provided by 40 CFR 2.302, but shall be made available upon written request to governmental agencies for uses related to this chapter and the POTW's SPDES permit. Information determined to be confidential shall be available for use by the state or any state agency, the municipalities, the Special Joint Subcommittee, the POTW, or by the United States or EPA in criminal or civil judicial or administrative enforcement proceedings involving the user.

ARTICLE V
Septage Discharges

§ 222-30. Septage hauler requirements.

No person shall discharge septage into the POTW's treatment plant without a valid DEC permit issued under 6 NYCRR Part 364 and a wastewater discharge permit issued by the POTW. Before discharging a load of septage into the Treatment Plant, the septage hauler shall provide the POTW with a list of persons and facilities from which the hauler picked up septage for that load, a statement of the volume and nature of the septage, and any other information requested by the Chief Operator.

§ 222-31. Septage discharge requirements.

No person shall discharge into the POTW's treatment plant any septage containing hazardous wastes. The Chief Operator has the discretion to refuse to accept any septage load based on the type, concentration, or quantity of pollutants, or on the capability or capacity of the POTW to treat the septage. All septage discharges must comply with all pretreatment standards and pretreatment requirements.

§ 222-32. Dumping location and timing.

No person may discharge septage to any locations except those on the POTW treatment plant site designated by the POTW as septage receiving stations, or those locations off the treatment plant site at which the POTW has given the septage hauler specific permission to discharge. The Chief Operator also may restrict septage discharges to certain times, to certain days of the week, or to certain seasons of the year.

§ 222-33. Notification of dumping.

Each discharge of septage shall be made only with the approval of the Chief Operator. The septage hauler shall contact the POTW to obtain permission to discharge septage containing materials other than sanitary sewage prior to delivering the septage load to the POTW. The Chief Operator may require inspection, sampling, and analysis of each load of septage prior to the discharge of the load. Any costs associated with such inspection, sampling, and analysis shall be paid by the septage hauler.

§ 222-34. Dumping fees.

The Special Joint Subcommittee shall bill Tompkins County for dumping fees associated with the discharge of septage from private sources, pursuant to a schedule of rates as set by the Special Joint Subcommittee. The Chief Operator shall directly bill the relevant governmental entity for dumping fees associated with the discharge of septage from public entities. All dumping fees shall include a fee for the cost of solids disposal.

ARTICLE VI
Enforcement

§ 222-35. Imminent endangerment.

The Chief Operator may immediately halt or prevent any discharge of pollutants which reasonably appears to present an imminent endangerment to the health or welfare of persons. In the event that the Chief Operator determines that a discharge of pollutants reasonably appears to present an imminent endangerment to the health or welfare of persons, the Chief Operator shall provide informal (oral or written) notice of said determination to the user. Said user shall immediately stop or eliminate such discharge and shall submit written proof of the elimination of the discharge to the Chief Operator within 48 hours of receipt of notice of the Chief Operator's determination. If said user fails voluntarily and immediately to halt such a discharge, the Chief Operator shall take such actions as he or she deems necessary to prevent or minimize endangerment to the health or welfare of persons. Such actions include, but are not limited to, entry on private property to halt such discharge, blockage of a public sewer to halt such discharge, severance of the sewer connection, suspension of wastewater disposal service, suspension or revocation of a wastewater discharge permit, and referring the matter to the attorney for the municipality in which the user is located for the commencement of a legal or special proceeding, including ex parte temporary injunctive relief. After such discharge has been halted, the Chief Operator may take such other and further actions provided under this section as may be necessary to ensure elimination of said discharge and compliance with the terms of this chapter and wastewater discharge permits issued hereunder. If the user provides satisfactory written proof that it has eliminated the cause of the conditions creating the imminent endangerment, the Chief Operator may reinstate the permit, restore the sewer connection and wastewater disposal service, and perform other activities to allow the user to commence discharging again.

§ 222-36. Other harmful discharges.

A. The Chief Operator may also halt or prevent any discharge of pollutants which:

   (1) Presents or may present an endangerment to the environment;

   (2) Threatens to interfere with the operation of the POTW; or

   (3) Threatens to pass through the POTW.

B. In the event of such a discharge, the Chief Operator must deliver a written notice to the user describing the problems posed by the discharge and offering the user an opportunity to respond. If the user does not respond, in writing, to the Chief Operator within 24 hours after delivery of such written notice, then the Chief Operator may undertake such actions, including those described in § 222-35, as he or she deems necessary to prevent or minimize the effects of such a discharge. If the industrial user does respond, in writing, within 24 hours, then no immediate suspension of service or of a wastewater discharge permit shall occur, unless the Chief Operator reasonably believes that the user's discharge continues to present or may present an endangerment to the environment or threatens to cause interference or pass-through at the POTW. If the user thereafter provides satisfactory written proof that it has eliminated the cause of the conditions creating the harmful

discharge, then the Chief Operator may perform activities to allow the user to commence discharging again.

§ 222-37. Publication of list of violators.

The Special Joint Subcommittee shall annually publish in the largest local daily newspaper a list of the industrial users which, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment standards or pretreatment requirements. For purposes of this provision, an industrial user is in significant noncompliance if its violation meets one or more of the criteria set forth at 40 CFR 403.8(f)(2)(vii).

§ 222-38. Compliance orders.

A. The Chief Operator may issue compliance orders to industrial users not complying with any pretreatment standards, pretreatment requirements, wastewater discharge permits, or any other provisions of this chapter or the Act. Such orders may, among other things, direct said industrial user to:

   (1) Comply immediately with pretreatment standards, pretreatment requirements, wastewater discharge permit provisions, this chapter, or the Act;

   (2) Comply with pretreatment standards, pretreatment requirements, wastewater discharge permit provisions, this chapter, or the Act in accordance with a time schedule set forth by the Chief Operator;

   (3) Increase the frequency of sampling and analysis of the industrial user's wastewater; and/or

   (4) Undertake appropriate remedial or preventive action to prevent the possibility of violations in the future.

B. The issuance of or compliance with an order under this section shall not relieve the industrial user of liability for violations which occur before the order is issued or while the order is effective.

§ 222-39. Suspension and revocation of permit.

A. This section shall govern the ability of the municipalities to suspend or revoke any wastewater discharge permit to any industrial user in all situations except those described in §§ 222-35 and 222-36 of this chapter regarding discharges which present imminent endangerment or which constitute harmful discharges. In all other situations, the municipality in which the industrial user is located (or any of the municipalities, if the industrial user is located outside the municipalities) may suspend or revoke a wastewater discharge permit if it determines that a violation of any provision of the permit, the Act, or this chapter exists. Violations which may lead to such suspension or revocation include, but are not limited to, the following:

   (1) Failure of an industrial user to accurately or timely submit the information required in any report;

   (2) Failure of an industrial user to allow access to its premises for the purposes of

inspection, monitoring, sampling, or records examination or copying by the POTW, EPA, DEC, the United States, or the state;

(3) Failure of an industrial user to report significant changes in its operations or the constituents, characteristics, or volume of its wastewater; or

(4) Violation of conditions of the industrial user's permit.

B. Before the relevant municipality may suspend or revoke an industrial wastewater permit, it must give the industrial user a hearing in accordance with the procedures set forth at § 222-41 below. The final decision as to whether to suspend or revoke a permit shall then be made by the municipality and shall be a final administrative action.

§ 222-40. Notice of violation.

A. Whenever the Chief Operator determines that any industrial user has violated or is violating any pretreatment standard, pretreatment requirement, its wastewater discharge permit, or any other provision of the Act or this chapter, he or she may serve upon such user, either personally or by certified mail, return receipt requested, a written notice of violation stating the nature of the violation. The Chief Operator may include with the notice of violation a compliance order directing the user to take specified actions to correct the violations. The Chief Operator or relevant municipality, as described in § 222-39 above, may also include with the notice of violation an order to show cause before the municipality as to why the user's wastewater discharge permit should not be suspended or revoked, or why civil administrative penalties should not be assessed by the municipality against the industrial user for said violations. Any such show cause hearing shall be conducted in accordance with the provisions of § 222-41 of this chapter.

B. Within 30 days of the date of the notice, the user shall submit to the Chief Operator a written explanation of the reasons for the violations and a plan for the satisfactory correction thereof consistent with any compliance order which the Chief Operator may issue.

C. Neither the issuance of a notice of violation, nor the submittal of or compliance with a plan of correction or compliance order, shall relieve the industrial user of any liability for violations of any pretreatment standards, pretreatment requirements, wastewater discharge permit, the Act, or this chapter, nor is the issuance of such a written notice required before the municipalities may take any other type of enforcement action against the industrial user.

§ 222-41. Show cause hearing.

A. Notice requirements. A notice from the Chief Operator or relevant municipality shall be served on the user specifying the time and place of a hearing to be held by the municipality regarding the violation, the proposed action to be taken, the reasons why the action is proposed, and directing the person to show cause before the municipality why the proposed action should not be taken. The notice of the hearing shall be served personally or by certified mail, return receipt requested, at least 10 days before the hearing. Service must be made on an authorized

representative of the industrial user.

B. Conduct of the hearing. The municipality shall conduct the hearing and take evidence, or may designate any of its members or the Chief Operator to:

(1) Issue in the name of the municipality notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(2) Take evidence;

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the municipality for action thereon; and

(4) Take any further necessary action as permitted by this chapter or applicable contracts or agreements.

C. Testimony recorded under oath. At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded, either stenographically or by voice recording. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.

D. Orders. After the municipality has reviewed the evidence, it may issue an order suspending or revoking an industrial wastewater discharge permit, or assessing civil administrative penalties, and the timing for their payment to the municipality, against the industrial user. The issuance of such an order shall be a final administrative action.

E. Settlement. At any time after notice of the show cause hearing has been served and before the municipality has issued its order regarding permit suspension or revocation or penalty assessment, the municipality may enter into a settlement agreement with the industrial user to resolve the issues raised by the order to show cause.

§ 222-42. Legal action. [Amended 7-14-1998 by L.L. No. 6-1998]

If any person violates the provisions of this chapter, the Act, any applicable pretreatment standards or pretreatment requirements, the conditions and requirement of any wastewater discharge permit issued hereunder, or any order of the Chief Operator, Special Joint Subcommittee, or municipality, counsel for the municipality where such person is located (or counsel for any of the municipalities, if such person is not located in any of the municipalities) may commence an action for appropriate legal and/or equitable relief, including, but not limited to, injunctive relief, penalties, and fines, in either state or federal court. The municipalities, Special Joint Subcommittee, or POTW may also ask appropriate officials at the local, state or federal levels to investigate and bring a criminal action against any industrial user or person associated with an industrial user believed to have violated the criminal provisions of this chapter, the Act, or any other law.

ARTICLE VII
Penalties and Costs

§ 222-43. Civil penalties.

A. Any person who violates an order of the Chief Operator, or municipality, or fails to comply with any provisions of this chapter, the Act, pretreatment standards or pretreatment requirements, or wastewater discharge permits issued hereunder, may be assessed by the relevant municipality, as described in § 222-39 above, a civil administrative penalty not to exceed $2,500 per day for each violation. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

B. Any person who violates an order of the Chief Operator, or municipality, or fails to comply with any provisions of this chapter, the Act, pretreatment standards or pretreatment requirements, or wastewater discharge permits issued hereunder, may be assessed a civil judicial penalty not to exceed $5,000 per day for each violation. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

C. All civil administrative or civil judicial penalties recovered hereunder shall be paid to the municipality which prosecuted the enforcement action. After reimbursing itself for the expenses of prosecution, the municipality shall pay the balance to the City of Ithaca Joint Activity Fund for POTW expenditures. In addition to the penalties provided herein, the municipalities may recover court costs, court reporters' fees, and other expenses of litigation, as well as recoverable attorneys' fees, in an appropriate legal action against the person found to have violated this chapter or limitations or conditions of a wastewater discharge permit issued thereunder.

D. Nothing in this section shall preclude the municipalities from bringing an action against a user for liability incurred as a result of damage to the POTW, fish kills, or any other damage to persons, animals, aquatic life, property, or natural resources.

§ 222-44. Criminal fines and imprisonment.

A. Any person who knowingly violates any requirement of this chapter or of any wastewater discharge permit condition or limitation implementing the requirements of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall, if the person is not a corporation, be punished by a fine not exceeding $10,000 per day of violation, or by imprisonment for a term of not more than one year, or by both such fine and imprisonment; and if the person is a corporation shall, upon conviction, be punished by a fine not exceeding $20,000 per day of violation.

B. Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this chapter, shall be guilty of a misdemeanor and upon conviction thereof shall, if the person is not a corporation, be punished by a fine not exceeding $10,000 per day of violation, or by imprisonment for a term of not more

than one year, or by both such fine and imprisonment; and if the person is a corporation shall, upon conviction, be punished by a fine not exceeding $20,000 per day of violation.

ARTICLE VIII
Fees

§ 222-45. Charges and fees.

It is one of the purposes of this chapter to provide for the recovery of costs from persons who use the POTW, in order to implement the programs established herein. Charges and fees may include:

A. Fees for reimbursement of the costs of setting up and operating the POTW's pretreatment program;

B. Fees for monitoring, sampling, inspections, and surveillance procedures;

C. Fees for reviewing accidental discharge procedures and construction;

D. Fees for permit applications and modifications;

E. Fees for consistent removal (by the POTW) of pollutants otherwise subject to national categorical pretreatment standards;

F. Fees for sludge disposal;

G. Other fees as the Special Joint Subcommittee may deem necessary to carry out the requirements contained herein.

§ 222-46. Assessment of charges and fees.

The charges or fees for the items enumerated in § 222-45 above shall be set from time to time in accordance with procedures permitted by applicable laws.

§ 222-47. Surcharges for certain conventional pollutants.

A. Surcharge payment.

(1) Industrial users discharging wastewater which exceeds the following concentrations for any of the conventional pollutants listed below shall pay a surcharge for use of the POTW:

Pollutant	Level Above Which Surcharge Applies (24-hour composite, in ppm)
Chemical oxygen demand	350
Suspended solids	250
BOD5	250
Phosphorus	6
Nitrogen, total	25

(2) The surcharge shall be calculated to recover the POTW's costs to treat these conventional pollutants to the extent that the concentrations of these

conventional pollutants exceed the levels stated above. The surcharge shall be set from time to time in accordance with procedures permitted by applicable laws. The Chief Operator may grant a surcharge waiver to any industrial user which demonstrates that its exceedances of the surcharge threshold levels are due to innovative water conservation practices.

B. The surcharge threshold levels set forth above are not local limits. All pretreatment standards and pretreatment requirements, including the prohibition against pass-through and interference, do apply to discharges of the conventional pollutants listed above. In addition, nothing in this section shall prevent the Chief Operator from exercising his or her right, as described in § 222-10 of this chapter, to require an industrial user to comply with specific discharge limits on these pollutants if deemed necessary to meet the objectives of § 222-1A of this chapter. In the event that an industrial user receives specific discharge limits for any of these pollutants, no surcharge shall apply and violations of the discharge limit by the industrial user shall instead subject the industrial user to the enforcement provisions of this chapter.

ARTICLE IX
Severability; Repealer; Effective Date

§ 222-48. Severability.

If any provision, paragraph, word, section, or article of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and articles shall not be affected and shall continue in full force and effect.

§ 222-49. Repealer.

All regulations, ordinances or local laws, and any parts thereof, which are inconsistent or conflict with any part of this chapter are hereby repealed to the extent of such inconsistency or conflict.

§ 222-50. Effective date.

This chapter shall be in full force and effect after publication, posting and filing with the New York Secretary of State and upon approval by the U.S. Environmental Protection Agency.

Chapter 229

STORM SEWERS

ARTICLE I
Illicit Discharges and Connections
[Adopted 1-2-2008 by L.L. No. 1-2008]

§ 229-1. Purpose; intent.

The purpose of this article is to protect the health, safety, and general welfare of the citizens of the Town of Dryden through the regulation of nonstormwater discharges to the municipal separate storm sewer system (MS4) and surface waters to the maximum extent practicable as required by federal and state law. This article establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems. The intent of this article is:

A. To meet the requirements of the SPDES General Permit for Stormwater Discharges from the MS4 (Permit No. GP-02-02);

B. To regulate the introduction of pollutants to the MS4 since such systems are not designed to accept, process or discharge nonstormwater wastes;

C. To prohibit illicit discharges, activities and connections to the MS4 and surface waters;

D. To establish legal authority to carry out inspection, surveillance and monitoring procedures necessary to ensure compliance with this article; and

E. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4 and surface waters.

§ 229-2. Definitions.

Whenever used in this article, unless a different meaning is stated in a definition applicable to only a portion of this article, the following terms will have meanings set forth below:

BEST MANAGEMENT PRACTICES (BMPs) — Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT — The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.).

CONSTRUCTION ACTIVITY — Activities requiring authorization under the SPDES Permit GP-02-01 for stormwater discharges from construction activity. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing, grubbing, grading, excavating, and demolition.

DEPARTMENT — The New York State Department of Environmental Conservation.

HAZARDOUS MATERIALS — Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise improperly managed.

ILLICIT CONNECTIONS — Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4 or surface water, including but not limited to:

A. Conveyances which allow any nonstormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 or surface water and any connections to the storm drain system or surface water from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved; or

B. Drains or conveyances connected from a commercial or industrial use to the MS4 or surface water which have not been shown on Town-approved plans, maps, or equivalent records.

ILLICIT DISCHARGE — Any direct or indirect nonstormwater discharge to the MS4 or surface water, except those exempted in § 229-6 of this article.

INDIVIDUAL SEWAGE TREATMENT SYSTEM — A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility, that treats sewage or other liquid wastes for discharge into the ground waters of New York State, except those for which a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

INDUSTRIAL ACTIVITY — Activities requiring the SPDES Permit GP-90-03 for discharges from industrial activities except construction.

MS4 — Municipal separate storm sewer system.

MUNICIPAL SEPARATE STORM SEWER SYSTEM — A conveyance or system of conveyances (including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

A. Owned or operated by the Town of Dryden;

B. Designed or used for collecting or conveying stormwater;

C. Which is not a combined sewer; and

D. Which is not part of a publicly owned treatment works (POTW) as defined at 40 CFR 122.2.

NON-STORMWATER DISCHARGE — Any discharge to the MS4 or surface water that is not composed entirely of stormwater.

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, and acting as either the owner or the owner's agent.

POLLUTANT — Any material which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards, including but not limited to: dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, detergents, automotive fluid or residue, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, industrial waste, municipal waste, agricultural waste, or ballast discharged into water.

PREMISES — Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking areas.

SPECIAL CONDITIONS —

A. DISCHARGE COMPLIANCE WITH WATER QUALITY STANDARDS — The condition that applies where the Town has been notified that the discharge of stormwater authorized under its MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition, the Town must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.

B. LISTED WATERS — TERS — The condition in the Town's MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition, the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.

C. TOTAL MAXIMUM DAILY LOAD (TMDL) STRATEGY — The condition in the Town's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a water body or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the municipality was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

D. The condition in the Town's MS4 permit that applies if a TMDL is approved in the future by EPA for any water body or watershed into which an MS4 discharges. Under this condition, the municipality must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the Town must, within six months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) STORMWATER DISCHARGE PERMIT — A permit issued by the Department that authorizes the discharge of pollutants to waters of the state.

STORMWATER — Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT OFFICER (SMO) — An employee of the Town or Town officer designated by the Town Board to enforce this article. The SMO is also designated by the Town to accept and review stormwater pollution prevention plans, forward the plans to the applicable board and inspect stormwater management practices.

SURFACE WATERS — Surface waters of the State of New York.

SURFACE WATERS OF THE STATE OF NEW YORK — Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

303(d) LIST — A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants. The list is prepared periodically by the Department as required by Section 303(d) of the Clean Water Act. Section 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

TMDL — Total maximum daily load.

TOTAL MAXIMUM DAILY LOAD — The maximum amount of a pollutant to be allowed to be released into a water body so as not to impair uses of the water, allocated among the sources of that pollutant.

TOWN — The Town of Dryden, Tompkins County, New York.

WASTEWATER — Water that is not stormwater, is contaminated with pollutants and is or will be discarded.

WETLAND — Any area which meets one or more of the following criteria:

A. Lands and waters that meet the definition provided in New York State Environmental Conservation Law, Article 24, Freshwater Wetlands Act. The approximate boundaries of such lands and waters are indicated on the official wetlands map promulgated by the Commissioner of the New York State Department of Environmental Conservation, or as amended and updated.

B. Areas which meet the definition used by the U.S. Army Corps of Engineers and U.S. Environmental Protection Agency: "Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas."

§ 229-3. Applicability.

This article shall apply to all stormwater and wastewater entering the MS4 or surface waters generated on any lands within the Town unless explicitly exempted.

§ 229-4. Responsibility for administration.

The Stormwater Management Officer shall administer, implement, and enforce the provisions of this article. Such powers granted or duties imposed upon the SMO may be

delegated in writing by the SMO as authorized by the Town.

§ 229-5. Severability.

The provisions of this article are hereby declared to be severable. If any section, provision, clause, sentence, or paragraph of this article or the application thereof to any person, premises or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article.

§ 229-6. Discharge prohibitions.

A. Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the MS4 or surface waters any materials other than stormwater except as exempted in § 229-6A(1). The commencement, conduct or continuance of any illegal discharge to the MS4 or surface water is prohibited, except as exempted in § 229-6A(1):

(1) The following discharges are exempt from the discharge prohibitions established by this article, unless the Department or the Town has determined them to be substantial contributors of pollutants: public water line flushing or flushing of other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising groundwater, uncontaminated groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains, crawl space or basement sump pumps, air-conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from firefighting activities, and any other water source not containing pollutants.

(2) Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this article.

(3) Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the SMO prior to the commencement of the test.

(4) The prohibition shall not apply to any discharge permitted under a SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Department, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

B. Prohibition of illicit connections.

(1) The construction, use, maintenance or continued existence of illicit

connections to the MS4 or to surface water is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this article if the person connects a line conveying sewage to the municipality's MS4 or to surface water, or allows such a connection to continue.

§ 229-7. Prohibition against activities contaminating stormwater.

A. Activities that are subject to the requirements of this section are those types of activities that:

(1) Cause or contribute to a violation of the Town's MS4 SPDES permit.

(2) Cause or contribute to the Town being subject to the special conditions as defined herein.

B. Such activities may include failing individual sewage treatment systems as defined herein, improper management of animal waste, excessive application of fertilizer or pesticides not in accordance with label directions, storage of such materials where they are exposed to stormwater, or any other activity that causes or contributes to violations of the Town's MS4 SPDES permit.

C. Agricultural activities are exempt from regulation under this section if they:

(1) Meet the requirements of any applicable agricultural regulations; and

(2) Are participating in the Agricultural Environmental Management program or otherwise applying current agricultural best management practices; or

(3) Are determined to be sound agricultural practices, as described in the New York Agriculture and Markets Law.

D. Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the Town's MS4 SPDES permit, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the Town's MS4 SPDES permit.

§ 229-8. Prevention, control, and reduction of stormwater pollutants by use of best management practices.

Where the SMO has identified illicit discharges or activities contaminating stormwater, the Town may require implementation of best management practices (BMPs) to control such illicit discharges and activities.

A. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 or into surface waters through the use of BMPs.

B. Any person responsible for a premises or operations, which are, or may be, the

source of an illicit discharge or an activity contaminating stormwater, may be required to implement, at said person's expense, additional BMPs to reduce or eliminate the source of pollutant(s) to the MS4 or to surface waters.

C. Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

§ 229-9. Suspension of access to MS4.

A. The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing and the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.

B. Suspension due to the detection of illicit discharge. Any person discharging to the Town's MS4 in violation of this article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO shall notify a violator in writing of the proposed termination of its MS4 access and the reasons therefor. The violator may petition the SMO for reconsideration and a hearing. Suspension of the termination to MS4 access may be lifted by the SMO if the SMO finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines that the illicit discharge has not ceased or is likely to reoccur. Such determination shall be in writing. It is a violation of this article if a person discharges to the Town's MS4 after termination pursuant to this section, without the prior written approval of the SMO.

§ 229-10. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Town prior to the allowing of discharges or as a condition of continuing discharges to the MS4.

§ 229-11. Access and monitoring of discharges.

A. Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this article, or whenever the SMO has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this article.

B. Access to facilities.

(1) The SMO shall be permitted to enter and inspect premises subject to regulation under this article as often as may be reasonably necessary to determine compliance with this article. If a discharger has security measures in force

which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.

(2) Facility operators shall allow the SMO reasonable access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be reasonably required to enforce this article.

(3) The Town shall have the right to install or establish on any premises subject to this article, such devices as are reasonably necessary in the opinion of the SMO to conduct monitoring and/or sampling of the premises' stormwater discharge. All expenses in connection with the installation, monitoring and maintenance of such equipment shall be the responsibility of and paid for by the discharger.

(4) The Town may require premises subject to this article to install monitoring equipment as may be reasonably necessary to determine compliance with this article. The premises' sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy. All expenses in connection with the installation, monitoring and maintenance of such equipment shall be the responsibility of and paid for by the discharger.

(5) If the SMO has been refused access to any part of the premises from which stormwater is discharged, and the SMO is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample discharges to verify compliance with this article or any order issued hereunder, then the SMO may seek a search warrant from any court of competent jurisdiction.

§ 229-12. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for premises or operations, or responsible for emergency response for premises or operations, has information of any known or suspected release of materials which results or may result in illegal discharges or pollutants discharged into the MS4 or a surface water, said person shall take all necessary steps to ensure the containment and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify the relevant emergency response agencies of the occurrence, and then notify the SMO as soon as possible. In the event of a release of nonhazardous materials, said person shall notify the SMO in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the SMO within three business days of telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

§ 229-13. Enforcement.

A. Notice of violation. When the SMO finds that a person has violated a provision of this article, the SMO may order compliance by written notice of violation to such person. Such notice may require, without limitation:

(1) The elimination of illicit connections or discharges;

(2) That violating discharges, practices, or operations cease and desist;

(3) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

(4) The performance of monitoring, analyses, and reporting. (All expenses in connection with the installation, monitoring and maintenance of such equipment shall be the responsibility of and paid by the discharger.);

(5) Payment of a fine; and

(6) The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further provide that, should the violator fail to remediate or restore the affected property within the established deadline, the work may be done by the Town or other governmental agency, or by a contractor and the expense thereof shall be charged to and payable by the violator.

B. Penalties. In addition to or as an alternative to any other penalty or remedy provided herein or by law, any person who violates the provisions of this article shall be guilty of a violation punishable by a fine not exceeding $350 for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than $350 nor more than $700, and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than $700 nor more than $1,000 or imprisonment for a period not to exceed six months, or both. For the purposes of conferring jurisdiction upon courts and judicial officers generally, a third violation of this article shall be deemed an unclassified misdemeanor and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

§ 229-14. Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the SMO to the Town Board within 15 days of the receipt of such notice. The Town Board shall hear the appeal within 30 days after the filing of the appeal. Within five days of making its decision, the decision shall be filed in the office of the Town Clerk and a copy of such decision shall be mailed by certified mail to the discharger.

§ 229-15. Corrective measures after appeal.

A. If a violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within five business days of the

filing of the decision of the Town Board upholding the decision of the SMO, then the SMO may enter the subject premises, and take any and all measures reasonably necessary to abate the violation and/or restore the affected property.

B. If the SMO is refused access to the subject premises, the SMO may seek an injunction in a court of competent jurisdiction authorizing entry upon the premises to determine whether the violation continues. Upon determination that a violation is continuing, the SMO may seek further injunctive relief in order to take any and all measures reasonably necessary to abate the violation and/or restore the affected property. The cost of implementing and maintaining such measures shall be the sole responsibility of the violator.

§ 229-16. Injunctive relief.

It shall be unlawful for any person to violate any provisions of this article or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the SMO may petition a court of competent jurisdiction for a preliminary or permanent injunction restraining the person further violations or compelling the person to perform abatement or remediation of violations.

§ 229-17. Alternative remedies.

A. Where a person has violated a provision of this article, they may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the Town Attorney and concurrence of the SMO, where:

(1) The violation was unintentional.

(2) The violator has no history of previous violations of this article.

(3) Environmental damage was minimal.

(4) Violator acted promptly to remedy the violation.

(5) Violator cooperated in investigation, abatement and remediation.

B. Alternative remedies may consist of one or more of the following:

(1) Attendance at a compliance workshop(s);

(2) Storm drain stenciling or storm drain marking;

(3) River, stream or creek cleanup.

§ 229-18. Violations deemed public nuisance.

In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare, and is declared and deemed to be a nuisance, and may be abated or restored at the violator's expense, by a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance.

§ 229-19. Remedies not exclusive.

The remedies listed in this article are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the sole and absolute discretion of the SMO whether to seek cumulative remedies.

§ 229-20. When effective.

This article shall be effective upon filing with the office of the Secretary of State.

Chapter 233

STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL

ARTICLE I
General Provisions

§ 233-1. Title.

This chapter may be cited as the Town of Dryden "Stormwater Management, Erosion and Sediment Control Law."

§ 233-2. Findings of fact.

The Town of Dryden finds that uncontrolled stormwater runoff associated with land development has a significant impact upon the health, safety and welfare of the community, and quality of the environment. Specifically:

A. Land development activities, increases in impervious cover, and improper design and construction of drainage facilities often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, sediment transport, and stream channel erosion.

B. Improperly managed stormwater runoff can increase the incidence of flooding and the level of floods that occur, endangering property and human life.

C. Construction involving land clearing and the alteration of natural topography, particularly near a watercourse, wetland, or on steep slopes, increases erosion and leads to siltation of water bodies, decreasing their capacity to hold and transport water, damaging public and private property, and harming flora and fauna.

D. Sediment from soil erosion can spill onto roads, making them less safe, and can clog catch basins, storm sewers, and ditches, resulting in increased maintenance expense for the Town of Dryden and other public and private entities.

E. Clearing and grading during construction can result in loss of valuable topsoil and loss of native and other vegetation necessary for terrestrial and aquatic habitat.

F. Loss of wetlands from land development leads to the significant loss of water quality and quantity control functions. Any decrease in wetlands reduces hydrologic absorption, storage capacity, biological and chemical oxidation sites, sedimentation and filtering functions of wetland areas.

G. Stormwater runoff from developed areas can carry significant quantities of water-borne pollutants into surface waters and groundwater, degrading water bodies, affecting public and private water supplies and recreational uses, and degrading terrestrial and aquatic habitats. Nutrients in runoff, such as phosphorous and nitrogen, accelerate eutrophication of receiving waters.

H. The southern end of Cayuga Lake, which ultimately receives drainage from much of the land area in Dryden, has been placed on the New York State 303(d) List of Impaired Waters which identifies sediment/silt and phosphorus as the major pollutants contributing to this impairment.

I. Increasing impervious surfaces increases the volume and rate of stormwater runoff and allows less water to percolate into the soil, thereby decreasing groundwater recharge and stream base flow. Stormwater management practices that improve

infiltration are desirable to mitigate this effect.

J. Substantial economic losses can result from these adverse impacts on community waters.

K. Stormwater runoff, soil erosion, and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff quantity and quality from new land development and redevelopment activities, through the use of both structural and nonstructural practices.

L. Nonstructural or better site design practices can help to control stormwater runoff by protecting or mimicking natural hydrologic functions of a site, and often are less expensive and may require less maintenance than structural practices.

M. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion, sedimentation, and runoff from development. Such regulation is in the public interest and will minimize threats to public health and safety.

§ 233-3. Purpose.

The purpose of this chapter is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within the Town and to address the findings of fact in § 233-2 hereof. This chapter seeks to meet those purposes by achieving the following objectives:

A. Meet the requirements of minimum measures four and five of the SPDES General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02.

B. Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities GP-02-01.

C. Minimize increases in the magnitude, rate, and frequency of stormwater runoff between pre-development and post-development conditions so as to prevent an increase in flood flows and in the hazards and costs associated with flooding.

D. Where increases occur, restrict stormwater runoff entering and leaving development sites to non-erosive velocities.

E. Minimize the accumulation, and facilitate the removal of pollutants in stormwater runoff so as to perpetuate the natural biological and recreational functions of streams, water bodies, and wetlands.

F. Reduce the need for costly maintenance and repairs to roads, embankments, ditches, streams, lakes, ponds, wetlands, and stormwater control facilities resulting from inadequate control of soil erosion and stormwater runoff.

G. Reduce the detrimental impacts of stormwater flows on adjacent properties and downstream communities.

H. Prevent accelerated soil erosion and sedimentation so as to avoid its deposit in streams and other receiving water bodies.

I. Ensure soil erosion control and stormwater runoff control systems are incorporated into site planning at an early stage.

J. Maintain the integrity of local drainage systems, particularly natural systems, so as to sustain their hydrologic functions.

K. Encourage groundwater recharge so as to maintain stream base flows, aquatic life, and adequate water supplies.

L. Enhance, to the extent possible, secondary community benefits (such as open space protection and increased recreational opportunity) derived from stormwater management planning and facilities.

M. Maintain the integrity of stream flow in such a way as to perpetuate natural communities, food chains and recreational opportunities.

N. Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety.

O. Establish provisions to ensure there is an adequate funding mechanism, including financial surety, for the proper review, inspection and long-term maintenance of stormwater facilities implemented as part of this chapter.

P. Establish administrative procedures for the submission, review, approval or disapproval of stormwater management plans, and for the inspection of approved active development projects, and long-term follow-up on post-construction stormwater management practices.

§ 233-4. Statutory authority.

In accordance with § 10 of the Municipal Home Rule Law of the State of New York, the Town Board of the Town of Dryden has the authority to enact local laws and amend local laws for the purpose of promoting the health, safety or general welfare of the Town of Dryden and for the protection and enhancement of its physical environment. Such local law may provide for the appointment of any municipal officer, employees, or independent contractor to administer and enforce such local law.

§ 233-5. Definitions.

The terms used in this chapter or in documents prepared or reviewed under this chapter shall have the meaning as set forth in this section.

ADVERSE IMPACT — A negative impact on land or waters resulting from a land development activity. The negative impact may include impairment to human or natural uses (such as increased risk of flooding, degradation of water quality, sedimentation, reduced groundwater recharge, impaired recreational use, impacts on aquatic organisms or other resources, or threats to public health).

AGRICULTURAL ACTIVITY — The activity of an active farm, including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

APPLICANT — A property owner or agent of a property owner who has filed an application for a land development activity.

AREA OF DISTURBANCE — The total land area subject to land development activity, as defined below. If activities are part of a larger common plan of development or sale, total area of disturbance is calculated for the entire project, even though multiple separate and distinct land development activities may take place at different times on different schedules.

BASIC SWPPP — A stormwater pollution prevention plan (SWPPP) that includes all requirements for erosion and sediment control, but does not require post-construction water quality and quantity controls.

BEST USAGES — The protected uses identified for each class of waters of New York State, under the classification system described in 6 NYCRR Part 701, Classifications – Surface Waters and Groundwaters.

BORROW AREA — An area from which soil, sand, gravel, or other similar material is excavated.

BUILDING — Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 150 square feet of area.

CERTIFIED INSPECTOR — A certified erosion, sediment, and stormwater inspector (CESSWI), in accordance with the procedures of the certifier, CPESC, Inc., or whose qualifications are approved by the DEC or the Town Board.

CERTIFIED PROFESSIONAL — A certified professional in erosion and sediment control (CPESC) or certified professional in stormwater quality (CPSWQ), as appropriate for the task at hand, in accordance with the procedures of the certifier, CPESC, Inc., or whose qualifications are approved by the DEC or the Town Board.

CHANNEL — A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING — Any activity that removes the vegetative surface cover.

COMMON PLAN OF DEVELOPMENT OR SALE — A plan, undertaken by a single project site owner or a group of project site owners acting in concert, to offer lots for sale or lease; where such land is contiguous, or is known, designated, purchased or advertised as a common unit or by a common name. The term also includes phased construction activity by a single entity for its own use. For discrete construction projects that are located within a larger common plan of development or sale that are at least 1/4 mile apart, each project can be treated as a separate plan of development or sale provided any interconnecting road, pipeline or utility project that is part of the same "common plan" is not concurrently being disturbed.

CONCENTRATED FLOW — Runoff that accumulates or converges into well-defined channels, whether man-made or formed naturally by erosion. The opposite of

concentrated flow is sheet flow, where flowing water is distributed evenly over the ground surface. Over distance on natural surfaces, sheet flow tends to become concentrated flow due to erosion. To convert concentrated flow into sheet flow, use of an engineered structure, such as a flow spreader, is generally required.

CONNECTED IMPERVIOUS SURFACE — The total area of impervious surface in a project (such as paved areas and rooftops) that will drain directly, via impervious conveyance (such as gutters, pipes, or paved or compacted channels or ditches), to the municipal separate storm sewer system (whether a road ditch or storm sewer) or to a surface water. Also, see definition of "disconnected impervious area."

DEC — The New York State Department of Environmental Conservation.

DEDICATION — The deliberate appropriation of property by its owner for general public use.

DESIGN MANUAL — The New York State Stormwater Management Design Manual, most recent version, including applicable updates that serves as the official guide for stormwater management principles, methods and practices.

DETENTION — Temporary storage of stormwater runoff.

DEVELOPER — A person undertaking land development activity, or for whose benefit land development activities are carried out.

DEVELOPMENT — To make a site or area available for use by physical alteration. Development includes, but is not limited to, providing access to a site, clearing of vegetation, grading, earth moving, excavating, providing utilities and other services such as parking facilities, stormwater management and erosion control systems, altering landforms, or constructing a structure on the land.

DISCONNECTED IMPERVIOUS AREA — Impervious area that is not directly connected to a stream or drainage system, but which directs runoff towards pervious areas where it can infiltrate, be filtered, and slowed down. See DEC's document "The Use and Implementation of Stormwater Credits" for more detailed guidelines.

DRAINAGE AREA — A geographic area within which stormwater, sediments, or dissolved materials drain to a particular receiving water body or to a particular point along a receiving water body.

EPA — Environmental Protection Agency.

EROSION CONTROL MANUAL — The most recent version of the "New York Standards and Specifications for Erosion and Sediment Control" manual, commonly know as the "Blue Book."

FINAL STABILIZATION — When all soil-disturbing activities at the site have been completed and a uniform, perennial vegetative cover with a density of 80% has been established or equivalent stabilization measures (such as the use of mulches or geotextiles) have been employed on all unpaved areas and areas not covered by permanent structures.

FLOOD — A flow event where the capacity of the channel is exceeded.

FLOODPLAIN — The area of land that is inundated when flow exceeds the capacity of the normal channel.

FULL SWPPP — A stormwater pollution prevention plan that includes all requirements for erosion and sediment control, and also post-construction water quality and quantity controls.

GRADING — Any excavating, filling, or stockpiling, including resulting conditions thereof.

HIGH POLLUTANT LOADING AREAS — Areas in industrial and commercial developments where solvents or petroleum products are loaded/unloaded, stored, or applied; areas where pesticides are loaded/unloaded or stored; areas where hazardous materials are expected to be present in greater than "reportable quantities" as defined by the United States Environmental Protection Agency (EPA) at 40 CFR 302.4; and areas with high risks for spills of toxic materials, such as gas stations and vehicle maintenance facilities.

HYDRIC SOIL — A soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part. The Natural Resources Conservation Service (NRCS) maintains a list of criteria for the designation of hydric soils, and the U.S. Army Corps of Engineers Wetland Delineation Manual, Technical Report Y-87-1 (Environmental Laboratory, 1987) contains further detail on field indicators of hydric soils.

IMPERVIOUS AREA — Those surfaces, improvements, and structures (such as, but not limited to, pavement, sidewalks, patios, terraces, decks, rooftops, tennis courts, and swimming pools) that cannot effectively absorb rainfall, snowmelt, and water.

INDUSTRIAL STORMWATER PERMIT — A State Pollution Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION — The process of stormwater percolating into the subsoil.

LAND DEVELOPMENT ACTIVITY — All activities, including clearing, grubbing, grading, excavating, stockpiling, placement of fill, paving, installation of utilities, and construction of buildings or structures that result in soil disturbance.

LANDOWNER (OWNER or PROPERTY OWNER) — The legal or equitable owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

LICENSED PROFESSIONAL — A licensed professional engineer or licensed landscape architect who is knowledgeable in the principles and practices of erosion and sediment control and stormwater management.

MAINTENANCE AGREEMENT — A legally recorded document that acts as a property deed restriction, and which requires long-term maintenance of stormwater management practices.

NONPOINT SOURCE POLLUTION — Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, forestry, mining, construction, subsurface disposal and urban runoff sources.

OPERATOR — The person having operational control over the construction plans and specifications for a project and/or responsibility for day-to-day supervision and control

of the activities occurring at a construction site, and/or responsibility for long-term maintenance of a stormwater management facility.

PERSON — An individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description, and acting as either the owner or the owner's agent.

PHASING — Land development activity completed in distinctly separate parts, with the stabilization of each piece completed before the clearing of the next.

POLLUTANT OF CONCERN — Sediment or a water quality measurement that addresses a sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

PROJECT — Land development activity.

PROJECT SITE — The portion of a parcel (or parcels) on which land development activity will occur.

QUALIFIED PROFESSIONAL — A person knowledgeable in the principles and practices of erosion and sediment control and stormwater management, such as a licensed professional engineer, licensed landscape architect, or certified professional (as defined herein).

RECHARGE — The replenishment of underground water reserves.

REDEVELOPMENT — Reconstruction or modification to any existing previously developed land such as residential, commercial, industrial, institutional or road/highway, which involves soil disturbance. Redevelopment is distinguished from development or new development in that new development refers to construction on land where there had not been previous construction. Redevelopment specifically applies to constructed areas with impervious surface.

RETENTION — A practice designed to collect and store stormwater runoff without release except by means of evaporation, infiltration, or attenuated release when runoff volume exceeds the permanent storage capacity of the permanent pool or tank.

SEDIMENT CONTROL — Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS — Cold water fisheries, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species, wetlands, and unique natural areas.

SILVICULTURAL ACTIVITY — The ongoing practice involving the dedicated and cyclic use of land expressly for the periodic production of timber. For example, clear-cutting is not considered an exempt silvicultural activity.

SIMPLE SWPPP — A stormwater pollution prevention plan that includes an erosion and sediment control plan appropriate for small areas of disturbance.

SLOPE(S) — In this chapter, generally described as percent slope, which is calculated as rise over run (vertical change in elevation between two representative points on the site divided by horizontal distance between the same two points) and multiplied by 100. For example, a 5% slope is a rise of five feet over a horizontal distance of 100 feet. Percent slope may be calculated by observing contour lines on a map, or by use of survey

equipment. Slope can also be expressed in degrees, as in angle degrees, ranging from 0° to 90° (which would be a vertical cliff). To convert from degrees slope to percent slope, take the tangent of the slope in degrees and multiply by 100.

SOLE SOURCE AQUIFER — Under the federal Safe Drinking Water Act [42 U.S.C. § 300h-3(e)], the Administrator of the EPA may determine that an underground water supply is the sole or principal source of drinking water for an area that, "if contaminated, would create a significant hazard to public health." If such a determination is made, the Administrator may designate the aquifer as a sole source aquifer. Such designation may be initiated by a petition. There are currently no sole source aquifers in Dryden. The Stormwater Design Manual contains a map of sole source aquifers in New York State.

SOURCE MATERIAL — Any material(s) or machinery, which is directly or indirectly related to process, manufacturing, or other industrial activities, which could be a source of pollutants in any industrial stormwater discharge to groundwater. Source materials include, but are not limited to, raw materials; intermediate products; final products; waste materials; by-products; industrial machinery; and fuels, and lubricants, solvents, and detergents that are related to process, manufacturing, or other industrial activities that are exposed to stormwater.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01 — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02 — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and to specify stormwater control standards.

STABILIZATION — The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER — An order issued which requires that some or all construction activity on a site be stopped.

STORMWATER — Rainwater, surface runoff, snowmelt and drainage.

STORMWATER HOTSPOT — A land use or activity that generates higher concentrations of hydrocarbons, trace metals, or toxicants than are found in typical stormwater runoff, based on monitoring studies. See the Stormwater Design Manual for details and a list of land uses designated as hotspots for the State of New York.

STORMWATER MANAGEMENT — The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources, and the environment.

STORMWATER MANAGEMENT FACILITY — One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER (SMO) — An employee or officer designated by the Town Board to accept and review stormwater pollution prevention plans, forward the plans to the applicable board, issue permits and approvals, and inspect

and enforce stormwater management practices.

STORMWATER MANAGEMENT PRACTICES (SMPS) — Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) — A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF — Flow through or on the ground surface resulting from precipitation.

STREAM CORRIDOR — The landscape features on both sides of a stream, including soils, slopes, and vegetation, whose alteration can directly impact the stream's physical characteristics and biological properties.

SURFACE WATERS OF THE STATE OF NEW YORK — Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

SWALE — Low-lying vegetated area with gradual slopes which transports stormwater, either on site or off site.

TIME OF CONCENTRATION — The time required for storm runoff to flow from the most remote point, in flow time, of a drainage area to the outlet.

UNIQUE NATURAL AREA — Those areas included in the Unique Natural Areas Inventory of Tompkins County.

WATERCOURSE — A natural or human-made waterway, drainage way, drain, river, stream, diversion, ditch, gully, swale, or ravine having banks, a bed, and a definite direction with continuous or intermittent flow.

WATERSHED — Total drainage area contributing runoff to a given point along a watercourse.

WATERWAY — A channel that directs surface runoff to a watercourse or to the public storm drain.

WETLAND — Any area which meets one or more of the following criteria:

A. Lands and waters that meet the definition provided in New York State Environmental Conservation Law, Article 24, "Freshwater Wetlands Act." The approximate boundaries of such lands and waters are indicated on the official wetlands map promulgated by the Commissioner of the New York State Department of Environmental Conservation, or as amended and updated.

B. Areas which meet the definition used by the U.S. Army Corps of Engineers and U.S. Environmental Protection Agency: "Areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas."

WETLAND DELINEATION — The process of determining the boundaries of a wetland in the field, as described in the U.S. Army Corps of Engineers Wetland Delineation Manual, Technical Report Y-87-1.

§ 233-6. Applicability.

A. This chapter applies to all land development activities and redevelopment activities that exceed any one of the thresholds below, unless exempt pursuant to § 233-7 below. No person may undertake a land development activity without first meeting the requirements of this chapter.

B. This chapter defines three levels of applicability. Depending on the area of disturbance and other criteria listed below, land development activities will require either:

(1) A full SWPPP (stormwater pollution prevention plan) with both erosion and sediment control and post-construction water quality and quantity controls;

(2) A basic SWPPP with erosion and sediment control; or

(3) A simple SWPPP, with a generic small site erosion and sediment control plan.

