Part I, Administrative Legislation

Chapter 1

GENERAL PROVISIONS
ARTICLE I
Adoption of Code
[Adopted 10-4-1995 as L.L. No. 5-1995]

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Town of Horseheads, as codified by General Code Publishers Corp., and consisting of Chapters 1 through 204, together with an Appendix, shall be known collectively as the "Code of the Town of Horseheads," hereafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Town of Horseheads" to any other local law, ordinance or resolution appearing in said Code, such reference shall be changed to the appropriate chapter title, chapter number, Article number or section number appearing in the Code as if such local law, ordinance or resolution had been formally amended to so read.

§ 1-2. Continuation of existing provisions.

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 Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

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

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of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law.

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

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

A. Any right or liability established, accrued or incurred under any legislative provision of the Town of Horseheads prior to the effective
§ 1-5. Severability.

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


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

§ 1-7. Amendments to Code.

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the "Code of the Town of Horseheads" or any new local laws, ordinances or resolutions, when enacted or adopted in such form as to indicate the intention of the Town Board to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such additions, deletions, amendments or supplements. Whenever such additions, deletions, amendments or supplements to the Code shall be enacted or adopted, they shall thereafter be printed and, as provided hereunder, inserted in the loose-leaf book containing said Code as amendments and supplements thereto. Nothing contained in this local law shall affect the status of any local law, ordinance or resolution contained herein, and such local laws, ordinances or resolutions may be amended, deleted or changed from time to time as the Town Board deems desirable.

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

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

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

§ 1-10. Penalties for tampering with Code.

Any person who, without authorization from the Town Clerk, changes or amends, by additions or deletions, any part or portion of the Code of the Town of Horseheads or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Town of Horseheads 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.


A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of Horseheads, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.

B. In addition, the following amendments and/or additions 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.)

§ 1-12. (Reserved)

§ 1-13. (Reserved)

1. Editor’s Note: In accordance with § 1-11B, the chapters, parts and sections which were added, amended, adopted or deleted by this local law are indicated throughout the Code by a footnote referring to Chapter I, General Provisions, Article I. During routine supplementation, footnotes indicating amendments or additions will be replaced with the following wording: “amended (added) 10-4-1995 by L.L. No. 5-1995.” A complete description of the changes is on file in the town offices.

Whenever in the Code of the Town of Horseheads, or in any ordinance, resolution or local law of the Town, an act is prohibited or is made or declared to be unlawful or an offense or whenever in such Code, ordinance, resolution or local law the doing of an act is required, mandated or the failure to do an act is declared to be unlawful, where no specific penalty is provided therefor; the offense shall be punishable by a fine of not less than $50 nor more than $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 of 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 of not less than $700 nor more than $1,000 or imprisonment for a period not to exceed six months, or both or, in the case of a corporation, an amount in accordance with NYS Penal Law § 80.10. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of said laws shall be deemed misdemeanors and for such purpose only all provision of law relating to misdemeanors shall apply to such violations. Each day’s continued violation and/or occurrence shall constitute a separate additional violation.


In addition to those penalties prescribed by this Code, any person or entity who violates any provision of the Code of the Town of Horseheads or any term or condition of any building permit, certificate of occupancy/certificate of compliance, temporary certificate, stop-work order, operating permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this Code shall be liable to a civil penalty of not more than $200 for each day or part thereof during which such violation continues. The civil penalties provided by this section shall be recoverable in an action instituted in the name of this Town.
Chapter 4

APPEARANCE TICKETS

§ 4-1. Title.
This chapter of the Code of the Town of Horseheads shall be known and cited as "Local Law Number One of the Year 1979 for the Towns of Horseheads, Chemung County, New York."

§ 4-2. Intent.
It is the intent of this chapter to authorize the issuance and service of appearance tickets within the Town of Horseheads by a public servant other than a police officer.

All public servants who by virtue of their office, title or position are authorized or required to enforce any statute, local law, ordinance, rule or regulation relating to parking, licensing of occupations or businesses, fire prevention and safety, health and sanitation and building, zoning and planning are hereby authorized and delegated the authority to issue appearance tickets and/or simplified traffic information returnable in the Town Court of the Town of Horseheads for any enforcement procedures required for the purpose of carrying out the duties and responsibilities of their office, title or position. Further, any peace officer within the Town of Horseheads be and hereby is authorized and delegated the authority to issue appearance tickets and/or simplified traffic information returnable in the Town Court of the Town of Horseheads relating to enforcement of any statute, local law, ordinance, rule or regulation affecting the public health, safety and welfare within the Town of Horseheads.

Chapter 6

(RESERVED)

[Former Ch. 6, Board of Assessment and Review, which comprised Art. I, Grievance Day, adopted 3-12-1997 by L.L. No. 1-1997; amended in its entirety 7-10-2013 by L.L. No. 2-2013, was repealed 8-10-2016 by L.L. No. 1-2016.]

Chapter 8
§ 8-1. Purpose and intent.

It is the intent of the Town of Horseheads to establish a Community Choice Aggregation ("CCA") Program to aggregate the energy supply needs of residents (and small commercial customers), and to negotiate and enter into, or authorize its agent to negotiate and enter into, energy supply agreements ("ESAs") with energy service companies ("ESCOs") on behalf of eligible citizens to obtain stable, lower-cost energy prices, as well as environmental benefits and/or a community-based solution to meeting our collective energy needs. The purpose of this chapter is two-fold: to establish a CCA Program in the Town of Horseheads outside the Villages of Elmira Heights and Horseheads and to adopt certain provisions relating to the creation and implementation of the CCA Program.

§ 8-2. Findings.

A. New York State's energy industry is in the midst of a significant transition; a shift away from the old top-down, utility-centered model toward a cleaner, more affordable, more resilient system in which consumers and communities will have a substantial role to play.

B. The state's ongoing Reforming the Energy Vision ("REV") initiative emphasizes the importance of reliability and grid resilience, distributed energy resources, increased renewable generation, and greater opportunity for citizens to take an active role in helping the state reach its energy goals and in making more informed energy choices in their homes, businesses and communities.

C. As part of this REV initiative, the New York State Public Service Commission ("NYSPSC"), on April 21, 2016, adopted an order authorizing cities, towns and villages within the state to create Community Choice Aggregation Programs, by themselves or in concert with other municipalities (hereinafter "NYSPSC order authorizing CCAs"), and/or to retain a CCA Administrator to implement the program and negotiate ESAs.

D. CCA Programs allow communities to take control of their energy supply through an open, transparent and competitive electric and/or gas supply procurement process driven by the consumers themselves.

E. A successful CCA Program offers citizens cost savings, more stable energy prices, deterrence of deceptive marketing practices by unscrupulous ESCOs, fair contracts negotiated directly with energy suppliers, and/or the opportunity to pursue goals and initiatives important to the community, such as reliability, grid resiliency, supporting renewable energy generation, cutting greenhouse gas emissions, protecting the state's natural resources, and improving energy efficiency.
§ 8-2  HORSEHEADS TOWN CODE  § 8-4

F. The Town Board of the Town of Horseheads has explored the CCA policy and background, and believes it would provide numerous benefits in this community, enhancing the public welfare and making energy more affordable and costs more predictable for our residents.

G. Therefore, the Town Board of the Town of Horseheads authorizes the creation of an opt-out CCA Program pursuant to rules of the NYSPSC in this community for the provision of (electric and/or natural gas) supply service, as well as other high-priority, energy-related, value-added services as may be determined to meet the community's goals.

§ 8-3. Authority.

The NYSPSC order authorizing CCAs expressly empowers cities, towns and villages in this state to create CCA Programs. Further, the New York Municipal Home Rule Law, Article 2, Section 10, authorizes a municipality to adopt general laws relating to its property, affairs and government, the protection and enhancement of its physical and visual environment, the protection and well-being of persons within the municipality, and for other authorized purposes.

§ 8-4. Definitions.

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

AUTOMATICALLY ELIGIBLE CUSTOMERS — Customers' accounts in those utility service classes eligible for inclusion in the CCA Program on an opt-out basis, as set forth in the NYSPSC order authorizing CCAs, Appendix C, or as otherwise specified by the Commission. Generally, these classes of customers include those receiving residential electric or gas supply service, including those in multifamily housing, certain types of institutions, and some small commercial customers covered by "small general service" class designations. Automatically eligible customers shall not include customers' accounts that have already been enrolled in service through an ESCO, enrolled in utility programs which require them to take supply service from their current utility, or that have a block on their utility account at the time of CCA formation [NOTE: Except customers participating in the Affordability Assistance Program ("AAP"), who may have blocks on their accounts with their existing utility, but who are still eligible to participate.]; those customers' accounts shall be eligible to participate on an opt-in basis, if they so desire.

CCA ADMINISTRATOR — An agent of the municipality charged with overseeing creation, implementation and operation of a CCA Program, as well as competitively procuring and negotiating Energy Supply Agreements with ESCOs. The CCA Administrator shall be retained by the municipality via a separate CCA Administration Agreement, adopted by resolution of the municipality's governing board.

COMMUNITY CHOICE AGGREGATION (CCA)/CCA PROGRAM — A program authorized by the New York State Public Service Commission
(NYSPSC) to aggregate residential and commercial electric and/or natural gas supply and/or energy-related, value-added products and services within a given municipality, and/or among multiple municipalities, in order to leverage that energy demand to negotiate favorable Energy Supply Agreements directly with ESCOs. Customers within a CCA Program would no longer purchase their energy supply directly from their utility. However, the utility would continue to deliver energy to these customers, to charge for that delivery, and will retain its transmission and distribution network. The energy supply portion of a customer's energy service is provided by an ESCO or ESCOs, pursuant to an Energy Supply Agreement competitively procured and negotiated for the CCA Program at large, then delivered to customers via the local utility.

ELIGIBLE CUSTOMERS — All automatically eligible customers plus those utility customers eligible for inclusion in the CCA Program on an opt-in basis, as set forth in the NYSPSC order authorizing CCAs or otherwise authorized by the Commission. Those customers eligible to participate in the CCA Program on an opt-in basis currently include those customers already enrolled in service through an ESCO at the time of CCA formation, customers in large commercial, institutional, or industrial utility service classes that cannot be automatically enrolled in the CCA on an opt-out basis, and all other customers not considered automatically eligible customers. References to the broader class of eligible customers shall signify the entire pool of customers participating in the aggregation, either because they have been automatically enrolled on an opt-out basis, or because they have affirmatively opted in.

ENERGY SERVICES COMPANY (ESCO) — A third-party energy supplier eligible to sell electricity, natural gas and/or energy related, value-added services to customers in New York State, utilizing the transmission and distribution systems of existing utilities. ESCOs are regulated by the New York State Department of Public Service and the New York State Public Service Commission, and must comply with the New York State Public Service Law.

ENERGY SUPPLY AGREEMENT (ESA) — An agreement between an energy customer and an energy services company (ESCO) to provide electricity or gas service to the customer for a fixed or variable price. For purposes of this chapter, the CCA Administrator would conduct a competitive procurement on behalf of all eligible customers, and would enter into an Energy Service Agreement(s) with an ESCO to provide power to all such customers in the community.

MUNICIPALITY/TOWN OF HORSEHEADS — Reference to these terms throughout this chapter indicates the Town of Horseheads outside the Villages of Elmira Heights and Horseheads, unless otherwise noted.

UTILITY — This term refers to traditional electric and/or natural gas utilities regulated by the New York State Department of Public Service and the New York State Public Service Commission and permitted to provide electric and/or gas supply, transmission and distribution services to all customers within their designated service territory. For purposes of this
chapter, the term "utility" will refer to New York State Electric & Gas Corporation (NYSEG).

§ 8-5. Establishing community choice aggregation.

The Town Board of the Town of Horseheads hereby establishes a CCA Program for aggregation of (electric and/or natural gas) supply to serve all eligible customers in its jurisdiction. (This program shall be available to all residents of the Town of Horseheads, who reside outside the limits of the Villages of Elmira Heights and Horseheads.) All automatically eligible customers shall be included in the CCA Program on an opt-out basis, and shall be afforded the opportunity to opt-out of the CCA Program, within a specified period, at no cost. All customers who are not automatically eligible to be included in the CCA Program on an opt-out basis shall be permitted to affirmatively opt into the program in accordance with the terms of the ESA and/or the NYSPSC order authorizing CCAs.

§ 8-6. Provisions for implementing CCA Program.

A. Part A: implementation plan.

1. The Town Board of the Town of Horseheads, with support from its CCA Administrator, will create and follow a CCA implementation plan which shall outline the details of how the CCA Program will be created and operated, including how public outreach and education will occur, what rules will apply to the program, how the procurement process will be implemented, how energy contracts will be selected, and how responsibilities will be divided amongst CCA Administrator, municipality, and eligible customers.

2. In accordance with the NYSPSC order authorizing CCAs, the CCA implementation plan will be reviewed and approved by the Public Service Commission. Such review may involve NYSPSC approval of a generic CCA implementation plan, with the understanding that community-specific appendixes would be submitted later and would outline appropriately tailored local education and outreach efforts.

3. Where a generic CCA implementation plan will be used, the Town Board of the Town of Horseheads and the CCA Administrator will make community-specific revisions to the plan's appendixes to ensure the Plan is properly tailored to the needs of the Town of Horseheads' residents. Therefore, prior to or in conjunction with the enactment of this chapter, and thereafter from time to time, the Town Board of the Town of Horseheads, with support from the CCA Administrator, will create and update a CCA Program opt-out letter, as well as an education and outreach plan, as provided in the implementation plan appendix for this community.