C. Any of the following activities require a full SWPPP with erosion and sediment control and post-construction water quality and quantity controls:

(1) Any land development activity with an area of disturbance greater than or equal to one acre that will discharge a pollutant of concern to either an impaired water identified on the New York State 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as the source of the impairment;

(2) Any land development activity with an area of disturbance greater than or equal to five acres;

(3) Any land development activity, exclusive of the construction of single family residences and construction activities at agricultural properties, with an area of disturbance greater than or equal to one acre;

(4) Any land development activity that will create 1/2 acre or more of connected impervious surface;

(5) Any land development activity that is part of a common plan of development or sale which in total exceeds any of the above thresholds;

(6) Any land development activity, regardless of size, that the Town Stormwater Management Officer determines likely to cause an adverse impact due to post-construction water quality or quantity, according to criteria of slope, soil

characteristics, layout of impervious surfaces, potential for pollutant generation on site, proximity to a sensitive area, or proximity to a stormwater structure or facility.

D. Any of the following activities require a basic SWPPP with erosion and sediment control, unless already subject to a full SWPPP as described above:

(1) Any land development activity with an area of disturbance greater than or equal to one acre;

(2) Any land development activity that is part of a larger common plan of development or sale which involves a total area of disturbance greater than or equal to one acre;

(3) Any land development activity, regardless of size, that the Town Stormwater Management Officer determines likely to cause an adverse impact, according to criteria of slope, soil erodibility, proximity to a sensitive area, or proximity to a stormwater structure or facility.

E. Any of the following activities require a simple SWPPP, unless already subject to a basic or full SWPPP as described above:

(1) Any land development activity with an area of disturbance greater than or equal to 5,000 square feet;

(2) Any land development activity, regardless of size, within 100 feet of a surface water of the state of New York, or a wetland;

(3) Any land development activity involving a linear disturbance 500 feet or longer and three feet or wider on average slope(s) of 5% or greater from high point(s) to low point(s) along the line of disturbance;

(4) Any land development activity that involves excavation or filling, resulting in the movement of 250 cubic yards or more of soil or similar material;

(5) Any land development activity, regardless of size, that the Town Stormwater Management Officer determines likely to cause an adverse impact, according to criteria of slope, soil erodibility, proximity to a sensitive area, or proximity to a stormwater structure or facility.

§ 233-7. Exemptions.

The following activities are exempt in part or in whole from review under this chapter:

A. Silvicultural activities as defined herein, except that landing areas and log haul roads are subject to this chapter.

B. Agricultural activity as defined herein.

C. Routine maintenance activities that disturb less than two acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility.

D. Repairs to any stormwater management practice or facility deemed necessary by

the Stormwater Management Officer.

E. Subdivision plats approved by the Town before the effective date of this chapter, except individual building permits applied for on or after the effective date of this chapter are subject to this chapter.

F. Land development activities for which a building permit has been approved before the effective date of this chapter, although the provisions of this chapter may be applied to permit renewals, or substantial modifications to the original proposal if occurring on or after the effective date of this chapter.

G. Cemetery graves.

H. Emergency activity immediately necessary to protect life, property or natural resources.

I. Activities of an individual engaging in home gardening by growing flowers, vegetables and other plants primarily for use by that person and his or her family.

§ 233-8. Administration.

A. The Town Board will appoint one (or more) qualified SMO(s) to administer, implement, and enforce the provisions of this chapter. This appointment shall be renewed annually. Qualification will be based upon, but not limited to, familiarity with applicable stormwater regulations and practices, understanding of stormwater hydrology and water quality, and familiarity with Town code enforcement procedures. The SMO must be a Town employee or board member. In the case that there are multiple Stormwater Management Officers appointed, one person shall be designated as Stormwater Manager, with primary responsibility for program oversight.

B. The SMO shall accept and review all stormwater pollution prevention plans for completeness and compliance with this chapter and, when required, forward such plans to the applicable board. The SMO is responsible for the completion of all New York State DEC and EPA forms to meet the requirements of the DEC General Permit for Construction Activities GP-02-01. The SMO may, if necessary, subject to budget restrictions and Town Board approval, engage the services of a registered professional engineer or certified professional to review the plans, specifications and related documents submitted in connection with any SWPPP.

C. All land development activities subject to review and approval by the Town Board or Planning Board of the Town under site plan, special permit, or subdivision regulations reviewed by such Board must be reviewed subject to the standards contained in this chapter. No approval by any such Board shall be made unless it determines that the SWPPP complies with the requirements of this chapter.

D. All land development activities subject to review under this chapter, but not subject to review under § 233-8C above, require a stormwater pollution prevention plan (SWPPP) based upon the Notice of Ground Disturbance to be submitted to the SMO who shall determine completeness of the SWPPP and compliance with this chapter before issuing any required permits.

E. Where this chapter grants the SMO discretion to apply additional requirements to a project, or to request additional information from an applicant, the SMO must give the applicant written explanation of such decision as early as possible in the application process.

F. Prior to beginning any land development activity, unless exempt pursuant to § 233-7, the owner or operator must submit to the SMO a completed "Notice of Ground Disturbance." This information must be submitted along with initial application requiring a Town permit or approval. This form will enable the SMO to assist in determining what kind of SWPPP is required, if any.

G. The applicant must also meet the current requirements for the DEC's State Pollutant Discharge Elimination System (SPDES) General Permit for Construction Activities.

§ 233-9. Severability and effective date.

A. Severability. If the provisions of any article, section, subsection, paragraph, subdivision or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this chapter.

B. Effective date. This chapter shall be effective upon filing with the office of the Secretary of State.

ARTICLE II
Stormwater Control

§ 233-10. Performance and design criteria for stormwater management and erosion and sediment control.

All land development activities exceeding the thresholds in § 233-6 are subject to the following performance and design criteria:

A. Technical standards. For the purpose of this chapter, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this chapter:

(1) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual).

(2) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the Erosion Control Manual).

(3) The Town of Dryden Stormwater Standards, attached as Schedule A.[18]

B. Equivalence to technical standards. Where stormwater management practices are not in accordance with technical standards, the applicant must demonstrate equivalence to the technical standards set forth in § 233-10A and the SWPPP must be prepared and certified by a licensed or certified professional.

C. Water quality standards.

(1) Any land development activity shall not cause or contribute to a violation of water quality standards in surface waters of the State of New York. The standards are contained in Parts 700 through 705 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York, including, but not limited to:

(a) There shall be no increase in turbidity that will cause a substantial visible contrast to natural conditions;

(b) There shall be no increase in suspended, colloidal and settleable solids that will cause deposition or impair the waters for their best usages; and

(c) There shall be no residue from oil and floating substances, visible oil film, or globules of grease.

(2) These standards apply whether or not a project is subject to this chapter, and whether or not a project meets the requirements of this chapter. These standards are enforceable by the DEC under the Environmental Conservation

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18. Editor's Note: Schedule A, Stormwater Standards, is included as an attachment to this chapter.

Law.

§ 233-11. Stormwater pollution prevention plans (SWPPP).

A. Notice of Ground Disturbance. No land development activity which exceeds the thresholds in § 233-6 above shall be commenced until the SMO has approved a SWPPP. The developer shall submit to the SMO, on a form to be supplied by the SMO, a Notice of Ground Disturbance prepared in accordance with the requirements of this chapter. The Notice of Ground Disturbance shall include the following:

(1) Contact information including. Owner and developer's name, address, project address, phone numbers, tax parcel number.

(2) A brief description of the project, including a sketch, which may be combined with other drawings required for a building permit, specifically showing existing drainage features and vegetation on the site.

(3) A description of the proposed project phases.

(4) The ground area in square feet or acres that will be disturbed for each phase and for all phases of the project. The areas to be measured include, but are not limited to: driveways, parking areas, buildings, septic systems, wells, grading and clearing, lawns, ditches, drainage structures, utilities, stockpiles, etc., including the total project area of disturbance, total parcel acreage, area of existing impervious surface, total area of impervious surface expected at completion, and total connected impervious area.

(5) A description of the distance(s) from the areas of ground disturbance on any part of the site to the edge of any stream, pond, lake, or wetland on or in the vicinity of the site.

(6) Any mapped or other indicators of wetlands on the site or adjacent to the site.

(7) A description of the slope(s) of the site (in numerical or descriptive format).

(8) A description of any linear excavations greater than or equal to 500 feet long and three feet wide.

(9) A description of any activities that may involve the fill or excavation of greater than 250 cubic yards of soil.

(10) A list of and brief description of any other permits required for the project.

(11) Any additional details requested by the SMO.

B. Contents of a simple SWPPP:

(1) The completed Notice of Ground Disturbance.

(2) The SMO will provide a generalized plan describing the erosion control measures to be used to minimize the impacts of the land development activity appropriate for the site, based upon the guidelines in the DEC Erosion Control Manual or as developed by the Town for this purpose. Measures may include:

(a) Stabilized construction entrance;

(b) Stabilization of exposed soil;

(c) Protection of adjacent properties, waterways, and natural areas;

(d) Management of concentrated flow areas; and

(e) Maintenance during construction.

C. Contents of a basic stormwater pollution prevention plan (to address erosion and sediment control):

(1) Notice of Ground Disturbance.

(2) Existing pre-construction conditions.

(a) Site map, at a scale no smaller than one inch equals 100 feet, must include the following:

[1] Project parcel and surrounding areas within 200 feet of the parcel;

[2] Existing conditions for drainage, including topography, culverts, ditches, surface waters and wetlands (including names and classifications for both, if available), sub-watershed boundaries, and existing vegetation;

[3] Existing buildings, structures, utilities, and paved areas;

[4] Contour lines in sufficient detail to represent site topography.

(b) Description of the existing soil(s), vegetative surface cover, and site impervious cover present.

(c) Assessment of the site limitations and development constraints with regard to factors including, but not limited to: slope, soil erodibility, depth to bedrock (if shallow), depth to seasonal high water, soil infiltration capacity, and proximity to surface waters and wetlands.

(d) Any existing data that describes the stormwater runoff at the site.

(3) Better site design practices. Description of the "better site design" practices to be used for this project, as described in the Town of Dryden Stormwater Standards.[19]

(4) Proposed construction and post-construction conditions.

(a) Construction map(s) for the project – may be combined with the existing conditions site map, but only if all required features can be shown clearly. At a minimum, the map(s) must show the following for the total site area; all improvements; areas of disturbance; areas that will not be disturbed; post-development topography; proposed changes to drainage patterns; locations of on-site and off-site material, waste, borrow, or equipment

19. Editor's Note: The Town of Dryden Stormwater Standards are included as an attachment to this chapter.

storage areas; and location(s) where stormwater from the site will discharge to water bodies or existing man-made drainage structures. The names of downstream receiving waters must be identified.

(b) If the project will create a new or increased concentrated discharge to a man-made drainage structure maintained by a private adjacent landowner, written consent of that landowner in the form of a drainage easement is required, which must be recorded on the plan and must remain in effect with transfer of title to the property. No other discharge of concentrated flow to a neighboring private property is permitted.

(c) Identify on-site storage location for the SWPPP and all relevant records and certifications, including inspection records.

(d) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation, and any other activity at the site that results in soil disturbance. No more than two acres may be exposed by site preparation at any one time. If the applicant determines that this two-acre limit is insufficient, the applicant must provide a basis for the contention.

(5) Erosion and sediment control plan, including:

(a) Description of temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out.

(b) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable.

(c) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins.

(d) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice. This site map can be incorporated into the construction map described above.

(e) Identification of erosion control facilities, if any, that will be converted from temporary to permanent control measures.

(f) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice will remain in place. Erosion and sediment control measures must be constructed prior to beginning any other land disturbances. The devices must be maintained and must not be removed until the disturbed land areas are stabilized.

(g) Delineation of SWPPP implementation responsibilities for each part of the site.

(h) Maintenance schedule to ensure continuous and effective operation of all erosion and sediment control practices.

(6) Construction site waste management plan, including:

(a) Description of the pollution prevention measures that will be used to prevent litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff.

(b) Description of the type, quantities/sizes, and disposal methods for construction and waste materials expected to be stored on site and off site with updates as appropriate, and a description of controls to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response.

D. Contents of a full stormwater pollution prevention plan (with post-construction water quality and quantity controls).

(1) All information required for the basic SWPPP; and

(2) Identification of any special conditions affecting the design of stormwater management practices, including, but not limited to: discharge to a trout stream; cold climate design considerations; location over a sole source aquifer, or other aquifer of local significance; redevelopment activity; or recognition that the project site is a stormwater hot spot.

(3) If the project is subject to an infiltration requirement as described in the Town of Dryden Stormwater Standards (Schedule A)[20] explain how the requirement will be met, including relevant calculations.

(4) Identification of any stormwater credits to be used in this project (as described in Dryden Stormwater Standards, Schedule A, with documentation as described in the DEC's guidance on "The Use and Implementation of Stormwater Credits."

(5) Narrative summary describing each post-construction stormwater management practice, its purpose, and why it is appropriate for the site (see Schedule A at the end of this document[21] for list of approved practices from the Design Manual). If the designs deviate from the Design Manual, explain how and why.

(6) Dimensions, material specifications and installation details for each post-construction stormwater management practice, as well as feasibility assessment.

(7) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice. Soil characteristics used to determine feasibility for stormwater management practices must be shown on the map. DEC recommends that the site map for

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20. Editor's Note: Schedule A is included as an attachment to this chapter.

21. Editor's Note: Schedule A is included as an attachment to this chapter.

projects requiring water quality and quantity controls must use no more than two-foot contour intervals. The map must outline the drainage areas for all post-construction stormwater management practices, and show the stormwater flow paths, and discharge points. If practices or diversion structures receive drainage from large off-site areas, the watershed can be described verbally at the edge of the map. This information can be incorporated into the construction map described in § 233-11C(4)(a) if all the required information can be clearly shown.

(8) Comparison of post-development stormwater runoff conditions with pre-development conditions, including identification of methodology used for the comparison and documentation of relevant variables (including, but not limited to: curve numbers, time of concentration, and peak runoff rates) and how they were derived from site characteristics.

(9) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms, with documentation that the designs meet the specifications and sizing criteria in the Design Manual.

(10) Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice.

(11) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements must be recorded on the plan and must remain in effect with transfer of title to the property.

(12) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with § 233-12 of this chapter.

(13) If the project will make use of a new or existing stormwater management facility on a neighboring property, the maintenance easement and the maintenance agreement must include the owner of that property, and must remain in effect with transfer of title to that property.

E. Plan preparation and certification.

(1) If a full SWPPP is required, it must be prepared by a qualified professional. Design of any stormwater management control practices that involve substantial structural components, such as a dam for an impoundment, should be performed by a licensed professional engineer.

(2) If a project will discharge a pollutant of concern to either an impaired water identified on the New York State 303(d) List of Impaired Waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as the source of the impairment, the SWPPP shall be prepared by a licensed or certified professional, and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meet the requirements in this chapter, and state law.

(3) If a basic SWPPP is required, applicants should seek design guidance from a qualified professional when necessary, or if requested by the SMO.

F. Other environmental permits. The applicant must assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

G. Contractor certification.

(1) Each contractor and subcontractor who will be involved in soil disturbance or stormwater management practice installation for the project must be identified in the SWPPP and must sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

(2) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

(3) The certification statement(s) must become part of the SWPPP for the land development activity.

H. Availability of permit on site. A copy of the SWPPP must be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

§ 233-12. Maintenance, inspection, and repair of stormwater facilities.

A. Maintenance and inspection during construction.

(1) The applicant or developer of the land development activity or their representative must at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this chapter. Sediment must be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

(2) For land development activities subject to a full SWPPP, the applicant must have a qualified professional, certified inspector, or person working under the direction and supervision of a licensed professional, conduct site inspections and document the correct installation and effectiveness of all erosion and sediment control practices prior to the commencement of construction, and thereafter every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. Inspection reports must be maintained in a site log book, and copies delivered to the Stormwater Management Officer if requested.

(a) In the case of a project subject to a full SWPPP, and with separate and

distinct phases, inspections may be ceased in-between phases, as long as the project meets the DEC's requirements for "Final Stabilization" during this interim period.

(b) In the case of a wintertime pause to construction, the DEC's guidelines for "Winter Site Stabilization/Site Inspections" may be followed.

B. Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this chapter must operate and maintain these practices to achieve the goals of this chapter. Proper operation and maintenance include as a minimum, the following:

(1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this chapter.

(2) Written procedures for operation and maintenance and training new maintenance personnel.

(3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § 233-10C.

C. Inspection, maintenance and easement agreement. Prior to the issuance of any approval for a project that has the construction of a stormwater management facility as one of the requirements, the applicant or developer must execute an inspection, maintenance and easement agreement that shall be binding on all subsequent landowners benefited by the stormwater management facility. The agreement must provide for Town access to the facility at all reasonable times for periodic inspection, and possible maintenance by the Town (in the sole discretion of the Town and expense of the owner) to ensure that the facility is maintained in proper working condition and continues to meet design standards and any other requirements of approval and this chapter. The agreement must be recorded in the office of the County Clerk, and noted on the subdivision plat (if applicable) after approval by the counsel for the Town. The Town reserves the power to require enforcement and charge-back of expense powers in the agreement, and to assign all agreements to any future drainage district.

D. Dedication of stormwater management facilities maintenance agreement. The Town, in lieu of the agreement required in Subsection C above, in its sole discretion, may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance. Prior to accepting a dedicated facility, the Town may require the formation of a drainage district to include all parcels served by the facility, to pay the expenses of ongoing inspection, maintenance, and, if necessary, modification of the facility.

ARTICLE III
Administration and Enforcement

§ 233-13. Construction inspection.

A. Erosion and sediment control inspection.

(1) The SMO may require such inspections as necessary to determine compliance with this chapter and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this chapter and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant must notify the SMO at least 48 hours before any of the activities listed below, as required by the SMO, or the SMO may develop an inspection schedule specific to an individual project, including, but not limited to:

(a) Start of construction.

(b) Installation of sediment and erosion control measures.

(c) Completion of site clearing.

(d) Completion of rough grading.

(e) Completion of final grading.

(f) Close of the construction season.

(g) Completion of final landscaping.

(h) Successful establishment of landscaping in public areas.

(2) Additionally, the Town may conduct inspections at any time.

(3) If any violations are found, the applicant and developer shall be notified, in writing, of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the SMO.

B. Stormwater management practice inspections. The SMO is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities (and note any changes from the originally approved design) and must be certified by a professional engineer.

C. Inspection of stormwater facilities after project completion. Inspection programs shall be established on any reasonable basis, including, but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual discharges of

contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

D. Designation of inspectors. Inspections will be performed by the SMO or the SMO may designate a qualified professional, certified inspector, or person working under the direction and supervision of a licensed professional. A designated inspector is required to submit a report to the SMO.

E. Submission of reports. The SMO may require monitoring and reporting from persons subject to this chapter as are necessary to determine compliance with this chapter.

F. Right-of-entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public stormwater system, the landowner must grant to the Town the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in § 233-13C.

§ 233-14. Performance guarantee.

A. Construction completion guarantee (security). In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town in its approval of the stormwater pollution prevention plan, the Town may require the applicant or developer to provide, prior to construction, security such as a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial institution or surety to guarantee completion of the project and which security names the Town as the beneficiary. The Town can determine the amount and form of the security, in its sole discretion. The security must remain in force until released from liability by the Town, provided no security shall be for a period less than one year from the date of final acceptance and certification that the project has been constructed in accordance with the approved plans and specifications. Prior to release of the security, an inspection shall be conducted and any deficiencies in the project must be corrected.

B. Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a person who owns or manages such facilities, the Town may require the applicant or developer to provide, prior to construction, security such as a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial institution or surety to guarantee proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town may draw upon the account to cover the costs of proper operation and maintenance, including legal, engineering and inspection costs.

C. Recordkeeping. Persons subject to this chapter are required to maintain records demonstrating compliance with this chapter. Such records must be provided to the SMO upon request.

§ 233-15. Enforcement and penalties.

A. Notice of violation. When the SMO determines that a land development activity is not being carried out in accordance with the requirements of this chapter, the SMO may issue a written notice of violation to the landowner. A notice of violation shall contain:

(1) The name and address of the owner, developer or applicant;

(2) The address, when available, or a description of the building, structure or land upon which the violation is occurring;

(3) A statement specifying the nature of the violation;

(4) A description of the remedial measures necessary to bring the land development activity into compliance with this chapter and a time schedule for the completion of such remedial action;

(5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed; and

(6) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of notice of violation.

B. Stop-work orders. The SMO may issue a stop-work order for violations of this chapter. Persons receiving a stop-work order are required to halt all land development activities, except those activities that address the violations leading to the stop-work order. The stop-work order will be in effect until the SMO confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this chapter.

C. Violations. Any land development activity that is commenced or is conducted contrary to this chapter, may be restrained by injunction or otherwise abated in the manner provided by law.

D. Penalties. In addition to or as an alternative to any other penalty or remedy provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine not exceeding $350 for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than $350 nor more than $700 and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than $700 nor more than $1,000 or imprisonment for a period not to exceed six months, or both. For the purposes of conferring jurisdiction upon courts and judicial officers generally, a third violation of this chapter shall be deemed an unclassified

misdemeanor and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

E. Withholding of certificate of occupancy. If any building is constructed or land development activity is undertaken in violation of this chapter the SMO may withhold the certificate of occupancy of any building until compliance with this chapter has been completed.

F. Restoration of lands. Any person who violates any provision of this chapter may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

§ 233-16. Fees for services.

The Town, by local law, may require any person undertaking land development activities subject to this chapter to pay the reasonable costs of persons hired by the Town to review SWPPPs, perform inspections of stormwater management facilities and certify the completion of the same. The Town Board may by resolution establish a fee schedule SWPPP review.

ARTICLE IV
Prior Laws

§ 233-17. Prior laws or regulations.

This chapter shall take precedence over any other inconsistent requirement of any local law, ordinance, or regulation of the Town of Dryden.

Chapter 240

SUBDIVISION OF LAND

ARTICLE I
Title

§ 240-1.1. Title.

A. This chapter should be referred to as the "Town of Dryden subdivision Law."

B. This chapter may also be referred to as the "subdivision Law," or sometimes "this chapter."

ARTICLE II
Purpose

§ 240-2.1. Purpose.

The purpose of this chapter is to provide regulations and standards for the future growth and development of the Town and to afford adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of the population of the Town and to ensure orderly growth and development of land in the Town, including the conservation, protection and proper division parcels of land.

ARTICLE III
Authority

§ 240-3.1. Statutory authority.

This chapter is enacted pursuant to the powers given to towns under New York Town Law §§ 276, 277, 278 and 279, Municipal Home Rule Law § 10 and Statute of Local Governments § 10.

ARTICLE IV
Policy

§ 240-4.1. Conformity and specifications.

A. Conformance with Town design guidelines. Each subdivision design and plat shall conform, to the maximum extent practicable, to the recommendations contained in the Town of Dryden Residential and Commercial Development Design Guidelines.

B. Specifications for required improvements. All required improvements required by this chapter or other applicable local laws shall be constructed or installed to Town specifications.

ARTICLE V
General Rule; Jurisdiction; Time Limits on approvals; Fees

§ 240-5.1. General rule.

A. General rule. No subdivision of any land in the Town of Dryden and no lot line adjustment of any property or lot lines shall be made without first complying with the provisions of this chapter.

B. Jurisdiction. subdivision review by the Planning Board is limited to major subdivisions, minor subdivisions but only if a public road or private road is proposed, and conservation subdivisions as hereinafter provided, and the approval of common driveways as hereinafter provided or as provided in Chapter 270, Zoning. The Planning Board must approve any further subdivision, or combining of approved lots after final plat approval.

C. Time limits.

(1) If a preliminary plat is not filed with the Planning Department within one year of sketch plan approval, such approval shall lapse.

(2) If a final plat is not filed with the Tompkins County Clerk within one year of conditional approval of a final plat, such approval shall lapse.

(3) In the event Chapter 270, Zoning, is amended to change the lot area and bulk requirements pertaining to any proposed lot, then the time limits provided in Subsection C(1) and (2) above shall be reduced to six months from the effective date of such amendment or the period provided in such subsections, whichever is shorter.

(4) For good cause shown, the Planning Board may grant extensions of these time limits on such conditions as may be appropriate under the circumstances. No such extension shall be granted unless a written request for such extension is filed prior to such lapse.

D. Fees. A fee schedule shall be established by resolution of the Town Board of the Town following a public hearing on at least 10 days' prior notice. Such fee schedule may thereafter be amended from time to time by like resolution and public hearing. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for sketch plans and subdivisions. **[Added 7-18-2013 by L.L. No. 4-2013]**

ARTICLE VI
Definitions

§ 240-6.1. Word usage; definitions.

A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular.

B. Chapter 270, Zoning, shall be consulted for definitions of terms not defined herein. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

COMMERCIAL DEVELOPMENT DESIGN GUIDELINES — The Town of Dryden Commercial Development Design Guidelines adopted on December 3, 2008, and all subsequent revisions. These guidelines are found in Appendix C to the Town of Chapter 270, Zoning.

COMMON DRIVEWAY — A suitably improved portion of a lot or lots, other than a private road, which provides access for vehicles and pedestrians to and from a public highway. A common driveway may not serve more than four lots.

CONDITIONAL APPROVAL OF A FINAL PLAT — approval by the Planning Board of a final plat subject to conditions set forth by the Planning Board in a resolution conditionally approving such plat. Such conditional approval does not qualify a final plat for filing nor authorize issuance of any building permits prior to the signing of the plat by a duly authorized officer of the Planning Board and filing of the plat in the office of the County Clerk as herein provided.

CONSERVATION ANALYSIS — The "residential site" analysis process found in Section IV of the Town of Dryden Residential Development Design Guidelines.[22]

CONSERVATION EASEMENT — An easement, covenant, restriction or other interest in real property, created under and subject to the provisions of the Environmental Conservation Law which limits or restricts development, management or use of property for the purpose of preserving or maintaining the scenic, open, historic, archaeological, architectural, or natural condition, character, significance or amenities of the property in a manner consistent with the public policy and purpose set forth in this article.

CONSERVATION SUBDIVISION — A subdivision in which the otherwise applicable area and bulk regulations of Chapter 270, Zoning, are modified to encourage flexibility of design and development of land in such a manner that the layout, configuration and design of lots, structures, driveways, roads, parks, trails and landscaping are designed to preserve important natural resources and scenic qualities of the site. A conservation subdivision is a cluster development authorized by Town Law § 278 and this chapter.

CONSTRAINED LANDS — Land not suitable for actual development for lots due to the presence of wetlands, floodplains, steep slopes, unique natural areas or locally important open space or land with recreational, historic, ecological, geological, habitat, scenic or other natural resource value.

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22. Editor's Note: See Ch. 270, Zoning, Appendix B.

DENSITY CALCULATION — A calculation to determine the permitted number of lots which shall in no event exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of Chapter 270, Zoning, applicable to the district or districts in which such land is situated and conforming to all other applicable requirements of Chapter 270, Zoning. Where a proposed subdivision falls within two or more contiguous districts, the calculation shall represent the cumulative density derived from the summing of all lots allowed in all such districts.

DISTRICT — The zoning district(s) established by Chapter 270, Zoning.

EAF — Environmental Assessment Form.

EASEMENT — Authorization by a property owner for the use by another, for a specified purpose, of a designated portion of the owner's property.

ENGINEER — A person licensed as a professional Engineer by the New York State Education Department.

EXISTING CONDITIONS REPORT — A written report intended to document the existing condition of the subdivision site. It should be an assessment of the site in relation to natural resources, constrained lands, developable areas, other special or unique features, and any other relevant factors that may influence the design of the subdivision. Use of aerial or satellite imagery, photographs and references to published reports of the site condition are encouraged.
For a subdivision site located in an agricultural district established pursuant to the provisions of Article 25-AA of the New York Agriculture and Markets Law, the report include an analysis of the site's value to the agricultural economy of the Town, its open space value, the consequences of conversion of viable agricultural lands for residential building lots and the level of conversion pressure on the property.

FILED — The receipt of a document by the Planning Department and receipt of the fee, if one is required. Filing is not complete until both the document and fee are received.

FINAL PLAT — A drawing prepared in a manner prescribed by this chapter that shows a proposed subdivision, containing such additional detail required by this chapter and all information required to be shown on a preliminary plat and the modifications, if any, required by the Planning Board or in the case of a Minor subdivision, the Planning Department.

FINAL PLAT APPROVAL — The signing of a plat in final form by a duly authorized officer of the Planning Board pursuant to a Planning Board resolution granting final approval to the plat or after conditions specified in a resolution granting conditional approval of the plat are completed, or in the case of a minor subdivision, the signing of the plat in final form by a duly authorized individual of the Planning Department. Such final approval qualifies the plat for filing in the office of the County Clerk.

LOT — An area of land having defined boundaries held in separate ownership from adjacent property and which in all respects complies with the requirements of the district in which it is situate.

LOT LINE ADJUSTMENT — The adjustment of one or more lot lines between two or more existing and adjoining lots which does not result in the creation of one or more new lots.

OPEN SPACE — Any space or area characterized by 1) natural scenic beauty, or 2) whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding development, or would maintain or enhance the conservation of natural or scenic resources. For purposes of this chapter natural resources shall include, but not be limited to, agricultural lands defined as open lands actually used in bona fide agricultural production.

PERFORMANCE GUARANTEE — Security acceptable to the Town Board in lieu of completion of improvements required to be made by a subdivider.

PLANNING BOARD — The Planning Board of the Town of Dryden.

PLANNING DEPARTMENT — The department of the Town established by the Town Board.

PLAT — A subdivision map.

PRELIMINARY PLAT — A drawing prepared in a manner prescribed by this chapter showing the layout of a proposed subdivision, including, but not restricted to, road and lot layout and approximate dimensions, key plan, topography and drainage, all proposed facilities unsized, including preliminary plans and profiles, at suitable scale and in such detail as this chapter requires.

PRIVATE ROAD — A road or street shown on a plat providing access to the lots in a subdivision, which road or street is not dedicated to or owned by the Town.

PUBLIC HIGHWAY — A road or street, either deeded or by prescriptive easement, that is maintained by a village, Town, county, state or the federal government.

RESIDENTIAL DESIGN GUIDELINES — The Town of Dryden Residential Design Guidelines adopted on December 3, 2008, and all subsequent revisions. These guidelines are found in Appendix B of Chapter 270, Zoning.

RESTRICTIVE COVENANT — A restriction imposed by a written instrument recorded in the Tompkins County Clerk's Office and which limits or restricts the use of property and which is binding upon future owners of lots and open spaces protected by such restriction, and is legally enforceable by lot owners whose property is benefited by such covenant or by the Town.

ROAD — See "public highway."

SEQR — The New York State Environmental Quality Review Act found in Environmental Conservation Law Article 8 and the implementing regulations found in 6 NYCRR Part 617.

SKETCH PLAN — A drawing or sketch of a proposed subdivision made with sufficient accuracy to be used for the purpose of discussion and classification.

STREET — See "public highway."

SUBDIVIDER — Any person or entity who shall propose any subdivision, either

for themselves or others. The terms include applicant and an authorized agent.

SUBDIVISION — The division of a parcel into two or more lots. Notwithstanding this definition of "subdivision," a lot line adjustment shall not be construed as a subdivision.

SUBDIVISION, MAJOR — Any subdivision which creates five or more lots after the effective date of this chapter. The calculation of the number of lots shall include the number of lots resulting from subdivision after the effective date of this chapter.

SUBDIVISION, MINOR — Any subdivision that creates two but less than five new lots after the effective date of this chapter, and does not propose any new public highway or private road.

SURVEYOR — A person licensed as a land surveyor by the New York State Education Department.

TOWN — The Town of Dryden, Tompkins County, New York.

TOWN BOARD — The Town Board of the Town of Dryden, Tompkins County, New York.

UNIQUE NATURAL AREA (UNA) — An area identified in the document "Unique Areas of Tompkins County" (January 2000 Inventory), identified as having outstanding environmental qualities and deserving special attention for preservation in its natural state.

ZONING LAW — Chapter 270, Zoning, of the Code of the Town of Dryden.

ARTICLE VII
Major Subdivisions

§ 240-7.1. General rule; approval of major subdivision required.

Whenever any major subdivision is proposed, and before any contract for the sale of, or any offer to sell any lot in such subdivision is made, and before any permit for the erection of a structure in such subdivision shall be granted, the subdivider, shall apply in writing for approval of such subdivision in accordance with the applicable provisions of Town Law §§ 276, 277, 278, 279 and this article.

§ 240-7.2. Procedure.

A. Pre-application meeting.

(1) Purpose. The subdivider shall meet with the Planning Department to discuss subdivision of the property and conformity, to the maximum extent practicable, with the Town of Dryden Residential and/or Commercial Development Design Guidelines, as the case may be.

(2) Condition precedent. The pre-application meeting is required prior to submission of a sketch plan to the Planning Board.

(3) Fee. There is no fee for a pre-application meeting.

(4) At the pre-application meeting the Planning Department shall advise the subdivider of the amount of the initial deposit established by resolution of the Town Board to cover the fees and expenses incurred by the Town pursuant to the provisions of Local Law No. 5 of the year 2000 (a local law providing for the reimbursement by developers of engineers and attorneys representing the Town of Dryden) and Local Law No. 5 of the year 2007 [a local law amending Local Law No. 5 of the year 2000 to provide for reimbursement by developers of expenses incurred by the Town in connection with stormwater pollution prevention plans (SWPPP)].[23]

B. Sketch plan.

(1) Submission of sketch plan. Seven copies of the sketch plan and a Full Environmental Assessment Form (EAF) shall be filed at least 14 days prior to the regular meeting of the Planning Board at which the sketch plan will be first reviewed.

(2) Discussion of requirements. The subdivider shall attend the meeting of the Planning Board to discuss the sketch plan, requirements of this chapter, including the manner in which water service and sewer service will be provided, the availability of existing utility services, and conformance, to the maximum extent practicable, with the Residential and/or Commercial Development Design Guidelines, as the case may be.

(3) approval of sketch plan. The Planning Board shall determine whether the

23. **Editor's Note: See Ch. 151, Fees and Charges, Art. I, Reimbursement of Development Review Expenses.**

sketch plan meets the requirements of this chapter and shall provide in writing its determination of what, if any, modifications are necessary for approval of the sketch plan, or if a revised sketch plan is not required, on the preliminary plat.

(4) Fee. The application fee for sketch plan approval shall be paid at the time the sketch plan is filed.

C. Preliminary plat approval.

(1) approval procedure. The provisions of Town Law § 276, Subdivision 5, govern the procedure for approval of preliminary plats and coordination of Planning Board review with SEQR.

(2) Application. After sketch plan approval, the applicant may file an application for preliminary plat approval. The preliminary plat shall comply with the requirements of this chapter.

(3) Number of copies. Seven copies of the preliminary plat and one digital copy shall be filed at least 21 days prior to the regular meeting of the Planning Board at which the preliminary plat will be reviewed. **[Amended 2-16-2017 by L.L. No. 2-2017]**

(4) Subdivider to attend Planning Board meeting. The subdivider shall attend the meeting of the Planning Board for its review of the preliminary plat.

(5) Review of preliminary plat. The Planning Board shall review the practicability of the preliminary plat taking into consideration sketch plan approval, the requirements of this chapter, and the requirements and standards set forth in Town Law § 277. The Planning Board shall by resolution set forth the grounds for its action on the preliminary plat.

(6) Fee. The application fee for preliminary plat approval shall be paid at the time the preliminary plat is filed.

D. Final plat approval procedure.

(1) approval procedure. The provisions of Town Law § 276, Subdivision 6, govern the procedure for approval of a final plat.

(2) Application. After preliminary plat approval, the applicant may file an application for final plat approval.

(3) Number of copies. Seven copies of the final plat and one digital copy shall be filed at least 21 days prior to the regular meeting of the Planning Board at which the final plat will be reviewed. **[Amended 2-16-2017 by L.L. No. 2-2017]**

(4) Review of final plat. The Planning Board shall review the final plat and by resolution set forth the grounds for its action on the final plat.

(5) Conditional final approval of a final plat. If the final plat does not contain the approvals of all other governmental agencies having jurisdiction over the subdivision, such as, but not limited to the approval of the Tompkins County

Health Department, then the Planning Board may grant conditional approval of a final plat. In granting such conditional approval the Planning Board shall specify the requirements which, when completed, will authorize the signing of the final plat.

(6) Fee. The application fee for final plat approval shall be paid at the time the final plat is filed.

ARTICLE VIII
Minor Subdivisions

§ 240-8.1. General rule; approval of minor subdivision required.

Whenever any Minor subdivision is proposed, and before any contract for the sale of, or any offer to sell any lot in such subdivision is made, and before any permit for the erection of a structure in such subdivision shall be granted, the subdivider, shall apply in writing for approval of such subdivision in accordance with the applicable provisions of this article.

§ 240-8.2. Pre-application meeting.

A. Purpose. The subdivider shall meet with the Planning Department to discuss subdivision of the property and conformity, to the maximum extent practicable, with the Town of Dryden Residential and/or Commercial Development Design Guidelines, as the case may be.

B. Condition precedent. The pre-application meeting is required prior to submission of a plat for approval.

C. Submission of sketch plan. Two copies of a sketch plan and a Short Environmental Assessment Form (EAF) shall be filed at the pre-application meeting.

D. Discussion of requirements. The subdivider shall meet with the Planning Department to discuss the sketch plan, the requirements of this chapter, including the manner in which water service and sewer service will be provided, the availability of existing utility services, and conformance, to the maximum extent practicable, with the Residential and/or Commercial Development Design Guidelines, as the case may be.

E. Procedure.

(1) approval of sketch plan. The Planning Department shall determine whether the sketch plan meets the requirements of this chapter and shall provide in writing its determination of what, if any, modifications are necessary for approval of the sketch plan, or if a revised sketch plan is not required, on the final plat.

(2) Full EAF may be required. Based on its review of the Short EAF, the Planning Department may require that a Full EAF be filed, and in the case of a minor subdivision in a Conservation District (CV), or in the optional use of the conservation subdivision procedure (Article IX) in a Rural Agricultural District (RA), Rural Residential District (RR), Varna Hamlet Mixed Use District (VHMU), Varna Hamlet Residential District (VHR) or Varna Hamlet Traditional District (VHT) shall require that a Full EAF be filed. **[Amended 12-15-2016 by L.L. No. 4-2016]**

(3) Compliance with SEQR, lead agency.

(a) The Planning Department shall determine whether the EAF filed is complete, and provided that no major impacts are determined to result from the proposed subdivision, the Planning Department shall be the lead

agency for purposes of SEQR.

(b) If the Planning Department determines that a potentially large impact may result, the Planning Board shall be the lead agency for purposes of SEQR, and the provisions of Article VII, Major Subdivisions, shall govern the procedure and approval of the subdivision.

F. Fee. There is no fee for a pre-application meeting.

§ 240-8.3. Final plat approval.

No preliminary plat approval required.

A. Minor subdivisions do not require preliminary plat approval. Upon Planning Department approval of a sketch plan without modifications, the subdivider may treat the approved sketch plan as preliminary plat approval.

B. Modifications to the sketch plan. If the Planning Department approval of the sketch plan requires modifications, the Planning Department may, when in its opinion the modifications are minor and not substantial, and the public interest will not be served by the submission of a revised sketch plan, permit the submission of a final plat without the subdivider filing a revised sketch plan.

C. Revised sketch plan may be required. If the Planning Department approval of the sketch plan requires modifications, in the absence of an express approval to file a final plat, the subdivider shall file a revised sketch plan in accordance with the provisions of § 240-8.2C above.

§ 240-8.4. Final plat approval procedure.

A. Application. After sketch plan approval, the applicant may file an application for final plat approval. sketch plan approval by the Planning Department shall expire 180 days after such approval unless the final plat has been approved within that time. The Planning Department may extend for up to two periods of 90 days each, the time in which the sketch plan approval shall expire if, in the Planning Department's opinion, such extension is warranted by the particular circumstances.

B. Number of copies. Two copies of the final plat and one digital copy shall be filed.

C. Review of final plat. The Planning Department shall review the final plat and its conformity with the approved sketch plan, and if it otherwise complies with the requirements of this chapter and other applicable local laws, including Chapter 270, Zoning, the final plat shall be approved.

D. Fee. The application fee for final plat approval shall be paid at the time the final plat is filed.

ARTICLE IX
Conservation Subdivisions

§ 240-9.1. General rule; optional use of article; area and bulk regulations.

A. General rule. Whenever any major subdivision of land in a Conservation District (CV) is proposed, and before any contract for the sale of, or any offer to sell any lot in such subdivision is made, and before any permit for the erection of a structure in such subdivision shall be granted, the subdivider, shall apply, in writing, for approval of such subdivision in accordance with the applicable provisions of Town Law §§ 276, 277, 278, 279 and this article.

B. Optional use of article. A subdivider proposing a subdivision in the Rural Agricultural District (RA), Rural Residential District (RR), Varna Hamlet Mixed Use District (VHMU), Varna Hamlet Residential District (VHR) or Varna Hamlet Traditional District (VHT) may elect to proceed under this article, in which event the provisions of this article shall govern. **[Amended 12-15-2016 by L.L. No. 4-2016]**

C. Area and bulk regulations.

(1) lot area. Other than as required by the Tompkins County Sanitary Code, there shall be no minimum lot size in a conservation subdivision. The Planning Board shall determine appropriate lot sizes in the course of its review of a conservation subdivision. In order to permit a clustered lot configuration, wells and septic systems may be located in areas of protected open space, if there are easements for maintenance of these facilities. Shared septic systems or wells may be utilized with approval of the agencies having jurisdiction over the same. Shared driveways in accordance with the standards set forth herein are encouraged.

(2) Other dimensional requirements.

(a) In a conservation subdivision, where a proposed subdivision lot abuts an existing residence, a suitable buffer area may be required by the Planning Board. This buffer shall be at least the same as the minimum rear or side yard setbacks in the district in which the existing residence is located.

(b) The subdivider may propose all other dimensional requirements for the conservation subdivision lots, including setbacks.

(3) Subdivision lots shall be arranged in a manner that protects land of conservation value and open space and facilitates vehicle, pedestrian and bicycle circulation. Access management techniques, such as shared driveways, should be used to minimize curb cuts on rural highways.

D. Conservation subdivision of a portion of a larger parcel. The Planning Board may approve a conservation subdivision of only a portion of a parent parcel if a conservation analysis is provided for the entire parcel.

E. Private road standards. Proposed private roads and common driveways within a conservation subdivision shall be designed and constructed according to the

requirements of this chapter to ensure their suitability for access to the lots in the conservation subdivision based on projected traffic, terrain and relevant safety factors. The design of private roads and common driveways shall be approved by the Planning Board and the Town's Engineer.

§ 240-9.2. Procedure.

A. Major subdivision procedure to govern. The procedures for approval of a conservation subdivision shall be the same as for a major subdivision (Article VII), except as specifically modified by the provisions of this article.

B. Pre-application meeting.

(1) Purpose. The subdivider shall meet with the Planning Department to discuss subdivision of the property and conformity, to the maximum extent practicable, with the Town of Dryden Residential Development Design Guidelines.

(2) Condition precedent. The pre-application meeting is required prior to submission of a sketch plan to the Planning Board.

(3) Fee. There is no fee for a pre-application meeting.

(4) At the pre-application meeting the Planning Department shall advise the subdivider of the amount of the initial deposit established by resolution of the Town Board to cover the fees and expenses incurred by the Town pursuant to the provisions of Local Law No. 5 of the year 2000 (local law providing for the reimbursement by developers of engineers and attorneys representing the Town of Dryden) and Local law No. 5 of the year 2007 [a local law amending Local Law No. 5 of the year 2000 to provide for reimbursement by developers of expenses incurred by the Town in connection with stormwater pollution prevention plans (SWPPP)].[24]

C. Sketch plan; existing conditions report; conservation analysis.

(1) Submission of sketch plan, existing conditions report and conservation analysis. Seven copies of the sketch plan, Full Environmental Assessment Form (EAF), existing conditions report and conservation analysis shall be filed at least 14 days prior to the regular meeting of the Planning Board at which the sketch plan, existing conditions report and conservation analysis will be first reviewed.

(2) Discussion of requirements. The subdivider shall attend the meeting of the Planning Board to discuss the sketch plan, existing conditions report and conservation analysis, other requirements of this chapter, including the manner in which water service and sewer service will be provided, the availability of existing utility services, and conformance, to the maximum extent practicable, with the Residential Development Design Guidelines.

(3) approval of sketch plan, existing conditions report and conservation analysis.

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24. Editor's Note: See Ch. 151, Fees and Charges, Art. I, Reimbursement of Development Review Expenses.

The Planning Board shall determine whether the sketch plan meets the requirements of this chapter and whether the existing conditions report adequately describes the existing site conditions, and shall provide by resolution its determination of what, if any, modifications are necessary for approval of the sketch plan and existing conditions report, or if a revised sketch plan or existing conditions report are not required, on the preliminary plat. The Planning Board shall also review the conservation analysis and determine by resolution:

(a) The permitted number of lots in the subdivision [in accordance with Town Law § 278, Subdivision 3(b)] which shall not exceed the number of lots which could be permitted, in the Planning Board's judgment, if the property were subdivided into lots conforming to the minimum lot size requirements in such district without taking into account constrained lands, but taking into account infrastructure such as streets necessary to develop the property. In the Varna districts, when no minimum lot size is specified, the Varna Density Table in § 270-7.4 of Chapter 270, Zoning, of the Code of the Town of Dryden shall be used to determine the number of lots that could be permitted. The calculation shall be based on the type of development as identified by the developer; and **[Amended 12-15-2016 by L.L. No. 4-2016]**

(b) The portion or portions of the property which have the most conservation value and should be protected from development; and

(c) The preferred method of protection of such property, whether by conservation easement, restrictive covenant, conveyance to a suitable title holder or other method; or

(d) If a revised conservation analysis is required for approval, the modifications required.

(4) Fee. The application fee for sketch plan, existing conditions report and conservation analysis approval shall be paid at the time the same are filed.

(5) approval of a sketch plan, existing conditions report and conservation analysis is a condition precedent to filing a preliminary plat.

D. Preliminary plat approval.

(1) approval procedure. The provisions of Town Law § 276, Subdivision 5, and § 278 govern the procedure for approval of preliminary plats and coordination of Planning Board review with SEQR.

(2) Application. After sketch plan, existing conditions report and conservation analysis approval, the applicant may file an application for preliminary plat approval. The preliminary plat shall comply with the requirements of this chapter and the requirements of this article. In addition to the requirements of Article X, the preliminary plat shall show or be accompanied by:

(a) Constrained land in the parent parcel and the proposed subdivision.

(b) All open space and environmental resources included in the approved

conservation analysis and determined by the Planning Board to be protected from further development.

(c) Locations of structures ("building envelopes"), and in the Varna districts, type of development. **[Amended 12-15-2016 by L.L. No. 4-2016]**

(d) A protected open space management plan.

(e) Proposed plans for private roads or any shared driveways.

(f) Proposed instruments designed to protect the open space.

(3) Number of copies. Seven copies of the preliminary plat and one digital copy shall be filed at least 21 days prior to the regular meeting of the Planning Board at which the preliminary plat will be reviewed. **[Amended 2-16-2017 by L.L. No. 2-2017]**

(4) Subdivider to attend Planning Board meeting. The subdivider shall attend the meeting of the Planning Board for its review of the preliminary plat.

(5) Review of preliminary plat. The Planning Board shall review the practicability of the preliminary plat taking into consideration sketch plan approval, the requirements of this chapter, and the requirements and standards set forth in Town Law §§ 277 and 278. The Planning Board shall by resolution set forth the grounds for its action on the preliminary plat.

(6) Fee. The application fee for preliminary plat approval shall be paid at the time the preliminary plat is filed.

E. Final plat approval procedure.

(1) approval procedure. The provisions of Town Law § 276, Subdivision 6, and § 278 govern the procedure for approval of a final plat.

(2) Application. After preliminary plat approval, the applicant may file an application for final plat approval.

(3) Number of copies. Seven copies of the final plat and one digital copy shall be filed at least 21 days prior to the regular meeting of the Planning Board at which the final plat will be reviewed. **[Amended 2-16-2017 by L.L. No. 2-2017]**

(4) Review of final plat. The Planning Board shall review the final plat and by resolution set forth the grounds for its action on the final plat.

(5) Conditional final approval of a final plat. If the final plat does not contain the approvals of all other governmental agencies having jurisdiction over the subdivision, such as, but not limited to the approval of the Tompkins County Health Department, then the Planning Board may grant conditional approval of a final plat. In granting such conditional approval the Planning Board shall specify the requirements which, when completed, will authorize the signing of the final plat.

(6) Fee. The application fee for final plat approval shall be paid at the time the

final plat is filed.

§ 240-9.3. Open space protection.

Open space in the conservation subdivision determined by the Planning Board to be protected shall be permanently protected by a suitable arrangement, such as conservation easement, restrictive covenant, homeowner's association, or title transfer to a grantee approved by the Planning Board. Any development permitted on land located in a conservation subdivision that is not protected as open space shall not compromise the conservation value of such open space, except for the installation of water and sewer facilities and other utilities. All arrangements for the protection of such open space shall be approved by the Planning Board, Town Board, if the Town is to hold title or empowered to enforce the protective measures, and by the attorney for the Town as to legal sufficiency.

ARTICLE X
Documents

§ 240-10.1. Sketch plan.

A. A sketch plan shall be based on Tax Map information or some other similarly accurate base map at a scale, not less than 200 feet to the inch, to enable the entire tract to be shown on one sheet. The sketch plan should consider the principles in the Residential and/or Commercial Development Design Guidelines.

B. The sketch plan shall show the following:

(1) The name of the owner and all adjoining property owners shown on the most current assessment roll.

(2) The Tax Map sheet, block and lot number of the parcel(s) to be subdivided and of all adjoining parcels.

(3) A vicinity map showing the location of the land to be subdivided and the boundaries of all tax parcels within 500 feet of the property, including the area to be subdivided in relation to the entire parcel, and the approximate distance to the nearest existing streets and street intersections.

(4) Wooded areas, streams and other significant physical features, including large bodies of water, within the area to be subdivided and within 200 feet thereof, including an indication of potentially significant, natural or cultural features on or adjacent to the site (e.g., wetlands, creeks, steep slopes, historic structures).

(5) If topographic conditions are significant, contours should be indicated at intervals of not more than 10 feet.

(6) Approximate location of existing and proposed buildings or other significant structures.

(7) Existing land use, proposed land use and existing land uses of immediately adjacent properties.

(8) Existing restrictions on the use of land, including easements, covenants, and zoning district boundaries.

(9) Existing utilities and all existing streets.

(10) Written explanation of the character and purpose of the proposed development including the type and density of development, water and sewer systems proposed, and general timetable for the development.

(11) A general concept plan indicating approximate lot dimensions, proposed location of structures, proposed street layout and widths, recreation areas, open spaces, stormwater system areas, a general utilities plan, and an estimate of the number of lots and/or dwelling units that might be possible within the subdivision.

C. A sketch plan approved by the Planning Board is required in order to file a

preliminary plat.

§ 240-10.2. Preliminary plat.

A. The preliminary plat shall be at a suitable scale (generally one inch equals 100 feet or one inch equals 50 feet, whichever most clearly illustrates the plan). In addition to the printed copies of the preliminary plat, electronic submissions are encouraged by the Planning Department.

B. The preliminary plat shall be based on the approved sketch plan and show the following:

(1) Proposed subdivision name, date, true north and declination, scale, name and address of record owner, subdivider, engineer or surveyor, including license numbers and seals.

(2) The name of all subdivisions immediately adjacent and the name of the owners of record of all adjacent property.

(3) Identification of the zoning district, including exact boundary lines of district, if more than one district. Any proposed changes in the zoning district lines.

(4) All parcels proposed to be dedicated to public use and any conditions of such dedication.

(5) Location of existing property lines, buildings, ditches, streams, watercourses, marshes, rock outcrops, wooded areas, and other significant and existing features for the subdivision and adjacent property following procedures described in the Residential and/or Commercial Development Design Guidelines.

(6) Location of existing sewers, water mains, and stormwater facilities on the property, with pipe sizes, grades and direction of flow.

(7) Contours with intervals of five feet or less, including elevations on existing roads.

(8) The width and location of any streets or places shown on the Official Map or in the Comprehensive Plan within the area to be subdivided and the width, location, names, grades, and street profiles of all streets proposed by the subdivider.

(9) Method for obtaining and furnishing an adequate and satisfactory water supply in accordance with the requirements of the Public Health Law and Tompkins County Sanitary Code.

(10) Method for obtaining and furnishing adequate and satisfactory sewerage facilities in accordance with the requirements of the Environmental Conservation Law and the Tompkins County Sanitary Code.

(11) A stormwater pollution prevention plan.

(12) Plans and cross-sections showing the proposed location of type of sidewalks, streetlighting, trees, curbs, storm drains, including the size and type thereof.

(13) Preliminary designs of any proposed bridges or culverts.

(14) Proposed locations of all water supplies and sewage facilities.

(15) The proposed lot lines with approximate dimensions and approximate area of each lot.

(16) The boundaries of proposed permanent utility easements over private property, which shall not be less than 20 feet in width and which shall provide satisfactory access to an existing street or publicly owned open space shown on the subdivision, Official Map or open space plans.

(17) Field survey of the boundary lines of the tract made by a surveyor. The corners of the subdivision shall be marked by permanent monuments and shall be shown on the preliminary plat. All lot corner markers shall be made of metal, at least 3/4 inches in diameter and at least 24 inches in length, and located in the ground to existing grade.

(18) Location, width, and purpose of all easements for access by pedestrians and vehicles.

(19) Location of all other features proposed by the subdivider, required by this chapter or other applicable local law, including proposed streets.

C. If the subdivision is only a part of the subdivider's property, the subdivider shall file with the preliminary plat a map of the entire tract, drawn at a scale of not less than 400 feet to the inch showing an outline of the subdivision with proposed future streets with grades and stormwater calculations for the entire tract.

D. A copy of any covenants or deed restrictions proposed and any proposed homeowners' association agreements shall be filed with preliminary plat.

E. Unless preliminary plat approval is not required, as in the case of certain minor subdivisions, a preliminary plat approved by the Planning Board is required in order to file a final plat.

§ 240-10.3. Final plat.

A. The final plat shall be at a suitable scale (generally one inch equals 100 feet or one inch equals 50 feet, whichever most clearly illustrates the plan). In addition to the printed copies of the preliminary plat, electronic submissions are encouraged by the Planning Department.

B. final plat shall be based upon the approved preliminary plat, shall include the items required on the approved preliminary plat, and in addition shall show or be accompanied by the following:

(1) Location, names and right-of-way widths of all existing streets and easements; locations of existing building lines, structures, creeks, ditches and other prominent features.

(2) Property lines of all lots with accurate bearings, distances of all straight lines, radii, arcs and chords of all curves.

(3) The final plat shall also show by proper designation thereon all public open spaces for which an offer of dedication is made and those areas which are proposed to be reserved by the subdivider. For the latter, there shall be submitted with the final plat copies of proposed agreements, covenants or other restrictions showing the manner in which such areas are to be maintained and provisions for maintenance.

(4) Where applicable, there should be reference to monuments included in the New York State system of plane coordinates.

(5) The bearings, distances of all straight lines, radii, arcs and chords of all curves for each proposed street.

(6) Detailed drawings showing profiles and cross sections of all proposed streets.

(7) All offers of dedication of land, interests in land and covenants governing the maintenance of nondedicated open space shall be noted. The approval of the Town Attorney as to their legal sufficiency is required prior to acceptance.

(8) lots and blocks within the subdivision shall be sequentially numbered or lettered in numerical or alphabetical order, as the case may be.

(9) All lot corner markers shall be made of metal, at least 3/4 inch in diameter and at least 24 inches in length, and located in the ground to existing grade.

C. Construction drawings in accordance with Chapter 168, Highway Specifications, of the Code of the Town of Dryden showing the proposed location, size and type of proposed streets, and for any proposed sidewalks, streetlighting, street trees, and approved drawings for all proposed water mains and sanitary sewers; and for storm drains, manholes, catch-basins and other stormwater facilities as required by Chapter 233, Stormwater Management and Erosion and Sediment Control, of the Code of the Town of Dryden.

D. Space for the Tompkins County Health Department approvals.

§ 240-10.4. Waiver of requirements.

On the request of the subdivider, for good cause shown, the Planning Board may waive the submission of any of the items required to be shown on the sketch plan, preliminary plat or final plat. Such waiver shall be by resolution of the Planning Board and include all explanation and justification for such waiver.

ARTICLE XI
Design Standards

§ 240-11.1. Purpose.

A. The purpose of this article is to provide design principles and minimum standards for the design of subdivisions and the improvements which a subdivider is required to install. These principles and standards are established to promote and ensure sound, efficient and safe long-range development throughout the Town. Unless waived by the Planning Board for good cause shown, all subdividers shall observe the following requirements and principles of design in each subdivision, in addition to the Residential and/or Commercial Development Design Guidelines.

B. The provisions of this article are intended to supplement the requirements of other chapters, including Chapter 168, Highway Specifications, and Chapter 233, Stormwater Management and Erosion and Sediment Control, both of the Code of the Town of Dryden. Where a conflict exists between the requirements of this chapter and these other chapters, the requirements of such other chapters shall control.

§ 240-11.2. Streets.

A. Layout.

(1) Arrangement. The arrangement of streets in the subdivision shall provide for the continuation of streets of adjoining subdivisions, and for the future extension of streets to adjoining properties which are not yet subdivided, in order to facilitate fire protection, movement of vehicular traffic and pedestrians, and the construction or extension of public utilities and other facilities such as sewer, water and drainage facilities. The arrangement shall take into consideration topography, public convenience, safety and the proposed uses of the land to be served by such streets.

(2) Provision for future re-subdivision. Where a parcel is subdivided into lots substantially larger than the minimum lot size required in the zoning district in which the subdivision is located, the Planning Board may require that streets and lots be laid out so as to permit future re-subdivision of such lots, after compliance with the requirements of this chapter.

(3) Block size. Block size is determined based on safe and convenient vehicular and pedestrian circulation. Blocks generally may be not less than 500 feet long or more than 1,250 feet long. In blocks exceeding 800 feet in length, the Planning Board may require the reservation of a twenty-foot wide easement through the block to provide for utility installation and pedestrian traffic, and may further require a five-foot wide foot pedestrian path be suitably improved.

(4) Intersections with other streets. Street intersections, in general, shall be at least 500 feet apart.

(5) Street jogs. Street jogs with center line offsets of less than 125 feet shall be avoided.

(6) Relations to topography. The street plan of a proposed subdivision shall bear a logical relationship to the topography of the property, and all streets shall be arranged so as to obtain as many of the building lots as possible at or above the grade of the streets. Grades of streets shall conform as closely as possible to the original topography. All natural features such as trees, streams, hilltops, and views shall be preserved whenever possible. The Planning Board may require that designs assure such features will be preserved.

B. Design.

(1) Improvements. Streets shall be installed in accordance with the requirements of Chapter 168, Highway Specifications, of the Code of the Town of Dryden. Pedestrian easements shall be provided as required by the Planning Board.

(2) Streetlighting. All proposed streetlighting shall be approved by the Planning Board, and shall be designed and installed so as to minimize light pollution as much as practicable.

(3) Utilities in streets. The Planning Board shall require that utilities be placed outside the street line to simplify installation, locating the same after installation and access to such utilities when they require maintenance, repair or replacement. The subdivider shall install underground service connections to the property line of each lot before any street or other improvements are accepted by the Town.

(4) Utility easements. Permanent easements at least 20 feet in width shall be provided for all utilities to be owned or to be maintained by the Town. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where required. Easements across lots or centered on rear or side lot lines may be provided where necessary.

C. Street names.

(1) Proposed name. All proposed street names shown on a plat shall be subject to approval by the Town Board.

(2) Names to be substantially different. Street names shall be substantially different so as not to be confused in sound or spelling with present street names except that streets that join or are in alignment with streets of an abutting or neighboring property shall bear the same name. Generally, no street should change direction by more than 90° without a change in street name.

§ 240-11.3. Drainage improvements.

For stormwater and drainage requirements, the subdivider shall comply with the provisions of Chapter 233, Stormwater Management and Erosion and Sediment Control, and Chapter 168, Highway Specifications, both of the Code of the Town of Dryden.

§ 240-11.4. Lots.

A. Lots to be buildable. The lot arrangement shall be such that because of topography

or other natural features construction of a structure made be done in compliance with the lot area and bulk requirements of Chapter 270, Zoning.

B. Corner lots. In general, corner lots should be larger than interior lots to provide for proper structure setbacks.

C. Driveway access. Each lot shall have access to a public street. Driveway grades between the street and the front setback line shall not exceed 10%.

§ 240-11.5. Parks, open spaces, and natural features.

A. Reference to Town plans. Where features such as a proposed park, playground or other open space resources are shown in the Town Comprehensive Plan, Open Space Plan, Recreation Master Plan or other Town plan, the Planning Board shall require that such area or areas be shown on the plat in accordance with the procedural requirements of Town Law § 277, Subdivision 4. No such area or areas shall be dedicated or protected by easements or restrictive covenants by the subdivider without the approval of the Town Board.

B. Reserve strips prohibited. Reserve strips of land used to control access from a subdivision to any abutting parcel, or to any land within the subdivision itself are prohibited.

C. Preservation of natural features. The Planning Board shall, wherever possible, encourage the preservation of all natural features which will enhance residential developments.

ARTICLE XII
Common Driveways

§ 240-12.1. Policy.

It shall be the policy of the Town to encourage, wherever feasible under the circumstances, the minimization of the number of driveways on a public highway by approving the use of common driveways in accordance with the provisions of this article. The use of common driveways is desirable because of:

A. A reduction in the number of curb cuts or road access points.

B. Minimization of land disturbance.

C. Minimization of new short dead end public highways.

D. The protection of the environment, community character and safety of the public.

E. The Residential and Commercial Development Design Guidelines.

§ 240-12.2. Procedure.

A. Application. Application for common driveway approval for a common driveway serving no more than four lots shall be made to the Planning Department. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

B. Sketch.

(1) The application for a common driveway shall be accomplished by a sketch of the location of the proposed common driveway showing the lot lines and the location of the driveway, and a short EAF.

(2) The application shall include the proposed design and specifications for the common driveway.

(3) Proposed instrument.

(a) The application shall also include the proposed instrument, in recordable form, that provides for use, maintenance, repair and replacement of the common driveway, and an equitable method for apportioning the costs among the lots utilizing the common driveway.

(b) Such instrument must contain a provision providing for the common use of the proposed driveway in accordance with the purpose for which it is intended, without hindering the exercise of or encroaching upon the rights of others to use such driveway.

C. Standards.

(1) No portion of a common driveway shall be less than 16 feet wide.

(2) The design and construction specifications shall take into account the underlying soil type, terrain, safety factors, subbase course materials, base course material and soil stabilization fabric when required because of soil type,

wet areas or other conditions, and driving surface course materials.

(3) Suitable drainage shall be provided for in the design and construction specifications.

(4) The design and construction specifications shall address the location and manner in which the driveway entrances and exits to the public highway shall be constructed and such access shall not be greater than 60 feet onto the public highway.

(5) The design and construction specifications shall be prepared by an Engineer.

(6) The common driveway design must be of a sufficient width and suitable grade and location to accommodate the prospective traffic and to facilitate ingress and egress of fire trucks, ambulances, police cars and other emergency vehicles.

D. Consultation with Town Engineer. After consultation and review by the Town's Engineer, and upon compliance with the requirements of this article, the design and construction specifications for the common driveway may be approved by the Planning Board.

E. Construction. The construction of the common driveway shall be approved by the Town's Engineer before any building permits are issued.

F. Fee. There is no fee for a common driveway approval.

ARTICLE XIII
Private Roads

§ 240-13.1. Policy.

When a subdivider does not offer or intend to dedicate a public highway in connection with subdivision approval, the provisions of this article shall govern the construction and maintenance of a private road.

§ 240-13.2. Procedure.

A. Declaration. When a private road is proposed the subdivider shall declare such intention at the time of the pre-application meeting.

B. Jurisdiction. The Planning Board has jurisdiction to approve the design, construction specifications and maintenance requirements for private roads.

C. Application. The application for preliminary plat approval shall include the proposed design and construction specifications for the private road as required by this article.

§ 240-13.3. Standards.

A. Construction and maintenance of private roads. All private roads shall be constructed and maintained according to the provisions of this article.

B. Design and construction standards.

(1) No area reserved for a private road shall be less than 60 feet wide.

(2) Construction specifications for a private road shall be prepared by an Engineer and shall take into account the terrain, location and manner in which the private road will be utilized, including the prospective traffic.

(3) The design and construction specifications shall take into account the underlying soil type, terrain, safety factors, subbase course materials, base course material and soil stabilization fabric when required because of soil type, wet areas or other conditions, and driving surface course materials.

(4) Suitable drainage shall be provided for in the design and construction specifications.

(5) The design and construction specifications shall address the location and manner in which the private road will intersect with the public highway. Such access shall not be greater than 60 feet onto the public highway.

(6) The private road design must be of a sufficient width and suitable grade and location to accommodate the prospective traffic and to facilitate ingress and egress of fire trucks, ambulances, police cars and other emergency vehicles.

(7) Dead-end private roads shall be avoided.

C. Maintenance.

(1) The application shall also include the proposed instrument or other provisions, in recordable form, which provide for use, maintenance, repair and replacement of the private road, and an equitable method for apportioning the costs among the lots utilizing the private road, including the payment of any taxes assessed on such private road.

(2) Such instrument must contain a provision providing for the common use of the private road in accordance with the purpose for which it is intended, without hindering the exercise of or encroaching upon the rights of others to use such private road.

D. Consultation with Town Engineer. After consultation and review by the Town's Engineer, and upon compliance with the requirements of this article, the design and construction specifications and maintenance arrangements for a private road may be approved by the Planning Board.

E. Construction. The construction of the private road shall be approved by the Town's Engineer before any building permits are issued.

F. Fee. There is no additional fee for a private road approval.

ARTICLE XIV
Lot Line Adjustments

§ 240-14.1. Approval required.

Lot line adjustments are subject to approval by the Planning Department as provided in this article.

§ 240-14.2. Procedure.

An application for a lot line adjustment shall be made to the Planning Department. The application shall be accompanied by a survey map showing the proposed alteration of lot lines.

§ 240-14.3. approval.

If the proposed alteration does not result in a substandard lot or lots, or result in the improvements on either lot not being in compliance with the area and bulk requirements of the zoning district or districts in which the lots are situate, the application shall be approved.

§ 240-14.4. Fee.

There is no fee for filing the application or the approval.

ARTICLE XV
Enforcement and Remedies

§ 240-15.1. Violations.

A. Any person, partnership, limited liability company, corporation or any other entity, whether as owner, lessee, agent or employee, who shall violate any of the provisions of this chapter, any approval issued hereunder, or who fails to comply with any order or regulation made hereunder, or who offers for sale any land in violation of this chapter shall be guilty of an offense. Each week of such violation shall be deemed a separate offense.

B. Where the person or entity committing such violation is a partnership, limited liability company, corporation or other entity the principal executive officer, partner, agent, or manager may be considered to be the "person" for the purpose of this section.

C. The Code Enforcement Officers shall have the authority to issue accusatory instruments to those persons who are in violation of this chapter.

§ 240-15.2. Penalties for offenses.

A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding $350, or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than $350, nor more than $700, or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than $700, not more than $1,000, or imprisonment for a period not to exceed six months, or both. Each week's continued violation shall constitute a separate additional violation.

§ 240-15.3. Actions, proceedings.

In the event any land is used, or any land is divided into lots, blocks, or sites in violation of this chapter or conditions of approval by the Planning Board, in addition to any other remedies, the Town Board may institute any appropriate action or proceedings to prevent such unlawful use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure, or land; or to prevent any illegal act, conduct, business or use in or about such land.

§ 240-15.4. Misrepresentation.

Any approval granted under this chapter based upon or granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known, by or on behalf of the subdivider, shall be void. This section shall not be construed to affect all the other remedies available to the Town under this chapter.

§ 240-15.5. Complaints of violations.

Whenever a violation of this chapter is alleged to have occurred, any person may file a

written complaint in regard thereto. All such complaints shall be filed with the Planning Department. The Planning Department shall investigate such complaints and report the results of the investigation and prosecution of any violations to the Town Board.

ARTICLE XVI
Severability

§ 240-16.1. Severability.

If any clause, sentence, paragraph, section, article or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article or part thereof, directly involved in the controversy in which such judgment shall have been rendered.

ARTICLE XVII
Court Review

§ 240-17.1. Review of grievances.

Any person or persons, jointly or severally, aggrieved by any decision of the Planning Board may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within 30 days after the filing of a decision in the office of the Town Clerk.

ARTICLE XVIII
Effective Date

§ 240-18.1. When effective.

This chapter shall take effect upon filing in the office of the Secretary of State.

Chapter 245

TAXATION

ARTICLE I
Alternative Veterans Exemption
[Adopted 1-22-1985 by L.L. No. 1-1985; amended in its entirety 4-8-1997 by L.L. No. 1-1997]

§ 245-1. Introduction.

Chapter 477 of the Laws of 1996 permits towns to increase the maximum exemptions allowable under Real Property Tax Law § 458-a (2) (a); (b); and (c).

§ 245-2. Increase of exemption.

The maximum exemptions allowable under Real Property Tax Law § 458-a (2)(a), (b), and (c), respectively, are hereby increased as follows:

A. Section 458-a(2)(a): $18,000.

B. Section 458-a(2)(b): $12,000.

C. Section 458-a(2)(c): $60,000.

§ 245-3. When effective.

This article shall take effect upon filing with the Secretary of State and shall apply to assessment rolls prepared on and after the taxable status date March 1, 1997.

ARTICLE II
Exemption for Persons with Disabilities and Limited Income
[Adopted 3-8-2000 by L.L. No. 2-2000; amended in its entirety 12-29-2009 by L.L. No. 7-2009]

§ 245-4. Statutory authority.

This article is enacted pursuant to § 459-c of the Real Property Tax Law of the State of New York, as most recently amended.

§ 245-5. Partial tax exemption schedule.

Real property located in the Town of Dryden, owned by one or more persons, each of whom is disabled and whose income is limited by reason of such disability or real property owned by husband and wife, or siblings one of whom is disabled and whose income is limited by reason of such disability, shall be partially exempt from taxation by said Town for the applicable taxes specified in § 459-c based upon the income of the owner or combined income of the owners. Such partial exemption shall be to the extent set forth in the schedule following:

Annual Income	Percentage Assessed Valuation Exempt From Taxation
Not more than $29,000	50%
$29,001 or more but less than $30,000	45%
$30,001 or more but less than $31,000	40%
$31,001 or more but less than $32,000	35%
$32,001 or more but less than $32,900	30%
$32,901 or more but less than $33,800	25%
$33,801 or more but less than $34,700	20%
$34,701 or more but less than $35,600	15%
$35,601 or more but less than $36,500	10%
$36,501 or more but less than $37,400	5%
More than $37,400	0%

§ 245-6. Limitations on partial exemption.

The partial exemption provided by this article shall, however, be limited to such property and persons as meet the conditions, qualifications, exclusions, and limitations set forth in § 459-c of the Real Property Tax Law. This article shall be administered in accordance with said sections of the Real Property Tax Law, as now adopted, and as they may be amended from time to time, and the provisions of said section as provided in § 459-c, shall be applicable to the effectuation of the exemption provided for in this article.

§ 245-7. Applying for exemption.

Application for such exemption must be made by the owner or all of the owners of

the property on forms prescribed by the Commissioner of Taxation and Finance to be furnished by the Tompkins County Assessment Department and shall include the information and be executed in the manner required or prescribed in such forms, and shall be filed in the said Assessment Department office on or before the appropriate taxable status date.

§ 245-8. Penalties for offenses.

Any conviction of having made any willful false statement of the application for such exemption shall be punishable by a fine or not more than $100 and shall disqualify the applicant or applicants from further exemption under this article for a period of five years.

§ 245-9. Applicability.

This article shall be applicable to the Town tax for assessment rolls based on taxable status dates occurring on and after January 1, 2010, and the provisions of said article shall govern the granting of an exemption under § 459-c, notwithstanding any contrary provisions of that section.

§ 245-10. When effective.

This article shall take effect immediately.

ARTICLE III
Exemption for Capital Improvements to Residential Buildings
[Adopted 8-12-2009 by L.L. No. 5-2009]

§ 245-11. Findings.

The Town of Dryden finds and declares that:

A. The promotion of home improvements will have a positive impact on the quality of the Town's housing stock;

B. Promoting the improvement of the Town's housing stock will maintain and create jobs within the Town of Dryden;

C. It is in the best interests of the Town to encourage homeowners to maintain and improve their homes;

D. Home improvements can improve the energy efficiency of the Town's housing stock; and

E. Improving the energy efficiency of the Town's housing stock will have a positive economic impact on household incomes and strengthen the local economy.

§ 245-12. Legislative intent.

The intent of this article is to authorize, pursuant to Real Property Tax Law § 421-f, a partial exemption from taxation for capital improvements in residential buildings within the Town of Dryden.

§ 245-13. Definition.

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

RESIDENTIAL BUILDING — Any building or structure designed and occupied exclusively for residential purposes by not more that two families.

§ 245-14. Exemption.

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. Such buildings shall be exempt for a period of one year to the extent of 100% of the increase in assessed value thereof attributable to such reconstruction, alteration or improvement and for an additional period of seven years, subject to the following:

   (1) The extent of such exemption shall be decreased by 12 1/2% of the "exemption base" each year during such additional period. The "exemption base" shall be the increase in assessed value as determined in the initial year of the term of the exemption, except as provided in Real Property Tax Law § 421-f(2)(a)(ii).

   (2) Such exemption shall be limited to $80,000 in increased market value.

C. 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;

(2) The value of such reconstruction, alteration or improvement exceeds $3,000; and

(3) The greater portion, as determined by square footage of the building reconstructed, altered or improved is at least five years old.

D. For purposes of this article the terms reconstruction, alteration or improvement shall not include ordinary maintenance and repairs.

E. The exemption shall not be granted for swimming pools, detached garages or other accessory detached structures.

§ 245-15. Application.

Such exemption shall be granted only upon application by the owner of such building on a form prescribed by the Commissioner of Taxation and Finance. The application shall be filed with the Tompkins County Department of Assessment.

§ 245-16. Cessation; transfer of title.

In the event a building granted an exemption pursuant to this article ceases to be used primarily for residential purposes or title thereto is transferred to other that the heirs or distributees of the owner, the exemption granted pursuant to this article shall cease.

§ 245-17. Additional filing.

After the filing of this article with the Secretary of State, a copy certified by the Town Clerk shall also be filed with the Tompkins County Department of Assessment, and the Commissioner of Taxation and Finance.

§ 245-18. When effective.

This article shall take effect upon filing with the Secretary of State.

ARTICLE IV
Restricted Sale Price Exemption
[Adopted 2-21-2019 by L.L. No. 2-2019]

§ 245-19. Legislative intent and purpose.

The Town Board has determined that it is in public interest of the residents of the Town of Dryden to adopt the real property tax exemption provided for by New York Real Property Tax Law § 467-j, and Tompkins County Local Law No. 5 of 2016, and that such exemption helps promote affordable housing in the Town of Dryden.

§ 245-20. Statutory authority.

The Town of Dryden adopts the tax exemption provided for by New York Real Property Tax Law § 467-j and Tompkins County Local Law Number 5 of 2016, and that eligibility for such exemption shall be as outlined in said law.

§ 245-21. When effective.

This article shall take effect immediately upon filing with the Secretary of State.

Chapter 249

TELECOMMUNICATIONS TOWERS AND FACILITIES

§ 249-1. Purpose and legislative intent.

The Telecommunications Act of 1996 affirmed the Town of Dryden's authority concerning the placement, construction and modification of telecommunications towers. The Town Board of the Town of Dryden finds that telecommunications towers and related facilities may pose a unique hazard to the health, safety, public welfare and environment of the Town of Dryden and its inhabitants. In order to insure that the placement, construction or modification of telecommunications towers and related facilities is consistent with the Town's land use policies, the Town is adopting a single, comprehensive telecommunications tower application and permit process. The intent of this chapter is to minimize the negative impact of the telecommunications towers, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of Town of Dryden and its inhabitants. The Town also recognizes that facilitating the development of wireless service technology can be an economic development asset to the Town and of significant benefit to the Town and its inhabitants.

§ 249-2. Title.

This chapter may be known and cited as the "Telecommunications Tower Siting Law for the Town of Dryden" (or "TTS").

§ 249-3. Severability.

A. If any word, phrase, sentence, part, section, subsection, or other portion of this chapter or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this chapter, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

B. Any special use permit issued under this chapter shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon election by the Town Board.

§ 249-4. Definitions.

For purposes of this chapter, and where not inconsistent with the context of a particular section, the defined terms, phrases, words, abbreviations, and their derivations shall have the meaning given in this section. When not inconsistent with the context, words in the present tense include the future tense, words used in the plural include words in the singular and words in the singular include the plural. The word "shall" is always mandatory, and not merely directory.

ACCESSORY FACILITY OR STRUCTURE — An accessory facility or structure serving or being used in conjunction with a telecommunications tower, and located on the same property or lot as the tower, including but not limited to utility or transmission equipment buildings or shelters, equipment cabinets, equipment platforms, or storage sheds.

ANTENNA — A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency signals. Such waves shall include, but not be limited to radio, television, cellular, paging, personal telecommunications services (PCS), and microwave telecommunications.

APPLICANT — Any individual, partnership, limited liability company, corporation, estate, trust, or other entity or the equivalent of any of the foregoing submitting an Application to the Town of Dryden for a special use permit for a telecommunications tower.

APPLICATION — The form approved by the Board, together with all required and other documentation that an applicant submits in order to receive a special use permit for a telecommunications tower.

BOARD — The Town Board of the Town of Dryden, which is the officially designated body of the Town to whom applications for a special use permit for a telecommunications tower must be made. The Board is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, or revoking special use permits for telecommunications towers. The Board may, at its discretion, delegate or designate other boards of the Town to accept, review, analyze, evaluate and make recommendations to the Board with respect to the granting or not granting, or revoking special use permits for telecommunications towers.

BREAK POINT — The location on a telecommunications tower at which the initial failure of a structural element is expected to eventually occur as the wind loading increases beyond the design value, as a means of controlling the mechanism of collapse and minimizing the size of the collapse zone and any potential damage to the surrounding area.

CAMOUFLAGED TOWER — Any tower or supporting structure that, due to design, location, or appearance, partially or completely hides, obscures, conceals, or otherwise disguises the presence of the tower and one or more antennas or antenna arrays affixed thereto.

CO-LOCATION — The use of the same telecommunications tower or structure to carry two or more antennas for the provision of wireless services by two or more persons or entities.

COLLAPSE ZONE — The area in which any portion of a telecommunications tower could or would fall, collapse or plunge to the ground or into a river or other body of water. The collapse zone shall be no less than the lateral equivalent of the distance from the break point to the top of the structure plus 10 feet, such being not less than 1/2 the height of the structure.

COMMERCIAL IMPRACTICABILITY or COMMERCIALLY IMPRACTICABLE — Shall have the meaning in this chapter and in special use permits granted hereunder as defined and applied under Uniform Commercial Code § 2-615.

COMPLETE APPLICATION — An application that contains all information and/or

data necessary to enable the Board or Zoning Officer to evaluate the merits of the application, and to make an informed decision with respect to the effect and impact of the telecommunications tower on the Town in the context of the permitted land use for the particular location requested.

COUNTY — Tompkins County, New York.

DIRECT-TO-HOME SATELLITE SERVICES or DIRECT BROADCAST SERVICE or DBS — Only programming transmitted or broadcast by satellite directly to subscribers' premises without the use of ground receiving equipment, except at the subscribers' premises or in the uplink process to the satellite.

EAF — The Full Environmental Assessment Form approved by the New York Department of Environmental Conservation (Appendix A to 6 NYCRR 617.20). For an application for co-location, a short EAF (Appendix C to 6 NYCRR 617.20) may be substituted for the Full Environmental Assessment Form.

EPA — In the case of the State of New York, the Department of Environmental Conservation, and in the case of the United States, the Environmental Protection Agency or any successor agency.

FAA — The Federal Aviation Administration or a duly designated and authorized successor agency.

FCC — The Federal Communications Commission or a duly designated and authorized successor agency.

FREESTANDING TOWER — A tower that is not supported by guy wires and ground anchors or other means of attached or external support.

HEIGHT OF ANTENNA — When referring to a tower or structure, the vertical distance from the highest adjacent finished grade to the top of the highest antenna mounted on, or proposed to be mounted on the tower or structure.

HEIGHT OF TOWER OR STRUCTURE — When referring to an existing tower or structure, the vertical distance from the highest adjacent finished grade to the top of the tower or structure. When referring to a proposed tower or structure, it means the vertical distance from the preexisting grade level to the highest point of the proposed tower or structure.

NIER — Non-ionizing electromagnetic radiation.

PERSON — Any individual, partnership, limited liability company, corporation, estate, trust, or other entity or the equivalent of any of the foregoing.

PERSONAL WIRELESS FACILITY — See definition for "telecommunications tower."

PERSONAL WIRELESS SERVICES or PWS or PERSONAL TELECOMMUNICATIONS SERVICE or PCS — As defined and used in the 1996 Telecommunications Act.

SITE — See definition for "telecommunications tower."

SPECIAL USE PERMIT — The official document or permit by which an applicant is allowed to construct and use a telecommunications tower as granted, authorized or issued by the Town.

STATE — The State of New York.

TELECOMMUNICATIONS — The transmission and reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

TELECOMMUNICATIONS PERMIT — The official document or permit by which an applicant is allowed to add or modify equipment on a telecommunications tower as granted, authorized or issued by the Town.

TELECOMMUNICATIONS STRUCTURE — A structure used in the provision of services described in the definition of "telecommunications tower."

TELECOMMUNICATIONS TOWER or TOWER or SITE OF PERSONAL WIRELESS FACILITY — A structure or location designed, or intended to be used, or used to support antennas. It includes freestanding towers, guyed towers, monopoles, and similar structures, as well as any camouflaged tower, including but not limited to a church steeple, silo, water tower, flagpole, sign or other structure intended to mitigate the visual impact of an antenna. It is a structure intended for transmitting and/or receiving radio, television, cellular, paging, dispatch, PCS, microwave, broadband, or other commercial telecommunications.

TEMPORARY — In relation to all aspects and components of this chapter, something intended to, or that does, exist for fewer than 90 days.

TOWN — The Town of Dryden, New York.

ZONING OFFICER — The Zoning Officer as appointed by the Town.

§ 249-5. Overall policy and desired goals for special use permits for telecommunications towers.

In order to ensure that the placement, construction, and modification of telecommunications towers conforms to the Town's purpose and intent of this chapter, the Board creates a special use permit for a telecommunications tower. As such, the Board adopts an overall policy with respect to a special use permit for a telecommunications tower for the express purpose of achieving the following goals:

A. Implementing an application process for person(s) seeking a special use permit for a telecommunications tower;

B. Establishing a policy for examining an application for and issuing a special use permit for a telecommunications tower that is both fair and consistent;

C. Establishing reasonable time frames for granting or not granting a special use permit for a telecommunications tower, or recertifying or not recertifying, or amending or revoking the special use permit granted under this chapter;

D. Promoting and encouraging, wherever possible, the sharing and/or co-location of a telecommunications tower among service providers;

E. Promoting and encouraging, wherever possible, the placement of a telecommunications tower in such a manner as to cause minimal disruption to aesthetic considerations of the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such a telecommunications tower;

F. Promoting and encouraging the development and deployment of newer and better technology to provide improved telecommunications services to the residents and businesses within the Town.

§ 249-6. Special use permit application and other requirements.

A. All applicants for a special use permit for a telecommunications tower shall comply with the requirements set forth in this chapter.

B. Application.

(1) An application for a special use permit for a telecommunications tower shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information.

(2) The landowner, if different than the applicant, shall also sign the application.

(3) At the discretion of the Board, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.

(4) At the discretion of the Board, any information contained in the application that is discovered to be false after issuance of a special use permit may subject the applicant to revocation of such special use permit.

C. Applications not meeting the requirements herein or which are otherwise incomplete, may be rejected by the Board.

D. The application shall include a statement in writing:

(1) That the applicant's proposed telecommunications tower will be maintained in a safe manner, in compliance with all conditions of the special use permit, without exception, unless specifically granted relief by the Board in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable county, state and United States laws, rules, and regulations;

(2) That the construction of the telecommunications tower is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the state.

E. All applications for the construction or installation of a new telecommunications tower shall be accompanied by a report containing the information herein required. The report shall be signed by a licensed professional engineer registered in the state. Where this section calls for certification, such certification shall be by a qualified New York State licensed professional engineer acceptable to the Town, unless otherwise noted.

F. No telecommunications tower shall be installed or constructed until a site plan required under this chapter is reviewed and approved by the Board. The site plan application shall include, in addition to the other requirements for the special use permit, the following additional information:

(1) Name and address of person preparing the report;

(2) Name and address of the property owner, operator, and applicant, to include the legal form of the applicant;

(3) Postal address and Tax Map parcel number of the property;

(4) Zoning district or designation in which the property is situated;

(5) Size of the property stated both in square feet and lot line dimensions, and a diagram to scale showing the location of all lot lines;

(6) Location of nearest residential structure;

(7) Location of nearest habitable structure;

(8) Location of all structures on the property which is the subject of the application;

(9) Location, size and height of all proposed and existing antennas and all appurtenant structures;

(10) Type, size and location of all proposed and existing landscaping;

(11) The type and design of the telecommunications tower, and the number, type, and size of the antenna(s) proposed, and the basis for the calculations of the telecommunications tower's capacity to accommodate multiple users;

(12) The make, model and manufacturer of the tower and antenna(s);

(13) A description of the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above preexisting grade, materials, color and lighting;

(14) The frequency, modulation and class of service of radio or other transmitting equipment;

(15) Transmission and maximum effective radiated power of the antenna(s);

(16) Direction of maximum lobes and associated radiation pattern of the antenna(s);

(17) Applicant's proposed tower maintenance and inspection procedures and related system of records;

(18) Documentation that NIER levels at the proposed site are within the threshold levels adopted by the FCC;

(19) A stipulation that if the proposed antenna(s) cause interference with existing telecommunications devices, the antenna(s) will be deactivated until such interference can be eliminated by the applicant.

(20) A copy of the FCC license for the use of the telecommunications tower;

(21) Certification that a topographic and geomorphologic study and analysis has been conducted, and that taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of

the proposed telecommunications tower on the proposed site, (the certifying engineer need not be approved by the Town);

(22) Propagation studies of the proposed site and all adjoining proposed or in-service or existing sites;

(23) Applicant shall disclose in writing any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new telecommunications tower that it constructs.

G. In the case of a new telecommunications tower, the applicant shall be required to submit a report demonstrating its efforts to obtain shared use of existing telecommunications tower(s). Copies of written requests and responses for shared use shall be provided to the Board.

H. Certification that the telecommunications tower and attachments are both designed and constructed ("as built") to meet all county, state and United States structural requirements for loads, including wind and ice loads.

I. Documentation that the telecommunications tower is designed with a break point that, in the event the design wind loading is exceeded, will result in the tower falling or collapsing within the boundaries of the property on which the tower is placed.

J. After construction and prior to receiving a certificate of compliance, certification that the telecommunications tower and related facilities have been installed with appropriate surge protectors, and have been grounded and bonded so as to protect persons and property from lightning strikes.

K. The applicant shall submit a completed Full EAF. The Board may require submission of a more detailed visual analysis based on the results of the Full EAF. Applicants are encouraged to have preapplication conferences with the Town to address the scope of the required visual assessment.

L. A visual impact assessment which shall, at the Board's request, include:

(1) A "Zone of Visibility Map" which shall be provided in order to determine locations from which the tower may be seen.

(2) Pictorial representations of "before and after" views from key viewpoints both inside and outside of the Town, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; 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. If requested by the applicant, the Town, acting in consultation with its consultants or experts, will provide guidance concerning the appropriate key sites at a preapplication conference.

(3) An assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting and adjacent properties and streets.

M. Any and all representations made to the Board, on the record, during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the Board.

N. The applicant shall, in a manner approved by the Board, provide vegetative or other approved screening around the base of the telecommunications tower and all accessory facilities and structures, to minimize its visibility from adjacent property.

O. All utilities leading to and away from any telecommunications tower site shall be installed underground and in compliance with all laws, rules and regulations of the Town, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate. The Board may waive or vary the requirements of underground installation of utilities whenever, in the opinion of the Board, such variance or waiver shall not be detrimental to the health, safety, general welfare or environment, including the visual and scenic characteristics of the area.

P. All telecommunications towers and accessory facilities shall be sited so as to have the least practical adverse visual effect on the environment and its character, and the residences in the area of the telecommunications tower site.

Q. Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.

R. An access road and parking will be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

S. The Board intends to be the lead agency, pursuant to SEQRA. The Board shall conduct an integrated, comprehensive, coordinated environmental review of the proposed project in combination with its review of the application under this chapter.

T. The applicant shall submit no fewer than two copies of the entire complete application to the Town Board, an electronic copy and one copy to the County Planning Board. For a proposed facility on property which abuts the Town boundary, a copy shall be submitted to the legislative body of the immediately adjacent municipality.

U. The applicant shall examine the feasibility of designing a proposed telecommunications tower to accommodate future demand for at least two additional commercial applications, e.g., future co-locations. The scope of this examination shall be determined by the Board. The tower shall be structurally designed to accommodate at least two additional arrays of antennas which are equal to or greater in both size and quantity that the installation proposed by the applicant. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the telecommunications tower is not technologically feasible, commercially impracticable or creates an unnecessary and unreasonable burden, based upon:

(1) The number of FCC licenses foreseeably available for the area;

(2) The kind of telecommunications tower site and structure proposed;

(3) The number of existing and potential licenses without telecommunications tower spaces/sites;

(4) Available space on existing and approved telecommunications towers;

V. The aplicant shall provide physical space, structural capacity, and utility connections necessary for Town-owned antennas and equipment, as directed by the Board.

§ 249-7. Location of telecommunications towers.

A. Location by priority.

(1) Applicants for telecommunications towers shall locate, site and erect said towers in accordance with the following priorities, Subsection A(1)(a) being the highest priority and Subsection A(1)(e) being the lowest priority.

(a) On existing telecommunications towers or other tall structures;

(b) Co-location on a site with existing telecommunications towers or structures;

(c) On Town-owned property in non-residentially zoned areas of the Town;

(d) In other non-residentially zoned areas of the Town;

(e) On other property in the Town.

(2) If the proposed property site is not the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.

(3) An applicant may not bypass sites of higher priority by stating the site presented is the only site leased or selected. The application shall address co-location as an option and if such option is not proposed, the applicant must demonstrate why co-location is commercially, or otherwise, impracticable. Agreements between providers limiting or prohibiting co-location, shall not be a valid basis for any claim of commercial impracticability or hardship.

(4) Notwithstanding the above, the Board may approve any site located within an area in the above list of priorities, provided that the Board finds that the proposed site is in the best interests of the health, safety and welfare of the Town and its inhabitants.

B. The applicant shall submit a written report demonstrating the applicant's review of the above locations in order of priority, demonstrating the technological reason for the site selection.

C. The applicant shall, in writing, identify and disclose the number and locations of any additional sites that the applicant has, is, or will be considering, reviewing or planning for telecommunications towers in the Town, and in all municipalities

adjoining the Town, for a two-year period next following the date of the application.

D. Notwithstanding that a potential site may be situated in an area of highest priority or highest available priority, the Board may reject an application for any of the following reasons:

(1) Conflict with safety and safety-related codes and requirements;

(2) Conflict with traffic needs or traffic laws, or definite plans for changes in traffic flow or traffic laws;

(3) Conflict with the historic nature of a neighborhood or historical district;

(4) The use or construction would be contrary to an already stated purpose of a specific zoning or land use designation;

(5) The placement and location would create an unacceptable risk, or the probability of such, to residents, the public, employees and agents of the Town, or employees of the service provider or other service providers; or

(6) Conflicts with the provisions of this chapter.

§ 249-8. Shared use of telecommunications tower(s).

A. Shared use of existing telecommunications towers shall be preferred by the Town, as opposed to the proposed construction of new telecommunications towers. Where such shared use is unavailable, location of antennas on other preexisting structures shall be considered and preferred. The applicant shall submit a comprehensive report inventorying existing towers and other appropriate structures within four miles of any proposed new tower site, unless the applicant can show that some other distance is more reasonable, and outlining opportunities for shared use of existing facilities and the use of other preexisting structures as a preferred alternative to new construction.

B. An applicant intending to share use of an existing telecommunications tower or other preexisting structure shall be required to document the intent of the existing owner to share use.

C. In the event of an application to share the use of an existing telecommunications tower that does not increase the height of the telecommunications tower or otherwise substantially change the physical dimensions of such tower, the Zoning Officer shall review the application. If the Zoning Officer determines that the shared use is in compliance with the special use permit and all applicable codes, laws and rules then a telecommunications permit will be issued for this additional equipment.

§ 249-9. Height of telecommunications tower.

A. The applicant must submit documentation justifying to the Board the total height of any telecommunications tower and/or antenna and the basis therefor. Such justification shall be to provide service within the Town, to the extent practicable, unless good cause is shown.

B. Telecommunications towers shall be no higher than the minimum height necessary. Unless waived by the Board upon good cause shown, the presumed maximum height of the tower shall be 140 feet, based on three co-located antenna arrays and ambient tree height of 80 feet.

C. Telecommunications tower less than 120 feet in height shall be designed to accommodate a future vertical extension of at least 20 feet, to support the potential co-location of additional antennas for another entity.

§ 249-10. Visibility of telecommunications tower.

A. Telecommunications towers shall not be artificially lighted or marked, except as required by law, or as specifically approved by the Board.

B. Telecommunications towers shall be of a galvanized finish, or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings as approved by the Board, and shall be maintained in accordance with the requirements of this chapter.