4. The Town of Horseheads opt-out letter, education and outreach plan shall conform to those requirements for public outreach,
education, and opt-out procedures set forth in the NYSPSC order authorizing CCAs, and in any other applicable laws or regulations, and shall ensure that the Town Board of the Town of Horseheads and its CCA Administrator engage in a robust effort to educate and inform the community about the CCA Program and their options for participating or opting out.

(5) Opt-out letters will be provided to all automatically eligible customers no less than 30 days prior to the time at which those customers would be automatically enrolled in the CCA Program. The letters will be printed on Town of Horseheads letterhead, in official Town of Horseheads envelopes. The logo of the CCA Administrator and selected ESCO may also be included on these letters, so long as it is clear that the letter is official correspondence from the Town of Horseheads.

B. Part B: public outreach and education.

(1) The Town of Horseheads, together with its CCA Administrator, will provide public notices, presentations, information sheets, and other forms of outreach, as outlined in the appendix of the implementation plan, to ensure residents are informed about the CCA Program and their options for participating or opting out.

(2) Once the CCA Program is operating, the Town of Horseheads and its CCA Administrator will continue to engage in public outreach to keep CCA customers informed about any changes to the CCA Program; opportunities for new products or services available through the CCA Program, such as renewable energy buying options; important terms and durations of ESAs; information about the selected ESCOs; and any other matters related to the CCA Program.

C. Part C: customers moving into or out of the community after CCA adoption. Residents (and small commercial customers) who establish utility accounts in this community after the effective date of this chapter shall be afforded the opportunity to join the CCA Program within a reasonable time after their utility account is established, in accordance with contractual agreements between the CCA Administrator any ESCO(s) providing service to the program.

D. Part D: customer data protection. The Town Board of the Town of Horseheads, or its CCA Administrator, will create and follow a customer data protection plan which ensures that any confidential or sensitive personal customer information provided by the utility to the Town of Horseheads, its CCA Administrator, and/or the selected ESCO(s) will be given all privacy protections required by law and regulation, and protected from unauthorized release or use to the greatest extent possible. This customer data protection plan will ensure that the CCA Program and any selected ESCO(s) handle all confidential or sensitive customer data in keeping those customer data protections already
afforded by NYSEG prior to the enactment of this chapter. This plan will also ensure that CCA customer data, such as contact information, is not used for inappropriate purposes, such as solicitation of business unrelated to the CCA Program, its goals and objectives.

§ 8-7. CCA Administrator.

A. Part A: CCA administration agreement. The Town Board of the Town of Horseheads will enter into a CCA administration agreement with its CCA Administrator. Such agreement will set forth the various rights and responsibilities of the parties, and will govern the manner in which the CCA Program is run. This agreement shall also authorize the CCA Administrator to act as the Town of Horseheads' agent for the purpose of procuring energy supply or other energy-related, value-added services for CCA Program eligible customers.

B. Part B: customer service; complaints. The CCA Administrator will provide the Town of Horseheads with clear, up-to-date contact information for customer questions, concerns or complaints. The CCA Administrator shall, from time to time, and/or at the request of the Town Board of the Town of Horseheads, report to the Town of Horseheads regarding customer service matters.

§ 8-8. Compliance with Public Service Law and Regulations.

In accordance with the NYSPSC order authorizing CCAs, it shall be the responsibility of the Town of Horseheads, supported by any CCA Administrator that may be under contract, to ensure the CCA Program is operated in compliance with all applicable provisions of the New York State Public Service Law, regulations of the New York State Public Service Commission and/or the New York State Department of Public Service, the Uniform Business Practices (to the extent applicable), the NYSPSC order authorizing CCAs and any other relevant laws or regulations. This provision applies regardless of whether a CCA Administrator is retained to organize and implement the Town of Horseheads CCA Program. This shall include, but not be limited to, compliance with any reporting requirements related to the CCA Program.

§ 8-9. Review and/or dissolution of the CCA Program.

A. The Town Board of the Town of Horseheads will, from time to time, review the CCA Program and its progress to determine how the program is faring, confirm it is affording benefits to the community, and provide information to the public thereon.

B. As the expiration of its ESA(s) approaches, or in the event an ESCO provides notice of its intention to terminate an ESA (where authorized by the terms of that ESA), the Town Board of the Town of Horseheads may consider whether it wishes to discontinue the CCA Program. Dissolution of the CCA Program will require:
(1) Enactment of a local law amending or repealing this chapter;
(2) Lawful termination of ESAs in accordance with their terms;
(3) Lawful termination of the CCA administration agreement, in accordance with its terms; and
(4) At least 60 days' notice to customers that their energy services will be automatically returned to NYSEG, an effective date upon which such a change would occur, and information on what other options may be available to those customers, if applicable.

§ 8-10. Conflicts.
In the event the New York State Public Service Commission, the State Legislature, or other state agency enacts laws or regulations regarding the operation of CCAs which are in conflict with this chapter, the state provisions shall govern.

§ 8-11. Liability.
Nothing in this chapter shall be read to create liability on the part of the City/Town/Village related to the provision of electric and/or natural gas service to customers. The ESCO selected to provide such service will be ultimately responsible for compliance with all applicable laws, rules and regulations governing retail energy services, and will assume any liability stemming from the provision of such service to retail customers, including any potential liability associated with the service itself, customer data and information, and any other matters which would traditionally fall under the purview of a merchant utility providing the same service to customers prior to the formation of the CCA. This chapter is meant merely to facilitate the creation of an aggregation program in this community. The City/Town/Village will not assume the role of ESCO or utility in the sale or delivery of energy services.

§ 8-12. Severability.
Each provision of this chapter is severable from the others, so that if any provision is held to be illegal or invalid for any reason whatsoever, such illegal or invalid provision shall be severed from this chapter, which shall nonetheless remain in full force and effect.

Chapter 10
DEFENSE AND INDEMNIFICATION

GENERAL REFERENCES

Officers and employees — See Ch. 33.
§ 10-1. Standards adopted.

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

§ 10-2. Town to provide defense.

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

§ 10-3. Definitions.²

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

TOWN OFFICER OR EMPLOYEE — Any member of a public board or commission, officer, employee, volunteer expressly authorized to participate in a publicly sponsored volunteer program or any other person holding a position by election, appointment or employment in the service of the Town of Horseheads. The term "town officer or employee" shall not include an independent contractor. The term "town officer or employee" shall include a former employee, the employee's estate or a judicially appointed personal representative.

Chapter 14

ECONOMIC DEVELOPMENT ZONE

GENERAL REFERENCES

Zoning — See Ch. 204.

² Editor’s Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
§ 14-1. Authorization for application.

The City of Elmira is hereby authorized to prepare and submit an application for designation of the area described in § 14-2 hereof, as an Economic Development Zone.


The boundaries of said area are located in the City of Elmira, Town of Elmira, Town of Southport, Town of Horseheads, Village of Elmira Heights and Village of Horseheads in the County of Chemung and are more particularly described as follows.\(^3\)

§ 14-3. Zone Administrator.

The City Chamberlain of the City of Elmira, New York, shall serve as the local Economic Development Zone Administrator.

§ 14-4. Administrative Board.

A. The Local Economic Development Zone Administrative Board shall be comprised of the following:

   (1) Chairperson: Mayor of the City of Elmira.

   (2) Members:

      (a) City Manager of the City of Elmira.

      (b) Director of Business and Housing Development.

      (c) Chemung County Executive.

      (d) Commissioner of Chemung County Planning Department.

      (e) Representative from Southern Tier Economic Growth.

      (f) Representative from County Industrial Development Authority.

      (g) Representative from Private Industry Council.

      (h) Representative from Regional Educational Planning and Development Council.

      (i) Representative from Regional Planning Board.

      (j) Representative from Economic Opportunity Program.

      (k) Executive Director, Elmira Downtown Development.

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3. Editor's Note: A complete description of the boundaries of the Economic Development Zone is on file in the Town Clerk's office.
§ 19-1. Purpose.

Pursuant to the provisions of § 806 of the General Municipal Law, the Town Board of the Town of Horseheads recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government. It is the purpose of this chapter to promulgate these rules of ethical conduct for the officers and employees of the Town of Horseheads. These rules shall serve as a guide for official conduct of the officers and employees of the Town of Horseheads. The rules of ethical conduct of this chapter, as adopted, shall not conflict with but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees.
§ 19-2. Definitions.

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

MUNICIPAL OFFICER OR EMPLOYEE — Any officer or employee of the Town of Horseheads, whether paid or unpaid, including members of any administrative board, commission or other agency thereof. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fire fighter or civil defense volunteer, except a Fire Chief or Assistant Fire Chief.  

INTEREST — A direct or indirect pecuniary or material benefit accruing to a town employee as the result of a contract with the town. For the purposes of this chapter, a town employee shall be deemed to have an "interest" in the contract of:

A. His or her spouse, minor children and dependents, except a contract of employment with the Town of Horseheads.

B. A firm, partnership or association of which such town employee is a member or employee.

C. A corporation of which such town employee is an officer, director or employee.

D. A corporation, any stock of which is owned or controlled directly or indirectly by such town employee.


Every officer or employee of the Town of Horseheads shall be subject to and abide by the following standards of conduct:

A. Gifts. He or she shall not, directly or indirectly, solicit any gift or accept or receive any gift having a value of seventy-five dollars ($75.) or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing or promise or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or her or could reasonably be expected to influence him or her in the performance of his or her official duties or was intended as a reward for any official action on his or her part.

B. Confidential information. He or she shall not disclose confidential information acquired by him or her in the course of his or her official duties or use such information to further his or her personal interest.

C. Representation before one's own agency. He or she shall not receive or enter into any agreement, express or implied, for compensation for
services to be rendered in relation to any matter before any municipal agency of which he or she is an officer, member or employee or of any municipal agency over which he or she has jurisdiction or to which he or she has the power to appoint any member, officer or employee.

D. Representation before any agency for a contingent fee. He or she shall not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of his or her municipality, whereby his or her compensation is to be dependent or contingent upon any action by such agency with respect to such matter, provided that this subsection shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.

E. Disclosure of interest in legislation. To the extent that he or she knows thereof, a member of the Town Board and any officer or employee of the Town of Horseheads, whether paid or unpaid, who participates in the discussion or gives official opinion to the Town Board on any legislation before the Town Board shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he or she has in such legislation.

F. Investments in conflict with official duties. He or she shall not invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction which creates a conflict with his or her official duties.

G. Private employment. He or she shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his or her official duties.

H. Future employment. He or she shall not, after the termination of service or employment with such municipality, appear before any board or agency of the Town of Horseheads in relation to any case, proceeding or application in which he or she personally participated during the period of his or her service or employment or which was under his or her active consideration.

§ 19-4. Claims by officers or employees.

Nothing herein shall be deemed to bar or prevent the timely filing by a present or former municipal officer or employee of any claim, account, demand or suit against the Town of Horseheads or any agency thereof on behalf of himself or herself or any member of his or her family arising out of any personal injury or property damage or for any lawful benefit authorized or permitted by law.
§ 19-5. Distribution.7

The Supervisor of the Town of Horseheads shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the Town of Horseheads within ten (10) days after the effective date of this chapter. Each officer and employee elected or appointed thereafter shall be furnished a copy before entering upon the duties of his office or employment. Failure to distribute any such copy or failure of any officer or employee to receive such copy shall have no effect on the duty of compliance with such code, nor the enforcement provisions thereof.

§ 19-6. Penalties for offenses.

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

Chapter 25

LOCAL LAWS, PUBLICATION OF

GENERAL REFERENCES

Publication of ordinances — See Ch. 37.

§ 25-1. Public hearing required.

No local law shall be adopted by the Town Board of the Town of Horseheads until a public hearing has been held thereon in its final form before such Town Board not less than five (5) nor more than thirty (30) days after public notice has been given of the time and place of the holding of such public hearing. Such notice shall be given by the Town Clerk by causing the same to be published once in the official newspaper of the town. Such notice shall contain the title of the proposed local law and a brief explanatory statement thereof.

§ 25-2. Copies of proposed law to be posted.

The Town Clerk shall cause to be printed or otherwise reproduced copies of such proposed local law and shall, not later than the day such notice is published, post one (1) such copy, together with the notice of hearing, on the signboard at his or her office and shall also make copies of such proposed local law available at his or her office for inspection by and distribution to any interested person during business hours.

7. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
§ 25-3. Adopted law to be posted and published.

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

§ 25-4. Proof of publication.

Proof of publication of the notice of public hearing required by § 25-1 hereof and proof of the posting and publication required by § 25-3 hereof shall be filed in the office of the Town Clerk.

§ 25-5. Numbering; copies to be filed. 8

Each local law shall be numbered consecutively beginning with number one (1) for each calendar year. When a local law is finally adopted, and certified copies thereof are required by § 27 of the Municipal Home Rule Law to be filed in the offices of the Town Clerk, and the Secretary of State, the Town Clerk shall accordingly assign to such local law its appropriate number.

Chapter 29

MEETINGS

GENERAL REFERENCES

Mass gatherings — See Ch. 128.

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8. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
ARTICLE I
Open Meetings
[Adopted 1-12-1977]

§ 29-1. Legislative intent.
The purpose of this Article is to provide notice to the public and the news media of the regular and special meetings of the Town Board at which public business is officially transacted, in compliance with the Open Meetings Law (Public Officers Law Article 7). Such notice is designed to facilitate public attendance at such meetings to observe and listen to the deliberations and decisions of this Board.

§ 29-2. Definitions and word usage.
A. The terms, words and phrases used in this Article shall have the same meanings as such terms, words and phrases are defined in § 102 of the Public Officers Law.  
B. As used in this Article, the following terms shall have the meanings indicated:
   NEWS MEDIA — A newspaper that is printed not less frequently than once a week in which legal notices may be published, or a radio or television station that regularly broadcasts news.
   NOTICE — Written or oral information relating to the date, time and place where a meeting is to be held.

§ 29-3. Designation of locations for posting of notices.
The following locations are hereby designated as the sites where notice of all meetings held by the Town Board shall be posted:
A. Town Clerk's bulletin board.
B. Village Hall, Horseheads, New York.
C. Village Hall, Elmira Heights, New York.

§ 29-4. Designation of news media to receive notice.
Any and all officially designated newspapers of general circulation within the Town of Horseheads and officially designated television or radio stations are hereby designated as the news media that shall receive notice of the meetings of the Town Board.

9. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
10. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
§ 29-5. Designation and duty of Town Clerk to provide notice.

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

§ 29-6. Notice of meetings scheduled at least one week in advance.

A. The public shall be informed of meetings scheduled at least one (1) week in advance by the posting of a notice at least seventy-two (72) hours in advance of such meetings in locations designated in § 29-3 herein.

B. The newspapers or radio or television station designated in § 29-4 herein shall be informed of a meeting scheduled at least one (1) week in advance at least seventy-two (72) hours in advance of such meeting by mail or by telephone or personal delivery of the notice to an officer or employee of the news media as follows:

(1) Notice provided by mail to the news media shall be sent by certified return, receipt mail at least one (1) week in advance of such meetings to ensure that notice will be provided to the news media at least seventy-two (72) hours in advance of a meeting.

(2) When notice to the news media is personally delivered, the person delivering the notice shall obtain a receipt signed by an officer or employee of the news media, which receipt shall also show the time and date thereof and the title of such officer or employee and shall state that notice has been provided in compliance with § 104 of the Public Officers Law.11

(3) When notice to the news media is given by telephone, the person making such telephone call shall obtain the name and title of the officer or employee to whom the notice is given and shall write down such information and the time and date of such call as provided herein.

§ 29-7. Notice of meetings scheduled less than a week in advance.

A. The public shall be informed of meetings scheduled less than a week in advance as soon as practicable by the posting of notices in locations designated by § 29-3 herein.

B. Notice to the news media shall be delivered personally or by telephone in accordance with the requirements set forth in § 29-6B(2) or (3) herein, respectively.


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11. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
§ 29-8

MEETINGS

A. When the Town Board schedules meetings in advance that are to be held at specific times and locations and on specific dates, a single notice may be provided to the public and the news media.

B. Notice specifying the time, location and dates of regularly scheduled meetings shall be posted in locations designated in § 29-3 herein.

C. Notice specifying the time, location and dates of regularly scheduled meetings shall be provided to the news media designated in § 29-4 herein. Such notice shall be provided in accordance with the requirements set forth in § 29-6B(1) or (2) of this Article.

§ 29-9. Notice of changes in the time, date or location of scheduled meetings.

When the time, date or location of a scheduled meeting is changed, the Town Clerk shall, as soon as practicable:

A. Post notices showing the change in date, time or location of a meeting at the sites designated by § 29-3 herein.

B. Provide notice to the news media designated to receive notice by § 29-4 herein as provided in § 29-6 or 29-7, as the case may be, of this Article.

§ 29-10. Record of notice.

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

A. The date of posting of the public notice, the date or descriptive schedule of the meeting or meetings for which notice was given and the name and title of the person who posted the notice.

B. If notice is given to the news media by mail, the date of mailing of the same, the date or descriptive schedule of the meeting or meetings for which the notice has been mailed and the name and title of the person who mailed such notice.

C. If notice to the news media is given by personal delivery, the time and date of delivery of the same, the date of descriptive schedule of the meeting or meetings of which the notice was delivered and the name and title of the person who delivered the notice.

D. If notice to the news media is given by telephone, the time and date of such telephone call, the date or descriptive schedule of the meeting or meetings for which such notice is given, the name and title of the officer or employee to whom it was given and the name and title of the person who gave such notice.
Chapter 33

OFFICERS AND EMPLOYEES

GENERAL REFERENCES

Defense and indemnification — See Ch. 14.  Salaries and compensation — See Ch. 50.

Code of Ethics — See Ch. 19.
ARTICLE I
Supervisor
[Adopted 8-9-1989 by L.L. No. 2-1989]

§ 33-1. Election; term of office.
A. The term of office of the elective office of the Supervisor of the Town of Horseheads shall be four years. Such four-year term shall commence on the first day of January following the first biennial election after the effective date of this article.

B. As the biennial town election next following the effective date of this article, and every four years thereafter, the Supervisor shall be elected for a term of four years.

§ 33-2. Supersession of statute.
This article shall supersede in its application to the Town of Horseheads, § 24 of the Town Law with respect to the term of office of Supervisor.

§ 33-3. Approval by electors.
This article shall be submitted for approval to the electors of the Town of Horseheads and shall become effective upon approval of a majority of the electors of the Town at a biennial Town election.\textsuperscript{12}

\textsuperscript{12}Editor's Note: This local law was passed by a majority of the electors of the Town 11-7-1989.
ARTICLE II
Residency Requirements for Certain Appointed Offices
[Adopted 4-12-2017 by L.L. No. 1-2017]

§ 33-4. Title.
The title of this article is "A Local Law to Establish the Residency Requirements for the Following Appointed offices in the Town of Horseheads: Youth Bureau Director, Code Enforcement Officer, Town Highway Superintendent, Deputy Highway Superintendent and Town Attorney."

§ 33-5. Authority.
This article is adopted pursuant to Municipal Home Rule Law, § 10[1][ii][a][1], that grants to local governments the authority to enact local laws regarding the qualifications of local officers. Furthermore, this article recognizes that the State Legislature amended Public Officers Law, § 3 adding a new Subdivision (24) expanding the residency requirements for any appointed public office in the Town of Horseheads, Chemung County, thereby rendering Public Officers Law a special law with respect to those appointed Town officers (See cf N.Y. Op. Atty. Gen. (Inf.) No. 91-37).

§ 33-6. Supersession.
This article shall supersede Town Law, § 23(1), in its application to appointed offices for the Town of Horseheads.

§ 33-7. Residency requirements for certain or all appointed positions for the Town of Horseheads.
The persons holding an appointive office in the Town of Horseheads as Youth Bureau Director, Code Enforcement Officer, Town Highway Superintendent, Deputy Highway Superintendent and Town Attorney need not be a resident nor an elector of the Town of Horseheads, provided, however, that such person shall reside within the County of Chemung.
Chapter 37

ORDINANCES, PUBLICATION OF

GENERAL REFERENCES

Publication of local laws — See Ch. 25.

§ 37-1. Amendment to statute.\textsuperscript{13}

A. Section 133 of the Town Law, as amended, is hereby amended in its application to the Town of Horseheads, New York, to read as follows:

§ 133. When ordinance shall take effect. Every ordinance and every amendment to an ordinance hereafter adopted or approved by the Town Board of the Town of Horseheads shall be entered in its minutes, and a notice setting forth the title thereof, a brief description of the provisions thereof and a statement that the original is on file and may be inspected in the office of the Town Clerk shall be published once in the official newspaper of the town or, if there is none, in a newspaper designated by the Town Board having general circulation in the town, and a printed copy of such notice shall be posted on the signboard maintained by the Town Clerk pursuant to Subdivision 6 of § 30 of the Town Law, and affidavits of such publication and posting shall be filed with the Town Clerk. Such ordinance or amendment shall take effect ten (10) days after such publication and posting, but such ordinance or amendment shall take effect from the date of its service against a person served personally with a copy thereof, certified by the Town Clerk under the Corporate Seal of the town, and showing the date of its passage and entry in the minutes.

B. No ordinance or amendment previously adopted or approved by the Town Board shall be void for failure of posting and/or filing affidavits of posting.

§ 37-2. Referendum.

This chapter shall be subject to referendum on petition\textsuperscript{14} and shall take effect, subject to the provisions of § 24 of the Municipal Home Rule Law, when filed in the office of the Secretary of State pursuant to § 27 of such law.

Chapter 41

\textsuperscript{13}Editor’s Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

\textsuperscript{14}Editor’s Note: This local law was subject to referendum. No valid petition was filed and this local law was duly adopted on 1-25-1971.
PLANNING BOARD AND ZONING BOARD OF APPEALS

GENERAL REFERENCES

Adult uses — See Ch. 60.
Signs — See Ch. 152.

Subdivision of land — See Ch. 175.
Zoning — See Ch. 204.
ARTICLE I
Planning Board

§ 41-1. Authority.
The Town Board of the Town of Horseheads hereby enacts this article pursuant to the provisions of Town Law § 271 of the Laws of the State of New York.

§ 41-2. Increase in membership.
The membership of the Planning Board of the Town of Horseheads is hereby increased from its present membership of five members to seven members.

§ 41-3. Alternate members.
Further, positions for two alternate Board members are hereby established for purposes of substituting for a member, in the event such member is unable to participate because of a conflict of interest. The Chairperson of the Planning Board is authorized to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the Board.
ARTICLE II
Training and Attendance Requirements
[Adopted 11-3-1999 by L.L. No. 2-1999]

§ 41-4. Purpose.
The responsibilities of the Zoning Board of Appeals and the Planning Board of the Town of Horseheads have increased and broadened to the extent that the Town believes it would be beneficial for the Town Board to have the authority to set certain minimum training requirements and minimum meeting requirements for members for the respective boards.

§ 41-5. Authority to establish training requirements.
The Town Board of the Town of Horseheads is hereby authorized and may establish by resolution a program and course of instruction and education and shall amend, change and modify the same by resolution to obtain and maintain a level of proficiency in the functions of and performance of duty by all members of the Zoning Board of Appeals and the Planning Board of the Town of Horseheads.

§ 41-6. Authority to establish attendance requirements; grounds for removal.
The Town Board is hereby authorized to establish by resolution from time to time minimum requirements relating to meeting attendance for members of the Planning Board and Zoning Board of Appeals. Noncompliance with such requirements would be grounds for removal. Nothing herein shall limit any other cause which may be grounds for removal.
ARTICLE III
Residency Requirements
[Adopted 1-9-2013 by L.L. No. 1-2013]

§ 41-7. Title.
The title of this article is "A Local Law to Establish Residency Requirements for the Members of the Zoning Board of Appeals and Planning Board for the Town of Horseheads."

§ 41-8. Authority.
This article is adopted pursuant to Municipal Home Rule Law, § 10(1)(ii)(a)(1) that grants to local governments the authority to enact local laws regarding the qualifications of local officers. Furthermore, this local law recognizes that the State Legislature amended Public Officer's Law § 3, adding a new subsection, § 24, expanding the residency requirements for any appointed public office in the Town of Horseheads, Chemung County, thereby rendering the Public Officer's Law a special law with respect to any appointed Town officer (see C.F.N.Y. Op. Atty. Gen. No. 91-37).

This article shall supersede Town Law § 23(1) in its application to membership on the Zoning Board of Appeals and Planning Board for the Town of Horseheads.

§ 41-10. Residency requirements for membership.
Members of the Zoning Board of Appeals and Planning Board for the Town of Horseheads need not be a resident or an elector of the Town of Horseheads; provided, however, that such person shall:

A. Reside in Chemung County; or

B. Currently, reside in Chemung County or a neighboring county and for a period of 10 years past, own property located in the Town of Horseheads and continue to own such property during the term of office.


§ 44-1. Intent.

The intent of this chapter is that goods and services, which are not required by law to be procured pursuant to competitive bidding, must be procured in a manner to assure the prudent and economical use of the public moneys, in the best interest of the taxpayers, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost, under the circumstances, and to guard against favoritism, improvidence, extravagance, fraud and corruption. To further these objectives, the governing board is adopting internal policies and procedures governing all procurement of goods and services, which are not required to be procured pursuant to the competitive bidding requirements of General Municipal Law § 103 or of any other general, special or local law.

§ 44-2. Procedures.

A. Every Town officer, board, department head or other personnel with the requisite purchasing authority (hereinafter "purchase") shall estimate the cumulative amount of the items of supplies or equipment needed in a given fiscal year. The information gathered and conclusions reached shall be documented and kept with the file and other documentation supporting the purchase activity, as set forth herein.

B. The procedures for determining whether a procurement of goods and services is subject to competitive bidding and documenting the basis for any determination that competitive bidding is not required by law is as follows:

(1) Determination. All procurement must be examined and categorized as follows:

(a) No competitive bidding and, except when directed by the Town Board, no solicitations of written proposals or quotations shall be required for purchases under the following:

[1] Articles manufactured in a New York State correctional facility (Corrections Law §§ 184, 186).

[2] Purchased from agencies for the blind or severely handicapped (State Finance Law § 175-b).

[3] Purchases under a county contract [General Municipal Law § 103(3)].


15.Editor's Note: State Finance Law § 175-b was repealed by L. 1995, c. 83, § 33.
[7] Professional services (General Municipal Law § 104-b).
[9] Insurance (General Municipal Law § 104-b).
[10] Secondhand equipment from another government [General Municipal Law § 103(6)].

(b) Competitive bidding:

[1] Purchase contract of $20,000 or more.
[2] Contracts for public work if $35,000 or more.