C. In the case of applications to co-locate on existing telecommunications towers, if lighting is required, applicant shall provide a detailed plan for lighting which will be as unobtrusive and inoffensive as is permissible under state and United States regulations, together with an artist's rendering or other visual representation showing the effect of light emanating from the site on neighboring habitable structures within 1,500 feet of all property lines of the parcel on which the telecommunications tower is located.

§ 249-11. Security of telecommunications towers.

All telecommunications towers and antennas shall be located, fenced or otherwise secured in a manner which prevents unauthorized access. Specifically:

A. All antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or run into; and

B. Transmitters and telecommunications control points must be installed such that they are readily accessible only to persons authorized to operate or service them.

§ 249-12. Signage.

Telecommunications towers shall contain a sign no larger than four square feet to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities. The sign shall contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be located so as to be visible from the access point of the site. Telecommunications towers shall also contain a sign displaying the FCC registration number of the tower as required by law. No other signage, including advertising shall be permitted on any telecommunications tower or antenna, unless otherwise required by law.

§ 249-13. Lot size and setbacks.

A. Telecommunications towers and accessory facilities or structures shall be set back from any property line a distance sufficient to preserve the privacy and sanctity of any adjoining parcels.

B. Telecommunications towers shall be located with a minimum setback from any property line a distance equal to 1/2 the height of the tower or the existing setback requirement of the zoning district, whichever is greater. Further, any accessory structure shall be located so as to comply with the minimum setback requirements for the zoning district in which it is situated.

§ 249-14. Retention of expert assistance and reimbursement by applicant.

A. The Town may hire any consultant and/or expert necessary to assist the Town in reviewing and evaluating the application and any requests for recertification.

B. An applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the review of any application. The initial deposit shall be $7,500. These funds shall accompany the filing of an application and the Town will maintain an account for all such funds. The Town's consultants/experts shall bill or invoice the Town no less frequently than monthly for its services in reviewing the application and performing its duties. If at any time during the review process this account is depleted, additional funds must be deposited with the Town before any further action or consideration is taken on the application. If at the conclusion of the review process the cost of such consultant/expert services is more than the amount deposited pursuant hereto, the applicant shall pay the difference to the Town prior to the issuance of any special use permit. In the event that the amount held by the Town is more than the amount paid to the Town's consultants and experts, the difference shall be promptly refunded to the applicant.

§ 249-15. Applicability of special use permit to telecommunications towers.

A. No person shall be permitted to site, place, build, construct or modify, or prepare any site for the placement or use of, a telecommunications tower after the effective date of this chapter without having first obtained a special use permit for a telecommunications tower.

(1) Notwithstanding anything to the contrary in this section, no special use permit shall be required for the following:

(a) A tower used or proposed to be used solely and exclusively for public safety and emergency services, including police, fire, ambulance, and rescue.

(b) A tower used or proposed to be used solely and exclusively for such other municipal services as Highway Department vehicles or public school transportation vehicles.

(c) A tower used or proposed to be used solely and exclusively for private reception of radio and television broadcast services, Direct-to-home satellite services, citizen's band, amateur (Ham) radio, and other similar private, residential communications systems serving users on an

individual property.

(d) A tower proposed to be located on the property of a governmental agency, which facility has been found not to be subject to the jurisdiction of the Town, or for which a resolution has been adopted by the Town Board to waive the special use permit.

(2) Co-location of a commercial antenna on any of the above towers shall require issuance of a special use permit.

B. New construction on any existing telecommunications tower shall comply with the requirements of this chapter.

§ 249-16. Public hearing required.

A. Prior to the approval of any application for a special use permit for a telecommunications tower, a public hearing shall be held by the Town Board, notice of which shall be published in the official newspaper of the Town no less than two weeks prior to the scheduled date of the public hearing. The applicant, at least three weeks prior to the date of the public hearing, shall provide to the Town the names and address of all landowners whose property is located within 1,500 feet of any property line of the parcel on which the proposed telecommunications tower is to be located. The Town Code Enforcement Officer shall mail to all such landowners notice of such public hearing. Such mailing shall be by first class mail at least two weeks prior to such hearing.

B. The Board shall schedule the public hearing referred to in Subsection A of this section once it finds the application is complete. The Board, at any stage prior to issuing a special use permit, may require such additional information as it deems necessary.

§ 249-17. Action on application for special use permit for telecommunications tower.

A. The Board will undertake a review of an application pursuant to this chapter in a timely fashion, consistent with its responsibilities, and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, and the applicant's desire for a timely resolution.

B. The Board may refer any application or part thereof to the Planning Board or any advisory committee for their recommendation.

C. Except for necessary building permits, and subsequent certificates of compliance, no additional permits or approvals from the Town, e.g. special permit, site plan approval or zoning approvals under Chapter 270, Zoning, shall be required for telecommunications towers or facilities covered by this chapter.

D. After the public hearing and after formally considering the application, the Board may approve and issue, or deny a special use permit. Its decision shall be in writing and shall be based on substantial evidence upon a record. The burden of proof for the grant of the permit shall always be upon the applicant.

E. If the Board approves the special use permit for a telecommunications tower, then the applicant shall be notified of such approval in writing within 10 calendar days of the Board's action, and the special use permit shall be issued within 30 days after such approval.

F. If the Board denies the special use permit for a telecommunications tower, then the applicant shall be notified of such denial in writing within 10 calendar days of the Board's action.

G. The Town's decision on an application for a special use permit for a telecommunications tower shall be supported by substantial evidence contained in the written record.

§ 249-18. Recertification and amendment of special use permit for telecommunications tower.

A. At any time between 12 months and six months prior to the first five-year anniversary date after the effective date of the permit and all subsequent fifth anniversaries of the original special use permit for a telecommunications tower, the holder of a special use permit for such tower shall submit a written request for recertification. In the written request for recertification, the holder of such special use permit shall provide the following:

(1) The name of the holder of the special use permit for the telecommunications tower.

(2) If applicable, the number or title of the special use permit;

(3) The date of the original granting of the special use permit;

(4) Whether the telecommunications tower has been moved, relocated, rebuilt, repaired, or otherwise modified since the issuance of the special use permit;

(5) If the telecommunications tower has been moved, relocated, rebuilt, repaired, or otherwise modified, then whether the Town approved such action, and under what terms and conditions, and whether those terms and conditions were complied with and abided by;

(6) Any requests for waivers or relief of any kind whatsoever from the requirements of this chapter and any requirements for a special use permit;

(7) That the telecommunications tower is in compliance with the special use permit and compliance with all applicable codes, laws, rules and regulations;

(8) A copy of the documentation of NIER levels for the site; and

(9) A copy of the inspection and maintenance records for the tower.

B. If, after such review, the Zoning Officer determines that the telecommunications tower is in compliance with the special use permit and all applicable codes, laws and rules, then the Zoning Officer shall recertify the special use permit for the telecommunications tower, which may include new provisions or conditions that are mutually agreed upon, or required by codes, law or regulation.

C. If the Zoning Officer does not complete its review, as required by Subsection B above, prior to the anniversary date of the special use permit, then the permit shall automatically be deemed extended for six months, in order for the Zoning Officer to complete its review.

D. If the holder of a special use permit for a telecommunications tower does not submit a request for recertification of such special use permit within the times required by Subsection A above, then such special use permit and any authorization thereof shall cease to exist on the date of the fifth anniversary of the original granting of the special use permit, or subsequent fifth anniversaries, unless the holder of the special use permit adequately demonstrates to the Zoning Officer that extenuating circumstances prevented a timely recertification request. If the Zoning Officer finds extenuating circumstances, then the holder of the special use permit may submit a late recertification request.

E. The holder of a special use permit may submit a written request for modifying existing antenna installations on a telecommunications tower, as may be necessary to improve coverage, capacity, deployment of new technology, or other upgraded service. This includes, but is not limited to:

(1) Replacement of one or more of the existing antennas and/or accessory equipment with a different model, type, or operating frequency;

(2) Change in the quantity of antennas and/or accessory equipment;

(3) Change in power level, orientation, or radiation pattern.

F. In the written request for modification, the holder of a special use permit shall provide all of the information listed in Subsection A above, as well as specific information and supporting documentation for the proposed modification.

G. The Zoning Officer will undertake a review of a request for amendment, and shall act on such request within 60 days of receiving sufficient information to perform such review. If, after such review, the Zoning Officer determines that the modification is in compliance with the special use permit and all applicable codes, laws and rules, then the Zoning Officer shall issue a telecommunications permit for this modification.

§ 249-19. Extent and parameters of special use permit for telecommunications tower.

The extent and parameters of a special use permit for a telecommunications tower shall be as follows:

A. Special use permits shall be nonexclusive.

B. Special use permits shall not be assignable or transferable without the express written consent of the Board, and such consent shall not be unreasonably withheld.

C. Special use permits may be revoked, canceled, or terminated for a violation of the conditions and provisions of the special use permit for a telecommunications tower, or for a material violation of this chapter.

D. Special use permits may be revoked, canceled, or terminated in the event the required NIER certifications are not submitted every five years.

E. If the holder of a special use permit fails to construct the proposed telecommunications tower or the proposed co-location antennas on an existing tower within 12 months after the effective date of the special use permit, then such permit and any authorization thereof shall expire on the first anniversary of the effective date, unless an extension is granted by the Board.

F. Any request shall be submitted not less than 90 days in advance of the above expiration date, along with justification for the request.

§ 249-20. Application fee.

A. The Town Board by resolution may set and update application fees. At the time that a person submits an application for a special use permit for a new telecommunications tower, such person shall pay an application fee of $5,000 to the Town of Dryden. If the application is for a special use permit for co-locating on an existing telecommunications tower, the fee shall be $1,000. The fee for a telecommunications permit shall be $300.

B. Submission of application.

(1) At the time that a person submits an application for a special use permit for a telecommunications tower, or for co-location on an existing telecommunications tower, the applicant may submit a written request for a waiver of a portion of the application fee called for in Subsection A above, and/or for the initial deposit required by § 249-14B above, and/or for the payment of the reasonable costs of the Town's consultant and expert evaluation of any such application as required by § 249-14B.

(2) No such request shall be considered unless it is in writing and submitted at the time the application is submitted.

(3) No application shall be considered complete until the Town Board has determined by resolution such request. The Town Board shall hold a public hearing with at least 10 days' prior notice. At such public hearing the applicant, or the applicant's authorized representative, shall present the case for such a waiver. In determining such request, the Town Board shall consider only such materials that have been submitted in support of, and in opposition to, such request and the comments made at such public hearing. In submitting such request, the applicant shall be deemed to have extended the time in which the Town Board must decide such application by 62 days.

(4) In determining such request for a waiver, the Town Board shall consider the following:

(a) Whether there is public funding involved for the proposed project, the source thereof and the amount in relation to the total project cost;

(b) Whether the proposed project would serve an existing under or unserved population of the Town;

(c) Whether the proposed project would benefit public centers such as schools, community centers, fire stations, etc.;

(d) Whether a similar or the same designed tower is proposed on multiple sites;

(e) The completeness and sufficiency of the application and the supporting documentation submitted therewith as required by Local Law No. 2 of the year 2006;[25]

(f) Whether it is in the overall public interest to waive a portion of the fees and/or deposit.

§ 249-21. Performance security.

The applicant and the owner of record of any proposed telecommunications tower property site shall be jointly required to execute and file with the Town a bond, or other form of security acceptable to the Town as to type of security and the form and manner of execution, in an amount and with such sureties as are deemed sufficient by the Board to assure the faithful performance of the terms and conditions of any special use permit issued pursuant to this chapter. The full amount of the bond or security shall remain in full force and effect throughout the term of the special use permit and/or until the removal of the telecommunications tower and any necessary site restoration is completed. The failure to pay any annual premium for the renewal of any such security shall be a violation of the provisions of the special use permit and shall entitle the Board to revoke the special use permit after prior written notice to the applicant and holder of the permit.

§ 249-22. Reservation of authority to inspect telecommunications towers.

A. In order to verify that the holder of a special use permit for a telecommunications tower and any and all lessees, renters, and/or licensees of a telecommunications tower place and construct such facilities, including towers and antennas, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the Town may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, towers, antennas and buildings or other structures constructed or located on the permitted site.

B. The Town shall pay for costs associated with such an inspection, except for those circumstances occasioned by said holder's, lessee's or licensee's refusal to provide necessary information, or necessary access to such facilities, including towers, antennas, and appurtenant or associated facilities, or refusal to otherwise cooperate with the Town with respect to an inspection, or if violations of this chapter are found to exist, in which case the holder, lessee or licensee shall reimburse the Town for the costs of such inspection.

C. Payment of such costs shall be made to the Town within 30 days from the date of

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25. Editor's Note: Said reference is to the law which originally comprised this chapter.

the invoice or other demand for reimbursement. In the event that the finding(s) of violation(s) is/are appealed in accordance with the procedures set forth in this chapter, said reimbursement payment must still be paid to the Town and the reimbursement shall be held in an account established by the Town specifically for this purpose, pending the final decision on appeal.

§ 249-23. Responsibilities of special use permit holders.

A. The holder of the special use permit for a telecommunications tower shall construct, maintain, repair, modify, or restore the permitted tower in strict compliance with all current technical, safety and safety-related codes adopted by the Town, county, state, or United States, including but not limited to the most recent editions of the National Safety Code and the National Electronic Code, the rules and regulations of the FAA and the FCC, as well as accepted industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to include, but are not limited to construction, building, electrical, fire, safety, health, and land use.

B. The holder of the special use permit granted under this chapter shall obtain, at its own expense, all permits and licenses required by any other applicable law, rule, regulation, or code, and must maintain the same, in full force and effect, for as long as required by the Town or other governmental entity or agency having jurisdiction over the applicant.

C. The holder of the special use permit shall periodically inspect and at all times maintain the permitted tower in compliance with this chapter and all conditions of the special use permit, including but not limited to items of structural integrity, corrosion protection, visual appearance, lighting, RF emissions, security, and grounding.

D. The holder of the special use permit shall at the time of recertification provide documentation to the Town that NIER levels at the site are within the threshold levels adopted by the FCC.

§ 249-24. Liability insurance.

A. A holder of a special use permit for a telecommunications tower shall secure and at all times maintain insurance coverage for the duration of the special use permit in amounts as set forth below:

   (1) Commercial general liability: $1,000,000 per occurrence/$2,000,000 aggregate;

   (2) Automobile coverage: $1,000,000 per occurrence/$2,000,000 aggregate;

   (3) Workers compensation and disability: statutory amounts.

B. When the Town is the owner, lessor or otherwise has a legal insurable interest in the site of the Tower, the commercial general liability insurance policy shall specifically include the Town and its officers and employees as additional insureds.

C. The insurance policies shall be issued by an agent or representative of an insurance

company licensed to do business in the state.

D. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least 30 days' written notice in advance of the cancellation of the insurance.

E. Renewal or replacement policies or certificates shall be delivered to the Town at least 15 days before the expiration of the insurance which such policies are to renew or replace.

F. Before construction or other work on a site or on a telecommunications tower is initiated, but in no case later than 15 days after the issuance of the special use permit, the holder of the special use permit shall deliver to the Town certificates of insurance representing the required coverage and amounts.

§ 249-25. Indemnification.

When the Town is the owner, lessor or otherwise has a legal insurable interest in the site of the Tower, the special use permit issued pursuant to this chapter shall contain a provision with respect to indemnification. Such provision shall require the holder of the special use permit, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the Town, its officers, and employees, from any and all penalties, damage, or charges and including, but not limited to, reasonable attorney's fees and fees of consultants and expert witnesses arising out of any claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are, caused by, the construction, erection, modification, location, products performance, operation, maintenance, repair, installation, replacement, removal, or restoration of a telecommunications tower within the Town.

§ 249-26. Penalties for offenses.

A. A violation of this chapter or any provisions, term or condition of a special use permit issued pursuant to this chapter is an offense and upon conviction thereof the holder of the special use permit shall pay to the Town a penalty as set forth in this section.

B. Each day that a violation exists beyond one week following written notification by the Town of such violation shall constitute a separate violation, subject to a separate penalty without the requirement of further notification of violation.

C. For situations where there is an imminent threat to the health or safety of the public, or the employees of any user or occupant of the telecommunications tower, there shall be no requirement for written notification by the Town to the holder of the special use permit. In such situations, verbal notification, delivered personally or by telephone, shall be deemed sufficient notice.

D. Amounts of penalty:

(1) For violation of any safety-related requirement, $1,000 per day per occurrence;

(2) For failure to maintain the permitted site in a safe condition and as required,

$1000 per day per occurrence;

(3) For construction or beginning construction, including site preparation without a special use permit or undertaking any change or modification in or to a telecommunications tower without a special use permit, $1,000 per day per occurrence;

(4) For failure to pay to the Town any moneys owed for any reason, $200 per day per occurrence;

(5) For failure to comply with any applicable Town, county, state or United States laws, ordinances, rules, regulations or requirements, $1,000 per day per occurrence.

E. In addition to any penalty provided for herein, the Town may also seek injunctive relief in a court of competent jurisdiction to prevent the continued violation of this chapter.

§ 249-27. Default and/or revocation.

A. If a telecommunications tower or telecommunications structure is repaired, rebuilt, placed, moved, relocated, modified or maintained in a manner not in compliance with the provisions of this chapter or the special use permit, then the Board shall notify the holder of the special use permit in writing of such violation. Such notice shall specify the nature of the violation or noncompliance and that the violations must be corrected within seven days of the date of the postmark of the notice, or the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this chapter, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Board may, in its sole discretion, order the violation remedied within 24 hours.

B. If within the period set forth in Subsection A above the telecommunications tower or telecommunications structure is not brought into compliance with the provisions of this chapter, or the special use permit, or substantial steps are not taken in order to bring the telecommunications tower or telecommunications structure into compliance, then the Board may, after a public hearing upon notice to the holder of the special use permit, revoke such special use permit and shall notify the holder of the special use permit within 48 hours of such action.

§ 249-28. Removal of telecommunications tower.

A. Under the following circumstances, the Board may determine that the health, safety, and welfare interests of the Town warrant and require the removal of a telecommunications tower:

(1) A telecommunications tower with a permit has been abandoned (i.e., not used as a telecommunications tower) for a period exceeding 90 consecutive days or for a total of 180 days in any 365-day period, except for periods caused by force majeure or Acts of God;

(2) A permitted telecommunications tower falls into such a state of disrepair that

it creates a health or safety hazard;

(3) A telecommunications tower has been located, constructed, or modified without first obtaining the required special use permit, or any other necessary authorization;

B. If the Board makes a determination as noted in Subsection A above, then the Board shall notify, in writing within 48 hours of such determination, the holder of the special use permit that said telecommunications tower is to be removed. In the event that no special use permit was issued for the tower, such notification shall be provided to the property owner of record. The Board may approve a temporary use agreement/permit, to enable the sale of the tower prior to its removal.

C. The holder of the special use permit, or its successors or assigns, shall dismantle and remove such telecommunications tower, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the Board. However, if the owner of the property upon which the telecommunications tower is located wishes to retain any access roadway to the tower site, the owner may do so with the approval of the Board.

D. If a telecommunications tower is not removed or substantial progress has not been made to remove the telecommunications tower within 90 days after the permit holder has received notice, then the Board may order officials, representatives or contractors of the Town to remove the telecommunications tower at the sole expense of the landowner and permit holder.

E. If the Town removes, or causes to be removed, a telecommunications tower, and the owner of the telecommunications tower does not claim the property and remove it from the site to a lawful location within 10 days, then the Town may take steps to declare the telecommunications tower abandoned, and sell it and its components.

F. Notwithstanding anything in this section to the contrary, the Board may approve a temporary use agreement/permit for the telecommunications tower, for no more 90 days, during which time a suitable plan for removal, conversion, or relocation of the telecommunications tower shall be developed by the holder of the permit, subject to the approval of the Board, and an agreement to such plan shall be executed by the holder of the permit and the Town. If such a plan is not developed, approved and executed within the ninety-day time period, then the Town may take possession of and dispose of the telecommunications tower in the manner provided in this section.

§ 249-29. Relief.

Any applicant desiring relief or exemption from any aspect or requirement of this chapter may request such from the Board at a preapplication conference, provided that the specific request for the relief or exemption is contained in the original application for a special use permit, or in the case of an existing or previously granted special use permit in a request for modification of a telecommunications tower and/or facilities. Such relief may be temporary or permanent, partial or complete, at the sole discretion of

the Board. However, the burden of proving the need for the requested relief or exemption is solely on the applicant to prove to the satisfaction of the Board. The applicant shall bear all costs of the Board or the Town in considering the request and the relief shall not be transferable to a new or different holder of the permit or owner of the Tower or facilities without the specific written permission of the Board, and such permission shall not be unreasonably withheld. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the relief or exemption will have no significant effect on the health, safety and welfare of the Town, its residents and other service providers.

§ 249-30. Conflict with other laws.

Where this chapter differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by county, state or United States laws, rules or regulations, the more restrictive or protective of the Town and the public shall apply.

§ 249-31. When effective.

This chapter shall be effective immediately upon filing the same with the New York Secretary of State and shall apply to all applications pending or filed after the effective date.

§ 249-32. Authority.

This chapter is enacted pursuant to the Municipal Home Rule Law. This chapter shall supersede the provisions of Town Law to the extent it is inconsistent with the same, and to the extent permitted by the New York State Constitution, the Municipal Home Rule Law, or any other applicable statute.

Chapter 257

WASTEWATER TREATMENT

ARTICLE I
Pollutant Limitations
[Adopted 11-10-1992 by L.L. No. 5-1992]

§ 257-1. Purpose and applicability.

A. The purposes of this article are to set forth specific discharge limitations (hereafter referred to as "local limits") to prevent pass-through and interference, to protect the safety and health of workers at the Ithaca Area Wastewater Treatment Facility (POTW) and to improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges. **[Amended 7-14-1998 by L.L. No. 5-1998]**

B. This article shall apply to all users of the POTW in the Town of Dryden and to persons who are, by resolution, agreement, contract, or permit users of the POTW.

§ 257-2. Definitions. [Amended 7-14-1998 by L.L. No. 5-1998]

The definitions set forth in § 222-3, as they may be revised from time to time, shall apply to the words in this article.

§ 257-3. Specific pollutant limitations. [Amended 7-14-1998 by L.L. No. 5-1998]

These local limits shall apply at each point of discharge to the sewerage system. In no case shall a user's discharge to the POTW violate the following specific limitations:

Pollutant	Maximum Concentration 30-Day Average (mg/l)	Maximum Concentration 24-Hour Average (mg/l)
Arsenic		0.6
Barium	80	240
Cadmium	2.5	7.5
Chromium, total	8	24
Chromium, hexavalent	1	3
Copper	2	6
Cyanide	0.2	0.6
Iron	180	540
Lead		20
Manganese	8	24
Mercury	1.5	4.5
Nickel		10
Silver	6	18
Zinc	20	35

Pollutant	Discharge Limit Instantaneous (ppm)
Oil and grease (petroleum based)	50

§ 257-4. Applicability of other requirements and prohibitions. [Amended 7-14-1998 by L.L. No. 5-1998]

All users further shall comply with all other requirements and prohibitions regarding discharges to the POTW set forth in all other local laws, including Chapter 222, Sewer Use, as it may be revised from time to time.

§ 257-5. When effective.

This article shall be in full force and effect after its publication, posting, and filing with the New York Secretary of State and upon approval by the U.S. Environmental Protection Agency.

Chapter 261

WATER USE

[The use and supply of water in the Town are governed by the rules and regulations of the Southern Cayuga Lake Intermunicipal Water Commission (SCLIWC), available in the Town offices and on the SCLIWC website.]

Chapter 270

ZONING

ARTICLE I
Title

§ 270-1.1. Short title.

This chapter should be referred to as the "Town of Dryden Zoning Law." This chapter may also be referred to as the "Zoning Law," or sometimes "this law," or "this chapter."

ARTICLE II
General Provisions

§ 270-2.1. Purpose.

The purpose of this chapter is to promote the health, safety and general welfare of the community; to conserve land and natural resources and, under and pursuant to the laws of the State of New York, to establish zones wherein regulations concerning the use of land and structures, the density of development, the size of yards, the percentage of a lot that may be occupied, and provisions for parking and control of signs are set forth so as to encourage the appropriate development of the Town and the preservation of the rural character of the community in accordance with the Town's 2005 Comprehensive Plan.

§ 270-2.2. Effect on other provisions.

The provisions of this chapter are in addition to provisions set forth in other Town of Dryden local laws, rules, regulations or ordinances, including but not limited to those of the State of New York, the United States and Tompkins County Health Department. Wherever the requirements of this chapter are at variance with the requirements of other Town of Dryden local laws, rules, regulations or ordinances, the more restrictive or those imposing the higher standards shall govern, as will the more restrictive requirements or standards of the State of New York, the United States and Tompkins County Health Department.

ARTICLE III
Terminology

§ 270-3.1. Word usage.

Except where specifically defined herein, all words used in this Law shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word "Lot" includes the word "plot," the word "Building" includes the word "Structure," the word "shall" is intended to be mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied."

§ 270-3.2. Definitions. [Amended 2-16-2017 by L.L. No. 3-2017; at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]

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

ABANDON — To give up with the intent of never again claiming one's right or interests in; to give over or surrender completely.

ADULT BOOKSTORE — An establishment having as a substantial or significant portion of its stock-in-trade in books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities and/or specified anatomical areas, or an establishment with a segment or section devoted to the sale or display of such material.

ADULT ENTERTAINMENT BUSINESS — A public establishment, location, or structure which features topless dancers, nude dancers or strippers, male or female, or a location, or structure used for presenting, lending or selling motion picture films, videocassettes, digital media, cable television, or any other such visual media, or used for presenting, lending, or selling books, magazines, publications, photographs, or any other written materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities and/or specified anatomical areas. An adult entertainment business includes an adult bookstore.

ADULT USE — The use of land, or a structure for an adult entertainment business or an adult bookstore.

AGRICULTURAL USE — See "farm operation."

AGRICULTURE-RELATED ENTERPRISE — A retail or wholesale enterprise providing services or products utilized in agricultural production, such as structures, agricultural equipment and agricultural equipment parts, livestock, feed, seed, fertilizer and agricultural equipment repairs and wholesale or retail sale of grain, fruit, produce, trees, shrubs, flowers or other products of local agricultural operations.

APPEAL — An application to the Zoning Board of Appeals (ZBA) for relief from and review of any order, requirement, decision, interpretation, or determination made by the administrative official charged with the enforcement of the Zoning Law.

ARTIST STUDIO/CRAFT WORKSHOP — A place where artists, artisans, craftsmen and other skilled tradespeople produce custom-made art or craft products, where they teach such skills, and/or where they sell such art or products.

AUTOMOTIVE REPAIR GARAGE — Any structure and/or lot used for the repair

and/or servicing of motor vehicles, or for motor vehicle body work, structural repair or painting.

AUTOMOTIVE SALES — Any lot or structure used for sales, rental or leasing of new or used cars, trucks, motorcycles, boats or other motorized vehicles, including tractors or construction vehicles.

AUTOMOTIVE SALVAGE/JUNKYARD — A lot or structure and any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old, or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any other purpose; such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles which, taken together, equal in bulk two or more such vehicles; provided, however, the term "junkyard" shall not be construed to mean an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal produce is scrap iron, steel or nonferrous scrap for sale for remelting purposes only.

AUTOMOTIVE TOWING SERVICE — An establishment that provides for the transport of a motor vehicle by towing, carrying, hauling or pushing from public or private property, and which may provide for the temporary storage of motor vehicles. This definition shall not include an automotive repair garage with a tow truck(s) which repairs vehicles on-site, nor shall this use be construed as a junkyard.

BED-AND-BREAKFAST ESTABLISHMENT — A dwelling having a resident host in a private single-family home with common dining and leisure rooms and lodging rooms for overnight accommodations, the rates for which include breakfast and lodging only, and in which no public restaurant is maintained and no other commercial services are offered. The bed-and-breakfast establishment shall have not more than 10 occupants as lodgers in at least three and not more than five rooms. The period of accommodation shall be of a clearly temporary nature. Such use shall not be construed as a boarding house.

BED-AND-BREAKFAST HOME — A dwelling having a resident host in the primary dwelling of a private single-family or two-family home in which at least one and not more than two rooms are provided for overnight accommodations, the rates for which include breakfast and lodging only, and in which no public restaurant is maintained. The bed-and-breakfast home shall not have more than four occupants as lodgers. The period of accommodation shall be of a clearly temporary nature. Such use shall not be construed as a boarding house.

BILLBOARD — See "sign - outdoor advertising billboard."

BOARDING HOUSE — Any dwelling in which more than three persons, either individually or as families, are housed or lodged for hire with or without meals. A rooming house or a furnished rooming house shall be deemed a boarding house.

BUFFER STRIP — A row of densely planted shrubs and trees with low branches intended to reduce noise and screen out objectionable views.

BUILDING — Any structure where space, greater than 150 square feet in area, is covered or enclosed (see "structure"). The preferred term is "structure."

BUILDING HEIGHT — The vertical distance from finished grade to the highest point of a flat roof or the midpoint of a pitched roof. On a hillside lot, finished grade should be considered as the average finished grade on the uphill side of a structure.

BUILDING LINE — The line formed by the intersection of a vertical plane that coincides with the most projected surface of the structure.

BUILDING PERMIT — A building permit issued by the Town based upon plans that comply with all applicable codes, statutes, laws, rules, regulations and necessary approvals.

BUILDING, ACCESSORY — A subordinate structure, the use of which is customarily incidental to that of the principal building, and located on the same lot as the principal building.

BUILDING-INTEGRATED PHOTOVOLTAIC SYSTEM — Photovoltaic building components integrated into building envelope components such as glass or other building facade materials, skylights, or roofing materials.

BUILDING-MOUNTED SOLAR ENERGY SYSTEM — A solar energy system located on the exterior of any legally permitted building or structure or integrated into a building envelope for the purpose of producing electricity or providing thermal energy for on-site or off-site consumption. This system may be mounted to the roof or side of a structure or be a building-integrated photovoltaic system.

CABIN or COTTAGE — A structure designed for seasonal occupancy and not suitable for year-round living.

CAMPGROUND — An area to be used for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes, or similar movable or temporary sleeping quarters of any kind. This use shall not be construed as a retreat or conference center.

CAR WASH — A structure or portion thereof used exclusively for the business of washing, cleaning and waxing motor vehicles.

CEMETERY — Land used or intended to be used primarily for the burial of the dead and dedicated to cemetery purposes.

COMMERCIAL DEVELOPMENT DESIGN GUIDELINES — The Town of Dryden Commercial Development Design guidelines adopted on December 3, 2008, as an amendment to the Town of Dryden Zoning Ordinance. These guidelines are now found in Appendix C, and are hereby made a part of this chapter by reference to such appendix.[26]

COMMERCIAL HORSE-BOARDING OPERATION — An agricultural enterprise, consisting of at least seven acres and boarding at least 10 horses, regardless of ownership, that receives $10,000 or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this definition be construed to include operations whose primary on-site function is horse racing.

COMPREHENSIVE PLAN — The Town of Dryden Comprehensive Plan adopted by the Town Board pursuant to Town Law § 272-a on December 8, 2005, including

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26. Editor's Note: Appendix C is included as an attachment to this chapter.

amendments thereto.

CONGREGATE CARE FACILITY — A facility providing residential care and services in community integrated settings for persons who may require assistance with daily activities. Such services may include twenty-four-hour supervision, room and board, housekeeping, case management, recreation programs, medication management and, where necessary, provision or arrangement for the provision of enhanced professional services such as medical, nursing, physical therapy and other personal care services. Congregate care facilities include assisted-living programs and adult care facilities run in accordance with New York State requirements.

CONTRACTOR'S YARD — Any space, whether inside or outside a building, used for the storage or keeping of operable construction equipment, machinery or vehicles or parts thereof which are used by a construction contractor. A building trade or construction contractor is defined as but not limited to carpenters, electricians, masons, site work contractors, plumbers; heating, ventilating, and air conditioning (HVAC) technicians, general contractors, etc.

DAY-CARE CENTER, CHILD — A facility which is not a dwelling unit in which care is provided on a regular basis to three or more children [see 18 NYCRR 413.2(b)(1)].

DAY-CARE HOME, FAMILY — A dwelling unit which is a personal residence and occupied as a family residence which provides day care to three to six children [see 18 NYCRR 413.2(b)(2)].

DAY-CARE HOMES, GROUP FAMILY — A dwelling unit which is a personal residence and occupied as a family residence which provides day care on a regular basis for seven to 12 children [see 18 NYCRR 413.2(b)(3)].

DWELLING — A house, apartment, or other place of residence.

DWELLING UNIT (DU) — A group of rooms which are designed for residential occupancy by a single family and providing housekeeping facilities for such family. In determining the number of dwelling units within a structure, consideration is given to the separate use of or the provision made for cooking, heating and sanitary facilities, whether installed or not; both the actual use to which the dwelling is being put and the potential use to which the dwelling might be put.

DWELLING, ACCESSORY UNIT — A secondary dwelling unit which is accessory to a single-family dwelling, for use as a complete, independent living facility with provisions within the accessory unit for cooking, eating, sanitation, and sleeping. An accessory dwelling unit may also be located in an accessory structure to the principal single-family dwelling, such as a detached garage, provided that the accessory structure is clearly an accessory use to the single-family dwelling. An accessory dwelling unit shall not be confused with a two-family dwelling.

DWELLING, MULTIFAMILY — A dwelling with separate living units for three or more families having separate or joint entrances and including apartments, group homes, townhouses, cottage homes and condominiums, also a group of dwellings on one lot with each dwelling containing separate living units for three or more families having separate or joint entrances and including apartments, group homes, townhouses, cottage homes and condominiums.

DWELLING, SINGLE-FAMILY — A detached structure (not including a mobile home) that is designed or used exclusively as living quarters for one family.

DWELLING, TOWNHOUSE — A series building of three or more attached dwelling units, each of which shares at least one common wall with an adjacent dwelling unit. For the purposes of this chapter, except where specifically stated otherwise herein, a townhouse dwelling shall be construed as a form of multifamily dwelling.

DWELLING, TWO-FAMILY — A detached dwelling containing no more than two dwelling units for the use and occupation by no more than two families.

DWELLING, UPPER-FLOOR APARTMENT(S) — One or more dwelling units that are located above a commercial use.

EDUCATIONAL USE — Use of land where learning in a general range of subjects is provided, including related support and accessory uses, associated with the educational purposes of the institution. The definition includes institutions that provide cultural education, such as museums or galleries.

ELDER COTTAGE — A separate, detached, temporary single-family dwelling, accessory to a single- or two-family dwelling on a lot; and occupied by no more than two residents, one of whom must be 55 years of age or older.

FAMILY — An individual, or two or more persons related by blood, marriage or adoption, occupying a dwelling unit and living as a single household. For purposes of this chapter, a family may also consist of not more than four unrelated individuals occupying a dwelling unit and living as a single household. The two definitions cannot be combined.

FARM OPERATION — The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a commercial horse boarding operation, a timber operation and compost, mulch or other biomass crops," as defined in the New York Agriculture and Markets Law. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

FARM STAND — A seasonal or temporary stand for the sale and display of farm products.

FRONTAGE — The linear measurement in feet of that part of a lot coincident with a public highway measured at the edge of the public highway. A corner lot shall be considered to have frontages on both public highways.

GASOLINE STATION — A lot, including structures thereon or parts thereof, other than an automotive repair garage, that is used for the sale of motor fuels dispensed from pumps and motor vehicle accessories and supplies. Permitted accessory uses may include facilities for lubricating, washing or other minor servicing of motor vehicles and/or the retail sale of convenience items, including but not limited to snacks and beverages, provided such accessory uses are located indoors. Motor vehicle body work, major structural repair or painting by any means are not to be considered permitted accessory uses.

GREEN NEIGHBORHOOD DEVELOPMENT — A neighborhood developed and certified in LEED Neighborhood Development rating system and achieving at least basic certification.

GREEN SPACE — The area of a development not occupied by structures or paved

areas for vehicles and including formal stormwater management facilities (no more than 20% of total lot area) as well as green infrastructure stormwater facilities (open space set aside, swales and 60% of the area of a green roof if not accessible by or visible to the public), and including parks, dedicated open space, landscaped areas (plantings, lawns, parking lot islands), and including sidewalks or trails used to access these areas, including accessory structures accessible to the public and intended to enhance the green space.

GROUND-MOUNTED SOLAR ENERGY SYSTEM — A solar energy system that is anchored to the ground and attached to a pole or other mounting system, that is detached from any other structure, and that has the primary purpose of producing electricity or thermal energy for on-site or off-site consumption.

HAMLET OF VARNA COMMUNITY DEVELOPMENT PLAN — An amendment to the Comprehensive Plan pursuant to Town Law § 272-a and adopted by the Town Board on December 20, 2012.

HIGHWAY — See "public highway."

HOME OCCUPATION: LEVEL 1 — A business conducted entirely within a dwelling and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes, and which use does not change the character thereof, and which business does not involve the employment of more than one person at the dwelling on a daily basis. The business may employ others who do not report to the dwelling on a daily basis. There shall be no exterior evidence of such home occupation, except for a sign in accordance with § 270-9.4C(3)(c).

HOME OCCUPATION: LEVEL 2 — A business conducted on a residential property and carried on by the inhabitants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes, and which use does not change the character thereof. A Level 2 home occupation may employ up to three persons who report to the dwelling on a daily basis. The business may have more employees who do not report to the dwelling on a daily basis.

HOTEL — A facility offering transient lodging accommodations for a daily rate to the general public. A hotel may provide additional services, such as restaurants, meeting rooms and recreation facilities. The period of accommodation shall be of a clearly temporary nature. Such use shall not be construed as a boarding house.

INDUSTRY - LIGHT — A manufacturing or maintenance operation conducted wholly within one or more structures where any process is used to alter the nature, size or shape of articles or raw materials or where articles are assembled and where said goods or services are consumed or used at another location. The exterior appearance of the structures shall resemble office buildings and the impacts of the use (noise, fumes, and vibrations) shall not exceed those typically associated with an office use.

INDUSTRY-MANUFACTURING — Establishments engaged in the mechanical or chemical transformation of materials or substances into new products, including the assembly of component parts, the creation of products, and the blending of materials such as oils, resins or liquors. These industry-manufacturing uses have greater impacts than light industry uses in terms of noise, fumes, and vibrations.

INN — A commercial facility, resembling in character traditional residential construction, providing lodging and meals which is characterized by common dining

facilities and a common leisure room available for use by lodgers and the general public. The period of accommodation shall be of a clearly temporary nature. Such use shall not be construed as a boarding house.

INVASIVE SPECIES — Non-native plant species on the list of invasive plants compiled by F. Robert Wesley, April 1998, which includes the common name, species name and family. This list is now found in Appendix D, and is hereby made a part of this chapter by reference to such appendix.[27]

KENNEL — Any commercial establishment where four or more dogs, cats, or other animals over three months of age are kept, raised, sold, boarded, bred, shown, treated, or groomed.

LARGE-SCALE SOLAR ENERGY SYSTEM — A solar energy system that feeds electricity directly into the grid, is primarily for the purpose of on-site or off-site sale or electricity consumption, and is larger than 2,000 square feet in area of solar collectors (measuring the equipment surface area) per lot. This system may be ground-mounted or building-mounted.

LEED — The acronym for "Leadership in Energy and Environmental Design." LEED is a family of green building rating systems developed by the United States Green Building Council (USGBC). LEED provides verification of high environmental performance in building and neighborhood design and construction. The LEED family of rating systems includes a rating system for neighborhood development. A LEED rating system contains a combination of required prerequisites and optional credits and evaluates projects based on a 100-point base scale (not including up to 10 special "innovation" and "regional priority" bonus points, explained in the rating system). Projects seeking certification must meet all prerequisites and earn at least 40 points by achieving various credits. Beyond basic certification, projects may achieve Silver (50 points), Gold (60 points), or Platinum (80+ points) certification for increasingly high performance.

LIBRARY — A public institution with a structure containing printed, pictorial, and audiovisual material for public use for purposes of study and reference.

LOADING BERTH — A dedicated area for the receipt or distribution of materials or merchandise by motor vehicles, including space for their standing, loading and unloading.

LODGE or CLUB — A membership organization that holds regular meetings and may, subject to other regulations controlling such uses, maintain dining facilities, serve alcohol, or engage in professional entertainment for the enjoyment of dues paying members and their guests, as well as programs for the general public, such as retreats and recreational, educational, cultural, health, and public interest-related programs.

LOT — An area of land having defined boundaries held in separate ownership from adjacent property and which in all respects complies with the requirements of the district in which it is situate.

LOT AREA — An area of land the size of which is determined by the limits of the lot lines bounding said area and is usually expressed in terms of square feet or acres.

LOT COVERAGE — A measure of intensity of land use (usually represented as a percentage of the lot area) that represents the portion of a lot that is impervious (i.e.,

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27. Editor's Note: Appendix D is included as an attachment to this chapter.

does not absorb water). This percentage includes but is not limited to all areas covered by structures, driveways, roads, sidewalks, parking areas, and any other impervious area.

LOT DEPTH — The mean horizontal distance between the front and rear lot lines measured in the general direction of the side lot lines. For the purposes of these definitions and the provisions of this chapter, lot depth and setback lines shall be measured from the title line of dedicated, platted or deeded public highways and from the user line for highways by use.

LOT OF RECORD — Any lot with an area, width or other dimension which is less than prescribed for a lot in the district in which such lot is situated if such lot is:

A. Under one ownership of record since the effective date of the original Town of Dryden Zoning Ordinance;

B. Under one ownership of record since the time of any amendment to the original Town of Dryden Zoning Ordinance, which amendment changed the area, width or other dimension requirements with respect to lots in such district and which lot, except for such amendment, would have been in all respects in conformance with the requirements of such original Zoning Ordinance; or

C. Any lot shown on an approved subdivision plat filed with the Tompkins County Clerk and not combined with any other lot or parcel for the purposes of real property assessment at any time following such filing.

LOT WIDTH — The horizontal distance between the side lot lines taken at the front yard line or principal building line and measured along a line which is at right angles to the lot depth.

MANUFACTURED HOME — A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term shall include any structure that meets all of the requirements of this definition, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under Title 42 of the United States Code; and except that such term shall not include any self-propelled recreational vehicle.

MANUFACTURED HOME PARK — A parcel of land under single ownership, which is improved for the placement of manufactured homes for nontransient use and which is offered to the public for the placement of five or more manufactured homes.

MINING — The excavation and sale of topsoil, sand, gravel, clay or other natural solid mineral or vegetable deposit, or the quarrying of any kind of rock formation.

MINING NOT SUBJECT TO STATE JURISDICTION — All mining which is not defined as mining subject to state jurisdiction.

MINING SUBJECT TO STATE JURISDICTION — An operation which results in the mining or proposed mining from each use of more than 1,000 tons or 750 cubic yards, whichever is less, of minerals from the earth within 12 successive calendar months, or an operation which results in the mining or proposed mining of over 100 cubic yards of

minerals from or adjacent to any body of water not subject to the jurisdiction of the New York State Environmental Conservation Law or the Public Lands Law.

MOBILE HOME — A moveable or portable unit designed and constructed to be towed on its own chassis, comprised of frame and wheels, connected to utilities, and designed and constructed without a permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity as well as two or more separately towable components for repeated towing. "Mobile home" shall mean units designed to be used exclusively for residential purposes, excluding travel trailers.

MOTEL — See "hotel."

MUNICIPAL FACILITIES — Highways, water and/or sewer facilities or other public services or facilities that are directly or indirectly provided and maintained by a municipality.

MUNICIPAL USE — For the purposes of the use restrictions of this chapter, means the use of land, building, or structures owned by the Town of Dryden or other municipal corporations or governmental bodies.

NATURAL GAS — Any gaseous substance, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions, and/or gaseous components or vapors occurring in or derived from petroleum or other hydrocarbons.

NATURAL GAS AND/OR PETROLEUM EXPLORATION — Geologic or geophysical activities related to the search for natural gas, petroleum or other subsurface hydrocarbons, including prospecting, geophysical and geologic seismic surveying and sampling techniques, which include but are not limited to core or rotary drilling or making an excavation in the search and evaluation of natural gas, petroleum, or other subsurface hydrocarbon deposits.

NATURAL GAS AND/OR PETROLEUM EXPLORATION AND PRODUCTION MATERIALS — Any solid, semisolid, liquid, semiliquid or gaseous material used in the exploration or extraction of natural gas.

NATURAL GAS AND/OR PETROLEUM EXTRACTION — The digging or drilling of a well for the purposes of exploring for, developing or producing natural gas, petroleum or other subsurface hydrocarbons.

NATURAL GAS AND/OR PETROLEUM SUPPORT ACTIVITIES — The construction, use, or maintenance of a storage or staging yard, a water or fluid injection station, a water or fluid gathering station, a natural gas or petroleum storage facility, or a natural gas or petroleum gathering line, venting station, or compressor associated with the exploration or extraction of natural gas or petroleum.

NATURAL GAS EXPLORATION AND/OR PETROLEUM PRODUCTION WASTES — Any garbage, refuse, cuttings, sludge, flow-back fluids, produced waters or other discarded materials, including solid, liquid, semisolid, or contained gaseous material that results from or is associated with the exploration, drilling or extraction of natural gas and/or petroleum.

NEIGHBORHOOD DEVELOPMENT — The development or redevelopment in Varna of at least three tax parcels, or an area of at least two acres.

NET METERING — A billing arrangement whereby the solar energy producer receives credit for excess electricity generated and delivered to the power grid, paying only for the power used in excess of that generated and delivered to the power grid.

NONCONFORMING USE — A structure or use of land legally existing on the date of enactment of this chapter or amendment hereto which does not comply with the allowed use regulations of the zone in which said structure or use is located.

NURSERY/GREENHOUSE, RETAIL — A retail establishment for the growth, display, and/or sale of plants, shrubs, trees, and materials used in indoor or outdoor planting, conducted within or without an enclosed structure.

OFFICE BUILDING — Any structure in which space is rented and persons employed in or who conduct the management or direction of an agency, business, organization, profession, or public administration, but excluding such uses as retail sale, manufacture, assembly or storage of goods, or places of assembly and amusement.

OPEN SPACE — Any space or area characterized by: natural scenic beauty; or whose existing openness, natural condition, or present state of use enhances the present or potential value of abutting or surrounding property, or maintains or enhances the conservation of natural or scenic resources. For purposes of this chapter, natural resources shall include, but not be limited to, agricultural lands actually used in bona fide agricultural production.

OUTDOOR STORAGE — Commercial and industrial storage outside the confines of an enclosed structure of any equipment or materials in usable condition which are not being specifically displayed as merchandise or offered for sale. Outdoor storage shall not be construed as a junkyard, contractor's yard or self-storage.

PARKING SPACE — An off-street space available for parking one vehicle and which dimensions are nine feet wide and 20 feet long, not including maneuvering area and access drives, but with Board approval in site plan review or special use permit review may be approved to be modified to target specific vehicles such as compact cars and motorcycles.