(c) Other analysis:

[1] Purchases should be evaluated to determine whether, over the course of the fiscal year, the Town of Horseheads will spend in excess of the competitive bidding thresholds for the same or similar items or services. Prior years' budgetary appropriations should be referred to for this information and compared with current projections. The estimate shall include the canvass of other Town departments and past history to determine the likely annual value of the commodity to be acquired.

[2] Reference to the statute (General Municipal Law § 104, as it may be amended) should be made for all purchases cited in Subsection B(1)(a) above.

(2) Documentation. Determination that a purchase is not subject to competitive bidding requirements shall be documented as follows, and kept with the records of the purchase:

(a) Copies or notations of all written indicia of dollar amounts.

(b) Notation of all verbal indicia of dollar amounts.

(c) Where appropriate, reference to prior years' budgetary purchase amount information.

(d) For all items determined not to be subject to competitive bidding for reasons other than dollar amount, a written notation of the facts justifying the particular category of exception must be made.

(e) If full compliance with these documentation requirements is not practical, a note of explanation shall be made and placed with the purchase records.
(3) Policies and procedure for procurements.

(a) Proposals or quotations for goods and services shall be secured by use of written requests for proposals, written quotations, verbal quotations or any other method or procurement which furthers the purposes of the General Municipal Law.

(b) It is acknowledged that, though the suggested number of quotes should be diligently sought, they may not always be practically available.

(c) Purchases.

[1] All estimated purchases of less than $20,000 but greater than $10,000 require a written request for a proposal (RFP) and written/fax quotes from three vendors, and acceptance by the Town Board.

[2] All estimated purchases of less than $10,000 but greater than $5,000 require written/fax quotes from three vendors.

[3] All estimated purchases of less than $5,000 but greater than $1,000 require two verbal quotes.

[4] All estimated purchases of less than $1,000 are left to the discretion of the purchaser.

(d) Public works.

[1] All estimated public works contracts of less than $35,000 but greater than $20,000 require a written RFP and written/fax proposal from three contractors, and acceptance by the Town Board.

[2] All estimated public works contracts of less than $20,000 but greater than $10,000 require written/fax proposals from three contractors.

[3] All estimated public works contracts of less than $10,000 but greater than $2,500 require two verbal quotes.

[4] All estimated public works contracts of less than $2,500 are left to the discretion of the purchaser.

(4) Emergency option. Where by virtue of the nature of the emergency option, a review by the Town Board is not available, approval may be given by the Town Supervisor or Acting Town Supervisor, and reported to the Town Board as soon as practicable.

§ 44-3. Adequate documentation.

Documentation of actions taken in connection with each such method of procurement is required as follows:
§ 44-4. Award of purchase or public works contract.

The lowest responsible proposal or quote shall be awarded the purchase or public works contract unless the purchaser prepares a written justification providing reasons why it is in the best interests of the Town and its taxpayers to make an award to other than the low bidder. If the bidder is deemed not responsible, acts supporting that judgment shall also be documented and filed with the record supporting the procurement. If full compliance with this provision is not practical, a written note of explanation shall be made and placed with the purchase records.

§ 44-5. Input from officers.

Comments concerning the policies and procedures shall be solicited from officers of the political subdivision or district therein involved in the procurement process prior to the enactment of the policies and procedures, and will be encouraged at all times hereafter.

§ 44-6. Annual review.

The Town Board shall annually review these policies and procedures. The Town Supervisor shall be responsible for conducting an annual review of the internal control structure established to ensure compliance with the procurement policy. It is contemplated that the annual review will be made during annual budget preparation, or such other time as the Town Supervisor may designate.

§ 44-7. Unintentional failure to comply.

The unintentional failure to fully comply with the provisions of General Municipal Law § 140-b shall not be grounds to void action taken or give
rise to a cause of action against the Town of Horseheads or any officer or employee thereof.

Chapter 50

SALARIES AND COMPENSATION

GENERAL REFERENCES

Officers and employees — See Ch. 33.

§ 50-1. Authority to fix compensation.

The Town Board of the Town of Horseheads is hereby authorized to annually fix the compensation of the members of the Town of Horseheads Planning Board, the Zoning Board of Appeals and the Board of Assessment and Review, and the secretary to each such Board, on a per meeting basis. The Town Board shall, by resolution, determine what meetings shall be compensable, the rate of compensation and when such compensation shall be payable.

§ 50-2. Intent. 16

This chapter is intended to supersede Town Law § 27, Subdivision 1 (L. 1932, c. 634, as amended), in its application to the Planning Board, Zoning Board of Appeals and Board of Assessment and Review.

Chapter 54

SMOKING


A. Smoking is prohibited in all indoor places of employment of Town employees under the jurisdiction and control of the Town of Horseheads.

B. Smoking is not permitted in any conference room or meeting room or any enclosed private office.

C. No person shall carry a lighted cigarette, cigar or pipe or other smoking material in any indoor hallway, passage or other common area while walking through such area.

D. Smoking shall be prohibited in auditoriums, gymnasiums, restrooms, elevators, classrooms, hallways, employee medical facilities, pavilion

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

Smoking areas will be designated by the Town Board for employees who wish to smoke. Such smoking areas will be clearly marked by a sign "Smoking Permitted."

§ 54-3. Policy in Town courts.

The smoking policy in Town courts shall be as promulgated by the Office of Court Administration.

§ 54-4. Complaints.

Employees are encouraged to present any concerns to their supervisor and may register a complaint with the county enforcement officer.

§ 54-5. Copy to be posted.

A copy of this policy shall be posted on the Town Bulletin Board and in each separate building in which Town employees work.

§ 54-6. Penalties for offenses.

Employees found smoking outside of the designated smoking areas will be considered in violation of this policy and may be subject to the penalty prescribed by the State Commissioner of Health.

§ 54-7. Enforcement officer designated. [Amended 10-4-1995 by L.L. No. 5-1995]

The Code Enforcement Officer shall be designated an agent to assist in the enforcement of this policy by notifying employees who are in violation.

Part II, General Legislation

Chapter 60

ADULT USES

GENERAL REFERENCES

Zoning — See Ch. 204.
§ 60-1. Purpose.

It is recognized that buildings and establishments operated as adult uses have serious objectionable operational characteristics. In order to promote the health, safety and general welfare of the residents of the Town of Horseheads, this chapter is intended to restrict adult uses to nonresidential and nonbusiness areas of the town. The Town Board hereby finds that the operational characteristics of adult uses increase the detrimental impact on a community when such uses are concentrated. Incidents of crime may increase, property values may diminish and retail trade may be harmed. This chapter is intended to protect and preserve the quality of neighborhoods, commercial districts and quality of urban life. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene materials. All possible options and alternatives to enactment of this chapter have been considered. It has been determined that the type of regulation imposed by this chapter is the least intrusive method.

§ 60-2. Word usage; definitions.

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

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

ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE —

(1) An establishment or business, whether retail or wholesale, having as a substantial or significant portion of its stock-in-trade and/or as one of its principal business purposes offers for sale or rental for any form of consideration one or more of the following: instruments, devices or paraphernalia which are primarily intended, labeled, designed, advertised or promoted for use in connection with specified sexual activities, or for stimulation of human genital organs or for sadomasochistic use or abuse of a person or others; or books, magazines, periodicals and other printed matter, photographs, films, motion pictures, video cassettes or video reproductions, slides, compact discs, computer software or other visual representations and viewing materials for sale or rental or viewing on premises or rental for viewing on or off premises, by use of motion-picture devices or any coin- or slug-
operated means, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, or an establishment or business containing a segment or section devoted to the sale or display of such material.

(2) A business may have other principal business purposes that do not involve the offering for sale or rental of instruments, devices or paraphernalia or the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore. Such other business purposes will not serve to exempt such business from being categorized as an adult bookstore, adult novelty store or adult video store, so long as one of its principal business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe specified anatomical areas or specified sexual activities.

ADULT ENTERTAINMENT CABARET — A public or private establishment, which may or may not be licensed to serve food and/or alcoholic beverages, which regularly features persons who appear in a state of nudity, topless and/or bottomless dancers, strippers and/or films, motion pictures, videos, slides, compact discs or other photographic reproductions or other visual representations, including computer-generated, which are distinguished or characterized by their emphasis on matter depicting, describing or related to specific sexual activities or specific anatomical areas.

ADULT ENTERTAINMENT ESTABLISHMENT — A public or private establishment which regularly presents any of the following entertainments, exhibitions, or services: topless and/or bottomless dancers, strippers, topless waitressing, busing or service, topless hair care or massages, service or entertainment where the servers or entertainment wearing only pasties or G-strings or both, or other adult uses as defined herein.

ADULT MINI MOTION-PICTURE THEATER — An enclosed building with a capacity of less than 50 persons regularly used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT MOTEL — A hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration and provides patrons with closed circuit television transmissions, films, motion pictures, video cassettes, slides, compact discs, computer software or other photographic reproductions or other visual representations which depict, describe or relate to specific sexual activities or specific anatomical areas and which has a sign visible from a public right-of-way which advertises the availability of this adult type of photographic reproductions; or offers a sleeping room for rent for a period of time of 10 hours or less; or allows a tenant or
occupant of a sleeping room to sublet the room for a period of time that is 10 hours or less.

ADULT MOTION-PICUTURE THEATER — A commercial establishment regularly used for presenting materials including films, motion pictures, videos, slides, compact discs, computer software or other photographic or visual reproductions or representations having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT THEATER — A theater, concert hall, auditorium or similar establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of specific anatomical areas or by specific sexual activities.

ADULT USE — Any establishment or business regularly involved in the dissemination of material, performance of entertainments or exhibitions or provision of services distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities and/or specified anatomical areas, including but not limited to adult bookstores, adult entertainment cabarets, adult entertainment establishments, adult mini motion-picture theaters, adult motion-picture theaters, adult motels, adult theaters, escort agencies, nude model studios and sexual encounter centers.

AUDIENCE — One or more persons who are permitted to view a performance for any valuable consideration, in or from a public place.

BUSINESS — Any commercial enterprise, association or arrangement for profit.

DISSEMINATION — The transfer of possession, custody, control or ownership of or the exhibition or presentation of any performance to a customer, member of the public or business invitee of any material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

ESCORT — A person who, for consideration, agrees or offers to act as a companion, guide or date for any person or who agrees or offers to privately model lingerie or to privately perform a strip tease for another person.

ESCORT AGENCY — A person or business who or which furnishes, offers to furnish or advertises to furnish escorts as one of its primary businesses for a fee, tip or other consideration.

ESTABLISHMENT — Means and includes any of the following:

(1) The opening or commencement of any business as a new business;

(2) The conversion of an existing business whether or not an adult use to any of the adult use businesses defined in this chapter;
(3) The addition of any of the adult use businesses defined in this chapter to any other existing adult use business; or

(4) The relocation of any adult use business.

NUDE MODEL STUDIO — Any place where a person who appears in a state of nudity or who displays specified anatomical areas is provided to be observed, stretched, drawn, painted, sculpted, photographed or similarly depicted by other persons who pay money or any form of consideration.

NUDE, NUDITY or STATE OF NUDITY — The appearance or less than complete and opaque covering of the anus, genitals, pubic region, buttocks, areola or nipple of the female breast, or any artificial depiction of the same.

PERFORMANCE — Any live or reproduced exhibition, including but not limited to any play, motion-picture film, dance or appearance or other visual representation presented to or performed before an audience.

PERSON — Any person, firm, partnership, corporation, association or legal representative, acting individually or jointly.

PUBLIC PARK OR RECREATION AREA — Public land which has been designated for park or recreational activities including but not limited to a park, playground, nature trail, swimming pool, reservoir, athletic field, basketball or tennis courts, athletic courts, pedestrian/bicycle paths, open space, wilderness area or similar public land within the town which is under the control, operation or management of the town, a religious institution, a school or other governmental entity.

RELIGIOUS INSTITUTION — Any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities including education and instruction.

RESIDENTIAL DISTRICT OR USE — A single-family dwelling, two-family dwelling, row dwelling, multifamily dwelling or mobile home park use or district as defined or designated in the Town of Horseheads Code.

SADOMASOCHISTIC ABUSE — Flagellation or torture by or upon a person who is nude or clad in undergarments or in a sexually revealing or bizarre costume, or the condition of such person being fettered, bound or otherwise physically restrained in an apparent act of sexual stimulation or gratification.

SCHOOL — Any public or private educational facility including but not limited to child day-care facilities, nursery school, preschool, kindergarten, elementary school, primary school, intermediate school, junior high school, middle school, high school, vocational school, secondary school, continuation school, special education school, junior college, and university. School includes the school grounds but does not include the facilities used primarily for another purpose or incidentally as a school.
SEMINUDE — A state of dress in which clothing covers no more than the genitals, pubic region and the female breast below a point immediately above the top of the areola, as well as portions of the body covered by supporting straps or devices.

SEXUAL CONDUCT —

(1) Masturbation.

(2) Sexual intercourse, whether genital-genital, genital-oral, oral-anal or anal-genital.

(3) Any erotic fondling or touching of any parts of the covered or uncovered genitals, buttocks, pubic area or breasts of the female.

(4) Actual or simulated display or exhibition of the human pubic area or genitals, or any part thereof.

(5) Sexual excitement as herein defined.

(6) Sadomasochistic abuse as herein defined.

(7) The conduct described in Subsections (1) through (3) above, inclusive, is sexual conduct, whether or not it is engaged in alone or between members of the same sex or between members of the opposite sex or between humans and animals or between humans and inanimate objects.

SEXUAL ENCOUNTER CENTER — A business or other commercial enterprise that as one of its primary business purposes offers for any form of consideration physical contact in the form of wrestling or tumbling or other similar activity between persons of the opposite sex; or activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminude.

SPECIFIED ANATOMICAL AREAS —

(1) Less than the completely and opaquely covered human anus, genitals, pubic region, buttocks or female breast below a point immediately above the top of the areola, or an artificial depiction of the same.

(2) Human male genitals in a discernibly turgid state even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES —

(1) Human genitals in a state of sexual stimulation or arousal.

(2) Acts of human masturbation, oral copulation, sexual intercourse or sodomy, normal or perverted, actual or simulated.

Adult uses shall be permitted subject to the following restrictions:

A. No adult use shall be allowed within 750 feet of the nearest property line of another existing adult use.

B. No adult use shall be located within 1,000 feet of the boundaries of any zoning district which is zoned for residential use, or zoned as a planned unit development (PUD).

C. No adult use shall be located in any zoning district except those districts zoned for industrial and manufacturing.

D. No adult use shall be conducted in any manner that permits the observation of any instruments, devices or paraphernalia which is primarily intended, labeled, designed, advertised or promoted for use in connection with specified sexual activities or material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property not registered as an adult use. This provision shall apply to any display, decoration, sign, show window, screen or other opening.

E. No more than one of the adult uses defined herein shall be located on any one lot or parcel of land, unless such lot or parcel is sufficiently large as to permit all distance limitations provided herein to be satisfied.

F. No adult use shall be located within 1,000 feet of the nearest property line of any preexisting public, private or parochial school, church,
§ 60-5. Defense.

A. It is a defense to prosecution under this chapter if a person appearing in a state of nudity did so in a modeling class operated:

(1) By a proprietary school, licensed by the State of New York, a college, junior college, or university supported entirely or partially by taxation;

(2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partially by taxation; or

(3) In a structure:

   (a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;

   (b) Where in order to participate in a class a student must enroll at least three days in advance of the class; and

   (c) Where no more than one nude model is on the premises at any one time.

B. It is a defense to prosecution for a violation of this chapter that an employee of an adult use, regardless of whether or not a certificate of registration has been issued for said business under this chapter, exposes any specified anatomical area during the employee's bona fide use of a restroom or during the employee's bona fide use of a dressing room which is accessible only to employees.
§ 60-5. Prohibitions regarding minors and adult uses.

A person violates this chapter if such person operates or causes to be operated an adult use, regardless of whether or not a certificate of registration has been issued for said business under this chapter, and knowingly or with reasonable cause to know permits, suffers or allows:

A. Admittance of a person under 18 years of age to the business premises unless accompanied by a parent or guardian;

B. A person under 18 years of age to remain at the business premises unless accompanied by a parent or guardian;

C. A person under 18 years of age to purchase goods or services at the business premises without the specific consent of a parent or guardian;

D. A person who is under 18 years of age to work at the business premises as an employee.

§ 60-6. Advertising and lighting.

A. It shall be a violation of this chapter if a person operates or causes to be operated an adult use, regardless of whether or not a certificate of registration has been issued for such use under this chapter, and advertises the presentation of any activity prohibited by any applicable federal, state or local statute, law, rule or regulation.

B. It shall be a violation of this chapter if a person operates or causes to be operated an adult use, regardless of whether or not a certificate of registration has been issued for such use under this chapter, and displays or otherwise exhibits the materials and/or performances at such adult use in any advertising which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of such adult use.

C. It is a violation of this chapter if the owner and/or person in control of any property registered as an adult use allows, causes or permits any portion of the interior premises to be visible from outside the premises.

D. All off-street parking areas and premises entries of the adult use will be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one foot candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the business for personal safety of patrons and employees, and to reduce the incidents of vandalism and criminal conduct.

§ 60-7. Hours of operation.
§ 60-8. Immunity from prosecution.

The town and all other departments and agencies of the town including its officers, employees, etc., charged with enforcement of state and local laws and codes shall be immune from prosecution, civil or criminal, for reasonable good-faith trespass upon an adult use business while acting within the scope of authority conferred by this chapter or any other state or federal law, rule or regulation.


A violation of this chapter is hereby declared to be an offense, punishable as set forth in Chapter 1, Article II, General Penalty.

Chapter 68

ANIMALS
ARTICLE I
Dog Control

§ 68-1. Purpose.
The Town Board of the Town of Horseheads finds that the running at large and other uncontrolled behavior of licensed and unlicensed dogs have caused physical harm to persons and damage to property and have created nuisances within the Town. The purpose of this article is to protect the health, safety and well-being of persons and property by imposing restrictions on the keeping and running at large of dogs within the Town.

§ 68-2. Authority.
This article is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law and the Municipal Home Rule Law of the State of New York.

§ 68-3. Title.
The title of this article shall be "Dog Control Law of the Town of Horseheads."

§ 68-4. Definitions.
As used in this article, the following words shall have the following respective meanings:

DOG — Male and female, licensed and unlicensed, members of the species Canis Familiaris.

DOG CONTROL OFFICER — A Dog Control Officer on or after January 1, 1980.[Amended 10-4-1995 by L.L. No. 5-1995]

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 and a reasonable search has been made. 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 any dog which is kept, brought or comes within the Town. Any person owning or harboring a dog for a period of one week prior to the filing of any complaint charging a violation of this article, 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 chapter shall be under 18 years of age, the 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 and violation of this article.[Amended 10-4-1995 by L.L. No. 5-1995]
RUN AT LARGE — To be in a public place or on private lands without the knowledge, consent and approval of the owner of such lands.

TOWN — The Town of Horseheads.

§ 68-5. Unlawful acts.

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

A. Run at large unless the dog is restrained by an adequate leash 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 the article, a dog or dogs hunting in the company of a hunter or hunters shall be considered as accompanied by its owner.

B. Engage in habitual loud howling, barking, crying or whining or conduct itself in such a manner so as to unreasonably and habitually disturb the comfort or repose of any person other than the owner of such dog.

C. Uproot, dig or otherwise damage any vegetables, lawns, flowers, garden beds or other property without the consent or approval of the owner thereof.

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

E. Habitually chase, run alongside of or bark at motor vehicles, motorcycles or bicycles while on a public street, highway or place or upon private property without the consent or approval of the owner of such property.

F. Create a nuisance by defecating, urinating or digging on public property or on private property without the consent or approval of the owner of such property.

G. If a female dog, when in heat be off the owner's premises unrestrained by a leash.

§ 68-6. Seizure of dogs; appearance tickets; complaints. [Amended 10-4-1995 by L.L. No. 5-1995]

A. The procedure for seizure and impoundment of dogs in violation of Article 7 of the Agriculture and Markets Law and of § 68-5A of this article are as follows:

(1) Seizure.

(a) The Dog Control Officer or any peace officer shall seize:

[1] Any unlicensed dog whether on or off the owner's premises.
[2] Any dog not wearing a tag and not identified and which is not on the owner's premises.

[3] Any dog found in violation of § 68-5A of this article.

(b) Such seized dog shall be kept and disposed of in accordance with the provisions of Article 7 of the Agriculture and Markets Law. The Dog Control Officer or peace officer may also investigate and report to a Town Justice of the Town any dangerous dog as described in Article 7 of the Agriculture and Markets Law and see that the order of the Town Justice in such case is carried out.

(2) The Dog Control Officer or peace officer having reasonable cause to believe that a person has violated this article shall issue and serve upon such person an appearance ticket for such violation.

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


Except as otherwise provided in § 119 of the Agriculture and Markets Law, any person convicted of a violation of this article shall be liable to a civil penalty of a minimum amount of $25 for a first violation, of a minimum amount of $50 for a second violation and of a minimum amount of $100 for each subsequent violation.
§ 68-8. Authority to accept surrender. [Amended 10-4-1995 by L.L. No. 5-1995]

The Dog Control Officer is given the authority to accept the voluntary surrender of any licensed dog in the Town of Horseheads.


Upon the surrender of any licensed dog to the Town for the purpose of euthanizing, a fee as set forth from time to time by resolution of the Town Board shall be imposed by said Town upon the owner of such dog or dogs to be euthanized.

§ 68-10. Collected revenues.

Any revenues collected by means of this article shall be used similarly as impoundment fees.
ARTICLE III
Licensing of Dogs
[Adopted 8-14-2002 by L.L. No. 1-2002; amended in its entirety
12-8-2010 by L.L. No. 1-2010]

§ 68-11. Title.
The title of this article shall be the "Dog Licensing and Control Law of the Town of Horseheads, County of Chemung."

§ 68-12. Authority.
This article is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law, as amended by L. 2010, c. 59, Part T, and the Municipal Home Rule Law of the State of New York.

§ 68-13. Purpose.
The Town Board of the Town of Horseheads, County of Chemung, hereby finds and declares that the purpose of this article is to provide for the licensing of dogs.

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

B. As used in this article, the following terms shall have the meanings indicated:
   AGRICULTURE AND MARKETS LAW — The Agriculture and Markets Law of the State of New York in effect as of the effective date of this article, as amended by this article, and as thereafter amended.
   IDENTIFICATION TAG — A tag issued by the Town Clerk which sets forth the identification number together with the name of the Town and State, the telephone number of the Town Clerk, and any other information deemed necessary by the Town Clerk.
   OWNER — Any person who harbors or keeps any dog or other animal.
   OWNER OF RECORD — The person in whose name a dog was last licensed pursuant to this article.
   PERSON — A person, partnership, corporation, association or other organized group of persons, business entity, municipality or other legal entity.
   RESIDENT — A person who maintains a residence or resides within the Town of Horseheads, County of Chemung, State of New York.

17. Editor's Note: This local law also amended the title of this article, which was formerly License Fees.

A. No person shall own or possess a dog within the Town unless such dog is licensed and identified as provided in Article 7 of the Agriculture and Markets Law and laws of the Town.

B. All dogs within the Town that are four months of age or older, unless otherwise exempted, shall be licensed. No license shall be required for any dog which is under the age of four months and which is not at large.

C. The owner of each dog required to be licensed shall obtain, complete and return to the Town Clerk of the Town a dog license application together with the license application fee, any applicable license surcharges and such additional fees as may be established by the Town.

§ 68-16. Licenses issued by animal shelters and pounds.

The Town hereby authorizes the Town of Horseheads Animal Shelter, the City of Elmira Animal Shelter and the Chemung County Humane Society and SPCA, Inc., acting by its manager to provide, accept and grant an application for a dog license made by a resident of the Town at the time of the adoption of a dog from the Town of Horseheads Animal Shelter, the City of Elmira Animal Shelter and the Chemung County Humane Society and SPCA, Inc., provided that such application is made in accordance with this article and the license fee, any additional fee and surcharge shall be remitted to the Town Clerk of the Town on or before the 10th day following the receipt of the license fee, additional fees and/or surcharge.

§ 68-17. Licensing grace period.

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


Each license application shall be accompanied by proof that the dog has been vaccinated against rabies or a statement from a licensed veterinarian that such vaccination would endanger the dog's life in which case vaccination shall not be required.
§ 68-19. Term of license; renewals.

Each license issued pursuant to this article, shall be valid for a period of one year, or at the option of the owner for periods of two or three years, and shall expire on the last day of the last month of the period for which it was issued. The dog license shall run concurrent with the rabies vaccination. No license shall be issued for a period expiring after the last day of the 11th month following the expiration date of the current rabies certificate for the dog being licensed.

§ 68-20. Fees.

A. Pursuant to this article, the Town Board of the Town of Horseheads is authorized to establish, by resolution, a schedule of fees pertaining to the licensing, identification and enumeration of dogs. The Town Board may amend the fee schedule by resolution from time to time as it deems appropriate. The most current fee schedule will be kept on file in the office of the Horseheads Town Clerk for public inspection.

B. All applications for original licenses or renewals shall be accompanied by a fee established by resolution of the Horseheads Town Board.

C. All revenue derived from such fees shall be the sole property of the Town of Horseheads and shall be used only for controlling dogs and enforcing this article and Article 7 of the New York State Agriculture and Markets Law. Said revenue may also be used to subsidize the spaying or neutering of dogs, to subsidize any facility as authorized under Article 7 of the New York State Agriculture and Markets Law, and to subsidize public humane education programs related to responsible dog ownership.

D. In no event shall any money derived from license fees be used to subsidize the spaying or neutering of cats or animals other than dogs.

E. No license fees are refundable or partially refundable in the event that a dog is lost, stolen, sold, given away, surrendered or deceased before the expiration of the license.

F. An additional fee may be established by resolution of the Horseheads Town Board should a dog be identified as unlicensed during an enumeration. Such additional fee shall be the property of the Town of Horseheads and shall be used to pay the expenses incurred while conducting the enumeration. In the event the additional fees collected exceed the expenses incurred, such excess fees may be used for enforcing this article and for spaying or neutering dogs.

G. In addition to the fees set by the Town Board, an additional New York State spay/neuter surcharge shall be assessed for the purpose of carrying out population control efforts as mandated by Article 7 of the New York State Agriculture and Markets Law. Money derived from such additional assessment may be used to subsidize the spaying and

H. There shall be no fee for any license issued for the following dogs as defined in Article 7 of the State Agriculture and Markets Law: guide dog, hearing dog, service dog, war dog, working search dog, detection dog, police work dog, therapy dog. Each copy of any license for such dogs shall be conspicuously marked "guide dog," "hearing dog," "service dog," "working search dog," "war dog," "detection dog," "police work dog," or "therapy dog," as may be appropriate, by the Clerk.