PAVED — A smooth, hard, dense surface, which is durable and well drained under normal use and weather conditions.

PLANNED UNIT DEVELOPMENT — An area of land intended to provide for a variety of land uses planned and developed in a manner which will provide a community design that preserves critical environmental resources, provides above-average open space amenities, incorporates creative design in the layout of structures, green space and circulation of vehicles and pedestrians; assures compatibility with surrounding land uses and neighborhood character; and provides efficiency in the layout of highways, public utilities, and other municipal facilities.

PLANNING BOARD — The Town of Dryden Planning Board.

PROFESSIONAL OFFICE — A structure used for the organizational or administrative aspects of a trade or profession or used in the conduct of a business and not involving the manufacture, storage, display, or direct retail sales of goods, characterized by low traffic and pedestrian volumes, lack of distracting, irritating, or sustained noise, and low density of building developments. This definition may include, but is not limited to, the offices of: accountants, appraisers, architects, planners, engineers, financial planners, insurance brokers or adjusters, landscape architects, lawyers, consultants, secretarial

agencies, bonding agencies, real estate, mortgage or title agencies, investment agencies, and persons with similar occupations.

PUBLIC HIGHWAY — A road or street, either deeded or by prescriptive easement, that is maintained by a, village, Town, county, state or the federal government.

PUBLIC SAFETY USE — Voluntary or professional individuals or entities providing municipal/governmental services providing for the health, safety, and general welfare of the public; including, but not limited to, fire, emergency, medical, and police services.

PUBLIC SEWER AND/OR WATER FACILITIES — A sewage disposal system or water supply and distribution system operated by a municipality; a sewage disposal system or water supply and distribution system authorized for public use, whether for a residential subdivision, or for commercial, industrial or manufacturing buildings, and approved by the New York State and/or Tompkins County Departments of Health, the Department of Environmental Conservation, and any other governmental agency having jurisdiction thereof.

PUBLIC UTILITY — Infrastructure and services that supply an everyday necessity to the public at large, such as public water and/or public sewer facilities, electricity, natural gas, and telecommunications. A public utility may be owned and operated by a municipality or a private entity, or a combination thereof.

RECREATION, ACTIVE — Recreation that involves organized athletic activities requiring fixed infrastructure such as playing fields and/or accessory infrastructure such as seating areas, changing facilities and/or concessions. Active recreational activities include but are not limited to team sports such as baseball, soccer, and lacrosse, smaller group sports such as racquet sports, golf courses (and associated facilities such as driving ranges) and other active recreational uses that require permanent infrastructure such as a skateboarding park or ice rink.

RECREATION, PASSIVE — Recreation that generally does not involve organized athletic teams and/or significant fixed infrastructure, apart from such improvements as trails, parking areas, rest rooms, picnic shelters and the like. Passive recreational activities include but are not limited to jogging, biking, cross-country skiing, hiking, walking on recreational trails and paths, horseback riding, wildlife viewing, picnicking and relaxation.

RECREATIONAL FACILITY, AMUSEMENT — A commercial or noncommercial recreational use that may be permanent or temporary in nature, for the conducting of recreational activities, including but not limited to traveling carnivals, circuses, amusement parks, driving ranges (not associated with a golf course), batting cages, mini-golf, paintball courses, bowling centers, roller-skating facilities, and similar indoor or outdoor recreational activities. A public park shall not be considered and regulated as an amusement recreational facility.

RECREATIONAL FACILITY, ATHLETIC — A commercial or noncommercial recreational use that may be permanent or temporary in nature, for the conducting of recreational activities including but not limited to swimming, tennis, court games, baseball and other field sports, riding academies, and playground activities, but excluding recreational activities involving mechanical devices that are powered by nonhuman means, such as motorized vehicles. A public park shall not be considered and regulated as an athletic recreational facility.

RECREATIONAL FACILITY, MOTORIZED — A commercial or noncommercial recreational use or accessory use that may be permanent or temporary in nature, which involves the operation of motorized vehicles which includes all-terrain vehicles, motorcycles etc., including but not limited to go-kart tracks, dirt bike tracks, and race tracks.

REDEVELOPMENT — The planning, development, design, clearance, construction, or rehabilitation of existing property improvements, regardless of whether a change in the principal or accessory use occurs.

RELIGIOUS INSTITUTION — Use of land and/or structures by a tax-exempt institution, a bona fide religious sect or denomination where religious worship and related activity is conducted.

RESIDENTIAL DESIGN GUIDELINES — The Town of Dryden Residential Development Design Guidelines adopted on December 3, 2008, as an amendment to the Town of Dryden Zoning Ordinance. These guidelines are now found in Appendix B, and are hereby made a part of this chapter by reference to such appendix.[28]

RESTAURANT — An establishment, including taverns but excluding bars, where food and drink is prepared, served, and sold.

RETAIL BUSINESS — Any business involving the sale in small quantities of a larger inventory of items to transient customers whether in a shop or other building, or electronically or by mail.

RETAIL SHOPPING CENTERS/PLAZAS — A lot used for two or more commercial units, attached or detached, which relate to a common parking area and common points of ingress and egress and a common circulation pattern.

RETREAT OR CONFERENCE CENTER — A facility used for service organizations, businesses, professional, educational, or religious meetings or seminars limited to accommodations for attendees. The accommodations can include sleeping, eating, and recreation.

ROAD — See "public highway."

SELF-STORAGE — A structure or structures in which materials, goods, or equipment are stored with separate storage units having individual access for storage of personal or business property. Self-storage operations with several separate structures shall all be considered together to form one primary structure for the purpose of site plan review.

SENIOR CARE FACILITY — A living and care facility for over 10 seniors in a variety of settings.

SENIOR HOUSING, FAMILY — Living facilities offering a family type of living environment where residences are designed to feel like a home instead of a medical facility and to blend in architecturally with neighboring homes. The residences are designed as efficient homes for six to 10 seniors, each of whom has a private room with a private bath and easy access to all communal areas of the house, including a living room area, dining area, kitchen, laundry, outdoor garden, and patio.

SEQR — The New York State Environmental Quality Review Act found in Environmental Conservation Law Article 8 and the implementing regulations found in 6

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28. Editor's Note: Appendix B is included as an attachment to this chapter.

NYCRR Part 617.

SERIES OF BUILDING — For the purposes of this chapter, a series of multifamily dwelling units with shared wall construction.

SERVICE BUSINESS — Any business or nonprofit organization that provides services to individuals, businesses, industry, government, or other enterprises.

SETBACK LINES — See "yards."

SHORT-TERM RENTAL — Rental of a residence or a portion of a residence to the same natural person or family for fewer than 30 consecutive days.**[Added 11-19-2020 by L.L. No. 4-2020]**

SIGN — Any device, object, or building facade used for the visual communication or advertisement of a place, building, product, service or name.

SIGN, OUTDOOR ADVERTISING BILLBOARD — Any device, object, or building facade situated on private property and used for advertising goods, services or places other than those directly related to the property on which said sign is located.

SITE PLAN — A rendering, drawing, or sketch prepared to specifications and containing necessary elements, as set forth in this chapter, which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan. Plats showing lots, blocks or sites subject to review as subdivisions under Town Law § 276 and Chapter 240, Subdivision of Land, are also subject to review as site plans.

SMALL-SCALE SOLAR ENERGY SYSTEM — A solar energy system that has the primary function of serving the building(s) with which it is associated on the same lot, but also may have the ability to sell small quantities of energy back to the electric utility provider and does not exceed 2,000 square feet in area of solar collectors (measuring the equipment surface area) per lot. This system may be ground-mounted or building-mounted, and includes building-integrated photovoltaic systems, other types of photovoltaic solar energy systems, and solar thermal systems.

SOLAR COLLECTOR — A photovoltaic cell, panel or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR EASEMENT — A document recorded pursuant to NYS Real Property Law § 335-b, the purpose of which is to secure the right to receive sunlight across real property of another for continued access to sunlight necessary to operate a solar energy system.

SOLAR ENERGY APPLICANT — Any person, firm, corporation or any other entity submitting an application to the Town of Dryden for a special use permit and/or site plan review for a solar energy system.

SOLAR ENERGY EQUIPMENT — Solar collectors, controls, inverters, energy storage devices, and other materials and hardware, associated with the production of electrical or thermal energy from solar radiation.**[Added 2-16-2017 by L.L. No. 3-2017]**

SOLAR ENERGY SYSTEM — An electrical or thermal energy generating system composed of solar collectors, solar thermal systems, and/or solar energy equipment.

SOLAR PANEL — A photovoltaic device capable of collecting and converting solar energy into electrical energy.

SOLAR THERMAL SYSTEM — A system in which water or other liquid is directly heated by the sunlight. The heated liquid is then used for purposes such as space heating and cooling, domestic hot water and the heating of swimming pools.

SPECIAL USE PERMIT — An authorization of a particular land use which is permitted in this chapter, subject to requirements imposed by this chapter and by the Board authorized to grant such permit to assure that the proposed use is in harmony with this chapter and will not adversely affect the neighborhood if such requirements are met.

SPECIFIED ANATOMICAL AREAS —

A. Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; or

B. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES —

A. Human genitals in a state of sexual stimulation or arousal;

B. Acts of human masturbation, sexual intercourse or sodomy; or

C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

STREET — See "public highway."

STRUCTURE — Anything constructed or erected on the ground or with a fixed location on the ground or attached to something having a fixed location on the ground. Structures include, but are not limited to, buildings of a size exceeding 150 square feet, walls and fences over six feet in height, radio towers, power-generating equipment such as freestanding windmills and solar panels, swimming pools designed for a depth of three feet or more, billboards, poster panels and signs. All structures, regardless of size, shall be erected in compliance with the setback requirements for their respective district. The following shall not be classified as structures for the purpose of this chapter: fireplace chimneys, flagpoles, and antennas.

TAVERN — A commercial structure where food is prepared, served, and sold and alcoholic beverages are consumed on the premises.

THEATER — A structure or part of a structure, devoted to showing motion pictures or for dramatic and/or comedic live performances including musicals, recitals, concerts, or other similar entertainment, including dinner theaters.

TIMBER OPERATION — The on-farm production, management, harvesting, processing and marketing of timber grown on the farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of $10,000 or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

TOWN BOARD — The Town Board of the Town of Dryden, Tompkins County, New York.

TRADITIONAL NEIGHBORHOOD DESIGN (TND) — A type of neighborhood design with a focus on pedestrian facilities, front porches, back alleys and emphasis on the human use of spaces in the resulting form and function, as well as commercial or mixed-use developments that emphasize human use of spaces and attractive character of buildings.

USE, ACCESSORY — A use which is customarily incidental and subordinate to the principal use on a lot and which is located on the same lot. Accessory uses or structures shall not be permitted on a lot without a permitted principal use or structure. Unless otherwise permitted in this chapter, an accessory structure shall not be permitted in the front yard of a principal use.

USE, PRINCIPAL — The main or primary use of land and/or structure on a lot and which determines the overall character and appearance of use on the lot.

VARIANCE —

A. VARIANCE, AREA — The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements established by this chapter.

B. VARIANCE, USE — The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by this chapter.

VARNA — That area of the Town encompassing the Varna Hamlet Mixed-Use District, Varna Hamlet Residential District, and Varna Hamlet Traditional District.

VARNA DESIGN GUIDELINES AND LANDSCAPE STANDARDS — The Town of Dryden "Hamlet of Varna Design Guidelines and Landscape Standards" adopted on December 20, 2012, and effective January 14, 2013, as an amendment to the Town of Dryden Zoning Ordinance. These guidelines and standards are found in Appendix E, and are hereby made a part of this chapter by reference to such appendix.[29]

WAREHOUSE — A building or part of a building designed for the receiving, storing, and distribution of goods, wares, and merchandise, whether for the owner or for others, and whether it is a public or private warehouse. This definition includes a wholesale business for shipping/receiving. Not including incidental or temporary use of an empty building for storage.

WORKSHOP/GARAGE, NONCOMMERCIAL — A structure used for the conduct of non-commercial, low-intensity activities such as woodworking, personal vehicle repair, and storage. Normally considered an accessory use, but may be allowed without a principal building.

YARD — A yard is a green space other than a court on a lot, unoccupied and unobstructed from the ground upwards between the lot line and the nearest line of the structures on the lot, except as otherwise permitted. (See illustration below for location of front, side and rear yards.)

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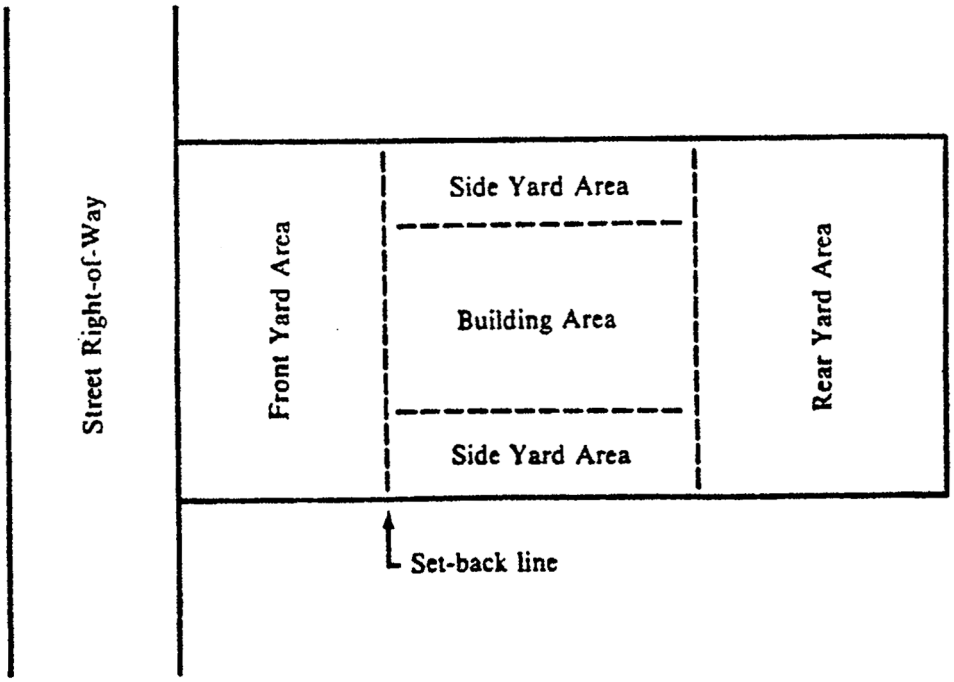
29. Editor's Note: Appendix F is included as an attachment to this chapter.


Street Right-of-Way
Front Yard Area
Side Yard Area
Building Area
Side Yard Area
Rear Yard Area
Set-back line

ARTICLE IV
Zoning Districts

§ 270-4.1. Districts.

For the purposes specified in this chapter, the Town of Dryden is divided into the following zoning districts:

A. CV Conservation District. The purpose of the Conservation (CV) District is to protect areas of the Town that contain a variety of ecological and open space assets that warrant protection from the impacts of development. Residential uses and agriculture will remain the primary land use activities.

B. LIO Light Industrial/Office District. The purpose of the Light Industrial/Office (LIO) District is to define a location in the Town for light industrial and warehousing enterprises, office buildings and administrative operations and service enterprises, or research and development enterprises such as computer software and equipment design businesses. Agriculture is an allowed use in this district.

C. LIO-A Light Industrial/Office/Adult Use District. The purpose of the Light Industrial/Office/Adult Use (LIO-A) District is to define an appropriate location in the Town for adult uses that is separated from and minimizes impacts to noncompatible uses such as residential areas, schools, churches and parks. In addition to adult uses, all other uses permitted within the Light Industrial/Office District are permitted within the Light Industrial/Office/Adult Use District. Agriculture is an allowed use in this district.

D. LSRDD Large-Scale Retail Development District. The purpose of the Large-Scale Retail Development District (LSRDD) is to provide the opportunity to evaluate a location in the Town where large-scale retail development may be appropriate, and to define specific requirements for the review and possible approval of large-scale retail shops and shopping centers. This type of development requires a special use permit and site plan review to develop a property for large-scale stores or shopping centers as defined herein. This district is not mapped, but may be proposed on any property, not in Tompkins County Agricultural District 1, along a state or county public highway.

E. MC Mixed-Use Commercial District. The Mixed-Use Commercial (MC) District allows a mix of retail and service businesses, office buildings and research and development businesses such as computer software and equipment design businesses as well as residential development. The district allows for mixed use development. Agriculture is an allowed use in this district.

F. NR Neighborhood Residential District. The purpose of the Neighborhood Residential (NR) District is to define areas of the Town where established neighborhoods are situated in a rural landscape and constitute the primary land use. Single-family homes are the predominant form of development, and future development is unlikely. Home occupations are the primary commercial activity in this district. Agriculture is an allowed use in this district.

G. RA Rural Agricultural District. The purpose of the Rural Agricultural (RA) District is to define an area of the Town primarily for agricultural use and associated natural

areas protection. The Rural Agricultural District is an area that is intended to remain rural and where agriculture is recognized as the primary land use. Small-scale rural businesses which are agriculturally related or supporting may be appropriate in this district.

H. RR Rural Residential District. The purpose of the Rural Residential (RR) District is to define an area of the Town where residential uses situated in a rural landscape constitute the primary land use. Public water and sewer does not exist in this area. Single- and two-family homes are the predominant form of development. Agriculture is also expected to be a substantial land use well into the future.

I. TNDO Traditional Neighborhood Development Overlay District. The purpose of the Traditional Neighborhood Development Overlay District (TNDOD) is to provide development alternatives for landowners located at the periphery of villages and in hamlets that do not currently have water or sewer. Public water and sewer does not currently exist in these areas, and it will be necessary to develop or extend such infrastructure in order to take advantage of the development alternatives provided under the provisions of this overlay district. Utilizing incentive zoning authority in Town Law, land in the overlay district can be developed more intensively in return for specified public benefits and the incorporation of Traditional Neighborhood Design (TND) principles in the design of sites and structures. Small-scale businesses, primarily in mixed-use structures, can also be incorporated into these areas.

J. VHMUD Varna Hamlet Mixed-Use District. The purpose of the Varna Hamlet Mixed-Use District (VHMUD) is to foster new and redevelopment of existing properties while retaining the traditional character of buildings, as well as the hamlet character found in Varna and described in the Varna Community Development Plan. The purpose includes Traditional Neighborhood Design, and commercial development of vacant lots, including the combining of lots and rehabilitation of existing buildings.

K. VHRD Varna Hamlet Residential District. The purpose of the Varna Hamlet Residential District (VHRD) is to foster development of new residential neighborhoods and accommodate existing neighborhoods. Lots in this district will be large enough to accommodate significant residential development without affecting the character of the hamlet.

L. VHTD Varna Hamlet Traditional District. The purpose of the Varna Hamlet Traditional District (VHTD) is to foster development in environmentally sensitive areas. This area is along Fall Creek, an important drainage area in the hamlet. Lot sizes and a limited amount of development that is sensitive to these resources, and designed in a more traditional manner are preferred.

§ 270-4.2. Zoning Map.

All land in the Town of Dryden shall fall within one of the established zones as shown on a map entitled the "Town of Dryden Zoning Map" dated September 1, 2011, and revised March 18, 2014. The original and official Town of Dryden Zoning Map as revised is filed with the Town Clerk. A reduced and unofficial copy is found in Appendix A-1.[30]

§ 270-4.3. Boundary determinations.

Where uncertainty exists as to the boundaries of a zoning district as shown on the Zoning Map, the following rules shall apply:

A. Zone boundaries are intended to follow parcel lines whenever possible. Where boundaries approximately follow parcel lines, such parcel lines shall be construed to be said boundaries.

B. Where district boundaries are indicated as approximately following the center line or right-of-way line of public highways, such lines shall be construed to be district boundaries and follow such center line or right-of-way line.

C. Where district boundaries are indicated as approximately following a stream, lake, or other body of water, such stream center line, lake or body of water shoreline shall be construed to be such district boundaries (unless otherwise noted on the Zoning Map). In the event of a change in the shoreline or stream, the district boundaries shall be construed as moving with the actual shoreline or stream.

D. Where a district boundary is not indicated as approximately following the items listed in Subsections A, B and C above, or is not designated on the Zoning Map, the boundary line shall be determined by the use of the Town's Geographic Information System utilizing the Zoning Map boundaries laid over aerial imagery.

E. Where district boundaries are based upon natural features such as slopes, topographic contour lines, watershed boundaries, soil types, or ecological communities, such boundaries may be more precisely established through field investigation by a qualified professional.

F. Whenever any public highway is abandoned in the manner authorized by law, the district adjoining each side of such highway shall be automatically extended to the center of the former highway, and all of the area included in the abandoned highway shall henceforth be subject to all regulations within the extended districts.

G. In the event that none of the above rules are applicable, or in the event that further clarification or definition is considered necessary or appropriate, the location of a district boundary shall be determined by the ZBA.

H. One parcel in two zones. Except in the VHMUD, VHRD, and VHTD, when a parcel is divided by a zoning district boundary, the regulations and requirements of the least restrictive zone may be extended for a distance of 100 feet into the more restrictive zone.

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30. Editor's Note: Appendix A-1 is included as an attachment to this chapter.

ARTICLE V
Use Regulations

§ 270-5.1. Restrictions on land/structure uses.

A. No structure or land shall be used except as provided in the Allowable Use Groups Chart in § 270-5.2. Uses which are not explicitly permitted are prohibited, unless specifically stated elsewhere by this chapter.

B. If an applicant proposes a land use that does not clearly fall within any of the categories contained in the Allowable Use Groups Chart in § 270-5.2, the Planning Department shall deny the application for a zoning permit and inform the applicant of the process of appealing such denial to the ZBA, or refer the applicant to the Town Board for its review and possible consideration of an amendment to this chapter.

§ 270-5.2. Allowable Use Groups Chart.

A. In the following Allowable Use Groups Chart:

"P" means the use is allowed as of right, but in many cases requires site plan review;

"PA" means an accessory use is allowed as of right;

"Special Use Permit" or "SUP" means the use requires a special use permit;

"X" means the use is not allowed in that particular district.

B. The following uses shall be subject to site plan review:

(1) All business group uses;

(2) All community group uses;

(3) All uses requiring a special use permit.

(4) Wherever specifically required by other sections of this chapter. **[Added 3-17-2016 by L.L. No. 1-2016]**

C. Building sizes:

(1) In the CV, RA and RR Districts, no Business Group Use shall include a structure larger than 5,000 square feet without a variance.[31]

(2) In the LIO and MC Districts, any use that includes a structure larger than 20,000 square feet requires a special use permit.

(3) No single retail structure shall be permitted in the Town larger than 45,000 square feet or a retail shopping center greater than 90,000 square feet, except as provided for in § 270-8.2.

(4) Agricultural structures directly related to an agricultural use shall be exempt

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31. Editor's Note: Original Section 501.C.2, regarding the H District, which immediately followed this subsection, was repealed at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

from all such building size limits.

Use Table [Amended 3-17-2016 by L.L. No. 1-2016; 2-16-2017 by L.L. No. 3-2017; 11-19-2020 by L.L. No. 4-2020]						
Uses	**NR Neighborhood Residential**	**RR Rural Residential**	**RA Rural Agricultural**	**CV Conservation**	**MC Mixed-Use Commercial**	**LIO, LIO-A Light Industrial/ Office**
Agricultural use	P	P	P	P	P	P
Farmstand	P	P	P	P	P	P
Adult use (see § 270-13.2)	X	X	X	X	X	SUP only permitted in LIO-A
Agriculture-related enterprise	X	SUP	P	P	P	SUP
Artist studio/ craft workshop	X	P	P	P	P	P
Automotive repair garage (see § 270-13.10)	X	SUP	SUP	SUP	SUP	SUP
Automotive sales	X	X	X	X	SUP	SUP
Automotive salvage and junkyards	X	X	SUP	SUP	SUP	SUP
Automotive towing service (see § 270-13.6)	X	X	SUP	X	SUP	SUP
Bed-and breakfast establishment	X	P	P	P	P	SUP
Boarding house	X	SUP	SUP	X	X	X
Campground	X	SUP	SUP	SUP	X	X
Car wash	X	P	P	P	SUP	P
Contractor's yard	X	SUP	SUP	X	P	P
Day-care center, child	X	SUP	SUP	X	P	P

Use Table [Amended 3-17-2016 by L.L. No. 1-2016; 2-16-2017 by L.L. No. 3-2017; 11-19-2020 by L.L. No. 4-2020]						
Uses	**NR Neighborhood Residential**	**RR Rural Residential**	**RA Rural Agricultural**	**CV Conservation**	**MC Mixed-Use Commercial**	**LIO, LIO-A Light Industrial/ Office**
Drive-through facility (see § 270-13.9)	X	X	X	X	SUP	SUP
Gasoline station	X	X	X	X	SUP	SUP
General office building	X	X	X	X	P	P
Hotel/motel	X	X	X	X	P	SUP
Industry, light	X	X	X	X	P	P
Industry/ manufacturing (see § 270-13.3)	X	X	X	X	SUP	SUP
Inn	X	SUP	SUP	SUP	P	X
Kennel (see § 270-13.8)	X	SUP	SUP	SUP	SUP	X
Large-scale retail development	X	SUP	X	X	SUP	SUP
Mining (see § 270-13.4)	X	X	SUP; see § 270-13.4 for restrictions	SUP; see § 270-13.4 for restrictions	X	SUP; see § 270-13.4 for restrictions
Nursery/ greenhouse, retail	X	SUP	P	SUP	P	X
Professional office	X	SUP	P	SUP	P	P
Restaurant	X	SUP	SUP	X	P	SUP
Retail business	X	X	SUP	X	P	P
Retail shopping centers/plazas	X	X	X	X	SUP	X
Retreat or conference center	X	SUP	SUP	SUP	SUP	X
Self-storage	X	X	X	X	SUP	SUP
Service business	X	SUP	SUP	X	P	P

Use Table [Amended 3-17-2016 by L.L. No. 1-2016; 2-16-2017 by L.L. No. 3-2017; 11-19-2020 by L.L. No. 4-2020]						
Uses	**NR Neighborhood Residential**	**RR Rural Residential**	**RA Rural Agricultural**	**CV Conservation**	**MC Mixed-Use Commercial**	**LIO, LIO-A Light Industrial/ Office**
Short-term rental	P	P	P	P	P	P
Theater	X	X	X	X	P	P
Warehouse	X	X	X	X	SUP	P
Bed-and-breakfast home	P	P	P	SUP	P	X
Congregate care facility	X	P	P	P	P	X
Day-care home, family	P	P	P	P	P	X
Day-care home, family group	P	P	P	P	P	X
Dwelling, accessory unit (see § 270-13.1)	P as per § 270-13.1	P as per § 270-13.1	P as per § 270-13.1	P as per § 270-13.1	P as per § 270-13.1	X
Dwelling, multifamily	X	See § 270-6.7	See § 270-6.7	X	SUP	X
Dwelling, single-family	See § 270-6.8	See § 270-6.7	See § 270-6.7	See § 270-6.8	X	X
Dwelling, two-family	X	See § 270-6.7	See § 270-6.7	See § 270-6.8	X	X
Dwelling, upper-floor apartment(s)	X	X	X	X	SUP	X
Elder cottage see § 270-13.5	See § 270-13.5	See § 270-13.5	See § 270-13.5	See § 270-13.5	See § 270-13.5	X
Home Occupation: Level 1	P	P	P	P	P	X
Home Occupation: Level 2	X	SUP	SUP	SUP	SUP	X
Manufactured home	X	P	P	P	SUP	X

Use Table [Amended 3-17-2016 by L.L. No. 1-2016; 2-16-2017 by L.L. No. 3-2017; 11-19-2020 by L.L. No. 4-2020]						
Uses	**NR Neighborhood Residential**	**RR Rural Residential**	**RA Rural Agricultural**	**CV Conservation**	**MC Mixed-Use Commercial**	**LIO, LIO-A Light Industrial/ Office**
Manufactured home park	X	SUP only with municipal water and sewer	SUP only with municipal water and sewer	X	SUP only with municipal water and sewer	X
Mobile home	X	X	X	X	X	X
Senior housing, family	SUP	SUP	SUP	SUP	SUP	X
Senior care facility	X	SUP	SUP	X	SUP	X
Solar energy systems	See § 270-13.12	See § 270-13.12	See § 270-13.12	See § 270-13.12	See § 270-13.12	See § 270-13.12
Workshop/ garage, noncommercial	P	P	P	P	P	P
Cemetery	X	P	P	P	P	P
Educational use	X	SUP	SUP	SUP	SUP	X
Library	X	SUP	X	X	SUP	X
Lodge or club	X	SUP	SUP	SUP	P	X
Municipal use	P	P	P	P	P	P
Public safety use	X	SUP	SUP	SUP	SUP	SUP
Public utility	X	SUP	SUP	SUP	SUP	SUP
Religious institution	SUP	SUP	SUP	SUP	SUP	SUP
Recreation, active	X	SUP	SUP	SUP	SUP	SUP
Recreation, passive	P	P	P	P	P	P
Recreation facility, amusement	X	X	SUP	X	SUP	SUP
Recreational facility, athletic	X	SUP	SUP	SUP	SUP	SUP
Recreational facility, motorized	X	X	SUP	SUP	X	X

Use Table [Amended 3-17-2016 by L.L. No. 1-2016; 2-16-2017 by L.L. No. 3-2017; 11-19-2020 by L.L. No. 4-2020]						
Uses	NR Neighborhood Residential	RR Rural Residential	RA Rural Agricultural	CV Conservation	MC Mixed-Use Commercial	LIO, LIO-A Light Industrial/ Office
Any accessory building or use determined by the Planning Department or Zoning Board of Appeals to be customarily incidental to a permitted use, including detached garages and sheds	PA	PA	PA	PA	PA	PA
Accessory recreational uses, such as swimming pools and sports courts, provided that they are in compliance with the setback requirements for the principal use	PA	PA	PA	PA	PA	PA
Off-street parking facilities	PA	PA	PA	PA	PA	PA

§ 270-5.3. Prohibited uses.

A. Prohibition against the exploration for or extraction of natural gas and/or petroleum. No land in the Town shall be used: to conduct any exploration for natural gas and/or petroleum; to drill any well for natural gas and/or petroleum; to transfer, store, process or treat natural gas and/or petroleum; or to dispose of natural gas and/or petroleum exploration or production wastes; or to erect any derrick, building, or other structure; or to place any machinery or equipment for any such purposes.

B. Prohibition against the storage, treatment and disposal of natural gas and/or petroleum exploration and production materials. No land in the Town shall be used for: the storage, transfer, treatment and/or disposal of natural gas and/or petroleum exploration and production materials.

C. Prohibition against the storage, treatment and disposal of natural gas and/or petroleum exploration and production wastes. No land in the Town shall be used for: the storage, transfer, treatment and/or disposal of natural gas and/or petroleum exploration and production wastes.

D. Prohibition against natural gas and/or petroleum support activities. No land in the Town shall be used for natural gas and/or petroleum support activities.

ARTICLE VI
Area and Bulk Regulations

§ 270-6.1. Area and bulk table.

The following table includes the minimum requirements for a building lot. Unless otherwise indicated this table does not indicate the number of lots that can be created from a parcel.

	NR Neighborhood Residential	RR Rural Residential	RA Rural Agricultural	CV Conservation	MC Mixed-Use Commercial	LIO, LIO-A Light Industrial/ Office
Minimum lot area With public sewer and water facilities (square feet)	10,000	10,000	10,000	10,000	10,000	10,000
Without public sewer and water facilities (acre)	1	1 except for major subdivisions; see § 270-6.5	1 except for major subdivisions; see § 270-6.5	1	1	1
Minimum front yard setback (feet)	50	50	50	50	40	40
Minimum side yard setback (feet)	15 feet	15 feet	15 feet	15 feet	0 or 7.5 feet if buildings are not attached 1 foot	15 feet
Accessory building with less than 15 feet building height and 200 square feet or less	1 foot	1 foot	1 foot	1 foot	1 foot	1 foot
Minimum rear yard setback	25 feet	25 feet	25 feet	25 feet	25 feet	25 feet
Accessory building less than 15 feet building height and 200 square feet or less	1 foot	1 foot	1 foot	1 foot	1 foot	1 foot
Minimum lot frontage (feet)	150	250; see § 270-6.3	250; see § 270-6.3	250; see § 270-6.3	150	150
Minimum lot width (feet)	100	100	100	100	125	125

	NR Neighborhood Residential	RR Rural Residential	RA Rural Agricultural	CV Conservation	MC Mixed-Use Commercial	LIO, LIO-A Light Industrial/ Office
Maximum lot coverage (%)	25%	25%	25%	15%	60%	60%
Maximum building height (feet)	35; see § 207-6.4	35; see § 207-6.4	35; see § 207-6.4	35; see § 207-6.4	35; see § 207-6.4	35; see § 207-6.4

§ 270-6.2. Relief from lot dimension requirements in CV, RR, RA, VHMU, VHR and VHT Districts. [Amended 12-15-2016 by L.L. No. 4-2016]

For relief from the minimum lot size and minimum lot frontage requirements in the CV, RR, RA, VHMU, VHR and VHT Districts, see Chapter 240, Subdivision of Land, which permits smaller lot dimensions by utilizing the conservation subdivision procedure.

§ 270-6.3. Flag lots in RR, RA and CV Districts.

A. A lot in the RR, RA, or CV Districts may derive its Frontage and access by means of a narrow portion of land connecting the Public Highway and the larger rear portion of the lot, provided that no portion of the access from the frontage shall be less than 25 feet wide. The front yard setback of such a flag lot shall be measured from the rear lot line of the lot between the flag lot and the public highway. In the case of a lot with radial or angled side lot lines, the front yard setback shall be established where the lot meets the minimum lot width requirement when measured parallel to the street from which the lot derives access.

B. Two or more adjacent flag lots shall provide access by a common driveway as provided in Chapter 240, Subdivision of Land.

C. No more than four flag lots shall be served by a common driveway.

§ 270-6.4. Exemptions from height requirements.

The following structures are exempt from building height requirements in the table above: church steeples, water towers, farm structures, public monuments, and those structures subject to approval under other local laws such as Chapter 202, Renewable Energy Facilities, and Chapter 249, Telecommunications Towers and Facilities.

§ 270-6.5. Special provisions for major subdivisions in RR and RA Districts.

For major subdivisions in the RR and RA Districts, the minimum lot size shall be two acres, unless the subdivider elects to proceed with subdivision approval pursuant to the conservation subdivision procedures as provided in Chapter 240, Subdivision of Land, in which case, for the purposes only of determining the number of lots which could be permitted if the property were subdivided into lots conforming to the minimum lot size requirements, the minimum lot size shall be deemed to be one acre.

§ 270-6.6. Density in MC Zone.

The following table includes the maximum density and related restrictions in the MC Zone:

Type of Dwelling	Dwelling Units per Acre	Restrictions
Multifamily (rental)	8	No greater than 20 dwelling units per building
Multifamily (townhouse or condominium), owner-occupied	10	No greater than 20 dwelling units per building (or series of buildings)
Multifamily (detached dwelling units)	6	No greater than eight individual building per parcel
Multifamily condominium (rental), over commercial	2 residential dwelling units per 5,000 square feet commercial space	
Multifamily, multistory (rental)	8	3 story maximum, 60% lot coverage limit, maximum 20 units per building (or series of buildings)
Multifamily condominium, multistory (greater than two stories)	10	70% green space requirement, 15 units per building maximum (or series of buildings)
Single-family	4	70% green space requirement

§ 270-6.7. Density in Rural Residential and Rural Agricultural Districts. [Added 3-17-2016 by L.L. No. 1-2016]

A. Single-, two-, and multifamily dwellings are permitted subject to a maximum allowable density of two dwelling units per acre with a maximum of 10 dwelling units per lot. Subject to the foregoing limits, the maximum number of dwellings that can be built on a lot is the equal to the maximum number of conforming lots that could be created if the lot were subdivided in accordance with Chapter 240, Subdivision of Land, as calculated by the Town Planning Director. This determination by the Town Planning Director of the maximum number of dwellings shall be recorded in the Tompkins County Clerk's Office and cross-referenced to the deed of the lot in question and the maximum number of dwellings for said lot shall not increase even if said lot is thereafter subdivided.

B. The following review is required:

Number of Dwellings on a Lot	Review Required
One single- or two-family dwelling	No SPR or SUP required
Two to four single or two-family dwellings	SPR (SITE PLAN REVIEw)
All others	SUP

C. These provisions shall not apply to farm worker housing on lots on which a farm operation is conducted.

§ 270-6.8. Density in Neighborhood Residential and Conservation Districts. [Added 3-17-2016 by L.L. No. 1-2016]

In the Neighborhood Residential District, only one single-family dwelling plus one accessory unit dwelling per lot is allowed. In the Conservation District, only the following is allowed per lot: one single-family dwelling plus one accessory unit dwelling, or one two-family dwelling.

ARTICLE VII
Varna

§ 270-7.1. Applicability.

This article applies only to the three zoning districts which constitute Varna: the Varna Hamlet Mixed-Use District (VHMUD), Varna Hamlet Residential District (VHRD), and the Varna Hamlet Traditional District (VHTD).

§ 270-7.2. Design guidelines and standards.

All development and redevelopment of lots and property in Varna shall comply with the Varna Design Guidelines and Landscape Standards, including:

A. Landscape design. Any proposed development or redevelopment subject to a building permit or review under this chapter shall include a landscape and planting plan that includes:

(1) A map or sketch of existing vegetation to be retained or removed.

(2) A detailed landscape plan that includes a list of the number, type and location of proposed vegetation.

(3) A narrative or drawing demonstrating how the development or redevelopment will preserve open space and existing natural features including mature trees, tree canopies, land forms, existing topography and vegetation.

B. Streetscape and sidewalk design. Any proposed development or redevelopment subject to a building permit or review under this chapter shall include plans for sidewalks or pedestrian paths that contribute to the goal of a unified pedestrian network in Varna. Any such proposed development or redevelopment shall include a streetscape and sidewalk plan that includes:

(1) A map or sketch and list of dimensions of proposed pedestrian paths, sidewalks, and trails.

(2) A map and sketch detailing streetscape amenities including lighting, sidewalk furniture (such as benches and refuse containers), signage, and a maintenance plan for such amenities, including provisions for snow removal.

(3) Any proposed development or redevelopment along Route 366 requires sidewalks.

C. Building and architectural detail.

(1) No proposed building shall exceed 40 feet in height.

(2) Any proposed development shall be designed to preserve, as much as practicable, the existing views and line of sight of existing buildings and neighboring properties.

D. Streets and parking.

(1) Any proposed development shall provide a circulation plan in and around the

development for pedestrians, vehicles, and cyclists which includes a detailed map showing:

(a) Proposed roads, trails and cyclist paths.

(b) The connection of proposed roads, trails and cyclist paths to existing public highways.

(c) Circulation patterns including points of ingress and egress.

(d) The dimensions of any proposed roads, trails and cyclist paths.

(e) The location of any proposed curb cuts to Route 366.

(f) The location and number of proposed parking spaces.

(2) New roads should be designed and located to preserve existing topography as much as practicable.

§ 270-7.3. Varna use regulations.

All uses in Varna shall comply, to the maximum extent practicable, with the Varna Design Guidelines and Landscape Standards.

A. Planning Department report. No application shall be deemed complete without a written report by the Planning Department detailing the extent to which the application complies with the Varna Design Guidelines and Landscape Standards.

(1) For applications which require either Town Board approval or Planning Board approval, such report shall be considered part of the application and subject to review by the respective boards.

(2) For applications which require only a building permit, such report shall be completed prior to the issuance of a building permit.

B. No structure or land in Varna shall be used except as provided in the Allowable Use Groups Chart in Subsection D below. Uses which are not explicitly permitted are prohibited unless specifically stated elsewhere in this chapter.

C. Building sizes:

(1) In the Varna districts, no use shall include a structure larger than 5,000 square feet without a special use permit.

(2) All exemptions in § 270-6.4 shall also apply in Varna.

D. In the following Allowable Use Groups Chart:

"P" means the use is allowed as of right, but in many cases requires site plan review;

"SPR" means this use requires site plan review;

"Special Use Permit" or "SUP" means the use requires a special use permit;

"X" means the use is not allowed in that particular district.

Use Group [Amended 2-16-2017 by L.L. No. 3-2017; 11-19-2020 by L.L. No. 4-2020]				
Allowed Principal Uses	**Varna Hamlet Mixed-Use District (VHMUD)**	**Varna Hamlet Residential District (VHRD)**	**Varna Hamlet Traditional District (VHTD)**	**Minimum Lot Size**
Agricultural use	P	P	P	None
Farmstand	P	P	P	None
Artist studio/craft workshop	SPR	X	SPR	1/8 acre
Automotive repair garage	SPR	X	X	1 acre
Bed-and-breakfast establishment	SPR	SPR	SPR	None
Boarding house	SPR	SPR	SPR	1/4 acre
Day-care center	SPR	SPR	X	1 acre
Gasoline station	SPR	X	X	2 acres
General office building	SPR	SPR	X	1 acre
Hotel/motel	SPR	X	X	1 acre
Industry, light	SUP/SPR	SUP/SPR	X	2 acres
Inn	SPR	SPR	SPR	1/2 acre
Nursery/greenhouse, retail	SPR	SPR	X	1 acre
Professional office	SPR	SPR	SPR	None
Restaurant	SPR	X	X	None
Retail business	SPR	X	X	None
Retail shopping center/plaza	SPR	X	X	2 acres
Retreat/conference center	SPR	SPR	X	2 acres
Service business	SPR	X	X	None
Short-term rental	P	P	P	
Theater	SPR	SPR	X	1 acre
Bed-and-breakfast, home	SPR	SPR	SPR	None
Congregate care facility	SPR	SPR	X	1 acre
Day-care home, family	SPR	SPR	SPR	None

Use Group [Amended 2-16-2017 by L.L. No. 3-2017; 11-19-2020 by L.L. No. 4-2020]				
Allowed Principal Uses	**Varna Hamlet Mixed-Use District (VHMUD)**	**Varna Hamlet Residential District (VHRD)**	**Varna Hamlet Traditional District (VHTD)**	**Minimum Lot Size**
Day-care, family group	SPR	SPR	SPR	None
Dwelling, accessory unit (see § 270-13.11)	SPR	SPR	SPR	None
Dwelling, multifamily	SPR	SUP	SUP	1 acre
Dwelling, single-family	P	P	P	None
Dwelling, two-family	SPR	SPR	SPR	10,000 square feet
Dwelling, upper-floor apartments	SPR	SPR	SPR	None
Elder cottages	See § 270-13.5	See § 270-13.5	See § 270-13.5	None
Home occupation: Level 1	P	P	P	None
Home occupation: Level 2	P	SPR	SPR	None
Manufactured home	X	X	X	None
Manufactured home park	X	PUD	X	5 acres
Senior housing	SPR	SPR	SPR	1 acre
Senior care facility	SPR	SPR	X	2 acres
Workshop/garage, noncommercial	P	P	P	None
Educational use	SPR	SPR	X	None
Library	SPR	SPR	X	1 acre
Lodge or club	SPR	SPR	SUP	2 acres
Municipal use	SPR	SPR	X	None
Public safety	SPR	SPR	X	1/2 acre
Public utility	SUP	SUP	SUP	1/2 acre
Religious institution	SPR	SPR	SUP	None
Recreation, active	SPR	SPR	X	1 acre
Recreation, passive	SPR	SPR	SPR	None
Recreation facility, amusement	SPR	SPR	X	2 acres

Use Group [Amended 2-16-2017 by L.L. No. 3-2017; 11-19-2020 by L.L. No. 4-2020]				
Allowed Principal Uses	**Varna Hamlet Mixed-Use District (VHMUD)**	**Varna Hamlet Residential District (VHRD)**	**Varna Hamlet Traditional District (VHTD)**	**Minimum Lot Size**
Recreation facility, athletic	SPR	SPR	X	2 acres
Solar energy systems	See § 270-13.12	See § 270-13.12	See § 270-13.12	See § 270-13.12

E. Short-term rental provisions contained in § 270-9.13 shall also apply in Varna, and shall be subject to the short-term rental permit process outlined in that section. **[Added 11-19-2020 by L.L. No. 4-2020]**

§ 270-7.4. Varna density.

All residential uses in Varna are subject to the maximum number of dwelling units per area set forth in the following Varna Density Table.

Type of Development	**Varna Hamlet Mixed-Use District (VHMUD)**	**Varna Hamlet Residential District (VHRD)**	**Varna Hamlet Traditional District (VHTD)**	**Green Development Bonus (See § 270-7.7)**	**Redevelopment Bonus (See § 270-7.8)**
Single-family home	8 DU per 1 acre	12 DU per 1 acre	4 DU per 1 acre	2 DU per 1 acre	1 DU per 1 acre or tax parcel
Duplex (rental)	4 DU per 1 acre	6 DU per 1 acre	2 DU per 1 acre	X	X
Townhouse	10 DU per 1 acre	11 DU per 1 acre	6 DU per 1 acre	2 DU per 1 acre	2 DU per 1 acre or tax parcel
Condominium	10 DU per 1 acre	10 DU per 1 acre	6 DU per 1 acre	1 DU per 1 acre	1 DU per 1 acre or tax parcel
Rental apartments	6 DU per 1 acre	4 DU per 1 acre	3 DU per 1 acre	4 DU per 1 acre	4 DU per 1 acre or tax parcel
Senior housing	10 DU per 1 acre	11 DU per 1 acre	X	2 DU per 1 acre	2 DU per 1 acre or tax parcel
Residential over commercial	2 DU per 5,000 square feet commercial	2 DU per 5,000 square feet commercial	2 DU per 5,000 square feet commercial	1 DU per 5,000 square feet commercial	1 DU per 5,000 square feet commercial
Multifamily rental, detached units	6 DU per 1 acre	4 DU per 1 acre	2 DU per 1 acre	1 DU per 1 acre	1 DU per 1 acre or tax parcel

§ 270-7.5. Required green space.

All uses in Varna shall incorporate the amount of green space set forth in the following table.

Varna District	Required Green Space
Varna Hamlet Mixed-Use District (VHMUD)	40% of lot
Varna Hamlet Residential District (VHRD)	60% of lot
Varna Hamlet Traditional District (VHTD)	70% of lot

§ 270-7.6. Area and bulk table.

The following table includes the minimum requirements for a building lot. Unless otherwise indicated, this table does not indicate the number of lots that can be created from a parcel.

	VHMUD, VHRD and VHTD
Minimum front yard setback	10 feet
Minimum side yard setback	None or 7.5 feet if buildings are not attached
Accessory building with less than 15 feet building height and 200 square feet or less	1 foot
Minimum rear yard setback	25 feet
Accessory building less than 15 feet building height and 200 square feet or less	1foot
Minimum lot frontage	45 feet

§ 270-7.7. Green neighborhood development; additional density. [Amended 2-21-2019 by L.L. No. 3-2019]

In addition to the density permitted in the Varna Density Table in § 270-7.4, a density bonus may be awarded if a neighborhood development proposal achieves at least basic LEED certification according to the most current LEED Neighborhood Development Protocol. The Town shall have the discretion to excuse noncompliance with LEED prerequisites which can't be reasonably attained within the Town of Dryden.

§ 270-7.8. Redevelopment; additional density.

A. In addition to the density permitted in the Varna Density Table in § 270-7.4, a density bonus may be awarded rdevelopment of existing tax parcel(s) according to the table in § 270-7.4. For purposes of this section, a tax parcel shall be determined according to the 2012 final assessment toll. The redevelopment bonus may be computed on either a per acre or tax parcel basis, whichever produces the largest bonus.

B. In addition to the density bonus provided in Subsection A above, an additional density bonus may be awarded if redevelopment of an existing tax parcel achieves at least a basic LEED certification.

§ 270-7.9. Planned Unit Development.

A Planned Unit Development (PUD) shall be developed in accordance with the provisions in Article X.

ARTICLE VIII
Overlay Districts

§ 270-8.1. Traditional Neighborhood Development Overlay (TNDO) District.

A. Purpose.

(1) Property in a TNDO District may be developed in accordance with the regulations of the underlying zoning district or utilizing the provisions of this section. The purpose of a TNDO District is to establish a development option for parcels within a TNDO zoning district. The use of the procedure in this article is not equivalent to incentive zoning as provided in Town Law § 261-b.

(2) The provisions of the TNDO are intended to promote traditional neighborhood development patterns in areas that adjoin existing villages or hamlets. Within a TNDO District, higher-density residential development will be allowed if designed according to these guidelines to ensure that the resulting development incorporates the design principles of traditional neighborhoods.

(3) A primary objective of the TNDO option is to provide for a diversity of dwelling types, age groups, and income levels, in a manner consistent with the variety of existing dwellings in the area and with traditional village/hamlet building and site development patterns. New construction is to be predominantly single-family dwellings on a variety of village/hamlet-scale lot sizes.

(4) All projects utilizing the TNDO option shall follow the process and procedures described in Article IX for conservation subdivisions in Chapter 240, Subdivision of Land, except as modified herein and with the Town Board having jurisdiction over the procedures.

B. Establishment of Overlay District. The Town of Dryden Zoning Map delineates the boundaries of possible TNDO Districts. All TNDO Districts are also RA or RR Districts. Areas outside of such TNDO Districts may be developed only by amendment of the Town of Dryden Zoning Map to establish a district where this development option may be utilized.

C. Density. Maximum density in the TNDO District shall be six dwelling units per acre subject to the other provisions of this chapter.

D. Permitted principal uses:

(1) Dwellings.

(a) Dwelling, single-family.

(b) Dwelling, two-family.

(c) Dwelling, townhouse.

(d) Dwelling, multifamily.

(2) Up to 40% of new units may be in two-family or multiple-family dwellings. When two-family or multiple-family dwellings are proposed, they shall be

integrated architecturally and in scale with the same streetscape as single-family dwellings, and not isolated in separate areas of the TNDO District.

E. Permitted accessory uses and structures:

(1) Private garages or carports for the parking of motor vehicles of residents.

(2) Customary accessory structures to residential uses, including but not limited to private swimming pools, hot tubs, storage buildings, greenhouses, pet shelters and outdoor fireplaces.

(3) Customary farm accessory buildings for the storage of products or equipment.

(4) Off-street parking, fencing, and signs.

(5) Home occupations: Level 1.

F. Design and dimension requirements:

(1) Open space. Not less than 20% of the permanently protected open space which is required to be set aside shall be in a form that is integrated into the residential neighborhood and accessible to the public, such as a central green, neighborhood squares or commons, tot lots, a community park, or any combination of the above.

(2) Blocks. Streets shall be designed to create blocks that are generally rectilinear in shape, a modified rectilinear shape, such as curves, or another regularly repeating, distinct geometric shape. Amorphously shaped blocks are discouraged, except where topographic or other conditions necessitate such a configuration. To the greatest extent possible, blocks shall be designed to have a maximum length of 480 feet. Lanes or alleys shall be permitted to bisect blocks.

(3) Street layout. The street layout shall form an interconnected system of streets primarily in a rectilinear grid pattern, modified to avoid a monotonous repetition of the basic street/block pattern. The use of culs-de-sac and other streets with a single point of access shall be minimized. To the greatest extent possible, streets shall be designed to have a maximum length of 600 feet from intersection to intersection, and, to the greatest extent possible, shall either continue through an intersection, or terminate in a "T" intersection directly opposite the center of a building, an green space area, or a view into a peripheral green space area.

(4) Sidewalks. A sidewalk network shall be provided throughout the development that interconnects all dwelling units with, nonresidential structures, common green spaces, and the original village/hamlet to which the development is adjacent. If the development is not adjacent to a village/hamlet area, but rather an open space owned or controlled by the owner, then a trail system through the open space shall be provided. Sidewalks shall be a minimum of four feet wide, and five feet and six feet wide along major pedestrian routes. Sidewalks shall be of barrier-free design to the greatest extent possible. The pedestrian circulation system shall include crosswalks where appropriate, and include gathering/sitting areas and provide benches, landscaping, and other street

furniture where appropriate.

(5) Minimum lot area: 6,000 square feet.

(6) Minimum lot width at building line: 40 feet.

(7) Yard regulations. Variations in the principal structure position and orientation may be considered and the following minimum standards shall apply:

(a) Front yard setbacks:

[1] Principal structures: 12 feet minimum (six feet to front porches/ steps);

[2] Attached garages (front entrance): minimum 10 feet behind front plane of house;

[3] Attached garage (side entrance): minimum 10 feet from street line;

[4] Detached garages (front entrance): minimum 40 feet from street and 10 feet behind plane of house or in the rear yard.

(b) Rear yard setbacks:

[1] Thirty feet minimum for principal structure and five feet for accessory structures (excluding garages);

[2] Detached garages (rear entrance): minimum 10 feet from alley or lane.

(c) Side yard: minimum separation of 20 feet between principal structures; however, the side yard shall be a minimum of five feet.

(8) Maximum impervious coverage: 50% limit per lot.

(9) Minimum frontage: Lots must have frontage either on a street or on a back lane or shared driveway. Dwellings served by rear lanes may front directly onto parks or greens, which shall be designed with perimeter sidewalks.

(10) Maximum building height: 35 feet.

G. Uses allowed by special use permit. The following uses are allowed with a special use permit issued by the Town Board:

(1) Single-family dwelling with accessory dwelling unit.

(2) Home occupation: Level 2.

(3) Church and other religious institution.

(4) Horticultural nursery.

(5) Recreational facilities of charitable, not-for-profit organizations.

(6) Public and semipublic buildings and uses.

(7) Bed-and-breakfast establishment.

(8) Bed-and-breakfast home.

(9) Congregate care facility.

(10) All business group uses permitted by special use permit in the VHMUD, VHRD and VHTD Districts. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

H. Site plan approval required. No site preparation or construction shall commence until site plan approval has been granted by the Town Board. The Town Board shall have full discretion to approve or deny applications for proposed projects within the TNDO based on compliance with the standards set forth above.

§ 270-8.2. Large-Scale Retail Development (LSRD) District.

A. Purpose and applicability. The purpose of this district is to define a location where large-scale retail development may be appropriate, and to define specific requirements for the review and approval of large-scale retail shops and shopping centers, and provide for the utilization of incentive zoning pursuant to Town Law § 261-b.

B. Establishment of the district. The LSRD District is a floating zone, and is not defined as of the date of the adoption of the Town of Dryden Zoning Map. When the Zoning Law is amended to create the LSRD District, the Zoning Map will delineate the boundaries of the LSRD District at the same time a special use permit has been granted to allow a proposed large-scale retail development. Compliance with the procedural requirements of Town Law § 261-b is required in connection with the approval of a LRSD District.

C. Size limitations.

(1) Stores. No individual store shall be greater than 45,000 gross square feet in floor area unless an amenity package is included as part of the site plan approval.

(2) Retail shopping centers. No retail shopping center shall be greater than 90,000 gross square feet in floor area unless an amenity package is included as part of the site plan approval.

(3) For the purpose of the size limits set forth above, floor area shall include floor area or floor space of any sort within a building as well as exterior space used for sale or storage of merchandise. This shall include, but is not limited to, garden centers, outdoor display areas, or lumber yards.

D. Building placement, parking, lighting and landscaping. Conformance to the Town's Commercial Design Guidelines shall be required to the maximum extent practicable, in addition to all other applicable requirements set forth in this chapter.

E. Amenity package. In order to increase the square footage for an individual store or retail shopping center, a developer may include an amenity package to assist the Town in meeting other needs related to goals stated in the Comprehensive Plan or

other officially adopted Town plan (i.e., open space, recreation, etc.).

(1) A maximum of 60,000 gross square feet of floor area for an individual store and 120,000 gross square feet of floor area for a shopping center may be approved by the Town Board if a suitable amenity package is provided. Any increase in square footage allowed must be commensurate with the value of the amenity package proposed.

(2) Amenities may include provisions for on-site and/or off-site improvements beyond those required for the project and/or beyond measures needed to mitigate the impact of the project. The amenities may include, but are not limited to, the following:

(a) Affordable housing options;

(b) Enhancement of public facilities including local highways, public water, public sewage, stormwater, and community services/public safety/ transportation facilities;

(c) Creation or extension of an open space system for the public including a comprehensive multipurpose path system and lands (including developable land) permanently protected by a conservation easement or other similar measure acceptable to the Town Board;

(d) Creation of recreational amenities including parks, walking or biking trails, community centers and similar features designed for use by the immediate residents and public that are not already located on site;

(e) Payment to the Town for a dedicated fund for use in future public improvements or acquisition of community facilities such as recreation facilities, trails, fishing and water access; public works such as water, sewer, and transportation facilities, and the acquisition and/or permanent protection of open space and agricultural lands;

(f) Noncorporate design features for the store and/or retail shopping center;

(g) Enhanced stormwater retention facilities, both on and off site.

(3) Where the Town Board determines that a proposed amenity is not immediately feasible, or otherwise not practical, the Town Board may require, in lieu thereof, a payment to the Town of a sum to be determined by the Town Board. These funds shall be deposited in a dedicated fund to be used by the Town Board exclusively for the type of amenities defined herein.

F. Abandoned structure surety bond. The Town may require a performance/surety bond providing for demolition of the store(s) or retail shopping center if the structure is vacated or abandoned, and remains vacant or abandoned for a period of more than 12 consecutive months.

ARTICLE IX
General Regulations

§ 270-9.1. General regulations.

Except as hereinafter provided, the following general provisions shall apply to land use and development in the Town of Dryden:

A. No land or structure shall hereafter be used or occupied and no structure or part thereof shall hereafter be enlarged or its use altered unless such action is in conformance with all the regulations specified for the zone in which said action occurs, any special regulations applicable thereto, and the provisions of this chapter.

B. Until such time as public water and/or sewer facilities are available, the Tompkins County Health Department standards for minimum lot size shall take precedence over any less restrictive provisions of this chapter except as may be provided in Chapter 240, Subdivision of Land.

C. No lot shall hereafter be reduced or altered so as to result in a lot that does not meet the minimum lot area or yard requirements prescribed by this chapter.

D. No yard provided for any structure for the purpose of complying with the provisions of this chapter shall be considered as providing a yard for any other structure.

E. Public utility facilities (including electric, gas, telephone and television cable) and necessary appurtenances thereto, shall be allowed uses in all zones by special use permit.

F. The provisions of this chapter shall not be in conflict with Chapter 240, Subdivision of Land, and the most restrictive provisions shall apply.

G. Waiver or modification of lot requirements during site plan review approval.

(1) To encourage development, or redevelopment, as the case may be, the Town Board reserves the right to waive or modify, upon a determination as herein provided, the area and bulk requirements pertaining to the dimensions of a lot, set forth in Article VI. An applicant requesting a waiver or modification of lot requirements must demonstrate by clear and convincing evidence that, to the maximum extent practicable, the proposed development complies with the Residential and/or Commercial Development Guidelines.

(2) In reaching a determination whether the applicant has, to the maximum extent practicable, complied with the applicable Design Guidelines, the Town Board shall consider:

(a) The recommendations of the Planning Department and the Planning Board;

(b) The scope of the proposed development, including number of new lots;

(c) Minimization of new public infrastructure;

(d) Maximization of permanently preserved open space; and

(e) Utilization of techniques designed to enhance public safety, environmental quality, property values, economic opportunity, Town character as expressed in the Town's 2005 Comprehensive Plan, and the overall quality of life for all Town residents.

(3) The Town Board shall hold a public hearing on any application to waive or modify lot requirements under this subsection, and the provisions of Town Law § 265 shall apply.

(4) In reaching a determination about whether to waive or modify any of the above-mentioned area and bulk lot requirements, the Town Board shall make detailed findings of fact and conclusions based on the application, the recommendations of the various reviewers, the public hearing and the standards herein set forth.

§ 270-9.2. Unregistered vehicles.

All lots shall be kept free of vehicles that are unregistered, abandoned or inoperable, and shall be kept free of trash, rubbish or junk. For the purposes of this section, one vehicle that is unregistered but operable shall be permitted. An inspection certificate less than one year old by an inspector licensed by the New York State Department of Motor Vehicles shall be prima facie proof of the vehicle being operable. For vehicles that do not have such an inspection certificate, the owner may certify, under the penalty of perjury, that such vehicle is operable. An owner's certification shall not be entitled to prima facie evidence as to the vehicle being operable.

§ 270-9.3. Off-street parking.

A. Off-street parking spaces shall be provided as specified in this section and subject to the provisions of Subsection H(2) below shall be paved, drained, maintained and provided with necessary access driveways. All such parking spaces shall be considered to be required space on the lot on which they are located, unless otherwise stated, and shall not therefore be encroached upon in any manner.

B. All uses allowed by this chapter, as well as uses, allowed by variance, shall include at minimum the following amount of off-street parking spaces:

(1) For each dwelling unit: one parking space, except for dwelling units occupied by more than three unrelated persons, where one parking space per bedroom shall be required.

(2) For hotels and motels: one parking space per room plus one parking space per two employees.

(3) For a church: one parking space for each four persons who can be seated in the sanctuary area.

(4) For an educational building: one parking space for each employee and one parking space for each 10 students.

(5) For a college, trade school, or other post-secondary educational facility: one parking space for each two employees and one parking space for each two

students.

(6) For a community center or other civic or semipublic structure: one parking space for each 250 square feet of gross floor space plus one parking space for every two employees.

(7) For public or private parks or playgrounds: ample parking spaces to accommodate the parking requirements for the expected use as determined by the Board.

(8) For commercial recreation facilities: one parking space for each 200 square feet of enclosed space for indoor facilities, plus for outdoor facilities one parking space for each 7,500 square feet, or major fraction thereof, up to a maximum 10 spaces, and thereafter, one parking space for every 20,000 square feet, or major fraction thereof.

(9) For a restaurant, club, lodge or similar use: one parking space for each 150 square feet of floor area.

(10) For any retail shop or store: five parking spaces for each 1,000 square feet of floor area.

(11) For any gasoline filling station: one parking space per pump island, plus applicable parking for all other uses on the site.

(12) For a shopping center: five parking spaces for each 1,000 square feet of floor area up to 25,000 square feet, then four parking spaces for each 1,000 square feet thereafter.

(13) For a professional office, studio or bank (except medical and dental offices): one parking space for each 250 square feet of floor area.

(14) For medical and dental offices and clinics: one parking space for each 150 square feet of gross floor area.

(15) For research offices and laboratories: one parking space for each 200 square feet of floor area or one parking space for each two employees working on the largest shift, whichever is greater.

(16) Home occupation Level 2: in addition to the dwelling unit parking space requirement, ample parking space to accommodate the parking requirements of the expected use determined at the time of the special use permit hearing.

(17) For a hospital, nursing home, similar use: one parking space for each four beds, plus one parking space for each employee per shift.

(18) For machinery display and repair uses: one parking space for each two employees, plus one parking space for each 5,000 square feet, or major fraction thereof, of lot area.

(19) For a manufacturing, assembly or other light industrial use: one parking space for each two employees per shift.

(20) For lumber, building materials and other similar storage yards: one parking

space for each two employees, plus one space for each 5,000 square feet or major fraction thereof of storage area.

(21) For wholesale, storage and warehouse facilities: one parking space for each 2,000 square feet of warehouse space, plus one parking space for each 250 square feet of office space.

(22) For all service uses such as printing, welding, plumbing and similar shops: one parking space for each employee or one parking space for each 500 square feet of floor area devoted to such use, whichever is greater.

(23) For a boarding house, bed-and-breakfast establishment and bed-and-breakfast home: in addition to the dwelling unit parking requirement, one parking space for each bedroom to be rented.

C. In order to encourage safe and convenient traffic circulation, the Board may require the interconnection of parking areas in adjacent lots via access drives within and between such lots. The Board shall require written assurance and/or deed restrictions, satisfactory to the Board, binding the owner, and the successors and assignees of the owner to maintain such interconnection of parking areas.

D. Loading berths.

(1) Every use requiring receipt or distribution of materials or merchandise by motor vehicle shall have one or more loading berths or other dedicated space for standing, loading and unloading according to the following tables. Such loading berth shall be of a sufficient size to allow normal loading and unloading operations appropriate to the use of the property, and such space shall not be used for parking of vehicles or storage of materials, or to meet the off-street parking requirements.

Off-Street Loading Berth Requirements	
Land Use Classification	**Loading Berth Requirements**
Hotel/motel uses	1 loading berth for every 100,000 square feet of floor area, to a maximum of 3 loading berths
Light Industrial and commercial uses:	Minimum number of loading berths required as follows:
Less than 25,000 square feet	1
25,000 to 49,999 square feet	2
50,000 to 99,999 square feet	3
Each additional 100,000 square feet	1 additional loading berth

(2) This Subsection D shall apply to new structures or additions to existing structures, and these requirements shall not be considered to make any existing uses nonconforming uses because of the lack of such off-street loading berths.

E. For all uses requiring site plan approval or a special use permit, applicable facilities for bicycle parking, as determined by the Board, shall be provided.

F. Landscaping and layout of parking areas.

(1) Plan; shade trees.

(a) A landscaping plan for parking areas shall be submitted for those uses requiring site plan review or a special use permit.

(b) All areas in a parking lot not required for parking spaces or access drives shall be suitably landscaped and maintained and shall include the use of shade trees as herein provided.

(2) In off-street parking facilities with 25 or more parking spaces, at least 15% of the land within the perimeter of the area dedicated to parking shall consist of raised landscaped islands, except that the Board may waive or modify this requirement for good cause shown and in the interest of good design, when fewer than 50 parking spaces are required.

(a) Landscaped islands shall be located at the ends of each parking bay which contains 10 or more parking spaces, separating adjacent rows of parking spaces at least every second parking bay and elsewhere as determined appropriate by the Board in order to direct vehicle movement, provide for plant growth and vehicle overhang, provide for pedestrian circulation and otherwise help assure proper traffic circulation, pedestrian safety and aesthetics. Such landscaped islands and the plantings within them shall be designed and arranged so as to provide vertical definition to major traffic circulation aisles, entrances and exits; to safely channel internal traffic flow; to prevent indiscriminate diagonal movement of vehicles; to provide cooling shade and relief from the visual impact, monotony and heat of large expanses of paved areas; and, where appropriate, to accommodate stormwater management practices such as bioretention areas, swales and sand filters.

(b) Unless modified by the Board, the minimum width of landscaped islands shall be eight feet when located at the ends of parking bays and 10 feet where separating opposing rows of parking spaces or adjacent to circulation aisles. All corners shall be rounded with a curb radius of not less than three feet unless otherwise required by the Board.

(c) The landscaping of off-street parking areas shall include at least one shade tree of not less than three inches caliper (dbh) for each six parking spaces. Main traffic circulation aisles shall be emphasized with such shade trees. Other landscaped islands may be planted with flowering trees and/or other plantings, as appropriate. The shade tree planting is in addition to ground cover, shrubs and hedges which are to be provided where appropriate to serve their intended function while not interfering with safe sight distance for pedestrians and vehicles.

(d) The Board may also permit nonlandscaped islands, if appropriate for purposes such as pedestrian circulation, snow storage and so forth. Such islands shall not be less than four feet in usable width.

(e) In addition to the buffer requirements of § 270-9.10, all off-street parking

and loading facilities shall also be attractively landscaped along their periphery. Such landscaped screening shall be a minimum of 10 feet in width. The buffer shall consist of evergreen planting of such type, height, spacing and arrangement as, in the judgment of the Board, will serve the intended function. The Board may allow or require a landscaped berm, wall or fence of location, height, design and materials determined suitable by the Board to be substituted for or to supplement the required screen planting.

(f) New plantings shall be comprised of appropriate native species and shall not include those invasive species on the "Invasive Plants of Tompkins County" list.

G. No parking facilities shall provide more than 120% of the minimum number of parking spaces required by this section unless expressly approved by the Board in approval.

H. Stormwater management, use of pervious or porous materials.

(1) All parking facilities shall be designed in compliance with Chapter 233, Stormwater Management and Erosion and Sediment Control.

(2) Notwithstanding Subsection A above, where feasible and appropriate, the use of pervious or porous materials in the construction of parking facilities is encouraged, including the use of crushed stone, porous asphalt and concrete mixtures and blocks or brick laid in sand. The porous or pervious surfaces can cover the entire lot, or certain areas, such as parking stalls. Porous surfaces should be designed to encourage the direct infiltration and cleansing of stormwater, to reduce adverse environmental impacts of large impervious parking areas.

I. In the case of two or more different uses located on the same lot, the sum of the space required for all uses individually may be reduced to an amount no less than 125% of the largest number of spaces required by any single use, upon a determination by the Board that such a reduced amount of parking space will be adequate to serve all uses on the lot due to their different character and hours of operation.

J. Parking spaces for the handicapped shall be at least eight feet in width and shall have an adjacent access aisle at least eight feet in width or as otherwise required by the New York State Uniform Fire Prevention and Building Code.[32] The minimum number of handicap accessible spaces shall also be as required by such code. The eight-foot-wide access aisle may be shared by two adjacent handicap parking spaces and shall be part of an accessible route to the building or use which it is designed to serve. Such spaces shall be appropriately located and clearly identified and limited in their use by appropriate signage and pavement markings.

K. Reduction of required number of parking spaces.

(1) If the Board determines that less than the required number of parking spaces

32. **Editor's Note: See Ch. 118, Building Code Administration and Enforcement.**

required by this section will satisfy the intent of this chapter based upon the proposed use, and such other factors as the Board may determine, the Board may reduce the number of parking spaces to be initially provided by up to 50% of the number of spaces otherwise required.

(2) In granting such a reduction in the required number of spaces, the parking plan must provide for sufficient area to accommodate the number of parking spaces otherwise required by this section before such reduction, including maneuvering areas, landscaping, stormwater management facilities, and otherwise required improvements.

(3) All such reserved areas shall be maintained as landscaped grounds until required for parking.

(4) In the event the Board determines, after a public hearing on at least 10 days' prior notice to the property owner and the public, that the reduced number of parking spaces are not sufficient for the current use of the property, the Board may then require the construction of some or all of the parking spaces originally required but not yet provided. The failure of the property owner to comply with the order of the Board to construct such parking facilities within six months of the date of such order shall be grounds to revoke any certificate of occupancy issued by the Code Enforcement Officer.

L. For residential lots: any unoccupied camping trailer, utility trailer, boat and/or boat trailer, or recreational vehicle may be parked on the lot. Outside parking shall be at the rear or side of the dwelling but shall not be closer than five feet to any side or rear property line.

§ 270-9.4. Signs.

A. The intent and purpose of this section is to establish specifications for signs in all zones in the Town of Dryden. Compliance with these regulations will permit proper identification of the use of or the address of the premises, preserve and enhance the visual character of the area, and prevent sign installations that are distracting or hazardous to vehicular or pedestrian traffic.

B. In general, and unless otherwise specified in this section, no portion of any sign shall be located closer than 15 feet to any highway line. Except for an outdoor advertising billboard, all signs shall be located on the premises to which they pertain.

C. All uses allowed by this chapter, including those allowed by use variance and special use permit, may have signs in accordance with the following specifications:

(1) Signs required by law.

(2) Signs of a government or utility company not to exceed 32 square feet.

(3) Residential signs:

(a) One sign, not to exceed one square foot, for each dwelling unit.

(b) One sign, not to exceed 10 square feet for a multifamily dwelling, bed-

and-breakfast establishment or bed-and-breakfast home, and Home Occupation Level 2 in addition to a sign for the dwelling unit.

(c) One sign, not to exceed three square feet, for each Home Occupation Level 1 in addition to a sign for the dwelling unit.

(4) Commercial and light industrial signs. The number of signs and the size of each sign are shown in Table 1 for the respective use category. Signs may be freestanding or placed on the exterior surface of the structure.

Table 1

Size, Freestanding: Use Category		Number of Signs	Maximum Square Feet	Maximum Size on Facade	Remarks
a.	Retail business not in shopping center	2	40	25%	Sign on an exterior surface shall not exceed 25% of such area, and may be in addition to the other signs permitted in this category
b.	Retail business in shopping center	1	16	16 square feet	
c.	Shopping centers or plazas; manufacturing, assembly or light industrial uses	2	160	20%	For a sign facing a highway, a minimum setback of 30 feet from the highway line is required
d.	Wholesale sales, storage, printing, welding, plumbing, and similar uses; automobile and machinery sales, service, washing and maintenance; commercial indoor recreation; motels, outdoor theater	2	80	20%	
e.	Offices and laboratories	1	80	20%	
f.	Gasoline stations	2	32	10%	In addition, 2 advertising signs not to exceed 10 square feet are allowed
g.	Camps, clubs, outdoor recreation facilities, schools, churches	2	24		

Table 1

Size, Freestanding: Use Category		Number of Signs	Maximum Square Feet	Maximum Size on Facade	Remarks
h.	Farm stands	3	16		
i.	Manufactured home park	1	32		Alternatively, 1 per manufactured home park entrance with a maximum of 3 signs not to exceed 12 square feet

(5) Signs advertising the sale, lease or rental of the premises upon which the sign is located: one sign, not to exceed 10 square feet if not located on the building and one sign not to exceed 50 square feet if located on the building.

(6) Temporary signs denoting the architect, engineer, or contractor placed on premises where construction, repair, or renovation is in progress: one sign not to exceed 32 square feet.

(7) Billboards.

(a) Billboards shall be allowed only by special use permit and shall not:

[1] Exceed 160 square feet.

[2] Have more than two faces on any one structure, whether the faces are back to back, side by side or one on top of the other.

[3] Be located closer than 30 feet from any highway line.

[4] Be located within 1/2 mile from another billboard, or closer than 500 feet from the boundary of a residential or commercial zone, or any residential or commercial zone within the Village of Dryden or the Village of Freeville.

[5] Exceed 15 feet in height, including support, measured from the elevation at the edge of the paved surface of the highway adjacent thereto.

(b) In considering an application for a special use permit, in addition to the other requirements of this chapter, the Board shall take into consideration the size, type of construction, design; location and its effect on surrounding property, safety of vehicular traffic and maintenance provisions, including a provision for removal of the billboard, if abandoned.

(c) Setback at intersections. An outdoor advertising billboard, except those attached to a building, shall not be located closer than 300 feet from a highway intersection.

(d) Maintenance of outdoor advertising billboards. All outdoor advertising

billboards must be kept in good repair, be clean, neatly painted or placarded, and free from all hazards, including but not limited to faulty wiring, loose fastenings or damaged supports. The billboard shall not be dangerous to the public health or safety. If the Code Enforcement Officer shall find that any such billboard violates any of these provisions, he shall give written notice of such violation to the owner of the land, and the billboard shall be removed or the deficiencies corrected within a period set in such notice but not less than 30 days from such notice.

(e) In the event that the owner of the outdoor advertising billboard or the owner of the land on which it is situate shall fail or refuse to repair or remove such billboard within any required period, the Code Enforcement Officer may remove or repair such billboard. All costs and expenses incurred in the removal or repair of such billboard shall be collected from the owner of the land or the owner of the billboard in an action at law, or such costs and expenses may be assessed against the owner of the land upon which the billboard is situate and shall be collected as part of the Town tax next due. No such amount shall be so assessed and collected unless a notice in writing of the amount due has been sent to the owner of the land on which the Billboard is erected prior to the first day of September of the next year in which the amount is to be assessed and collected along with the Town tax.

(8) Boarding house, bed-and-breakfast establishment, or bed-and-breakfast home. One sign not to exceed six square feet with indirect lighting only. If a special use permit is required, the sign is subject to the approval of the Board.

D. Sign illumination.

(1) Illumination of any sign shall employ only light emitting a constant intensity. No signs shall be illuminated by or contain flashing, intermittent, rotating, or moving light. In no event shall an illuminated sign be placed or light directed so that the illumination is directed upward resulting in light pollution, or be directed upon a public highway, sidewalk or onto the adjacent premises or that results in glare or reflection that constitutes a traffic hazard or a nuisance.

(2) Signs shall be illuminated by a shielded light source, or sources, to restrict the area illuminated to the sign face, and downward.

E. Advertising letters or symbols on opposite sides of a structure less than one foot thick shall be considered as one sign.

F. If a sign consists of independent, detached letters or symbols, the area of said sign shall be determined by measuring the area within a polygon enclosing all of such letters or symbols.

G. No freestanding sign and its structure shall exceed 15 feet in height.

H. Where permitted on buildings, signs shall be on the exterior wall of the building and no portion of a sign or its support structure shall extend above the fascia or be mounted on the roof or above the roof.

§ 270-9.5. Obstruction to vision.

On any corner lot, no hedge, fence, planting, wall, or structure shall be permitted nearer than 15 feet from the highway lines if such will result in an obstruction to the vision of motorists.

§ 270-9.6. Flight hazard area.

A. For the purposes of this section, "flight hazard area" shall mean that area as defined by Article 14 of the General Municipal Law and pursuant to the applicable statutes, codes, rules and regulations of the Federal Aviation Administration.

B. Uses.

(1) Except as provided herein, all uses may be allowed in the flight hazard area of the Ithaca Tompkins Regional Airport.

(2) No multifamily dwellings, hospital, nursing home, or place of public assembly shall be allowed in an area designated as a flight hazard area for any private airport or heliport.

C. Before any building permit can be issued for any structure or use in the flight hazard area of the Ithaca Tompkins Regional Airport, the Code Enforcement Officer shall be satisfied that such structure or use complies with all applicable federal, state and local statutes, codes, rules and regulations for the use or construction of property within a flight hazard area.

D. Before a building permit can be issued for any structure or use allowed in the flight hazard area of any private airport or heliport, the Code Enforcement Officer shall be satisfied that such structure or use complies with all applicable federal, state and local statutes, codes, rules and regulations for the use or construction of a structure within such flight hazard area.

§ 270-9.7. Abandoned cellar holes and buildings.

Within one year after work on any excavation for a structure has begun, such disturbance must be graded to final contours or, if no construction was begun, the excavation must be restored to the preexisting grade. Any structure substantially damaged or destroyed by any casualty shall be rebuilt or demolished within one year following such damage or destruction except as provided in Article XVI. Any cellar remaining after demolition or destruction of a structure from any casualty shall be restored to grade within one year following such demolition or destruction.

§ 270-9.8. Farm stands.

A. A farm stand shall be at least 50 feet from the public highway center line.

B. A farm stand shall provide a safe means of ingress/egress and parking for customers' motor vehicles.

§ 270-9.9. Outdoor storage.

Outdoor storage/display may be allowed as an accessory use, provided that such storage/

display areas are screened from all highways and residential areas. Such storage/display area shall not encroach on any yard setback, nor be located in any designated landscaping/buffer area set forth on an approved site plan.

§ 270-9.10. Landscaped buffer requirements for multifamily and nonresidential uses.

A. All portions of multifamily and nonresidential lots which are not used for structures, off-street parking and loading areas, sidewalks or similar purposes shall be landscaped and permanently maintained in such manner as to minimize erosion and stormwater runoff and harmoniously blend such uses with the surrounding residential character.

B. Multifamily or nonresidential uses abutting or directly across a Highway from any residential property in a CV, H, NR, RA, RR or TNDO District, shall have a Buffer Strip along or facing any common property lines. Such Buffer Strip shall comply with the following minimum standards:

(1) It shall be a planting of such type, height, spacing and arrangement as, in the judgment of the Board, will effectively screen the activity on the lot from the neighboring residential area. In the case of industrial uses, plantings shall be at least six feet high at planting and at least 12 feet high at maturity.

(2) It shall be at least 20 feet in width, except in conjunction with industrial uses, in which case the buffer strip shall be at least 30 feet in width.

(3) No site improvements, including parking areas, shall be allowed within 15 feet of the inside edge of any buffer strip.

(4) A wall or fence of location, height, design and materials approved by the Board may be substituted for part or all of the required planting and buffer area.

(5) Where the existing topography and/or landscaping provide adequate screening, the Board may waive or modify the planting and/or buffer area requirements.

§ 270-9.11. Exterior lighting.

All exterior lighting in connection with all structures, signs or other uses shall be directed away from adjoining highways and properties and shall not cause any glare observable from such highways or properties. Hours of illumination may be restricted by the Board in any site plan approval or special use permit. No use shall produce glare so as to cause illumination beyond the property on which it is located in excess of 0.5 footcandle. Light fixtures shall be designed to prevent light pollution by shielding the light source and directing light downwards, away from the night sky.

§ 270-9.12. Use of native species of plants required.

No required landscaped buffer strip, site plan or other required landscape plan or planting schedule shall contain or propose an invasive species, and no invasive species shall be planted or maintained in such buffer strip, landscape plan or plantings.

§ 270-9.13. Short-term rentals. [Added 11-19-2020 by L.L. No. 4-2020]

A. Use of a dwelling unit or a portion of a dwelling unit for short-term rental is permitted only when the residence containing the dwelling unit is contained in or adjacent to the primary residence of the property owner and only as an accessory use.

B. Short-term rental of a residence or a portion of a residence, meeting all of the following requirements:

(1) Compliance with all federal, state, county, and local laws, codes, rules and regulations, including but not limited to the New York State Uniform Fire Prevention and Building Code.[33]

(2) Permitted short-term rental types.

(a) Rental of a residence or a portion of the residence, such as a secondary self-contained accessory apartment or a room contained in a residence, for a maximum of 30 days total in any calendar year where the owner is not present in the residence, provided that the owner of the residence or his/her agent is available locally in order to respond in a timely manner to complaints regarding the condition of the residence or the property at which the residence is located or regarding the conduct of occupants of the residence.

(b) Rental of a secondary self-contained accessory apartment, provided that the owner of the residence is present in the residence during the term of the rental.

(c) Rental of a room, or portion contained in a residence, provided that the owner of the residence is present in the residence during the term of the rental.

(3) A short-term rental may not be used by a total that exceeds two adults per bedroom.

C. Short-term rental registration permit.

(1) Prior to use of a residence or any part thereof for short-term rental, the owner of the owner of the residence must obtain a registration permit from the Town.

(2) The owner shall complete a registration form and submit it with a biannual registration permit fee of $90. The registration permit must be renewed every two years.

(3) Advertising of a property for short-term rental is prohibited absent a valid registration permit.

D. Presumption. In a court action or proceeding involving an alleged violation of this section, the publication in an advertising medium, including but not limited to print newspaper, an online forum such as Craigslist or a social media publication, shall

33. Editor's Note: See Ch. 118, Building Code Administration and Enforcement.

be deemed to create a rebuttable presumption that the owner of the property rented the property out as advertised.

ARTICLE X
Planned Unit Development Districts

§ 270-10.1. Purpose.

A Planned Unit Development (PUD) is intended to provide for a variety of land uses planned and developed in a manner which will provide community designs that preserve critical environmental resources, provide open space amenities, incorporate creative design in the layout of buildings, green space and circulation of vehicles and pedestrians; assure compatibility with surrounding land uses and neighborhood character; and provide efficiency in the layout of highways, utilities, and other municipal facilities.

§ 270-10.2. Land use and development regulations.

A PUD District is a new zoning district that replaces part or all of an existing zoning district or districts. The development standards and land uses in an approved development plan shall be the zoning regulations, standards, and land uses in the PUD District. Upon approval of a development plan as herein provided, the Town of Dryden Zoning Map shall be revised to identify the area covered by each PUD District.

§ 270-10.3. Permitted types of PUD development.

A. Within an approved PUD District, the following types of development are permitted:

   (1) Single-family dwellings with no increase in permitted density;

   (2) Single-family dwellings with an increase in otherwise permitted density;

   (3) Multifamily dwellings with or without single-family dwellings, and with or without an increase in otherwise permitted density;

   (4) Single-use nonresidential development, such as office buildings or commercial development;

   (5) Nonresidential uses combined with either single-family dwellings, multifamily dwellings, or both, with or without a change in otherwise permitted density.

B. All uses listed in the concept plan and development plan applications must be a permitted or accessory use in one of the Town's zoning districts, except adult uses, which are restricted to the LIO-A District.

§ 270-10.4. Procedure for review and approval.

An application for a PUD District shall consist of a PUD concept plan and PUD development plan. A PUD Zoning District is established at the same time a PUD development plan is approved by the Town Board. This following procedure shall apply to the creation of a PUD District:

A. Preapplication conference. Prior to submitting a PUD concept plan application, the applicant shall meet with the Planning Department to review the zoning regulations of the project area, review the procedure and discuss the proposed use and

development of the project area. The applicant shall not be required to present any written or graphic materials at the preapplication conference, but a sketch plan is encouraged. The Planning Department shall furnish the application forms required for the concept plan and development plan approvals. The application forms shall require such information and submittals as may reasonably be required by this chapter and the Planning Department and shall be approved by the Town Board.

B. Concept plan. A PUD concept plan and application for approval shall be submitted in accordance with the requirements of this Subsection B. The concept plan shall include:

(1) A list of the uses for which PUD approval is requested and whether they are permitted uses or accessory uses in this chapter and the section of this chapter under which they are permitted.

(2) Evidence of ownership or control of the PUD project area.

(3) An accurate map of the project area including the relationship of the project area to the surrounding area, existing topography and key geographic, environmental and existing development features.

(4) A written outline for the development plan and visual representations of the development concept. The outline of the development plan and visual representations shall include the following:

(a) The planning objectives and the character of the proposed development and the approximate phases in which the development will be built;

(b) A statement as to why the proposed development could not be considered outside of a PUD;

(c) The approximate location and type of existing nearby developed areas, such as neighborhoods, villages and hamlet centers;

(d) The number and type of dwelling units proposed, including the proposed density and the approximate location, arrangement, use and size of any nonresidential structures and all parking facilities;

(e) The approximate proposed traffic and pedestrian circulation plan, including public highways, pedestrian and bike paths, and trails;

(f) The approximate location of any proposed open space and any proposed community and municipal facilities, and any floodplain, wetlands or other areas designated for preservation as open space;

(g) A statement describing how the development plan and proposed PUD will comply with the Town's Comprehensive Plan, and further the goals described in the Comprehensive Plan;

(h) A statement or visual representation of how the development plan and PUD will relate to and be compatible with adjacent and existing neighborhoods;

(i) Such other additional information as the Planning Department shall

reasonably require in order to determine compliance with the requirements for a concept plan;

(j) A Full Environmental Assessment Form (EAF); **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

(k) For projects proposing a greater density than otherwise permitted in the Zoning Law, a proposed amenity package consistent with the size and scope of the project including, but not limited to, the amenities described in § 270-8.2E(2).

(l) For projects in Varna, a statement of how the proposed PUD is consistent with the Hamlet of Varna Community Development Plan.

C. Procedure; approval and effect of approval of concept plan.

(1) After the Planning Department determines that a concept plan is complete, it shall forward it to the Town Board for its initial review. The Town Board shall, within 60 days of receipt of the concept plan, by resolution, either reject the concept plan, refer the concept plan back to applicant with requested changes, modifications or clarification, or refer the concept plan to the Planning Board for its review and recommendations concerning the approval by the Town Board of the concept plan.

(2) Once referred to the Planning Board, the Planning Board shall hold a public hearing on the concept plan prior to making its recommendation to the Town Board.

(3) The Planning Board shall, within 60 days of its receipt of a concept plan, by resolution, make a written recommendation to the Town Board that the concept plan be approved as submitted, approved with modifications, changes or conditions; or rejected. Any such modifications, changes or conditions, and reasons for rejection shall be detailed in the recommendation. If the recommendation is to approve as submitted or to approve with modifications, changes or conditions, the recommendation shall also contain the Planning Board's comments on the full EAF. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

(4) Following the receipt of the recommendation of the Planning Board, the Town Board shall, within 60 days of such receipt of the recommendation of the Planning Board, determine by resolution whether or not to approve the concept plan and authorize the applicant to prepare and submit a development plan. The Town Board may reject the concept plan, approve the concept plan with modifications, changes or conditions, or approve the concept plan as presented. The approval of a concept plan with modifications, changes or conditions or as presented shall constitute an authorization for the applicant to prepare and submit a development plan as herein provided. No development plan may be submitted without such Town Board authorization.

(5) Prior to the approval of a concept plan, the Town Board shall comply with SEQR.

(6) A PUD district is not approved until the development plan has been approved by the Town Board following a public hearing as provided in Subsection E below.

(7) All public hearings by the Planning Board and the Town Board shall be subject to the procedural and notice requirements of Town Law §§ 264 and 265. Since the approval of a development plan results in a new zoning district, the decision to approve a concept plan and development plan is a legislative action.

D. Procedure; approval and effect of approval of development plan. An applicant shall submit a development plan for the PUD within 270 days of approval of the concept plan by the Town Board. The development plan shall be submitted in accordance with requirements set forth in this Subsection D.

(1) Written documents.

(a) If the development is to be built in phases, a development schedule indicating:

[1] The approximate date when construction of the project can expect to begin;

[2] The stages in which the project will be built and the approximate date when construction of each stage can be expected to begin;

[3] Approximate date when the development of each stage will be completed;

[4] The area and location of open space, community and municipal facilities, and preserved floodplains, wetlands, and other areas that will be provided at each stage.

(b) Proposed instruments, including but not limited to development agreements, contracts, covenants, deed restrictions, easements and offers of dedication for public highways and municipal facilities and for the preservation and management of open space, floodplains, wetlands, and other areas.

(2) Development plan and graphics with supporting maps:

(a) Existing project area conditions including contours at five-foot intervals;

(b) Proposed lot lines;

(c) The location and size of floodplains, wetlands, and other areas, for which preservation measures will be adopted, and the location and size of any other areas to be conveyed, dedicated, or reserved for open spaces, public parks, recreation, schools, and similar public and semipublic uses;

(d) The location, types, and density or intensity of each proposed use;

(e) The floor area and height of all dwelling units and nonresidential structures and architectural drawings and sketches that illustrate the

design and character of proposed structures.

(3) Impact on municipal facilities. In its resolution authorizing the filing of a development plan, the Town Board may require such studies, reports or opinions, including an engineering study or report addressing the ability of the capacity of existing or proposed highways and other municipal facilities to serve the PUD including, but not limited to, a traffic impact study or other infrastructure capacity study. Such studies, reports or opinions required by the Town Board shall accompany the development plan in order to determine whether the development plan and the project will comply with the approved concept plan, the requirements of this chapter, and other applicable statutes, rules, regulations and ordinances, and whether the capacity of the existing or proposed highways and other municipal facilities are sufficient to serve the PUD.

(4) When the Planning Department determines that the development plan is complete for review, it shall forward the development plan to the Planning Board for its review and recommendation. The Planning Board shall, within 60 days of its receipt of a development plan, by resolution, make a written recommendation to the Town Board that the development plan be approved as submitted, approved with modifications, changes or conditions, or rejected. Any modifications, changes or conditions, and reasons for rejection shall be detailed in the recommendation.

E. Public hearing and decision.

(1) The Town Board shall, within 60 days of the receipt of the recommendation of the Planning Board, hold a public hearing with respect to the approval of the development plan.

(2) Approval or rejection of plan.

(a) The Town Board shall, within 60 days of the close of the public hearing, approve or reject the development plan, or approve the development plan subject to conditions. Any approval or approval subject to conditions shall be based on the requirements of this chapter, the approved concept plan, the goals, policies, and guidelines of the Town's Comprehensive Plan and the Town's Commercial Development and Residential Development Design Guidelines.

(b) The approval of the development plan by the Town Board shall constitute an amendment to the Zoning Law. The development plan shall establish the density and intensity of uses in the PUD District and the development plan shall become the PUD District regulations.

F. Site plan review. All structures in a PUD District are subject to site plan review as provided in this chapter.

G. Extension of time. All times for submittal, review, public hearings, recommendations and decisions may be extended by mutual agreement in writing by the applicant and the Town Board.

§ 270-10.5. Use of design guidelines.

A. Except in Varna, all PUD development plans shall incorporate to the maximum extent feasible the Town of Dryden Commercial Development Design Guidelines and/or Residential Development Design Guidelines, as the case may be.

B. In Varna, all PUD development plans shall comply with the Varna Design Guidelines and Landscape Standards.

§ 270-10.6. Minimum lot size and width.

There shall be no minimum requirements for lot area, lot width, lot coverage, yards and structure setback lines, or building height requirements in a PUD. All such lot dimensional requirements shall be governed by the approved development plan.

§ 270-10.7. Amendments to development plans.

The Town Board may approve minor amendments to a development plan without a public hearing. A minor amendment is an amendment required by a technical or engineering consideration first discovered during development that could not reasonably have been anticipated during the approval process. No such amendment shall be approved which would change a permitted use or lot dimensional requirement.

§ 270-10.8. Development in phases.

The Town Board may approve a development plan for a PUD District conditioned upon substantial completion of the development in phases as set forth in the development plan. If the PUD, or any phase of the PUD, has not been substantially completed according to the schedule in the development plan, development and construction of subsequent phases may be suspended or disapproved by resolution of the Town Board following a public hearing as herein provided.

ARTICLE XI
Site Plan Review

§ 270-11.1. Purpose, applicability and authority.

A. Purpose; Town Law.

(1) The purpose of this article is to provide the specifications and necessary elements to be included in a sketch plan and site plans for those uses which are subject to site plan review including, but not limited to, proposed parking, means of access, screening, signs, landscaping, architectural features, location and dimensions of buildings, adjacent land uses and physical features meant to protect adjacent land uses.

(2) This article is intended to supplement the substantive and procedural requirements of Town Law § 274-a.

B. Applicability. This article applies to all new business group uses, or changes from one business group use to another; all new community group uses, or changes from one community group use to another; all new, or changes to, uses within a TNDO District and LSRD District, all uses requiring a special use permit, and all uses in a PUD District, as well as any other uses for which site plan review is required in this chapter.

C. Jurisdiction.

(1) All site plan reviews performed in connection with a special use permit shall be conducted by the Town Board.

(2) Unless otherwise provided, all other site plan reviews shall be conducted by the Planning Board.

(3) For simplicity's sake, in this section, both boards are referred to as "the Board."

§ 270-11.2. Site plan review and approval procedure.