A. Upon validation by the Town Clerk of the Town, or by the manager of the authorized issuing shelters, a dog license shall be issued and a record of its issuance retained in the office of the Town Clerk of the Town. Such record shall be made available upon request to the State Commissioner of Agriculture and Markets, or successor thereof.

B. No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately apply for a new license for the dog. A license cannot be transferred to another dog.

C. Change of ownership, lost or stolen dogs.

(1) Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog.

(2) In the event of a change of address of the owner of record of any such dog, the owner of record shall, within 10 days of such change, notify the Town Clerk.

(3) If any dog which has been assigned an official identification number is lost or stolen, the owner of record shall, within 10 days of the discovery of such loss or theft, notify the Town Clerk.

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

D. Identification tag.

(1) The Town Clerk shall assign a Town official identification number to a dog when it is first licensed. Such identification number shall be carried by the dog on an identification tag which shall be affixed to the collar of the dog at all times.

(2) The official identification number shall constitute the official identification of the dog to which it is assigned.
§ 68-22. Purebred dog license and fee.

A. The owner of one or more purebred dogs registered by a recognized registry association as defined in the Agriculture and Markets Law § 108 may annually make an application for a purebred license, in lieu of or in addition to the individual licenses required by this article. A purebred license shall be valid for a period of one year beginning with the first day of the month following the date of issuance and shall be renewable annually thereafter prior to the expiration date.

B. The purebred dog license application shall state the name, address and telephone number of the owner; the county and town where such dogs are harbored; the sex, breed, registry name and number of each purebred registered dog over the age of four months which is harbored on the premises; and the sex and breed of each purebred dog over the age of four months which is harbored on the premises and which is eligible for registration. The application shall also include a statement by the owner that all purebred dogs over the age of four months which are harbored on the premises have been listed.

C. The application shall be accompanied by the license fee prescribed by this article and a certificate of rabies vaccination or statement in lieu thereof, as required by this article and Article 7 of the State Agriculture and Markets Law.

D. Upon receipt of the foregoing items, the clerk shall assign a license number, which shall be reserved for the sole use of the named owner, and shall issue a purebred license. Once a purebred license has been issued, no refund therefor shall be made.

E. No purebred license shall be transferable. Upon change of ownership of any dog licensed under a purebred license, such dog shall become subject to the licensing provisions of subdivision one of this section, except when the new owner holds a valid purebred license.

F. The Town Clerk shall:

(1) Provide a copy of the purebred license to the owner;
§ 68-23. Penalties for offenses.

Any person convicted of a violation of this article shall be liable for a civil penalty as set from time to time by the Town Board pursuant to Chapter 68, Article I, § 68-7.

(2) Retain a record of the purebred license in the office of the Town Clerk.
Chapter 75
BINGO

GENERAL REFERENCES

Games of chance — See Ch. 117.

§ 75-1. Conduct authorized.

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

§ 75-2. 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."

Chapter 79
BRUSH, GRASS AND WEEDS

§ 79-1. Maintenance of rank vegetation prohibited.

It shall be unlawful for any owner, lessee or occupant or any agent, servant, representative or employee of any such owner, lessee or occupant having control of any occupied or unoccupied building lot or plot of land, or any part thereof, in any residential or business zone of the Town of Horseheads to permit or maintain on any such lot or plot of land or on or along the street or alley adjacent to the same between the property line and the curb or the middle of the alley or for ten (10) feet outside of such property line, if there is no curb, any growth of weeds, grass or other rank vegetation to a height greater than eight (8) inches, on the average or any accumulation of dead grass, leaves, weeds or brush. It shall also be unlawful for any such person to cause, suffer or allow poison ivy, ragweed or other poisonous plants or plants detrimental to health to grow on any such lot or plot of land in such manner that any apart of such ivy, ragweed or other poisonous weed shall extend upon, overhang or border any public place.

§ 79-2. Duty of owner, lessee or occupant.

It shall be the duty of any owner, lessee or occupant of any such lot or plot of land in the Town of Horseheads to cut and remove or cause to be
cut and removed all such weeds, grass or other rank, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of § 79-1, provided that cutting and removing such weeds, grass or vegetation at least once in every three (3) weeks between April 15 and October 15 shall be deemed to be a compliance with this chapter.

§ 79-3. Deposit of materials on vacant land.

It shall be unlawful for any person, either as owner, lessee, agent, tenant or otherwise, to throw, cast or deposit or cause or permit to run, drop or remain or to be thrown, cast or deposited in or upon any vacant lot of land or vacant place upon the surface of any lot of land, enclosed or otherwise, within the town any dead grass, leaves, weeds or brush whereby a fire hazard, danger or risk is or may be engendered or injuriously effected or whereby the premises of another or the enjoyment of the premises of another are or may be injured, damaged, interfered with or prejudiced.

§ 79-4. Removal by town; costs.

If the provisions of the foregoing sections are not complied with, the Code Enforcement Officer shall serve written notice, either personally or by mail, upon the owner, lessee or occupant, or any person having the care or control of any such lot of land, to comply with the provisions of this chapter. If the person upon whom the notice is served fails, neglects or refuses to cut, remove or cause to be cut and removed such grass, other vegetation, dead grass, leaves, weeds or brush within ten (10) days of the mailing of such notice or if no person can be found in the Town of Horseheads who either is or claims to be the owner of such lot or land or who either represents or claims to represent such owner; the Code Enforcement Officer may cause such grass, other vegetation, dead grass, leaves, weeds or brush on such land to be removed, and the actual cost of such removal, plus ten percent (10%) for inspection and other additional costs in connection therewith, shall be certified by the Code Enforcement Officer as to the property on which such grass, other vegetation, dead grass, leaves, weeds or brush were located. If not paid by the owner, lessee, occupant or any person, such cost shall constitute a lien thereon until paid or otherwise satisfied or discharged, and, if not so paid or otherwise satisfied or discharged, shall be added to and become and form part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officers and in the same manner as taxes.

Chapter 83
BUILDING CODE ADMINISTRATION

GENERAL REFERENCES

Subdivision of land — See. Ch. 175.
Zoning — See Ch. 204.
§ 83-1. Purpose.

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

§ 83-2. Definitions.

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

BUILDING PERMIT — A permit issued pursuant to § 83-4 of this chapter. The term "building permit" shall also include a building permit which is renewed, amended or extended pursuant to any provision of this chapter.

CERTIFICATE OF OCCUPANCY/CERTIFICATE OF COMPLIANCE — A certificate issued pursuant to § 83-7B of this chapter.

CODE ENFORCEMENT OFFICER — The Code Enforcement Officer appointed pursuant to § 83-3B of this chapter.

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

COMPLIANCE ORDER — An order issued by the Code Enforcement Officer pursuant to § 83-15A of this chapter.

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

INSPECTOR — An inspector appointed pursuant to § 83-3D of this chapter.

OPERATING PERMIT — A permit issued pursuant to § 83-10 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 — 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 § 83-6 of this chapter.

TEMPORARY CERTIFICATE — A certificate issued pursuant to § 83-7D of this chapter.

TOWN — The Town of Horseheads.
§ 83-3. Code Enforcement Officer; inspectors.

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

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

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

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

(4) To issue stop-work orders;

(5) To review and investigate complaints;

(6) To issue orders pursuant to § 83-15A, Compliance orders, of this chapter;

(7) To maintain records;

(8) To collect fees as set by the Town Board of this Town;

(9) To pursue administrative enforcement actions and proceedings;

(10) In consultation with this Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this chapter, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this chapter; and
§ 83-4. 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 is less than 120 square feet (11.15 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 by an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

1. A description of the proposed work;
2. The Tax Map number and the street address of the premises where the work is to be performed;
3. The occupancy classification of any affected building or structure;
4. Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
5. At least two sets of construction documents (drawings and/or specifications) which:
   a. Define the scope of the proposed work;
   b. Are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;
   c. Indicate with sufficient clarity and detail the nature and extent of the work proposed;
   d. Substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and
   e. Where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

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

F. Issuance of building permits. An application for a building permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a building permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

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

H. Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The building permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended building permit reflecting such change is issued.

I. Time limits. Building permits shall become invalid unless the authorized work is commenced within six months following the date of issuance. Building permits shall expire 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 all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and
§ 83-5. 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 § 83-16, Fees, of this chapter must be paid prior to or at the time of each inspection performed pursuant to this section.
§ 83-6. Stop-work orders.

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

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

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

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

B. Content of stop-work orders. Stop-work orders shall be in writing, be dated and signed by the Code Enforcement Officer, state the reason or reasons for issuance, and if applicable, state the conditions which must be satisfied before work will be permitted to resume.

C. Service of stop-work orders. The Code Enforcement Officer shall cause the stop-work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, 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 § 83-15, 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.

§ 83-7. Certificates of occupancy/certificates of compliance.

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

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

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

(2) Flood hazard certifications.

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

(1) The building permit number, if any;

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

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

(4) If the certificate of occupancy/certificate of compliance is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy/certificate of compliance is issued;
(5) The use and occupancy classification of the structure;

(6) The type of construction of the structure;

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

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

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

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

D. Temporary certificate. The Code Enforcement Officer shall be permitted to issue a temporary certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a building permit. However, in no event shall the Code Enforcement Officer issue a temporary certificate unless the Code Enforcement Officer determines that the building or structure, or the portion thereof covered by the temporary certificate, may be occupied safely, that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a temporary certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A temporary certificate shall be effective for a period of time, not to exceed 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/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 § 83-16, 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 a temporary certificate.
§ 83-8. Notification regarding fire or explosion.
The chief of any fire department providing fire-fighting services for a property within this Town shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, electrical fire or damage, fuel-burning appliance, chimney or gas vent.

Unsafe structures and equipment in this Town shall be identified and addressed in accordance with the procedures established by the Town Board, as now in effect or as hereafter amended from time to time.

§ 83-10. Operating permits.
A. Operating permits required.
   (1) Operating permits shall be required for conducting the activities or using the categories of buildings listed below:
      (a) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR 1225.1;
      (b) Hazardous processes and activities, including but not limited to commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;
      (c) Use of pyrotechnic devices in assembly occupancies;
      (d) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
      (e) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of this 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 § 83-16, 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.

§ 83-11. 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) and (2), and all nonresidential buildings, structures, uses and occupancies not included in Subsection A(1) and (2) shall be performed at least once every 36 months.

B. Inspections permitted. In addition to the inspections required by Subsection A of this section, a firesafety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at any time upon: the request of the owner of the property to be inspected or an authorized agent of such owner; receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this 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. Notwithstanding any other provision of this section to the contrary:

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

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

(3) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a multiple dwelling not included in Subsection A(1) or (2) of this section if OFPC performs firesafety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in Subsection A(3) of this section; and

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

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

B. If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § 83-15, 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.


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;

D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 83-16, 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.
§ 83-13 BUILDING CODE ADMINISTRATION

(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 §§ 83-4 through 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.

§ 83-14. Program review and reporting.

A. The Code Enforcement Officer shall annually submit to Town Board of this 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 § 83-13, 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 this Town, on a form prescribed by the Secretary of State, a report of the activities of this Town relative to administration and enforcement of the Uniform Code.

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

§ 83-15. Enforcement; penalties for offenses.

A. Compliance orders. The Code Enforcement Officer is authorized to order, in writing, the remediying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this chapter. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a compliance order. The compliance order shall be in writing; be dated and signed by the Code Enforcement Officer; specify the condition or activity that violates the Uniform Code, the Energy Code, or this chapter; specify the provision or provisions of the Uniform Code, the Energy Code, or this chapter which is/are violated by the
specified condition or activity; specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; direct that compliance be achieved within the specified period of time; and state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the compliance order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail. 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.

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

D. Injunctive relief. An action or proceeding may be instituted in the name of this Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this chapter, or any term or condition of any building permit, certificate of occupancy/certificate of compliance, temporary certificate, stop-work order, operating permit, compliance order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this chapter. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this chapter, or any stop-work order, compliance order or other order obtained under the Uniform Code, the Energy Code or this chapter, an action or proceeding may be commenced in the name of this Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding
A fee schedule shall be established by resolution of the Town Board of this Town. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of building permits, amended building permits, renewed building permits, certificates of occupancy/certificates of compliance, temporary certificates, operating permits, firesafety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this chapter.

§ 83-17. Intermunicipal agreements.

The Town Board of this Town may, by resolution, authorize the Town Supervisor of this Town to enter into an agreement, in the name of this Town, with other governments to carry out the terms of this chapter, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.
Chapter 86
BUILDINGS, UNSAFE

GENERAL REFERENCES

Building Code administration — See Ch. 83.
Vacant and at-risk property registration and remediation — See Ch. 191.

§ 86-1. Buildings endangering health, safety or welfare of the public.

All buildings or structures, or any part or parts thereof, or any excavations made below the surface of the ground which become or are abandoned, dilapidated, deteriorated, decayed or unattractive from any cause, so as to endanger the health, safety or welfare of the public, shall be secured and repaired, or demolished and removed in accordance with the terms of this chapter.

§ 86-2. Definitions.

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

BUILDING — Shall include all buildings, structures or any part or parts thereof, or intended for supporting or sheltering any use or occupancy, and any excavations made below the surface of the ground.

§ 86-3. Inspection and report by Code Enforcement Officer.