A. All applicants should refer to the Town of Dryden Residential and Commercial Design Guidelines and then meet with the Planning Department prior to requesting a sketch plan conference.

B. Applications for site plan review shall be made on a form provided by the Planning Department. The application must be received and reviewed by the Planning Department. Once the application is deemed complete by the Planning Department, it will be scheduled for a sketch plan conference with the Board.

C. The sketch plan conference with the Board shall precede the submission of a detailed site plan.

D. The purpose of the sketch plan conference is to allow the Board to review the basic site design concept, provide the applicant with constructive suggestions, and generally, to determine the information to be required in the detailed site plan. In order to accomplish these objectives, the applicant must:

(1) Provide a brief narrative and preliminary concept showing the locations and dimensions of principal and accessory structures, parking areas, and other planned features and any anticipated changes in the existing topography and natural features.

(2) Provide a sketch or map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements and other pertinent features within 500 feet.

(3) Provide a topographic or contour map to adequate scale and detail to show site topography and natural features such as streams or wetlands.

(4) Provide a conceptual stormwater management plan consistent with Chapter 233, Stormwater Management and Erosion and Sediment Control, of the Code of the Town of Dryden that outlines the approach to manage runoff and its post construction treatment on the site. A Stormwater Pollution Prevention Plan does not have to be submitted at this time, but a notice of ground disturbance form is required.

(5) If not the owner of the land under consideration, provide written approval from the owner to submit the sketch plan.

E. At the sketch plan conference, based upon the information provided, the Board will determine any and all additional information required in the detailed site plan. Within 10 days of the completion of the sketch plan conference the Board shall provide in writing a detailed list of necessary components for a complete application and detailed site plan after the sketch plan conference.

F. The Board may, in appropriate cases, waive further site plan review based upon the information provided in the sketch plan after review of the same.

G. Detailed site plans shall be reviewed by the Planning Department in order to determine completeness. When deemed complete, the Planning Department will schedule a final site plan review and public hearing, if required.

H. The applicant shall supply all necessary materials for final site plan review including digital and paper copies of plans as required by the Planning Department.

§ 270-11.3. Application content.

A. At or following the sketch plan conference, the Board may request that the applicant provide more information, including, but not limited to any or all of the items from the following list. In determining the information it will require, the Board may consider the type of use, its location, and the size and potential impact of the project.

B. Site plan checklist:

(1) Title of drawing, including name and address of applicant and person responsible for preparation of the drawing;

(2) Boundaries of the property, plotted to scale, and including North arrow, scale and date;

(3) Identification of public highways;

(4) Existing watercourses and wetlands;

(5) Grading and drainage plan showing existing and proposed contours;

(6) Location, design and type of construction, proposed use and exterior dimensions of all buildings;

(7) Location, design and type of construction of all parking and truck loading areas showing ingress and egress to the public highway;

(8) Provisions for pedestrian access including sidewalks along public highways. Pedestrian facilities shall be ADA (Americans with Disabilities Act) compliant. Sidewalks must be constructed continuously across all driveways;

(9) Provisions for bicycle parking, such as bicycle racks or bicycle lockers as appropriate. All bicycle parking devices shall be provided in accordance with guidelines published by the Association of Pedestrian and Bicycle Professionals (APBP). Some portion of bicycle parking should be provided in a covered area protected from the weather;

(10) Location, type and screening details of waste disposal containers and outdoor storage areas;

(11) Location, design and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences;

(12) Description of the method of sewage disposal and location;

(13) Description of the method of securing potable water and location, design and construction materials of such facilities;

(14) Location of fire and other emergency zones, including the location of fire hydrants;

(15) Location, design, and construction materials of all energy distribution facilities, including electrical, gas and solar energy;

(16) Location, height, size, materials, and design of all proposed signage;

(17) Identification of street number(s) in accordance with any applicable 911 numbering system, and method for ensuring that building identification numbers are installed in a manner that will be visible to emergency responders during the day and night;

(18) Location and proposed development of all buffer areas, including existing vegetation cover;

(19) Location and design of outdoor lighting facilities;

(20) Location, height, intensity, and bulb type of all external lighting fixtures;

(21) Direction of illumination and methods to eliminate glare onto adjoining properties;

(22) Identification of the location and amount of building area proposed for retail sales or similar commercial activity;

(23) Proposed limit of clearing showing existing vegetation. Individual trees with a diameter at breast height (DBH) of 12 inches or greater within the clearing line shall also be shown, if the Board finds that there are uniquely beneficial species on the site and/or exceptionally mature trees;

(24) Landscaping plan and planting schedule;

(25) Estimated project construction schedule;

(26) Record of application for and approval status of all necessary permits from state and county agencies;

(27) Identification of any state or county permits required for the project;

(28) Other elements integral to the proposed development as considered necessary by the Board;

(29) Stormwater management plan as required by Chapter 233, Stormwater Management and Erosion and Sediment Control;

(30) Short or Full Environmental Assessment Form or draft Environmental Impact Statement as determined by the Board at the sketch plan conference.

§ 270-11.4. Board action on site plan review application.

A. Site inspections. The Board, and any such persons as they may designate, may conduct such examinations, tests and other inspections of the site deemed necessary and appropriate.

B. Public hearing.

(1) The Board may hold a public hearing.

(2) In determining whether a public hearing is necessary, the Board shall be guided by the expected level of public interest in the project.

(3) Applicants may request a public hearing. When an applicant requests a public hearing, no site plan review may be disapproved without such a hearing.

C. The Board's review of the site plan shall include, but is not limited to, the following considerations:

(1) Location, arrangement, size, design, and general site compatibility of buildings, lighting, and signs;

(2) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, and traffic controls;

(3) Location, arrangement, appearance, and sufficiency of off-street parking and loading;

(4) Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic, and overall pedestrian convenience;

(5) Adequacy of stormwater and drainage facilities;

(6) Adequacy of water supply and sewage disposal facilities;

(7) Adequacy, type, and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation;

(8) Adequacy of fire lanes and other emergency zones and the provision of fire hydrants;

(9) Adequacy of the site's ability to support the proposed use given the physical and environmental constraints on the site, or portions of the site;

(10) Special attention to the adequacy and impact of structures, roadways and landscaping in areas susceptible to ponding, flooding and/or erosion;

(11) Conformance with the Town's Residential and Commercial Design Guidelines to the maximum extent practicable;

(12) Completeness of the application and detailed site plan in light of the Board's requirements following the sketch plan conference.

D. No approval or approval with conditions shall be granted until the Board determines that the applicant is in compliance with all other provisions of this chapter and other applicable ordinances.

ARTICLE XII
Special Use Permits

§ 270-12.1. Special use permit review.

A. Purpose; Town Law.

(1) In this chapter, some uses are allowed subject to a special use permit being granted by the Town Board. The purpose of special use permit review and approval procedure is to assure that the proposed use is in harmony with this chapter and will not adversely affect the neighborhood if the requirements of the law and those conditions attached to the special use permit by the Town Board are met.

(2) This article is intended to supplement the substantive and procedural requirements of Town Law § 274-b.

B. Jurisdiction; procedure.

(1) Jurisdiction. All special use permit reviews and approvals are under the jurisdiction of the Town Board.

(2) Special use permit procedure. All special use permit reviews and approvals are also subject to site plan review by the Town Board.

C. Applications.

(1) Applications for special use permits. Application for a special use permit shall be made on a form provided by the Planning Department. The application must be received and reviewed by the Planning Department. Once the application is deemed complete by the Planning Department, it will be scheduled for review and/or a public hearing by the Board.

(2) At the time of submittal of the application for a special use permit, the applicant shall also apply for site plan review pursuant to the requirements of Article XI. No application for a special use permit shall be deemed complete by the Planning Department until completion of the sketch plan conference with the Town Board.

(3) So far as practicable, the Town Board shall review the special use permit application and detailed site plan at the same time.

D. SEQR. All applications for a special use permit shall be accompanied by a short Environmental Assessment Form (EAF). If in the environmental review of the short EAF the Town Board determines that the use may have a large or moderate impact, the Town Board may require the applicant to complete a Full EAF or a draft Environmental Impact Statement.

§ 270-12.2. Town Board action.

The Board shall not issue a special use permit unless it determines that the proposed use will satisfy the standards set forth herein. In order to make such a determination, the Board may attach reasonable conditions to its approval. Such conditions must be directly

related and incidental to the proposed special use permit. The Town Board shall consider the standards outlined below in their determination:

A. Compatibility of the proposed use with the other permitted uses in the district and the purposes of the district set forth in this chapter;

B. Compatibility of the proposed use with adjoining properties and with the natural and man-made environment;

C. Adequacy of parking, vehicular circulation, and infrastructure for the proposed use, and accessibility for fire, police, and emergency vehicles;

D. The overall impact on the site and its surroundings considering the environmental, social and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, glare, or any other nuisances;

E. Restrictions and/or conditions on design of structures or operation of the use (including hours of operation) necessary either to ensure compatibility with the surrounding uses or to protect the natural or scenic resources of the Town;

F. Compliance with the requirements for site plan review, including conformity to the Town's Residential and Commercial Design Guidelines.

§ 270-12.3. Special use permit lapse, expiration and revocation.

A. A special use permit shall be deemed to authorize only the particular special use or uses specified therein.

B. Unless otherwise specified by the Town Board, a special use permit shall automatically lapse and expire 18 months after the date the decision is filed if the applicant fails to obtain a building permit or fails to comply with the conditions of the special use permit.

C. Special use permit will expire if the special use or uses shall cease for any reason for more than 12 consecutive months.

D. A special use permit may be revoked by the Town Board if the conditions of the special use permit are violated.

E. Special use permits shall run with the land and can be transferred to successive property owners, unless the permit has expired or has been revoked for failure to meet the permit conditions.

ARTICLE XIII
Standards and Requirements for Certain Uses

§ 270-13.1. Special use permit and other uses subject to individual standards and requirements.

Uses allowed by special use permit and other permitted uses which are subject to additional standards and requirements and shall conform to the standards and requirements set forth in this section, where applicable, in addition to all other regulations pertaining to such use.

§ 270-13.2. Adult uses.

A. No adult use may be established within:

(1) Five hundred feet of any single-family, two-family or multifamily dwelling or structures devoted to both residential and commercial or business purposes;

(2) One thousand feet of any public or private school;

(3) Five hundred feet of any church or other religious facility or institution;

(4) One thousand feet of any public park;

(5) Two thousand five hundred feet of any premises licensed by the State Liquor Authority under the provisions of the Alcohol Beverage Control Law.

B. Measurement of distance. The distance provided in this section shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the adult use is to be located to the nearest point of the parcel property from which the adult use is to be separated.

C. Additional requirements. In addition to the requirements above:

(1) The interior structure of every adult entertainment business shall be well lighted at all times and be physically arranged in such a manner that the entire interior portion of the booths, cubicles, rooms or stalls, wherein the adult entertainment business is located, shall be clearly visible from the common areas of the premises. Visibility into such booths, cubicles, rooms or stalls shall not be blocked or obscured by doors, curtains, partitions, drapes, or any obstruction whatsoever. It shall be unlawful to install enclosed booths, cubicles, rooms or stalls within adult entertainment business establishments for whatever purpose, but especially for the purpose of providing for the secluded viewing of motion pictures or videotapes depicting specified sexual activities or specified anatomical areas, or other types of adult entertainment businesses; and

(2) The operator of each adult entertainment business shall be responsible for and shall provide that any room or other area used for the purpose of viewing adult-oriented motion pictures or other types of live adult entertainment shall be well lighted and readily accessible at all times and shall be continuously open to view in its entirety. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are

permitted access at an illumination of not less than one footcandle as measured at the floor level. It shall be the duty of the operator and its agents to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

D. Additional screening. The Planning Board may require that an adult entertainment business cover or screen the entrances, doorways and windows to prevent viewing activities inside the building or structure from the outside.

§ 270-13.3. Industry/manufacturing uses.

A. No special use permit for industrial or manufacturing uses in an LIO or LIO-A Zone will be issued until the Board has been provided with a description of the proposed industrial or manufacturing process. In addition to the requirements of Article XII, if it appears that the proposed use will not produce conditions that are noxious, offensive or hazardous to the health, safety or general welfare of the community, a special use permit may be approved. Special attention will be given to the disposal or storage of any wastes or materials that could cause or contribute to pollution of any kind.

B. If the performance characteristics are doubtful, the Board shall require a determination that:

(1) Liquid wastes and effluent are to be treated and discharged in a manner approved in writing by the Tompkins County Health Department or other agency having jurisdiction thereof.

(2) Disseminated smoke shall not exceed three on the Ringelmann Smoke Chart.

(3) Protection against fire hazards, explosion and proper handling and storage of combustible material shall be approved by the appropriate Town fire official.

(4) No odors, vibration or glare will be evident at a point more than 150 feet from the source of said odor, vibration or light.

(5) Noise from the proposed use shall comply with the restrictions of § 270-13.7.

§ 270-13.4. Mining (quarries and excavations, topsoil removal).

A. Mining is an allowed use by special use permit only in the RA, CV and LIO zones.

B. Department of Environmental Conservation jurisdiction.

(1) For mines subject to the jurisdiction of the Department of Environmental Conservation (i.e., the removal from a mine site of more than 1,000 tons or 750 cubic yards, whichever is less, within 12 successive calendar months), the provisions of Subsection D shall apply.

(2) For mines not subject to the jurisdiction of the Department of Environmental Conservation, the provisions of Subsections C, E, F and G shall apply.

C. Permits.

(1) Any person who mines or proposes to mine from each mine site less than and

not more than 1,000 tons or 750 cubic yards, whichever is less, of minerals from the earth within 12 successive calendar months shall not engage in such mining unless a special use permit (permit) for such mining operation has been obtained from the Town Board. A separate permit shall be obtained for each mine site.

(2) Applications for special use permits may be submitted for annual terms not to exceed five years. A complete application for a new mining permit shall contain the following:

(a) Completed application forms provided by the Planning Department;

(b) A mined land-use plan;

(c) A statement by the applicant that mining is not prohibited at that location; and

(d) Such additional information as the Planning Department may reasonably require, including but not limited to the following:

[1] Proof of compliance with the required setbacks from property boundaries or public highways;

[2] Man-made or natural barriers designed to restrict access if needed, and, if affirmative, the type, length, height and location thereof;

[3] Control of dust;

[4] Hours of operation; and

[5] A Full Environmental Assessment or draft Environmental Impact Statement.

(3) Upon approval of the application by the Town Board and receipt of financial security as provided in Subsection E of this section, a permit shall be issued by the Planning Department. The Town Board may include in permits such conditions as may be required to achieve the purposes of this section.

(4) A permit issued pursuant to this section, or a certified copy thereof, must be publicly displayed by the permittee at the mine and must at all times be visible, legible, and protected from the elements.

(5) The Town Board may suspend or revoke a permit for repeated or willful violation of any of the terms of the permit or provisions of this section or for repeated or willful deviation from those descriptions contained in the mined land use plan. The Town Board may refuse to renew a permit upon a finding that the permittee is in repeated or willful violation of any of the terms of the permit, this section or any rule, regulation, standard, or condition thereto.

(6) Nothing in this section shall be construed as exempting any permittee from the provisions of any other law or regulation.

(7) The permittee or, in the event no application has been made or permit issued, the person engaged in mining shall have the primary obligation to comply with

the provisions of this section as well as the conditions of any permit issued thereunder.

(8) Permits issued pursuant to this section shall be renewable. A complete application for renewal shall contain the following:

(a) Completed application forms provided by the Planning Department;

(b) An updated mining plan map consistent with the provisions of this section and including an identification of the area to be mined during the proposed permit term;

(c) A description of any changes to the mined land use plan; and

(d) An identification of reclamation accomplished during the existing permit term.

D. Public hearing.

(1) Holding of hearing.

(a) Upon receipt of notice from the Department of Environmental Conservation ("Department") that a complete application has been received by such Department, the Town Board shall hold a public hearing on such application, which for the purposes of this chapter shall be deemed to be an application for a special use permit.

(b) In the event mining is not allowed by a special use permit at the location set forth in such application, the Planning Department shall so notify the department of such restriction.

(c) Such hearing and the response from the Town to the department shall be held within 30 days after receipt of such notice.

(2) At the special use permit public hearing, the Town Board shall determine what conditions, if any, should be attached to the permit to be issued by the department, which conditions shall be limited to the following pursuant to Environmental Conservation Law § 23-2703(2)(b):

(a) Ingress and egress to Town highways;

(b) Routing of mineral transport of vehicles on Town highways;

(c) The setback requirements of Subsection F(1) of the permit to be issued by the department;

(d) Dust control; and

(e) Hours of operation.

(3) Following such public hearing, the Town Clerk shall transmit to the department a certified copy of the resolution of the Town Board which determines such conditions.

E. Land use plan; schedule.

(1) Mined land use plan. All mining and reclamation activities on the affected land shall be conducted in accordance with an approved mined land use plan. The mined land use plan shall consist of both a mining and a reclamation plan, and any other information which the Planning Department deems necessary in order to achieve the purposes of this section.

(a) The mining plan shall consist of a written and graphic description of the proposed mining operation, including the boundaries of the land controlled by the applicant, the outline of potential affected acreage and the general sequence of areas to be mined through successive permit terms. The graphic description shall include the location of the mine and shall identify the land previously affected by mining including, but not limited to, areas of excavation; areas of overburden, tailings, and spoil; areas of topsoil and mineral stock piles; processing plant areas; haulageways; shipping and storage areas; drainage features and water impoundments. The written description of the plan shall include the applicant's mining method and measures to be taken to minimize adverse environmental impacts resulting from the mining operation.

(b) The reclamation plan shall consist of a graphic and written description of the proposed reclamation. The graphic description shall include maps and cross sections which illustrate the final physical state of the reclaimed land. The written description of the plan shall describe the manner in which the affected land is to be reclaimed, and a schedule for performing such reclamation.

(c) A Full Environmental Assessment Form or a draft Environmental Impact Statement may be submitted in lieu of a mined land use plan if the Planning Department determines that it conforms to the requirements of this section.

(d) The Town Board may, after notice and an opportunity for a hearing, impose a reclamation plan in the absence of an approved reclamation plan or upon finding of noncompliance with or failure of an approved reclamation plan.

(2) The reclamation of all affected land shall be completed in accordance with the schedule contained in the approved mined land-use plan pertaining thereto. The schedule, where possible, shall provide for orderly, continuing reclamation concurrent with mining. The permittee shall submit to the Planning Department a notice of termination of mining within 30 days after such termination. Reclamation of the affected land shall be completed within a two-year period after mining is terminated, as determined by the Planning Department, unless the Planning Department deems it in the best interest of the Town to allow a longer period for reclamation. The permittee shall submit to the Planning Department a notice of completion of reclamation within 30 days of such completion. If the Planning Department fails to approve or disapprove the adequacy of reclamation within 90 days after receipt of the notice of completion of reclamation, the permittee may notify the Planning Department of such failure by means of certified mail return receipt. If within 30 days after receipt of such notice, the Planning Department fails to mail a

decision, the permittee shall be relieved of the obligation to maintain financial security with respect to the reclamation; provided, however, nothing herein shall relieve the permittee of the obligation to accomplish adequate reclamation. The permittee shall file periodic reports at such times as the Planning Department shall require, indicating areas for which reclamation has been completed. The Planning Department shall inspect such areas and notify the permittee whether the reclamation is in accordance with the approved plan or whether there are deficiencies that must be corrected.

F. Slope; haulageway roads.

(1) The slope of the mine or other excavation shall not be nearer than 350 feet to any boundary line of the Town, any property line or highway line (whether such highway be within or outside the boundaries of the Town) or nearer than 350 feet to any existing residence, and not nearer than 1,000 feet to the boundary of any NR District.

(2) All haulageway roads shall have a dust-controlled surface not less than 22 feet wide from the connection to a public highway to a point 100 feet from the loading point, and such haulageway shall be properly maintained by the permittee during the life of the mine.

G. Financial security.

(1) Financial security for reclamation. Before the Town Board may issue a special use permit, the applicant shall furnish financial security to ensure the performance of reclamation as provided in the approved mined land use plan and naming the Town as beneficiary. Financial security shall be in the form of a bond with a corporate surety licensed to do business as such in New York or any other form of security the Town Board may deem acceptable.

(2) The Town Board shall determine the amount, condition, and terms of the financial security. The amount shall be based upon the estimated cost of reclaiming the affected land, which shall be based on information contained in the permit application and upon such other information as an investigation by the Town Board may disclose.

(3) The financial security shall remain in full force and effect until the Town Board has approved the reclamation. At the discretion of the Town Board, the permittee may secure the release of that portion of the financial security for affected land on which reclamation has been completed and approved by the Town Board.

(4) If the financial security shall for any reason be canceled, within 30 days after receiving notice thereof, the permittee shall provide a valid replacement under the same conditions as described in this section. Failure to provide replacement financial security within such period may, at the discretion of the Town Board, result in the immediate suspension of the mining permit by the Town Board.

(5) If a permit is suspended or revoked, the Town Board may require the permittee to commence reclamation upon 30 days' notice.

(6) If the permittee fails to commence or to complete the reclamation as required, the Town Board may utilize the financial security furnished by the permittee to effect such reclamation. In any event, the full cost of completing reclamation shall be the personal liability of the permittee and/or the person engaged in mining and the Town Board may bring an action to recover all costs to secure the reclamation not covered by the financial security. The materials, machinery, implements and tools of every description which may be found at the mine, or other assets of the permittee and/or the person engaged in mining shall be subject to a lien of the Town for the amount expended for reclamation of affected lands and shall not be removed without the written consent of the Town Board. Such lien may be foreclosed in the same manner as a mechanic's lien.

H. Definitions.

(1) For the purposes of this section, the definitions in Environmental Conservation Law § 23-2705 shall control except for the definition of "mining."

(2) For the purposes of this section:

MINING — The extraction of overburden and solid materials from the earth; the preparation and processing of such solid minerals, including any activities or processes or parts thereof for the extraction or removal of such minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of such minerals at the mine location so as to make them suitable for commercial, industrial, or construction use; exclusive of manufacturing processes, at the mine location; the removal of such materials through sale or exchange, or for commercial, industrial or municipal use; and the disposition of overburden, tailings and waste at the mine location. "Mining" shall not include the excavation, removal and disposition of minerals from construction projects, exclusive of the creation of water bodies, or excavations in aid of agricultural activities, or natural gas exploration or extraction.

§ 270-13.5. Elder cottages.

A. Terms.

(1) An elder cottage is a separate, detached, temporary one-family dwelling, and is an accessory use to a single- or two-family dwelling.

(2) For the purpose of this section, the term "owner" shall mean a natural person:

(a) Who owns at least a 50% interest in the real property and related dwelling; or

(b) Who owns the real property and related dwelling with no more than one other individual or entity as joint tenants or as tenants by the entirety.

B. Elder cottages shall be permitted as accessory uses, subject to site plan review as provided in Article XI and the following provisions and conditions:

(1) Use limitations. An elder cottage shall not be occupied by more than two

persons:

(a) Who shall be the same persons enumerated on the application for the elder cottage; and

(b) Who shall be persons 55 years of age or older.

(2) Dimensional limitations.

(a) The elder cottage shall not exceed 850 square feet in total floor area.

(b) Notwithstanding any other provisions of this chapter, the minimum size of the elder cottage may be reduced to no less than 250 square feet of total floor area.

(c) The elder cottage shall not exceed one story in height and under no circumstances shall the building height exceed 20 feet.

(3) Location requirements.

(a) An elder cottage shall be located only on a lot where there already exists a single-family or two-family dwelling.

(b) No elder cottage shall be located within the front yard of any lot.

(c) No elder cottage shall be permitted on a nonconforming building Lot.

(d) No more than one elder cottage shall be located on any lot.

(e) The placement of the elder cottage shall be otherwise in conformity with all other provisions of this chapter, including lot coverage and side and rear yard setbacks.

(4) Building requirements.

(a) An elder cottage shall be clearly subordinate to the principal dwelling on the lot and its exterior appearance and character shall be in harmony with the existing principal dwelling.

(b) An elder cottage shall be constructed in accordance with all applicable laws, regulations, codes and ordinances, and the New York State Uniform Fire Prevention and Building Code.[34]

(c) An elder cottage shall be constructed so as to be easily removable. The foundations shall be of easily removable materials so that the lot may be restored to its original use and appearance after removal with as little disruption of the site as possible. No permanent fencing, walls, or other structures shall be installed or modified that will hinder removal of the elder cottage from the lot.

(d) Adequate water supply and sewage disposal arrangements shall be provided, which may include connections to such facilities of the principal dwelling. If located in an area where electrical, television cable,

34. Editor's Note: See Ch. 118, Building Code Administration and Enforcement.

and/or telephone utilities are underground, such utilities serving the elder cottage shall also be underground.

(e) An adequate area for parking shall be required for the expected number of cars of the occupants of the elder cottage.

(5) Approval.

(a) The approval shall be for a period of one year (unless earlier terminated as hereinafter set forth) and thereafter may be renewed annually by the Code Enforcement Officer upon receipt of an application for same, provided that the circumstances have not changed.

(b) The approval shall terminate 120 days after:

[1] The death or permanent change of residence of the original occupant or occupants of the elder cottage; or

[2] Any of the occupancy requirements set forth in this section are no longer met.

C. In addition to any other indicia of a permanent change of residence, the continuous absence from the elder cottage of an applicant for a period of 180 consecutive days shall be considered to be a permanent change of residence. During the 120-day period following any of the events set forth in Subsection B(5)(b) above, the elder cottage shall be removed and the site restored so that no visible evidence of the elder cottage remains. If the elder cottage has not been removed by the end of the 120-day period, in addition to the other sanctions in this chapter, an action to compel removal may be commenced to provide for removal and salvage by the Town with a lien imposed to defray any costs incurred. Such lien may be added to the real property taxes applicable to the lot on which the elder cottage was located and collected in the same way as any other tax payable to the Town.

D. Extension of time to remove elder cottage. Notwithstanding any other provision of this chapter, there shall be no administrative extension of time for removal of an elder cottage. The Town Board may, upon making the same findings that would normally be required for the granting of a use variance, extend the time for removal of the elder cottage for one additional six-month period.

§ 270-13.6. Automotive towing service.

A. An automotive towing service shall provide a screened fenced-in area for storage of towed motor vehicles to obstruct views of them from adjacent properties and highways. The storage area shall be maintained in a neat and orderly manner.

B. No more than 15 motor vehicles may be stored on the property at any one time.

C. Motor vehicles that are not repairable and are to be junked shall not be stored on the property longer than 21 days. Motor vehicles that are to be repaired shall not be stored on the property longer than 90 days.

§ 270-13.7. Sound performance standards.

A. Policy statement. The Town of Dryden has a compelling interest in ensuring for its residents an environment free from excessive noise from industrial or commercial uses which may jeopardize their health or welfare or degrade the quality of life. The prohibitions of this section are intended to protect, preserve and promote the health, safety, welfare and quality of life for residents of the Town through the reduction, control and prevention of such loud and unreasonable noise.

B. Applicability. The requirements of this section shall apply to all uses in the business group and recreational group in any zone, any Planned Unit Development District, any use for which a special use permit and/or site plan review is required, and any industrial or commercial use in any zone or district whether or not a permit from the Town is or was required, and any industrial or commercial use for which a use variance has been granted by the ZBA.

C. Definitions.

(1) Any words or phrases not defined in this section or in the definitions in Article III shall assume their common dictionary definition.

(2) As used in this section, the following definitions shall apply:

A-WEIGHTED SOUND LEVEL — The sound level, in decibels, reported as measured by a sound level measuring instrument having an A-weighting network which discriminates against the lower frequencies according to a relationship approximating the auditory sensitivity of the human ear. The level so read is designated "dBA."

COMMERCIAL USE — Any premises, property, or facility involving the uses set forth in the business group or recreational group in the Allowable Use Groups chart in § 270-5.2 in this chapter, including but not limited to:

(a) Dining and/or drinking establishments;

(b) Banking and other financial institutions;

(c) Establishments for providing retail services;

(d) Establishments for providing wholesale services;

(e) Establishments for recreation and entertainment;

(f) Office buildings;

(g) Transportation;

(h) Warehouses;

(i) Hotels and/or motels.

DECIBEL (dB) — The practical unit of measurement for sound pressure level. The number of "decibels" is a measured sound equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of the measured sound to the sound pressure of a standard sound (20 micropascals); abbreviated "dB."

INDUSTRIAL USE — Any premises, property, or facility involving the uses set forth in the business group in the Allowable Use Groups chart in § 270-5.2

in this chapter, including but not limited to:

(a) Any activity and its related premises, property, facilities, or equipment involving the fabrication, manufacture, or production of durable or nondurable goods;

(b) Any activity and its related premises, property, facilities, or equipment involving the excavation and sale of topsoil, sand, gravel, clay or other natural mineral or vegetable deposit, and the quarrying of any kind of rock formation, not regulated under New York Environmental Conservation Law § 23, Title 27;

(c) Any manufacturing or industrial and similar use whether conducted indoors or outdoors;

(d) Any industrial process, whether temporary, intermittent or regularly occurring;

(e) Any activity and its related premises, property, facilities or equipment, including the production or processing of any raw material, whether solid, gaseous, liquid or any combination thereof;

(f) The operation of stock yards, slaughterhouses, and rendering plants;

(g) Junkyards, automobile graveyards and disassembly plants; or

(h) The disposal, processing or storage of toxic wastes, solid wastes, including medical wastes, garbage or other refuse or waste products of every kind and nature.

PROPERTY LINE — The imaginary line, including its vertical extension that separates one parcel of real property from another.

SOUND LEVEL — The sound pressure level measured in decibels with a sound level meter set for A-weighting. "Sound level" is expressed in dBA.

SOUND LEVEL METER — An instrument for the measurement of noise and sound.

D. Prohibitions. No use of any property to which these prohibitions are applicable shall operate or produce any source of sound in such a manner as to create a sound level which exceeds the limits set forth for the land use category stated below when measured at the property line nearest the receiving land use. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

Receiving Land Use Category	Time	Sound Level Limit (dBA)
Residential use in CV, VHMUD, VHRD, VHTD, NR, RA, RR, TNDO District	7:00 a.m. to 7:00 p.m.	65
	7:00 p.m. to 7:00 a.m.	55

Receiving Land Use Category	Time	Sound Level Limit (dBA)
Unique natural areas	7:00 a.m. to 7:00 p.m.	60
	7:00 p.m. to 7:00 a.m.	50
All others	7:00 a.m. to 7:00 p.m.	68
	7:00 p.m. to 7:00 a.m.	58

(1) For any source of sound which emits a pure tone, a discrete tone or impulsive sound, the maximum sound levels set forth above shall be reduced by five dBA.

(2) Nothing contained herein shall restrict or limit the imposition of stricter noise standards by the Town Board in an appropriate situation in connection with any approval requiring environmental review of the proposed action under Environmental Conservation Law Article 8 and the regulations promulgated in 6 NYCRR Part 617.

E. Exceptions. The sound levels herein prescribed shall not apply to sound emitted or related to:

(1) Natural phenomena;

(2) Church bells rung as part of any official church ceremony or service, and tower clock bells ringing the hour;

(3) Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm systems used in any emergency situation; provided, however, that burglar alarms, including vehicle alarms, not terminated within 30 minutes after being activated shall be unlawful;

(4) Warning devices required by OSHA or other state or federal regulations;

(5) Lawful emergency maintenance or repairs;

(6) Sound emanating from any agricultural activity, including silviculture activity;

(7) The temporary use of property during construction of a facility;

(8) Use of public or private school premises for any lawful activity;

(9) Gun clubs;

(10) Sound from recreational or personal use of internal combustion engines, provided the same are operated within the parameters of the manufacturers recommendations;

(11) Sound from commemorative ceremonies conducted at holidays or funerals.

F. Measurement of sound levels.

(1) The measurement of sound levels shall be made by any Code Enforcement

Officer or his designee with a sound level meter meeting the standards prescribed by the American National Standards Institute S1.4.

(2) Except where otherwise prescribed, the slow meter response of the sound level meter shall be used in order to determine that the average of three readings taken over a fifteen-minute period does not exceed the limiting sound levels set forth in this section.

(3) Measurement of sound levels shall be made at the prescribed locations and shall be taken at least four feet from the ground.

(4) Compliance with sound level limits is to be maintained at all elevations at the boundary of the property.

G. Enforcement. This section shall be enforced by the Code Enforcement Officer or his designee and at all times by any peace or police officer.

H. Penalties. Any violation of any of the provisions of this section is hereby declared to be an offense, punishable by a fine not exceeding $500 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than $500 not more than $1,000 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than $1,000 nor more than $2,000 or imprisonment for a period not to exceed six months, or both. For the purpose of conferring jurisdiction upon courts, violations of this section of this chapter shall be deemed misdemeanors and for such purpose only, all provisions of the law relating to misdemeanors shall apply to such violations. Each day's continued violation shall constitute a separate additional violation. To the extent this section is inconsistent with Town Law § 268(1), it is intended to supersede such section in accordance with Municipal Home Rule Law § 10(1)(ii)d(3) with respect to the maximum penalties which may be imposed upon a conviction of a violation of this section.

§ 270-13.8. Kennel.

A. The minimum lot area shall be five acres for kennels or other facility with outdoor runs.

B. All facilities shall be centrally located on the property to allow for adequate distance from the property line to reduce the effect of noise from barking animals.

C. The Board may impose such conditions as it deems necessary to avoid or minimize traffic, noise and odor impacts and impairment of the use, enjoyment and value of property in the area of the kennel.

§ 270-13.9. Drive-through facility.

A. The regulations and requirements set forth in this section are intended to reduce the negative impacts that drive-through facilities may create. Of special concern are noise from idling motor vehicles and audio equipment, lighting, and stacked or queued drive-through traffic interfering with on-site and off-site traffic and

pedestrians. The special requirements set forth for drive-through facilities are in addition to all other requirements pertaining to the principal use to which a drive-through facility is part.

B. Vehicular traffic stacking or queuing requirements. A drive-through, for the following uses shall provide the following minimum vehicular traffic stacking or queuing distances:

(1) For a fast-food restaurant, the minimum distance shall be 140 feet between the start of the drive-through lane to the service window.

(2) For a bank and other similar business, the minimum distance shall be 60 feet from the start of the drive-through lane to the service window.

(3) The stacking spaces shall be located so as not to interfere with the use of parking spaces or the flow of traffic on the site and shall be adequately striped and marked with directional signs.

C. Multiple drive-through vehicular traffic lanes. The Board may allow lesser stacking distances than those specified in this section for businesses with multiple drive-through lanes, when documentation supporting such reduction is provided in connection with site plan review.

D. Noise. Any drive-through audio system shall emit no more than 50 decibels measured at four feet from the speaker and shall not be audible above daytime ambient noise levels beyond the property boundaries. The audio system shall be designed to compensate for ambient noise levels in the immediate area and no speaker shall be located within 30 feet of any residential district or any property used for residential uses.

E. Location, setbacks, size and landscaping.

(1) Drive-through service areas shall not be located in the front yard.

(2) Service areas and stacking lanes must be set back at least 30 feet from all lot lines which abut a residential zone and shall be screened as determined necessary by the Board.

(3) Service areas and stacking lanes must be set back at least 10 feet from all lot lines which abut nonresidential zones and shall be screened as determined necessary by the Board.

(4) Stacking lanes must be set back 10 feet from all street lines and shall be screened as determined necessary by the Board.

§ 270-13.10. Automotive repair garage.

A. Ten visitor parking spaces, plus two parking spaces for each three employees, shall be provided. Vehicles awaiting service or repair shall be parked in a marked area and only in a side yard or rear yard, unless this requirement is waived by the Board in site plan review.

B. Garage doors shall be visually buffered from adjacent residential rises.

C. The storage of motor vehicles for service or repair shall be confined to the portions of the lot designated for parking on the site plan. Partially dismantled vehicles shall not be stored in any required yard setback or be located in any required buffer strip, except when the Board in its site plan review determines that an adequate buffer will be provided to protect adjacent properties and uses and that the appearance of such storage will not result in adverse visual impact.

D. No outdoor sales or display of motor vehicles for sale shall be permitted.

E. All parts or similar articles shall be stored within a structure. All repair and service work, including car washing, but excluding emergency service and the sale of fuel and lubricants, shall be conducted entirely within either a structure or, where deemed appropriate by the Board in site plan review due to such factors as the size of the property involved and/or its location, entirely within a fenced-in area in which such work is visually screened from all adjoining properties and roadways.

§ 270-13.11. Accessory dwelling unit.

A. Standards. Accessory dwelling units shall comply with the following standards:

(1) Principal use. The principal use of the structure must be that of a Single-family dwelling or an accessory structure, such as a detached garage, that primarily serves the needs of the single-family dwelling.

(2) Required occupancy. The owner of the property upon which the accessory dwelling unit is located shall occupy the principal or Accessory dwelling unit on the premises as their primary residence.

(3) Number of accessory dwelling units. Only one Accessory dwelling unit shall be permitted on any lot.

(4) Maximum size. An accessory dwelling unit shall be subordinate in area to the single-family dwelling.

(5) Maximum occupancy. The accessory dwelling unit shall be limited in occupancy as a single-family dwelling.

(6) Setbacks. If the accessory dwelling unit is within a detached accessory structure, said Structure must meet the required yard setbacks.

(7) Access. An external located entrance, separate from that of the single-family dwelling shall be located on the side or rear of the single-family dwelling, or in the front only if the entrance is on a separate, perpendicular plane from that of the front entrance of the single-family dwelling.

(8) Outside stairways. Any outside stairways and/or fire escapes shall be at the rear or side of the Structure.

(9) Exterior appearance. If an accessory dwelling unit is located in a detached single-family dwelling, to the degree reasonably feasible, the exterior appearance of the structure shall remain that of a Single-Family dwelling.

(10) Utilities. Unless the dwelling is serviced by a public water or sewer system,

approval of the Tompkins County Health Department shall be obtained prior to issuance of a building permit, certificate of occupancy and/or certificate of compliance.

(11) Maintenance and continued compliance. An accessory dwelling unit shall be permitted and continued only when all structures on the lot are in compliance with applicable laws, codes, rules, regulations, statutes and local laws and ordinances.

(12) Parking. Off-street parking shall be provided in accordance with § 270-9.3 of this chapter.

B. Application. An application for an accessory dwelling unit must contain sufficient information to demonstrate compliance with each of the standards set forth in this section, including but not limited to the following information:

(1) A floor plan of each habitable floor of the structure, with all interior dimensions, including windows and doors, including types of rooms.

(2) Plans shall be prepared in sufficient size and detail to enable the Planning Department to determine compliance with the requirements for an accessory dwelling unit.

§ 270-13.12. Solar energy systems. [Added 2-16-2017 by L.L. No. 3-2017]

A. Authority. This section is adopted pursuant to the powers granted by § 261 and 263 of the Town Law of the State of New York, which authorize the Town of Dryden to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and "to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor."

B. Statement of purpose. This section is adopted to advance and protect the public health, safety, and welfare of the Town of Dryden, including:

(1) Taking advantage of a safe, abundant, renewable, and nonpolluting energy resource;

(2) Decreasing the cost of energy to the owners of commercial and residential properties, including single-family houses; and

(3) Increasing employment and business development in the region by furthering the installation of solar energy systems.

C. Applicability.

(1) The requirements of this section shall apply to all solar energy systems installed or modified after its effective date, excluding general maintenance and repair, building-integrated photovoltaic systems, and solar energy systems with a total area of solar collectors of 10 square feet or less.

(2) The installation of any solar energy system does not carry with it a right to a clear line of sight to the sun. It shall be the responsibility of the applicant,

installer, or developer to gain any and all solar easements or agreements to maintain a line of sight to the sun if necessary.

(3) The Town of Dryden Planning Department shall review and determine the correct path for all permitting requirements.

D. Building-mounted solar energy systems.

(1) Building-mounted solar energy systems are permitted as an accessory use in all zoning districts when attached to any lawfully permitted building or structure.

(2) Height. Solar energy systems shall not exceed the maximum height restrictions of the zoning district within which they are located and are provided the same height exemptions that apply to building-mounted mechanical devices or equipment.

(3) All building-mounted solar energy systems shall be exempt from the requirement for site plan review or a special use permit, unless such building-mounted system increases the overall height of the structure by six feet or more, in which case site plan review by the Planning Board shall be required.

(4) All owners of building-mounted solar energy systems must file a building permit application with the Planning Department, and obtain a valid building permit, prior to starting their installation.

E. Ground-mounted small-scale solar energy systems.

(1) Ground-mounted small-scale solar energy systems shall not be located in the following areas, unless otherwise approved by the Planning Board in conjunction with a site plan review process as provided in Article XI:

(a) Prime farmland soils as identified by the United States Department of Agriculture-Natural Resources Conservation Service (USDA-NRCS) or alternative available resource.

(b) Areas of potential environmental sensitivity, such as unique natural areas as designated by the Tompkins County Environmental Management Council, floodplains, historic sites, airports, state-owned lands, conservation easements, trails, parkland, prime soils, and wetlands as identified by Tompkins County Planning Department mapping services, the New York State Department of Environmental Conservation, or the United States Army Corps of Engineers.

(c) Development is prohibited on slopes of greater than 15% unless the solar energy applicant can demonstrate through engineering studies and to the satisfaction of the Town Engineer that the proposed development will cause no adverse environmental impact that will not be satisfactorily mitigated.

(d) Placement within the front yards of residential lots, if any aboveground portion of the system is within 100 feet of a public highway right-of-way.

(2) Ground-mounted small-scale solar energy systems are permitted as principal and accessory structures in all zoning districts and shall adhere to the following:

(a) Height and setback. Ground-mounted solar energy systems shall not exceed 20 feet in height, and the setback requirements of the underlying zoning district shall apply.

(b) Lot coverage. The horizontal surface area covered by ground-mounted solar collectors shall be included in total lot coverage and when combined with the coverage of other structures, the total area shall not exceed the maximum lot coverage as permitted in the underlying zoning district.

(3) Except as provided in Subsection E(1) above, ground-mounted small-scale solar energy systems shall be exempt from the requirement for site plan review or a special use permit.

F. Ground-mounted large-scale solar energy systems.

(1) Ground-mounted large-scale solar energy systems are permitted as principal and accessory uses through the issuance of a special use permit as approved by the Town Board with prior review and recommendations on the site plan by the Planning Board within Conservation, Rural Agriculture, Rural Residential, Mixed-Use Commercial, and Light Industrial Zoning Districts, subject to the requirements set forth in this section, including site plan approval. Applications for the installation of a ground-mounted large-scale solar energy system shall be reviewed by the Zoning Officer and referred, with comments, to the Town Planning Board for its review and recommendation, and to the Town Board for its review and action, which can include approval, approval on conditions, or denial.

(a) Ground-mounted large-scale solar energy systems that produce electricity or thermal energy primarily for active farming or agricultural uses, where the generation is less than 110% of the farm use, shall be exempt from the requirement to obtain a special use permit or a site plan.

(2) Ground-mounted large-scale solar energy systems shall not be located in the following areas unless otherwise approved by the Town Board in conjunction with the special use permit approval process as provided in this section:

(a) Prime farmland soils as identified by the USDA-NRCS or alternative available resource.

(b) Areas of potential environmental sensitivity, including unique natural areas, floodplains, historic sites, airports, state-owned lands, conservation easements, trails, parkland, prime soils, and wetlands as identified by Tompkins County Planning Department mapping services, the New York State Department of Environmental Conservation, or the United States Army Corps of Engineers.

(c) On slopes of greater than 15%, unless the solar energy applicant can demonstrate through engineering studies and to the satisfaction of the

Town Engineer that the proposed development will cause no adverse environmental impact that will not be satisfactorily mitigated.

(3) No special use permit or renewal thereof or amendment of a current special use permit relating to a ground-mounted large-scale solar energy system shall be granted by the Town Board unless the solar energy applicant demonstrates that such ground-mounted large-scale solar energy system:

(a) Conforms with all federal and state laws and all applicable rules and regulations promulgated by any federal or state agencies having jurisdiction.

(b) Is designed and constructed in a manner which minimizes visual impact to the extent practical.

(c) Complies with all other requirements of the Town of Dryden Zoning Law and applicable Commercial Design Guidelines unless expressly superseded herein.

(d) Conforms with all adopted plans of the Town of Dryden.

(e) Complies with a fifty-foot front yard, rear yard, and side yard setback, except the setback is reduced to 10 feet (one feet for all fences) along the portion of any lot line where another ground-mounted large-scale solar energy system: is located across the line; and is no more than 50 feet from the lot line. **[Amended 12-14-2017 by L.L. No. 6-2017]**

(f) Does not exceed 20 feet in height.

(g) Has a solar collector surface area (as measured in the horizontal plane) that, when combined with the coverage of other structures on the lot, does not exceed twice the maximum lot coverage as permitted in the underlying zoning district, unless the Town Board authorizes the additional exceedance through the special use permit process.

(4) Special use permit application requirements. For a special use permit application, the site plan application is to be used as supplemented by the following provisions and shall include, but not be limited, to the following:

(a) A completed project application form in such detail and containing such information as the Town Board may require.

(b) In fulfilling the requirements of the State Environmental Quality Review Act (SEQRA), the Town Board may require a Full Environmental Assessment Form (EAF) for the proposed ground-mounted large-scale solar energy system. The Town Board may require submittal of a more detailed visual analysis based on the information in, or analysis of, the EAF.

(c) Site plan in accordance with the requirements of Article XI and this section, including, without limitation:

[1] Name, address and phone number of the person preparing the

reports.

[2] Postal address and Tax Map parcel number of the property.

[3] Zoning district in which the property is situated.

[4] The exact location including geographic coordinates of the proposed ground-mounted large-scale solar energy system including any solar arrays, equipment and anchors, if applicable.

[5] Identification on site plans of areas of potential environmental sensitivity, including on-site or nearby unique natural areas, slopes greater than 15%, floodplains, historic sites, airports, other government lands, conservation easements, trails, parkland, prime soils, and wetlands as identified by Tompkins County Planning Department mapping services, the New York State Department of Environmental Conservation, or the United States Army Corps of Engineers.

[6] The maximum height of the proposed solar energy system, including all appurtenances.

[7] A detail of solar collector type, including but not limited to equipment specification sheets for all photovoltaic panels and collectors, significant components, mounting systems, and inverters that are to be installed; and proposed solar energy production capacity design level proposed for the solar energy system and the basis for the calculations of the area of the solar energy system's capacity.

[8] The location, type and intensity of any lighting on the site.

[9] Property boundaries and names of all adjacent landowners;

[10] If the real property for the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted. A document must be submitted that clearly delineates the party responsible for decommissioning at the end of the life of the system and in the event the owner of the system abandons the system for any reason. Examples of such a document are a lease, memorandum of lease or letter of agreement.

[11] The location of all other structures on the property.

[12] The system shall be designed to accommodate emergency vehicle access. The design may include, but not be limited to, items such as the height, access ways for vehicles, firefighting capabilities, and other prominent features.

[13] Blueprints and a site plan showing the layout of the ground-mounted large-scale solar energy system, which must bear the seal of a design professional licensed to practice in New York State.

[14] Description of continuing solar energy system maintenance and property upkeep, such as mowing and trimming.

[15] The location, nature and extent of any proposed fencing, landscaping and screening.

[16] The location and nature of any proposed utility easements and access roads or drives.

[17] A glare assessment survey and any mitigation efforts that may be utilized to minimize glare on contiguous parcels of land.

[18] A decommissioning plan as set forth in the below provisions titled "Abandonment and Decommissioning."

(5) Special use permit standards.

(a) Appearance and buffering:

[1] The ground-mounted large-scale solar energy system shall have the least visual effect practical on the environment, as determined by the Town Board. Based on site specific conditions, including topography, adjacent structures, and roadways, reasonable efforts shall be made to minimize visual impacts by preserving natural vegetation, and providing landscape screening to abutting residential properties and roads, but screening should minimize the shading of solar collectors.

[2] Any glare produced by the solar array shall not impair or make unsafe the use of contiguous structures, any vehicles on or off the road, any airplanes, or uses by other possible impacted entities as determined by the Town Board.

[3] Any exterior lighting installed shall have the least visual effect practical on the contiguous properties and shall be approved by the Town Board.

[4] The Town Board may require additional information, such as line-of-sight drawings, detailed elevation maps, visual simulations, before and after renderings, and alternate designs to more clearly identify adverse impacts for the purpose of their mitigation.

[5] Equipment and vehicles not used in direct support, renovations, additions or repair of any ground-mounted large-scale solar energy system shall not be stored or parked on the facility site.

(b) Access and parking:

[1] Ground-mounted large-scale solar energy systems may be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's name and emergency contact information shall be placed on any access point to the system and on the perimeter of the fencing. The fencing and the system shall be further screened by any

landscaping or decorative fencing needed to avoid adverse aesthetic impacts as approved by the Town Board.

[2] Motion-activated or staff-activated security lighting around the equipment area of a ground-mounted large-scale solar energy system or accessory structure entrance may be installed provided that such lighting does not project off the site. Such lighting should only be activated when the area within the fenced perimeters has been entered.

[3] A locked gate at the intersection of the access way and a public road may be required to obstruct entry by unauthorized vehicles. Such gate must be located entirely upon the lot and not on the public right-of-way.

(c) Engineering and maintenance:

[1] Every solar energy system shall be built, operated and maintained to acceptable industry standards, including but not limited to the most recent, applicable standards of the Institute of Electric and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).

[2] The Town, at the expense of the solar energy applicant, may employ its own consultant(s) to examine the application and related documentation and make recommendations as to whether the criteria for granting the special use permit have been met, including whether the applicant's conclusions regarding safety analysis, visual analysis, structural inspection, and stormwater management aspects are valid and supported by generally accepted and reliable engineering and technical data and standards.

(d) The Town Board may impose conditions on its approval of any special use permit under this section in order to enforce the standards referred to in this section or in order to discharge its obligations under the State Environmental Quality Review Act (SEQRA).

(6) Any application under this section shall also meet all provisions contained in Article XI for site plans that, in the judgment of the Town Board, are applicable to the system being proposed.

G. Fees and deposits.

(1) The fees for a special use permit, site plan review and building permit for a solar energy system shall be set from time to time by Town Board resolution.

(2) The solar energy applicant shall deliver with its application an amount equal to 1% of the estimated cost of the project or $25,000, whichever is less (the "initial deposit"). This sum shall be held by the Town in a non-interest-bearing account, and these funds shall be available to the Town to pay consultants engaged by the Town to assist in review of the application. Following grant or denial of the application, the Town shall return to the applicant any excess

remaining in escrow. If the escrow account has been depleted prior to grant or denial of the application, the applicant shall deposit such funds as are then necessary for the Town to pay any outstanding fees to said consultants. **[Amended 12-14-2017 by L.L. No. 6-2017]**

H. Building permits.

(1) A holder of a special use permit from the Town Board granted under this section shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code and must maintain the same, in full force and effect, for as long as required by the Town or other governmental entity or agency having jurisdiction over the solar energy applicant.

(2) A holder of a special use permit from the Town Board for a solar energy system shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted Solar Energy System in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, county, state or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health and land use codes. In the event of a conflict between or among any of the preceding, the more stringent shall apply.

(3) Unless waived by the Town Board, there shall be a preaapplication meeting for the building permit application for a solar energy system that requires a special use permit or site plan review. The purpose of the preapplication meeting will be to address issues which will help to expedite the review and permitting process. A preapplication meeting may also include a site visit, if required. Costs of the Town's consultants to prepare for and attend the preaapplication meeting will be borne by the solar energy applicant.

(4) The solar energy applicant shall furnish written certification that the solar energy system, foundation and attachments are designed and will be constructed ("as built") to meet all local, county, state and federal structural requirements for loads, including wind and snow loads. If the solar energy system is subsequently approved and constructed, similar as-built certification indicating that it has been constructed in accordance with all standards shall be furnished prior to the Town issuance of any certificate of occupancy or compliance.

(5) After construction and prior to receiving a certificate of occupancy or compliance, the solar energy applicant shall furnish written certification that the solar energy system is grounded and bonded so as to protect persons and property and installed with appropriate surge protectors by a certified and approved NYS Licensed Electrical Inspector.

I. Right to inspect.

(1) In order to verify that the solar energy system's owners and any and all lessees, renters and/or operators of the solar energy system place, construct, modify

and maintain such systems, including solar collectors and solar inverters, in accordance with all applicable technical, safety, fire, building and zoning codes, laws, ordinances and regulations and other applicable requirements, the Town may inspect all facets of said system's placement, construction, modification and maintenance.

(2) Any inspections required by the Dryden Planning Department that are beyond its scope or ability shall be at the expense of the solar energy applicant.

J. Abandonment and decommissioning.

(1) At the time of submittal of the application for a special use permit for a ground-mounted large-scale solar energy system, the solar energy applicant shall submit and agree to the performance of a decommissioning plan that includes the removal of the solar energy system and all associated equipment, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, and gates. If such system becomes technologically obsolete or ceases to perform its originally intended function for more than six consecutive months, the Town may require its removal in accordance with the decommissioning plan. The Town shall provide the solar energy system owner 30 days' prior written notice of a request for decommissioning. Upon removal of a ground-mounted large-scale solar energy system, the land shall be restored to its previous condition, including but not limited to the seeding and sodding, as appropriate depending upon the season of the work, of exposed soils.

(2) At the time of obtaining a building permit, the solar energy applicant may be required to provide a financial security bond or other form of financial security acceptable to the Town for removal of the ground-mounted large-scale solar energy system and property restoration, with the Town of Dryden as the obligee, in an amount approved by the Town Board. Upon any amendment of the special use permit, the Town Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the ground-mounted large-scale solar energy system and property restoration. If the ground-mounted large-scale solar energy system is not decommissioned after being considered abandoned, the Town may remove the system and restore the property and impose a lien on the property pursuant to § 270-18.3B to recover these costs to the Town.

(3) All other solar energy systems shall be considered abandoned after six consecutive months without electrical energy or thermal energy generation and must be removed from the property. The Town Board may consider and grant, for good cause shown, an application for one extension not exceeding 24 months for solar energy systems other than ground-mounted large-scale solar energy systems.

ARTICLE XIV
Zoning Board of Appeals

§ 270-14.1. Zoning Board of Appeals establishment; continuation.

The Zoning Board of Appeals (herein sometimes "ZBA"), existing by virtue of the Town of Dryden Zoning Ordinance, as amended from time to time, and appointment by the Town Board is continued. The ZBA shall function in the manner prescribed by law (except as the same may be superseded by the terms of this chapter as set forth below). Members of the ZBA in office at the time of adoption of this chapter shall continue to serve to the end of the term for which they were appointed.

§ 270-14.2. Membership.

There shall be five members of the ZBA. The members of the ZBA shall be residents of the Town of Dryden and shall be appointed by the Town Board to serve for terms as prescribed by law. Vacancies occurring in said ZBA by expiration of term or otherwise shall be filled in the same manner. No person who is member of the Town Board shall be eligible for membership on the ZBA. The Town Board shall designate the chairperson of the ZBA. In the absence of the chairperson, the ZBA may designate a member to serve as acting chairperson.

§ 270-14.3. Alternate members.

A. There may be appointed additionally up to two alternate members of the ZBA. Alternate members shall be appointed by resolution of the Town Board for terms established by the Town Board.

B. The Chairperson of the ZBA shall designate an alternate member to substitute for a regular member in the event that a regular member is unable or unwilling to vote because of a conflict of interest, recusal, absence, abstention, or any other reason and an alternate member is present at the meeting when the designation takes place.

C. If more than one alternate member is present at a meeting when the Chairperson is designating an alternate member to substitute for a regular member, the Chairperson shall designate the alternate member who has not served on a case or matter the most recently. If that alternate member is not able or willing to vote for a reason listed in Subsection B above, then the Chairperson shall designate the other alternate member to serve.

D. To the extent this section is inconsistent with Town Law § 267(11), it is intended to supersede such section, in accordance with Municipal Home Rule Law § 10(1)(ii)d(3). All other rights, responsibilities and procedures related to alternate members set forth in Town Law § 267 or in this chapter shall apply.

§ 270-14.4. Hearing appeals.

The jurisdiction of the ZBA shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order, requirement, decision, interpretation, or determination made by the administrative official charged with the enforcement of the Zoning Law. Such appeal may be taken by any person aggrieved, or by an officer,

department, board or bureau of the Town.

§ 270-14.5. Orders, requirements, decisions, interpretations, determinations.

The ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of the Zoning Law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.

§ 270-14.6. Lapse.

Unless otherwise specified by the ZBA, and without any further hearing by the ZBA, a decision on any appeal; including the granting of an area variance and/or use variance, shall automatically lapse and expire if the appellant fails to obtain any necessary building permit within one year of the date the decision is filed.

§ 270-14.7. Minimum meeting and hearing attendance requirements.

Members of the ZBA are expected to attend all regularly scheduled and specially scheduled meetings of the Board. In the event that a member of the Board is absent from three consecutive meetings, or in the event a member of the Board is absent from five meetings within any one calendar year, then such member may be removed from the Board as herein provided.

§ 270-14.8. Training and attendance requirements.

A. Each member of the ZBA shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet these requirements. Such training shall be approved by the Town Board and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity. Training may be provided in a variety of formats, including but not limited to electronic media, video, distance learning and traditional classroom training.

B. To be eligible for reappointment to such Board, such member shall have completed the training promoted by the Town pursuant to this section.

C. The training required by this subdivision may be waived or modified by resolution of the Town Board when, in the judgment of the Town Board, it is in the best interest of the Town to do so.

D. No decision of a ZBA shall be voided or declared invalid because of a failure to comply with this section.

§ 270-14.9. Training costs.

The costs of such training shall be a Town charge. Members shall be reimbursed for travel and meal expenses associated with such training according to Town policies.

§ 270-14.10. Removal procedure.

In the event a member of the ZBA has failed to meet the minimum attendance requirements set forth in § 270-14.7 or the training requirements set forth in § 270-14.8, then the Town Board may remove such member from the ZBA as herein provided:

A. Notice. Such member shall be mailed a written notice specifying the nature of the failure of such member to meet the minimum attendance requirements of § 270-14.7 or the training requirements set forth in § 270-14.8 above. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

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

C. Public notice. Public notice of such hearing shall be given by posting a notice on the Town signboard in the vestibule of the Town Hall and by publishing a notice once in the official newspaper. Such posting and publication shall be at least 10 days prior to the date of the public hearing.

D. Conduct of hearing. The public hearing on the charges shall be conducted before the Town Board. The member shall be given an opportunity to present evidence and to call witnesses to refute the charges. A record of such hearing shall be made. The decision of the Town Board shall be reduced to writing together with specific findings of the Town Board with respect to each charge against such member. A copy of such decision and such finding shall be mailed to the member.

E. Action by the Town Board. Following the hearing and upon a finding that such member has not met the minimum attendance requirements required by this chapter, the Town Board may:

   (1) Remove such member from the ZBA;

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

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

§ 270-14.11. Removal for cause.

Nothing contained herein shall be deemed to limit or restrict the Town Board's authority to remove a member from the ZBA for cause (i.e., for other than the reasons enumerated herein). The procedural provisions of § 270-14.10, Removal procedure, shall govern any hearing to remove a member for cause.

§ 270-14.12. Leave of absence; excused absences.

A. The provisions of § 270-14.7 shall not apply to any member who has applied for and been granted a leave of absence by the Town Board from their duties as a member of the ZBA. The Town Board may grant such leave of absence on such terms and for such period as it may deem appropriate; provided, however, no such leave of absence shall be for a period in excess of 11 months.

B. The provisions of § 270-14.7 shall not apply to any member who has been granted an excused absence by the Chairperson of the ZBA. To be a valid request for an excused absence, such request shall be made to the Chairperson of the ZBA prior to the meeting/hearing. Grounds for excused absences shall include illness, vacation, business or employment reasons and personal or family activities.

§ 270-14.13. Applicability.

A. This chapter shall apply to all members of the ZBA regardless of the date of their appointment to such board.

B. Prospective members of the ZBA shall be notified of the requirements of the provisions of §§ 270-14.7 through 270-14.12 of this chapter prior to their appointment to such board.

ARTICLE XV
Planning Board

§ 270-15.1. Planning Board establishment; continuation.

The Planning Board, existing by virtue of the Land Subdivision Rules and Regulations of the Town of Dryden, as amended,[35] and as appointed by the Town Board, is continued. The Planning Board shall function in the manner prescribed by law (except as the same may be superseded by the terms of this chapter as set forth below).

§ 270-15.2. Membership.

There shall be seven members of the Planning Board. The members of the Planning Board shall be residents of the Town of Dryden and shall be appointed by the Town Board to serve terms prescribed by law. Vacancies occurring in said Planning Board by expiration of terms or otherwise shall be filled in the same manner. No person who is a member of the Town Board shall be eligible for membership on the Planning Board. The Town Board shall designate the Chairperson of the Planning Board. In the absence of the Chairperson, the Planning Board may designate a member to serve as Acting Chairperson.

§ 270-15.3. Alternate members.

A. There may be appointed additionally up to two alternate members of the Planning Board. Alternate members shall be appointed by resolution of the Town Board for terms established by the Town Board.

B. The Chairperson of the Planning Board shall designate an alternate member to substitute for a regular member in the event that a regular member is unable or unwilling to vote because of a conflict of interest, recusal, absence, abstention, or any other reason and an alternate member is present at the meeting when the designation takes place.

C. If more than one alternate member is present at a meeting when the Chairperson is designating an alternate member to substitute for a regular member, the Chairperson shall designate the alternate member who has not served on a case or matter the most recently. If that alternate member is not able or willing to vote for a reason listed in Subsection B above, then the Chairperson shall designate the other alternate member to serve.

D. To the extent this section is inconsistent with Town Law § 271(15), it is intended to supersede such section, in accordance with Municipal Home Rule Law § 10(1)(ii)d(3). All other rights, responsibilities and procedures related to alternate members set forth in Town Law § 271 or in this chapter shall apply.

§ 270-15.4. Jurisdiction.

The Planning Board shall have jurisdiction to review and approve, approve with modifications or disapprove site plans prepared when a particular use set forth in this

35. **Editor's Note: See Ch. 240, Subdivision of Land.**

chapter is subject to only site plan review.

§ 270-15.5. Report on referred matters.

The Town Board may by resolution provide for the referral of any matter or class of matters to the Planning Board before final action is taken thereon by the Town Board or other office or officer of the Town having final authority over such matter. The Town Board may further stipulate that final action shall not be taken until the Planning Board has submitted its report, or after the Planning Board has exceeded the time period set by the Town Board for the Planning Board to submit its report.

§ 270-15.6. Minimum attendance requirements (meetings and hearings).

Members of the Planning Board are expected to attend all regularly scheduled monthly meetings/hearings and specially scheduled meetings/hearings of the Board. In the event that a member of the Board is absent from three consecutive regularly scheduled monthly meetings/hearings, or in the event a member of the Board is absent from five meetings/hearings within any one calendar year, then such member may be removed from the Board as herein provided.

§ 270-15.7. Training and attendance requirements.

A. Each member of the Planning Board shall complete, at a minimum, four hours of training each year designed to enable such members to more effectively carry out their duties. Training received by a member in excess of four hours in any one year may be carried over by the member into succeeding years in order to meet these requirements. Such training shall be approved by the Town Board and may include, but not be limited to, training provided by a municipality, regional or county planning office or commission, county planning federation, state agency, statewide municipal association, college or other similar entity. Training may be provided in a variety of formats, including but not limited to electronic media, video, distance learning and traditional classroom training.

B. To be eligible for reappointment to such board, such member shall have completed the training promoted by the Town pursuant to this section.

C. The training required by this section may be waived or modified by resolution of the Town Board when, in the judgment of the Town Board, it is in the best interest of the Town to do so.

D. No decision of a Planning Board shall be voided or declared invalid because of a failure to comply with this section.

§ 270-15.8. Training costs.

The costs of such training shall be a Town charge. Members shall be reimbursed for travel and meal expenses associated with such training according to Town policies.

§ 270-15.9. Removal procedure.

In the event a member of the Planning Board has failed to meet the minimum attendance requirements set forth in § 270-15.6 or the training requirements set forth in § 270-15.7,

then the Town Board may remove such member from the Planning Board as herein provided:

A. Notice. Such member shall be mailed a written notice specifying the nature of the failure of such member to meet the minimum attendance requirements of § 270-15.6 or the training requirements set forth in § 270-15.7 above. **[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I)]**

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

C. Public notice. Public notice of such hearing shall be given by posting a notice on the Town signboard in the vestibule of the Town Hall and by publishing a notice once in the official newspaper. Such posting and publication shall be at least 10 days prior to the date of the public hearing.

D. Conduct of hearing. The public hearing on the charges shall be conducted before the Town Board. The member shall be given an opportunity to present evidence and to call witnesses to refute the charges. A record of such hearing shall be made. The decision of the Town Board shall be reduced to writing together with specific findings of the Town Board with respect to each charge against such member. A copy of such decision and such finding shall be mailed to the member.

E. Action by the Town Board. Following the hearing and upon a finding that such member has not met the minimum attendance requirements required by this chapter, the Town Board may:

   (1) Remove such member from the Planning Board;

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

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

§ 270-15.10. Removal for cause.

Nothing contained herein shall be deemed to limit or restrict the Town Board's authority to remove a member from the Planning Board for cause (i.e., for other than the reasons enumerated herein). The procedural provisions of § 270-15.9, Removal procedure, shall govern any hearing to remove a member for cause.

§ 270-15.11. Leave of absence; excused absences.

A. The provisions of § 270-15.6 shall not apply to any member who has applied for and been granted a leave of absence by the Town Board from their duties as a member of the Planning Board. The Town Board may grant such leave of absence on such terms and for such period as it may deem appropriate; provided, however, no such leave of absence shall be for a period in excess of 11 months.

B. The provisions of § 270-15.6 shall not apply to any member who has been granted an excused absence by the Chairperson of the Planning Board. To be a valid request for an excused absence, such request shall be made to the Chairperson of the Planning Board prior to the meeting/hearing. Grounds for excused absences shall include illness, vacation, business or employment reasons and personal or family activities.

§ 270-15.12. Applicability.

A. This chapter shall apply to all members of the Town of Dryden Planning Board regardless of the date of their appointment to such Board.

B. Prospective members of the Planning Board shall be notified of the requirements of §§ 270-15.6 through 270-15.11 prior to their appointment to such Board.

ARTICLE XVI
Nonconforming Uses, Structures and Lots

§ 270-16.1. Nonconforming uses.

A. Continuance. Except as otherwise provided in this article, the lawful use of any structures or land existing at the date of adoption of this chapter may be continued even though such use does not conform to the provisions for the district in which such structure or land is located. The right to continue a nonconforming use remains with the land when title is transferred, subject to the provisions of this article.

B. Extension or enlargement.

(1) A nonconforming use existing at the date of adoption of this chapter may not be extended or enlarged except by special use permit, and may be extended only to adjacent structures or land if such adjacent structure or land was owned of record by the owner of such nonconforming structure or land as of the effective date of adoption of this chapter.

(2) A nonconforming structure or use may not be extended or enlarged to other structures or land acquired subsequent to the date of adoption of this chapter.

(3) No special use permit allowing the extension or enlargement of a nonconforming use shall be granted by the Town Board unless the regulations of this chapter, other than allowed uses for the district in which said nonconforming use is located, can be complied with. The Town Board may impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such proposed conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such approval may have on the neighborhood or community.

C. Changes. A nonconforming use may be changed to another similar or more restrictive nonconforming use with the approval of the ZBA. When changed to a more restrictive nonconforming use, such use shall not subsequently be changed back to a less restrictive nonconforming use. No nonconforming use, if changed to a conforming use, shall be changed back to a nonconforming use. The ZBA shall determine whether such proposed nonconforming use is similar or more restrictive, and may impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such approval may have on the neighborhood or community.

D. Discontinuance. Whenever a nonconforming use has been discontinued for a period of 12 consecutive months (from a date determined by the Planning Department), such nonconforming use shall not be reestablished, and any subsequent use of such structure or land shall be in conformity with the provisions of this chapter for the district in which such structure or land is located.

E. Repair and restoration. A structure used for a nonconforming use and damaged or destroyed by casualty to the extent that more than 50% of its total floor area is

unusable without repair, replacement or restoration shall not be repaired, replaced or restored without the approval of the ZBA. The percentage extent of damage or destruction shall be made by the Planning Department. A building permit for such repair, replacement or restoration shall be obtained and work commenced within six months after such casualty, but this time limit may be extended by the ZBA in case of practical difficulty or unnecessary hardship. The ZBA may impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such approval may have on the neighborhood of community.

§ 270-16.2. Nonconforming structures.

A. Continuance. A lawful nonconforming structure existing at the date of adoption of this chapter that could not be built after such adoption by reason of restrictions on the lot area, lot coverage, lot depth, height, yard requirements or other limitations of the structure or its location on the lot may be continued.

B. Expansion. Nothing in this chapter shall prevent the alteration to a safe condition of all or part of a structure that is nonconforming, provided that the repair or alteration will not increase the height, size or volume of the structure or otherwise increase the manner in which the structure is nonconforming.

C. Additions, alterations, maintenance, and repairs.

(1) A nonconforming structure shall not be added to or enlarged or altered in a manner which increases its nonconformity.

(2) Should a nonconforming structure be moved for any reason, its placement or use shall thereafter conform to the regulations for the district into which it is relocated.

(3) A nonconforming structure is required to be maintained in accordance with all applicable laws, ordinances, rules and regulations.

D. Discontinuance.

(1) A nonconforming structure, or a portion thereof, shall be deemed discontinued if: the structure is vacant for 12 consecutive months or sooner if there is a clear manifestation of the intent on the part of the owner to abandon the nonconforming structure.

(2) If deemed discontinued, such nonconforming structure shall not be reestablished, and any subsequent use shall conform with the provisions of the district in which such structure is located.

§ 270-16.3. Nonconforming lots.

A. A lot of record may be considered as complying with the minimum requirements of this chapter, provided that such lot does not adjoin other land held by the same owner, part of which such other land could be combined with the nonconforming lot of record to create a conforming lot without thereby creating a new

nonconforming lot.

B. The Town may require a nonconforming lot to be merged with an adjacent lot under common ownership, or with part of such adjacent lot, for the purpose of creating two conforming lots in the district in which the lots are located, so long as neither of such lots are then nonconforming lots.

C. Where adjacent lots are under common ownership but the merger of such lots, or part of a conforming lot to the nonconforming lot, would not result in a conforming lot, the ZBA may nonetheless approve a nonconforming lot if it finds that following such merger the nonconformity of the nonconforming lot has been minimized to the maximum extent practicable. In accordance with Municipal Home Law § 10(1)(ii)d(3), this subsection shall supersede Town Law § 267-b(3) with respect to the granting of area variances.

ARTICLE XVII
Administrative Provisions

§ 270-17.1. General provisions.

A. Notice of public hearing. Each notice of hearing upon an application for site plan review, a special use permit, or a variance or other application to the ZBA, or for any other public hearing, shall be published once in the official newspaper of the Town at least 10 days prior to the date of the hearing. In addition, at least 10 days prior to the date of the hearing, a notice of such public hearing shall be mailed to all owners of real property within 250 feet of the exterior boundary of the property for which the application is made. Owners shall be determined according to the latest completed assessment roll.

B. Records to be retained. The original of all decisions, approvals, rulings and findings rendered by any board under this chapter, and of all permits and certificates issued under this chapter, shall be promptly furnished to the Town Clerk and retained as a permanent Town public record.

C. Assistance to boards. The Planning Board and ZBA, as authorized by the Town Board, shall have the authority to call upon any Town department, agency or employee for such assistance as may be deemed necessary and appropriate under the circumstances. Such department, agency or employee may be reimbursed for any expenses incurred as a result of rendering such assistance. The Planning Department, within the limits of budget appropriations, shall provide the Planning Board and ZBA with any necessary experts, clerks and a secretary.

§ 270-17.2. Zoning administration.

A. Code Enforcement Officers. Code Enforcement Officers shall have the power and duty to administer and enforce the provisions of this chapter, under direction of the Director of Planning. Code Enforcement Officers shall be appointed by the Town Board, and shall report to the Director of Planning. Code Enforcement Officers shall have the power to make inspections of buildings or lots necessary to carry out his or her duties in the enforcement of this chapter.

B. Planning Department.

(1) The Planning Department shall, upon application and payment of the required fee, issue a zoning permit for new uses on properties, or statement of zoning compliance for those existing uses for which no zoning permit was issued. No building permit may be issued without either a zoning permit or a statement of zoning compliance.

(2) The Planning Department shall not issue any permit for the use of any property unless such use conforms to all applicable laws, ordinances, rules and regulations.

(3) The Planning Department shall maintain reports of all applications for certificates of occupancy and building permits, and issued certificates and permits.

(4) The Planning Department shall maintain records of every complaint of a violation of the provisions of this chapter as well as any action taken as a result of such complaints.

(5) The Planning Department shall submit to the Town Board, at least semiannually, a written report summarizing all permits, statements and certificates issued as well as complaints of violations and any action taken as a result of such complaints.

C. Fees. A fee schedule shall be established by resolution of the Town Board following a public hearing on at least 10 days' prior notice. Such fee schedule may thereafter be amended from time to time by like resolution and public hearing. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for site plan review, special use permits, planned unit developments, appeals to the Zoning Board of Appeals, zoning permits and permits for signs.

ARTICLE XVIII
Enforcement and Remedies

§ 270-18.1. Violations.

A. Any person, partnership, limited liability company, corporation or any other entity, whether as owner, lessee, agent or employee, who shall violate any of the provisions of this chapter, any permit or approval issued hereunder, or who fails to comply with any order or regulation made hereunder, or who erects, alters, moves, uses or offers for sale any structure or uses any land in violation of any detailed statement of plans submitted and approved under the provisions of this chapter shall be guilty of a violation.

B. Any such person, partnership, limited liability company, corporation or any other entity, whether as owner, lessee, agent or employee who shall violate, disobey, omit, neglect, or refuse to act in compliance with any order or regulation shall be deemed guilty of a separate offense for each week of such violation.

C. Where the person or entity committing such violation is a partnership, limited liability company, corporation or other entity the principal executive officer, partner, agent, or manager may be considered to be the "person" for the purpose of this subsection.

D. The Code Enforcement Officers shall have the authority to issue accusatory instruments to those persons who are in violation of this chapter.

§ 270-18.2. Fines and imprisonment.

A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding $350, or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than $350, nor more than $700, or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than $700, not more than $1,000, or imprisonment for a period not to exceed six months, or both. Each week's continued violation shall constitute a separate additional violation.

§ 270-18.3. Actions, proceedings, additional penalties.

A. In the event any building or structure is erected, constructed, reconstructed, altered, dismantled, converted or maintained, or any building, structure or land is used, or any land is divided into lots, blocks, or sites in violation of this chapter or conditions imposed by a building permit, special use permit or site plan review approval the Town Board, in addition to any other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, dismantling, conversion, maintenance, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure, or land; or to prevent any illegal act, conduct, business or use in or about such premises.

B. Additional penalties. In addition to any other remedies or penalties that may be imposed, a violation of this chapter shall entitle the Town Board to remedy or repair the conditions constituting the violation, at the premises owner's expense, in order to bring the premises into conformity and compliance with this chapter. The disbursements and expenses shall become a charge and a lien upon the premises and if not paid the same shall be added with interest, as may be provided by law, to the premises' next annual Town tax bill, to be collected in accordance with the provisions of law and the procedure for the payment of Town taxes.

§ 270-18.4. Stop-work order.

A. The Town Board hereby grants the Code Enforcement Officer the administrative responsibility of immediately taking action necessary to correct violations of this chapter by posting a stop-work order on the premises wherein an alleged violation has occurred.

B. The stop-work order shall serve notice to the owner, builder, developer, agent, and/or any other person, partnership, limited liability company, corporation or any other entity on the premises that all actions specified on the stop-work order must be terminated immediately.

C. Relief from the stop-work order can be obtained:

(1) If all provisions of this chapter, and applicable permits or approvals, together with any other conditions specified by the Code Enforcement Officer in the stop-work order, are met, the Town Board may authorize the rescission of the stop-work order; or

(2) Except for cases involving violation of site plan review approval, or a special use permit, if a variance is granted by the ZBA.

§ 270-18.5. Misrepresentation.

Any permit or approval granted under this chapter based upon or granted in reliance upon any material misrepresentation, or failure to make a material fact or circumstance known, by or on behalf of an applicant, shall be void. This section shall not be construed to affect all the other remedies available to the Town under this chapter.

§ 270-18.6. Complaints of violations.

Whenever a violation of this chapter is alleged to have occurred, any person may file a written complaint in regard thereto. All such complaints shall be filed with the Planning Department. The Planning Department shall investigate such complaints and report the results of the investigation and any prosecution of violations to the Town Board.

ARTICLE XIX
Miscellaneous Provisions

§ 270-19.1. Severability.

If any part or provision of this chapter, or the application thereof to any person, partnership, limited liability company, corporation or any other entity or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this chapter or the application thereof to other persons, partnership, limited liability company, corporation or any other entity.

§ 270-19.2. Map.

The Town Clerk shall file and maintain the Official Zoning Map and the Planning Department shall maintain a copy of the Zoning Map as officially adopted.

§ 270-19.3. Effective date.

This chapter shall take effect upon filing in the office of the Secretary of State.

Disposition List

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

KEY:

NCM = Not Code material (legislation is not general or permanent in nature).

REP = Repealed effective with adoption of Code; see Ch. 1, Art. I.

Enactment	Adoption Date	Subject	Disposition
Ord.	2-3-1960	Bingo and Games of Chance: Bingo	Ch. 113, Art. I
Ord. No. 71-2	6-26-1971	Mobile Homes: Mobile Home Parks	Ch. 183, Art. I
L.L. No. 1-1976	5-14-1976	Salary of Highway Superintendent	NCM
L.L. No. 1-1977	5-10-1977	Notification of Defects	Repealed by L.L. No. 2-1995
L.L. No. 1-1980	6-10-1980	Bingo and Games of Chance: Games of Chance	Ch. 113, Art. II
L.L. No. 1-1981	5-12-1981	Defense and Indemnification	Ch. 22
L.L. No. 2-1981	7-14-1981	Unsafe Buildings and Collapsed Structures	Repealed by L.L. No. 4-2017
L.L. No. 3-1981	10-13-1981	Electrical Code	Ch. 140
L.L. No. 1-1982	2-23-1982	Fire Prevention Code	Repealed by L.L. No. 2-1997
L.L. No. 2-1982	7-13-1982	Freshwater Wetlands	Ch. 159
L.L. No. 1-1983	6-14-1983	Determination Not to Enforce Uniform Fire Prevention and Building Code Enforcement	Repealed by L.L. No. 1-1984
L.L. No. 2-1983	6-29-1983	Local Laws, Adoption of	Ch. 48
L.L. No. 4-1983	6-29-1983	Sewer Rents for Cortland Road Sewer District	Repealed by L.L. No. 2-2004
L.L. No. 1-1984	5-29-1984	Repeal of Determination Not to Enforce Uniform Fire Prevention and Building Code Enforcement Repealer	Repealer only
L.L. No. 2-1984	7-10-1984	Sewer Connection and Construction	Ch. 214

Enactment	Adoption Date	Subject	Disposition
L.L. No. 3-1984	9-11-1984	Flood Damage Prevention	Repealed by L.L. No. 1-1987
L.L. No. 4-1984	10-9-1984	Flood Damage Prevention Amendment	Repealed by L.L. No. 1-1987
L.L. No. 1-1985	1-22-1985	Taxation: Alternative Veterans Exemption	Ch. 245, Art. I
L.L. No. 2-1985	2-12-1985	Flood Damage Prevention Amendment	Repealed by L.L. No. 1-1987
Res.	9-9-1986	Cemeteries and Burial Grounds	Ch. 124
L.L. No. 1-1987	3-24-1987	Flood Damage Prevention	Ch. 155
Ord. No. 140-1987	10-1-1987	Mobile Homes: Mobile Home Parks Amendment	Ch. 183, Art. I
L.L. No. 1-1988	5-10-1988	Fire Prevention and Building Code	Repealed by L.L. No. 1-2007
Res. No. 83-1988	4-12-1988	Mobile Homes: Mobile Homes Outside of Mobile Home Parks	Ch. 183, Art. II
L.L. No. 1-1989	5-9-1989	Septage and Sludge Disposal	Ch. 210
L.L. No. 2-1989	5-23-1989	Sewer Rents for Dryden Sewer District No. 2	Repealed by L.L. No. 2-1994
L.L. No. 3-1989	6-27-1989	Sewer Rents for Dryden Sewer District No. 2 Amendment	Repealed by L.L. No. 2-1994
L.L. No. 4-1989	8-29-1989	Sewer Rents for Dryden Sewer District No. 2 Amendment	Repealed by L.L. No. 2-1994
L.L. No. 5-1989	11-28-1989	Department of Public Works	Ch. 69
L.L. No. 1-1990	2-13-1990	Sewer Rents for Dryden Sewer District No. 2 Amendment	Repealed by L.L. No. 2-1994
L.L. No. 1-1991	10-22-1991	Cross-Connection Control	Ch. 129
L.L. No. 1-1992	7-14-1992	Farming	Ch. 147
L.L. No. 2-1992	8-11-1992	Parks and Recreation Areas: Dryden Lake Park Vehicle Restrictions	Ch. 197, Art. I
L.L. No. 3-1992	9-8-1992	Fire Prevention and Building Code	Repealed by L.L. No. 1-2007
L.L. No. 4-1992	10-15-1992	Adoption of Southern Cayuga Lake Intermunicipal Water Commission Rules and Regulations	See Ch. 261

Enactment	Adoption Date	Subject	Disposition
L.L. No. 5-1992	11-10-1992	Wastewater Treatment: Pollutant Limitations	Ch. 257, Art. I
L.L. No. 6-1992	11-10-1992	Sewer Use	Ch. 222
L.L. No. 1-1993	11-16-1993	Zoning Board of Appeals Attendance and Training Requirements	Superseded by L.L. No. 1-2015
L.L. No. 1-1994	8-23-1994	Sewer Rents for Dryden Sewer District No. 2 Amendment	Repealed by L.L. No. 2-1994
L.L. No. 2-1994	12-13-1994	Sewer Rents: Dryden Sewer Districts	Ch. 218, Art. I
L.L. No. 1-1995	4-11-1995	Contracts: Withdrawal of Retained Percentages	Ch. 14, Art. I
L.L. No. 2-1995	6-13-1995	Notification of Defects	Ch. 190
L.L. No. 1-1997	4-8-1997	Taxation: Alternative Veterans Exemption Amendment	Ch. 245, Art. I
L.L. No. 2-1997	4-8-1997	Fire Prevention Code Repealer	Repealer only
L.L. No. 3-1997	12-9-1997	Moratorium on Adult Uses	NCM
L.L. No. 4-1997	12-9-1997	Moratorium on Applications for Telecommunications Towers	Repealed by L.L. No. 3-1998
L.L. No. 1-1998	3-17-1998	Moratorium on Applications for Telecommunications Towers Extension	Repealed by L.L. No. 3-1998
L.L. No. 2-1998	5-12-1998	Telecommunication Towers and Facilities	Repealed by L.L. No. 3-2006
L.L. No. 3-1998	5-12-1998	Repeal of Moratorium on Applications for Telecommunications Towers	Repealer only
L.L. No. 4-1998	7-7-1998	Moratorium on Adult Uses	NCM
L.L. No. 5-1998	7-14-1998	Wastewater Treatment: Pollutant Limitations Amendment	Ch. 257, Art. I
L.L. No. 6-1998	7-14-1998	Sewers Use Amendment	Ch. 222
L.L. No. 1-2000	2-9-2000	Recreation Commission	Repealed by L.L. No. 4-2008, 5-2008
L.L. No. 2-2000	3-8-2000	Taxation: Exemption for Persons With Disabilities and Limited Income	Ch. 245, Art. II
L.L. No. 3-2000	6-14-2000	Moratorium on Outdoor Advertising Billboards	NCM

Enactment	Adoption Date	Subject	Disposition
L.L. No. 4-2000	9-6-2000	Boards, Commissions and Councils: Conservation Advisory Council	Superseded by L.L. No. 1-2004
L.L. No. 5-2000	9-6-2000	Fees and Charges: Reimbursement of Development Review Expenses	Ch. 151, Art. I
L.L. No. 6-2000	12-20-2000	Moratorium on Outdoor Advertising Billboards	NCM
L.L. No. 1-2001		Taxation: Exemption for Persons With Disabilities and Limited Income Amendment	Ch. 245, Art. II
L.L. No. 2-2001	2-14-2001	Moratorium on Outdoor Advertising Billboards	NCM
L.L. No. 3-2001	9-5-2001	Officers and Employees: Term of Office of Town Clerk	Ch. 62, Art. I
L.L. No. 1-2002	11-6-2002	Boards, Commissions and Councils: Attendance Standards for Conservation Advisory Council and Recreation Commission	Ch. 7, Art. I
L.L. No. 2-2002	11-6-2002	Planning Board Attendance and Training Requirements	Superseded by L.L. No. 1-2015
L.L. No. 3-2002	11-6-2002	Recreation Commission Amendment	Repealed by L.L. No. 4-2008, 5-2008
L.L. No. 1-2004	3-11-2004	Boards, Commissions and Councils: Conservation Board	Ch. 7, Art. II
L.L. No. 2-2004	4-8-2004	Sewer Rents: Cortland Road Sewer District	Ch. 218, Art. II
L.L. No. 3-2004	4-8-2004	Taxation: Exemption for Persons With Disabilities and Limited Income Amendment	Ch. 245, Art. II
L.L. No. 4-2004	5-13-2004	Telecommunication Towers and Facilities Amendment	Repealed by L.L. No. 3-2006
L.L. No. 1-2006	4-13-2006	Notices and Notifications: Notification of Information Security Breaches	Ch. 56, Art. I
L.L. No. 2-2006	4-13-2006	Telecommunication Towers and Facilities	Ch. 249
L.L. No. 3-2006	4-13-2006	Telecommunication Towers and Facilities Repealer	Repealer only

Enactment	Adoption Date	Subject	Disposition
L.L. No. 4-2006	5-11-2006	Electrical Code Amendment	Ch. 140
L.L. No. 5-2006	10-5-2006	Renewable Energy Facilities	Ch. 202
L.L. No. 1-2007	3-8-2007	Building Code Administration and Enforcement	Ch. 118
L.L. No. 2-2007	4-19-2007	Sewer Rents: Cortland Road Sewer District Amendment	Ch. 218, Art. II
L.L. No. 3-2007	12-13-2007	Highway Specifications	Ch. 168
L.L. No. 4-2007	12-13-2007	Stormwater Management and Erosion and Sediment Control	Ch. 233
L.L. No. 5-2007	12-13-2007	Fees and Charges: Reimbursement of Development Review Expenses Amendment	Ch. 151, Art. I
L.L. No. 1-2008	1-2-2008	Storm Sewers: Illicit Discharges and Connections	Ch. 229, Art. I
L.L. No. 2-2008	8-14-2008	Telecommunication Towers and Facilities Amendment	Ch. 249
L.L. No. 3-2008	8-14-2008	Sewer Rents: Cortland Road Sewer District Amendment	Ch. 218, Art. II
L.L. No. 4-2008	10-8-2008	Recreation Commission	Repealed by L.L. No. 3-2013
L.L. No. 5-2008	11-12-2008	Recreation Commission Repealer	Repealer only
L.L. No. 6-2008	12-10-2008	Notices and Notifications: Tax Bill Enclosures	Ch. 56, Art. II
L.L. No. 1-2009	2-11-2009	Taxation: Exemption for Persons With Disabilities and Limited Income Amendment	Ch. 245, Art. II
L.L. No. 2-2009	3-11-2009	Telecommunication Towers and Facilities Amendment	Repealed by L.L. No. 6-2009
L.L. No. 3-2009	4-8-2009	Zoning Board of Appeals Attendance and Training Requirements Amendment	Superseded by L.L. No. 1-2015
L.L. No. 4-2009	4-8-2009	Planning Board Attendance and Training Requirements Amendment	Superseded by L.L. No. 1-2015
L.L. No. 5-2009	8-12-2009	Taxation: Exemption for Capital Improvements to Residential Buildings	Ch. 245, Art. III

Enactment	Adoption Date	Subject	Disposition
L.L. No. 6-2009	9-9-2009	Telecommunication Towers and Facilities Amendment	Ch. 249
L.L. No. 7-2009	12-29-2009	Taxation: Exemption for Persons With Disabilities and Limited Income Amendment	Ch. 245, Art. II
L.L. No. 1-2010	4-21-2010	Telecommunication Towers and Facilities Amendment	Ch. 249
L.L. No. 2-2010	12-15-2010	Animals: Dog Control	Ch. 105, Art. I
L.L. No. 1-2011	11-9-2011	Tax Levy Limit Override	NCM
L.L. No. 1-2012	1-18-2012	Animals: Dog Control Amendment	Ch. 105, Art. I
L.L. No. 2-2012	1-18-2012	Sewer Rents: Dryden Sewer Districts Amendment	Ch. 218, Art. I
L.L. No. 3-2012	5-17-2012	Highway Specifications Amendment	Ch. 168
L.L. No. 4-2012	7-19-2012	Subdivision of Land	Ch. 240
L.L. No. 1-2013	1-17-2013	Sewer Rents: Sewer District No. 1	Ch. 218, Art. III
L.L. No. 2-2013	1-17-2013	Sewer Rents: Peregrine Hollow Sewer District	Ch. 218, Art. IV
L.L. No. 3-2013	3-21-2013	Boards, Commissions and Councils: Recreation and Youth Commission	Ch. 7, Art. III
L.L. No. 4-2013	7-18-2013	Subdivision of Land Amendment	Ch. 240
L.L. No. 1-2014	4-17-2014	Justice Court: Town Constables	Ch. 40, Art. I
L.L. No. 2-2014	6-19-2014	Justice Court: Traffic Violations Bureau	Ch. 40, Art. II
L.L. No. 1-2015	2-19-2015	Zoning	Ch. 270
L.L. No. 2-2015	2-19-2015	Building Code Administration and Enforcement Amendment	Ch. 118
L.L. No. 3-2015	9-17-2015	Tax Levy Limit Override	NCM
L.L. No. 4-2015	11-19-2015	Sewer Rents: Dryden Sewer Districts Amendment	Ch. 218, Art. I
L.L. No. 5-2015	11-19-2015	Sewer Rents: Dryden Sewer Districts Amendment	Ch. 218, Art. II
L.L. No. 6-2015	11-19-2015	Sewer Rents: Peregrine Hollow Sewer District Amendment	Ch. 218, Art. IV

Enactment	Adoption Date	Subject	Disposition
L.L. No. 7-2015	12-17-2015	Sewer Rents: Sewer District No. 1 Amendment	Ch. 218, Art. III
L.L. No. 1-2016	3-17-2016	Zoning Amendment	Ch. 270
L.L. No. 2-2016	7-21-2016	Moratorium on Public Utility Installations	NCM
L.L. No. 3-2016	11-10-2016	Tax Levy Limit Override	NCM
L.L. No. 4-2016	12-15-2016	Subdivision of Land Amendment; Zoning Amendment	Ch. 240; Ch. 270
L.L. No. 1-2017	1-12-2017	Moratorium on Public Utility Installations Amendment	NCM
L.L. No. 2-2017	2-16-2017	Subdivision of Land Amendment	Ch. 240
L.L. No. 3-2017	2-16-2017	Renewable Energy Facilities Amendment; Zoning Amendment	Ch. 202; Ch. 270
L.L. No. 4-2017	5-18-2017	Building Code Administration and Enforcement Amendment	Ch. 118
L.L. No. 5-2017	6-15-2017	Sewer Rents: Cortland Road Sewer District Amendment	Ch. 218, Art. II
L.L. No. 6-2017	12-14-2017	Zoning Amendment	Ch. 270
L.L. No. 7-2017	12-21-2017	Boards, Commissions and Councils: Conservation Board Amendment	Ch. 7, Art. II
L.L. No. 1-2018	1-4-2018	Sewer Rents: Sewer District No. 1 Amendment	Ch. 218, Art. III
L.L. No. 2-2018	1-4-2018	Sewer Rents: Dryden Sewer District No. 2 Amendment	Ch. 218, Art. I
L.L. No. 3-2018	1-4-2018	Sewer Rents: Dryden Sewer Districts Amendment	Ch. 218, Art. I
L.L. No. 4-2018	1-4-2018	Sewer Rents: Peregrine Hollow Sewer District Amendment	Ch. 218, Art. IV
L.L. No. 5-2018	11-15-2018	Tax Levy Limit Override	NCM
L.L. No. 1-2019	1-17-2019	Telecommunication Towers and Facilities Amendment	Ch. 249
L.L. No. 2-2019	2-21-2019	Taxation: Restricted Sale Price Exemption	Ch. 245, Art. IV
L.L. No. 3-2019	2-21-2019	Zoning Amendment	Ch. 270

Enactment	Adoption Date	Subject	Disposition
L.L. No. 4-2019	10-17-2019	Tax Levy Limit Override	NCM
L.L. No. 5-2019	12-12-2019	Sewer Rents: Sewer Benefit District Sewer Rent Law	Ch. 218, Art. V
L.L. No. 1-2020	1-16-2020	Moratorium on Use of Conservation Subdivisions	NCM
L.L. No. 2-2020	1-16-2020	Animals: Dog Control Amendment	Ch. 105, Art. I
L.L. No. 3-2020	8-20-2020	Tax Levy Limit Override	NCM
L.L. No. 4-2020	11-19-2020	Zoning Amendment	Ch. 270

Enactment	Adoption Date	Subject	Disposition	Supp. No.
4-2021	5-20-2021	General Provisions: Adoption of Code	Ch. 1, Art. I	1