When in his or her opinion or upon receipt of information that a building is or may become dangerous or unsafe to the general public; is open at the doorways and windows making it accessible to and an object of attraction to minors, vagrants or other trespassers; is or may become a place of rodent infestation; presents any other danger to the health, safety and general welfare of the public; or is unfit for the purposes for which it may lawfully be used, the Code Enforcement Officer shall cause to be made or shall make an inspection thereof and report in writing to the Town Board his or her findings and recommendations in regard to its repair or demolition and removal.

§ 86-4. Town Board order.

The Town Board shall thereafter consider such report and by resolution determine, if in its opinion the report warrants, that such building is unsafe and dangerous and order its repair if the same can be safely repaired or its demolition and removal, and further order that a notice be served upon the owner.
§ 86-5. Notice; contents.

The notice shall contain the following:

A. A description of the premises;

B. A statement of the particulars in which the building is unsafe or dangerous;

C. An order requiring the same to be made safe and secure or be demolished or removed;

D. A statement that the repairing, or demolition and removal, of such building shall commence within 30 days from the service of the notice and shall be completed within 60 days thereafter, unless for good cause shown such time shall be extended;

E. The date, time and place of the hearing to be held before the Town Board, at which hearing the owner or occupant shall have the right to contest the order and findings of the Town Board;

F. A statement that in the event, the owner, occupant or other person having an interest in said premises shall fail to contest such order and fail to comply with the same, the Town Board may order the repair or demolition and removal of such building by the Town, and will assess costs and expenses incurred in such repair or demolition and removal against the land on which said building is located.

§ 86-6. Service of notice.

The notice shall be served by:

A. Personal service of a copy thereof upon the owner, executor, administrator, agent, lessee, or any person having a vested or contingent interest in such building as shown by the records of the receiver of taxes or County Clerk's office; or, if no such person can be found, by mailing such owner by registered or certified mail a copy of the notice directed to the last known address as shown on the tax rolls of the Town;

B. Personal service upon any person of suitable age and discretion residing in or occupying said premises, if such person can be reasonably found; and

C. Affixing a copy of such notice upon the building.

§ 86-7. Filing of notice.

A copy of said notice shall be filed in the Chemung County Clerk's Office, which notice shall be filed in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules (CPLR) and shall have the same effect as a notice of pendency as therein provided. A notice so filed shall be effective for a period of one year from the date of filing. The
§ 86-7 HORSEHEADS TOWN CODE § 86-10

notice may be vacated upon order of a Judge or Justice of a court of record, or upon the written consent of the Supervisor or Town Attorney of the Town of Horseheads.


The Town Board shall conduct the hearing on the date and at the time and place specified in the notice to repair or demolish and remove. It may adjourn the hearing from time to time until all interested parties are heard and until the hearing is completed. At the conclusion of the hearing, the Town Board shall determine by resolution to affirm its original determination, modify the specifications of its original determination or vacate the original notice.

§ 86-9. Refusal to comply.

In the event of the refusal or neglect of a person so notified to comply with said order of the Town Board and after a hearing, the Town Board shall provide for the demolition and removal of such building either by Town employees or by contract. Except in emergency, any contract for demolition or removal of a building shall be awarded pursuant to Town Code Chapter 44, Procurement Policy, for the Town.

§ 86-10. Securing of building.

A. The Code Enforcement Officer shall order any owner of any building that is abandoned, dilapidated, deteriorated, decayed or unattractive from any cause, so as to endanger the health, safety or welfare of the public to immediately board up the entranceway and windows of such building; and if such owner shall fail to comply within 10 calendar days from the date of the order, the Code Enforcement Officer may cause such building to be boarded up and assess board-up costs against the premises.

B. Whenever an owner, either voluntarily or pursuant to an order issued by the Code Enforcement Officer, boards up an entranceway or windows, or both, of a building or structure, the owner shall use or caused to be used a single board for window frames and door frames measuring less than or equal to four feet wide by eight feet long; and the exterior side of the board shall be painted the same color as the exterior siding adjacent to the window or door frame; and the board shall not extend beyond the exterior frame of the window or door. For a window or door frame greater in size than four feet by eight feet, the owner shall use or cause to be used the minimum number of four-foot by eight-foot boards necessary to cover the opening; and the exterior side of said boards shall be painted the same color as the exterior siding adjacent to the window or door frame; and the boards shall not extend beyond the exterior frame of the window or door. In the event the owner shall fail to comply with the provisions set forth in this subsection, the Code Enforcement Officer shall cause such building to be boarded up or shall

83:86
§ 86-11. Emergency cases.

Where it reasonably appears, in the opinion of the Code Enforcement Officer or his or her representative, there is present a clear and imminent danger to the life, safety or health of any person or property unless the building is immediately repaired and secured or demolished and removed, the Code Enforcement Officer may cause the building to be secured and repaired or demolished and removed. For this purpose he or she may at once enter such building or land on which it stands or abutting land or building, with such assistance and at such cost as may be necessary. No contract shall be required as provided in this chapter. He or she may vacate adjacent buildings and protect the public by appropriate barricades or such other means as may be necessary and, for this purpose, may close a public or private way. In case of such an emergency, the Code Enforcement Officer or his or her representative shall file a notice as provided under § 86-7 of this chapter.

§ 86-12. Fire insurance proceeds.

The Supervisor is authorized, upon the passage of a resolution by the Town Board, to file with the state superintendent of insurance a notice of intention to claim against the proceeds of any fire insurance policy upon real property (except one- and two-family residential structures) located within the Town, upon which there are liens for special ad valorem levies, taxes, special assessments and municipal charges and which have remained undischarged for a period of one or more years. The proceeds against which a claim has been filed shall be released or returned to the insured, provided that the insured agrees in writing with the Town, upon such terms and conditions to guarantee performance of the agreement as the Town Attorney may deem reasonable and necessary, to restore property damaged by fire to at least the same condition that it was in prior to the time that the city's lien arose. The powers granted by this section shall be in addition to, and not in substitution for, all powers, rights, privileges and authority now existing in the Town or hereafter conferred upon it by any provision of law.

§ 86-13. Records to be kept of abandoned, dilapidated or unattractive buildings.

The Code Enforcement Officer or his or her representative shall keep in his or her office a record of all buildings not in compliance with § 86-10A, with additional information showing the action taken by him, from time to time, relative to each property and by not later than April 1 of each year report to the Council all premises upon which work has been performed by the city, the name of the owner, the expense incurred in the repair, demolition or removal that is unpaid, whereupon the council shall order the assessment against such premises for the several sums so reported.

All costs and expenses incurred by the Town in securing and repairing or demolishing and removing the building shall be paid by Town upon certification and direction of the Town Board. All costs and expenses incurred by the Town in connection with the proceedings to secure and repair or demolish and remove the building, including the cost of actually removing the building, and all reasonable and necessary legal expenses incidental thereto, shall, at the option of the Town Board, either be:

A. Assessed against the land on which such building is located and shall be levied and collected in the same manner as provided in Article 15 of the Town Law for the levy and collection of special ad valorem tax; or

B. Collected by commencement of a special proceeding against the owner of said building pursuant to General Municipal Law § 78-b.


Any person, firm, partnership or corporation violating this chapter shall also be liable for the penalty prescribed in Chapter 1, General Provisions, Article II, General Penalty.

Chapter 95

DRIVEWAYS

GENERAL REFERENCES

Subdivision of land — See Ch. 175. Zoning — See Ch. 204.

§ 95-1. Permit required.

No person, firm or corporation shall, after the effective date of this chapter, cut, construct or locate any driveway entrance or exit into a highway of the Town of Horseheads without having first received a permit to do so from the Superintendent of Highways of said Town.


Any person, firm or corporation desiring to make, construct or locate a driveway entrance or exit into a Town highway of the Town of Horseheads shall make an application for a permit to do so to the Highway Superintendent of said Town. In addition to the general standard driveway entrance and exit crossing requirements set forth herein below, the Highway Superintendent of the Town of Horseheads may impose any special requirements which the particular situation at the location where such driveway is sought to be located requires in his or her judgment under the circumstances.
§ 95-3. **Entrance and exit crossing requirements.**

The standard driveway entrance and exit crossing requirements shall be as follows:

A. The applicant shall furnish all materials and bear all costs of construction within the Town highway right-of-way and pay the cost of all work done and materials furnished as required to meet the conditions of any permit issued by the Town Highway Superintendent.

B. No alteration or addition shall be made to any driveway heretofore or hereafter constructed nor shall any such driveway be relocated without first securing a new permit from the Town Highway Superintendent.

C. No more than two driveways to a single commercial establishment entering on one highway shall be permitted.

D. The maximum width for a single combined entrance or exit shall be not more than 50 feet for commercial use and not more than 20 feet for residential use. The maximum width for each driveway for commercial use when two or more are permitted shall not be more than 35 feet. For residential use, the Town Highway Superintendent may, in his or her sole discretion, allow two driveways, and, when two are permitted, the maximum width of each driveway shall be not more than 15 feet.

E. The angle of the driveway with respect to the pavement shall not be less than 45°.

F. No driveway will be permitted within 25 feet of any public highway intersection.

G. No driveway will be permitted where sight distance is less than 350 feet in each direction.

H. A fully dimensioned plan of the proposed driveway shall be attached to each application for a permit required hereunder.

I. Any culvert pipe required to be installed at such driveway entrance or exit shall be of polyethylene smooth interior pipe or other construction pipe as may be approved by the Town Highway Superintendent, no smaller than 12 inches in diameter and no shorter than 20 feet in length.

J. The requirements of this section may be waived by the Town Highway Superintendent in the event that, in his or her judgment, their application would be unreasonable, unnecessary or impractical. Application shall submit justification for such waiver in written form for approval by the Town Highway Superintendent and the Code Enforcement Officer.

K. Driveways that originate on the uphill side of a roadway shall be graded in such a manner as to provide a one-percent reverse grade so that all stormwater drainage created as a result of constructing a driveway
shall be directed in such a manner as to not drain directly onto the Town road. This type of cut and subsequent drainage patterns shall be shown on the application, map or plan.

§ 95-4. Penalties for offenses.
Any person, firm or corporation who violates the provisions of this chapter shall be punished as provided in Chapter 1, Article II. The Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction any violation of this chapter.

Chapter 98
DUMPING

GENERAL REFERENCES

Brush, grass and weeds — See Ch. 79. Solid waste — See Ch. 164.

§ 98-1. Legislative intent and title.
This chapter is adopted in view of the increase in illegal dumping of garbage, rubbish, and other offensive materials, together with toxic materials, due in part to the inability to dispose of certain materials locally and the increasing costs associated with disposing of such materials at the Chemung County landfill. It is the intent of the Town Board of the Town of Horseheads (the "Town of Horseheads") to restrict and regulate, in a manner consistent with the interests of the residents of the Town of Horseheads, the dumping and/or other disposal of various wastes in order to promote the health, safety and general welfare of persons and property within the Town of Horseheads. This chapter shall be known and cited as "The Dumping Local Law of the Town of Horseheads." Therefore, pursuant to the authority contained in the Municipal Home Rule Law, and pursuant to its police power as contained in the Code of the Town of Horseheads Law, the Town Board of the Town of Horseheads does hereby enact the following chapter.

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

COMPOST — To heap or pile matter capable of decay, including, but not limited to, grass cuttings, leaves, brush, or decaying foods, for use as fertilizer.

CONSTRUCTION AND DEMOLITION DEBRIS — Any matter that is defined as construction and demolition debris in Official Compilation of the Rules
Regulations of the State of New York. ("NYCRR"), Title 6, part 360 (hereinafter referred to as "6 NYCRR Part 360").

GARBAGE — Includes but is not limited to:

A. Food waste of all kinds, whether for human or animal consumption.
B. Used food containers or parts thereof, whether fabricated of metal, paper, wood glass, plastic or synthetics.
C. Paper materials used in food packaging.
D. Dead animals or parts thereof.
E. Any other matter which shall be capable of fermentation or decay, except:
   (1) Lumber as defined herein; and
   (2) Composted garbage used as fertilizer upon farms or gardens.

LITTER — Any matter capable or incapable of fermentation or decay.

LUMBER — Includes but is not limited to:

A. Wood of growing trees sawed or split into boards or planks.
B. Wood pallets.
C. Wood used in packing and/or shipping.
D. The term "lumber" does not include untreated wood products formerly used in construction or packing and/or shipping to be used as firewood pursuant to the provisions of § 98-3B(2), herein.

RUBBISH — Includes but is not limited to:

A. Waste material.
B. Garden refuse, grass and leaves.
C. Tires.
D. Glass, metal, tins, cans, ashes, cinders, pottery, crockery, aluminum, plastics, Styrofoam and synthetics, except matters defined herein as "garbage."

SLUDGE — Solids removed during the treatment of:

A. Domestic or sanitary sewage.
B. Stormwaters.
C. Industrial wastewaters.
D. Any combination of the above.
SOLID WASTE — Any matter that is defined as solid waste in either of the following:

A. Chemung County Local Law No. 2 For the Year 1989, as amended; or

B. Title 6 NYCRR Part 360. However, concrete and concrete products (including steel or fiberglass reinforcing rods that are imbedded in the concrete), asphalt payment, brick, soil, and rock that are found to be uncontaminated after inspection by the Code Enforcement Officer shall not be deemed to be solid waste for the purposes of the prohibitions and restrictions of § 98-3A(4).

TOWN — The Town of Horseheads.

TOXIC MATERIALS — Materials listed or defined as hazardous by either of the following:

A. New York State Department of Environmental Conservation; or

B. United States Environmental Protection Agency.

§ 98-3. Prohibitions and restrictions.

A. Dumping, disposing, burying, burning, or littering of any of the following on any public or private lands, including, but not by way of limitation, any drainageway, basin, watercourse, stream or ditch, in the Town of Horseheads is prohibited:

(1) Garbage, rubbish or litter, subject to the following:

(a) The storage of garbage, rubbish or litter that is awaiting collection and removal in an approved leakproof container in a manner which does not impair the public health or safety shall not be deemed to be prohibited by this section; provided, however, that garbage, rubbish or litter shall not be left at the curbside or edge of road for removal or collection more than 24 hours prior to such removal or collection.

(b) The owner of a single-family residence or farm may compost on the property comprising said residence or farm matter capable of decay (as specified in § 98-2A herein) generated from that residence or farm to be used as fertilizer so long as the disposal and composting is done in a nuisance-free manner, in a container built or designed for composting, located greater than 30 feet from any neighboring residential structure and, in any event, not less than five feet from any property line, which does not impair the public health, safety or general welfare.

(c) The disposal on areas within the property boundaries of a single-family residence or farm of ashes generated from that residence or farm shall not be deemed to be prohibited by this section.
(d) The disposal on areas within the property boundaries of a single-family residence or farm of animal carcasses or parts thereof generated from that residence or farm shall not be deemed to be prohibited by this section so long as the same shall be disposed of pursuant to the applicable provisions of New York State's Agriculture and Markets Law.

(e) Notice.

[1] Pursuant to the authority of the Code of the Town of Horseheads in the event that a property owner fails to remove any such garbage, rubbish or litter and the Code Enforcement Officer or any law enforcement officer of the State of New York or County of Chemung in his/her own opinion finds that by reason of such failure such property is or may become a place of rodent infestation or presents any other danger to the health, safety, morals and general welfare of the public, the Code Enforcement Officer or any law enforcement officer shall serve a notice of the same in the following manner:

[a] By personal service of a copy thereof upon the owner, executor, administrator, agent, lessee, or any person having a vested or contingent interest in said property as shown by the records of the Receiver of Taxes of Town of Horseheads; or

[b] By personal service of a copy of such notice upon any adult person residing in or occupying said premises, if such person can be reasonably found; or

[c] Or, if no such person can reasonably be found, by mailing such owner by certified mail, a copy of such notice directed to his/her last known address as shown by the above records and by securely affixing a copy of such notice, in a conspicuous place, upon any residence or other structure located on the property.

[2] The notice shall contain the following:

[a] A description of the condition of the property needing remediation.

[b] A statement of the particulars in which the property presents a danger to the health, safety, morals and general welfare of the public.

[c] An order outlining the manner in which the property is to be made safe.

[d] A statement that the remediation of the property shall commence within three days of the service of the
notice and shall be completed within seven days thereafter, unless, for good cause shown, such time shall be extended.

[e] A statement that in the event of neglect or refusal to comply with the order the Town Board is authorized to provide for its demolition and removal, to assess all expenses thereof against the land on which it is located, which shall constitute a lien and charge on the property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town of Horseheads charges.

(2) Sludge. However, the disposal of sludge in accordance with the regulations and licensing of the County of Chemung and by the Department of Environmental Conservation shall not be deemed to be prohibited by this section.

(3) Toxic material.

(4) Solid waste. However, the disposal of solid waste at a disposal facility authorized and licensed in accordance with the regulations set forth in Chemung County Local Law No. 2 for the Year 1989 and 6 NYCRR part 360 shall not be deemed to be prohibited by this section.

(5) Construction and demolition debris, subject to the following:

(a) The storage of construction and demolition debris that is awaiting collection and removal in a manner which does not impair the public health or safety shall not be deemed to be prohibited by this section; provided, however, that said debris is removed from the site within 60 days from the issuance of a building or demolition permit by the Town of Horseheads unless otherwise exempt.

(b) The disposal on areas within the property boundaries of a single-family residence or farm of construction and demolition debris generated from that residence or farm shall not be deemed to be prohibited by this section; provided, however, that such construction and demolition debris is completely buried not closer than 15 feet from the neighboring property lines. Before the area is disturbed, it must be protected so that soil and other debris cannot leave the property through erosion. Best management practice, as set forth in the New York State Storm Water Design Manual or its successor, shall be utilized. The property owner must reclaim the area affected by seeding, planting, rip-rap or other means to prevent to prevent soil erosion within 60 days from the start of the disturbance. If the project is to last more than 60 days, the property owner must have permission of the Code
Enforcement Officer, and it should be completed in stages to allow for the timely reclamation.

B. Dumping, disposing or burying of lumber is prohibited, except:

   (1) Lumber awaiting use in any construction project stored in a manner which does not impair the public health or safety.

   (2) This section shall not be deemed to prevent the stacking and storage of untreated lumber intended for use as firewood so long as the same shall not be stored in the following manner:

       (a) On any highway right-of-way; or

       (b) At or near any intersection in such a manner as to obstruct or impair the line of sight for vehicular or pedestrian traffic; or

       (c) Within five feet or any property line; and

       (d) At a height greater than four feet.

§ 98-4. Enforcement; penalties for offenses.

A. Conviction under this chapter shall be a violation as defined by Subdivision 3 of § 55.10 of the Penal Law of the State of New York.

B. Each day during which a violation continues may be deemed to be a separate violation.

C. Conviction of an offense as provided by this chapter shall be punishable by the following:

   (1) Fines pursuant to the General Penalty provisions of the Code of the Town of Horseheads, or, in the case of a corporation, an amount in accordance with Penal Law § 80.10; and/or

   (2) Restitution based on avoided disposal fees and the costs of collection and hauling; and/or

   (3) Community service.

D. In addition to the above-provided penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town of Horseheads in a court of competent jurisdiction to compel compliance with this chapter by injunction, abatement or otherwise compel cessation of each violation, or obtain restitution to the Town of Horseheads for costs incurred by the Town of Horseheads in identifying and remedying each violation, including but not limited to reasonable attorney fees and environmental testing.

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18. Editor's Note: See Ch. 1, Art. II, General Penalty.
§ 98-5. Amendments.

Any reference herein to any state, county and/or local statute, law, resolution, rule or regulation shall include any future amendments thereto which become effective after the adoption of the chapter.

§ 98-6. Repeal.

All ordinances, local laws and parts thereof inconsistent with this chapter are hereby repealed.

§ 98-7. Conflicts of law.

Whenever any local law, ordinance, or regulation of the Town of Horseheads, County of Chemung, State of New York, or United States of America is inconsistent with this chapter, whichever local law, ordinance, or regulation is more stringent shall supersede the less stringent local law, ordinance, or regulation.

Chapter 99

ELECTRICAL STANDARDS

GENERAL REFERENCES

Building construction and fire prevention — See Ch. 83.

§ 99-1. Inspections. [Amended 12-12-1984]

The Code Enforcement Officer and each of the duly appointed inspectors of the New York Board of Fire Underwriters, Middle Department Inspection Agency, Inc., Commonwealth Electrical Inspection Service, Inc., and New York Atlantic-Inland, Inc., are hereby authorized and deputized as agents of the Town of Horseheads 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 Horseheads.


A. It shall be the duty of the Code Enforcement Officer to make reports in writing and to enforce all provisions of the code and all violations or deviations from or omissions of the electrical provisions of the New York State Uniform Fire Prevention and Building Code applicable to the Town of Horseheads and of all local laws, ordinances and the New York State Uniform Fire Prevention and Building Code as referred to in this chapter insofar as any of the same apply to electrical wiring. The Code Enforcement Officer shall make inspections and reinspections of
electrical installations in and on properties in the Town of Horseheads upon the written request of an authorized official of the Town of Horseheads or as herein provided.19

B. The Code Enforcement Officer is authorized to make inspections and reinspections of electrical wiring installations, devices, appliances and equipment in or on properties within the Town of Horseheads where he or she deems it necessary for the protection of life and property. In the event of an emergency, it is the duty of the Code Enforcement Officer to make electrical inspections upon the oral request of an official or officer of the Town of Horseheads.

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


A. 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 of the Town of Horseheads until an application for inspection has been filed with the New York Board of Fire Underwriters. 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 New York Board of Fire Underwriters.

B. Any person, firm or corporation or other violating any provision of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not exceeding one thousand dollars ($1,000.) or to imprisonment not exceeding one (1) year, or to both such fine and imprisonment, for each and every violation and for each week and every week that such violation continues and, in addition, may be subject to civil action brought in the name of the Town of Horseheads under § 135 of the Town Law. In such civil action the town may recover a penalty of fifty dollars ($50.) for each violation. Each week that such violation continues shall be a basis for separate action. The Town Board may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of the aforesaid chapter notwithstanding that the chapter may provide a penalty for punishment for such violations.20

19.Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
20.Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
Chapter 105
FARMING

GENERAL REFERENCES

Animals — See Ch. 68.
Noise — See Ch. 136.
Zoning — See Ch. 204.
ARTICLE I
Right to Farm
[Adopted 10-8-2008 by L.L. No. 1-2008]

§ 105-1. Legislative intent; purpose.

A. The Board recognizes that farming is an essential enterprise and an important industry that enhances the economic base, natural environment and quality of life in the Town of Horseheads. Therefore, the Town Board of the Town of Horseheads finds and declares that this Town encourages its agriculture and urges understanding of and cooperation with the necessary day-to-day operations involved in farming.

B. It is the general purpose and intent of this law to maintain and preserve the rural traditions and character of the Town, to permit the continuation of agricultural practices, to protect the existence and operation of farms, to encourage the initiation and expansion of farms and agribusiness, and to promote new ways to resolve disputes concerning agricultural practices and farming operations. In order to maintain a viable farming economy in Horseheads, it is necessary to limit the circumstances under which farming may be deemed to be a nuisance and to allow agricultural practices inherent to and necessary for the business of farming to proceed and to be undertaken free of unreasonable and unwarranted interference or restriction.

§ 105-2. Definitions.

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

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

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

A. Field crops, including corn, wheat, rye, barley, hay, potatoes and dry beans.

B. Fruits, including apples, peaches, grapes, cherries and berries.

C. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.

D. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
§ 105-3. Right-to-farm declaration.

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

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

(1) Reasonable and necessary to the particular farm or farm operation.

(2) Conducted in a manner that is not negligent or reckless.

(3) Conducted in conformity with generally accepted and sound agricultural practices.

(4) Conducted in conformity with all local, state and federal laws and regulations.
§ 105-3

ELECTRICAL STANDARDS

§ 105-4. Notification of real estate buyers; prohibitions in planned developments.

A. In order to promote harmony between farmers and their neighbors, the Town requires landholders and/or their agents and assigns to comply with § 310 of Article 25-AA of the State Agriculture and Markets Law and to provide notice to prospective purchasers and occupants as follows: "It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food and other products and also for its natural and ecological value. This notice is to inform prospective residents that farming activities occur within the Town. Such farming activities may include, but not be limited to, activities that cause noise, dust, smoke and odors."

B. There shall be no raising or harboring of traditional and nontraditional livestock, including fowl, in those planned developments already established within the Town of Horseheads or in future developments.

§ 105-5. Resolution of disputes.

A. Should any controversy arise regarding inconveniences occasioned by agricultural operations, either party may submit the controversy to a dispute resolution committee as set forth below in an attempt to resolve the matter prior to a request for a determination by the Commissioner of Agriculture and Markets about whether the practice in question is sound pursuant to § 308 of Article 25-AA of the State Agriculture and Markets Law and prior to the filing of any court action.

B. Any controversy between the parties shall be submitted, in writing, and filed with the Town Clerk within 30 days of the last date of occurrence of the particular activity giving rise to the controversy or the date that the party became aware of the occurrence.

C. The Town Board shall proceed to form a committee which shall be composed of three members, one person selected from the County Agricultural and Farmland Protection Board, one person selected by
the Town Board and one person mutually agreed upon by both parties involved in the dispute.

D. The effectiveness of the committee as a forum for the resolution of disputes is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to consult with agricultural experts such as New York State Agriculture and Markets, Cornell University, Cornell Cooperative Extension, the Natural Resources Conservation Service and the Soil and Water Conservation District.

E. Within 30 days after final formation of the committee, upon written notice to the parties, the committee shall hold a meeting to consider the merits of the matter, at which time both parties shall have an opportunity to present what each considers the pertinent facts for the committee to consider. Within five days after the conclusion of the meeting or any adjourned date of said meeting, the minutes of said meeting and the decision of the committee shall be filed with the Town Clerk.

F. The time limits provided in this section for action by the committee may be extended upon the written stipulation of all parties in the dispute.

G. Any reasonable costs associated with the functioning of the committee process shall be borne by the participants equally. The prevailing participant shall be entitled to reasonable fees, including attorneys' fees and other expenses incurred, only if the final determination is pursuant to an opinion issued by the Commissioner under § 308 of the State Agriculture and Markets Law.
Chapter 111

FLOOD DAMAGE PREVENTION

GENERAL REFERENCES

Building construction and fire prevention — See Ch. 83.
Subdivision of land — See Ch. 175.
Zoning — See Ch. 204.
Mobile homes and mobile home parks — See Ch. 132.
ARTICLE I
Statutory Authorization and Purpose

§ 111-1. Findings.
The Town Board of the Town of Horseheads finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Horseheads 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.

§ 111-2. 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 for and maintain participation in the National Flood Insurance Program.

§ 111-3. Objectives.
The objectives of this chapter are:

A. To protect human life and health.

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

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

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

F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.

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

H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.
§ 111-4. Word usage and definitions.

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

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

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

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

- **AREA OF SPECIAL FLOOD HAZARD** — The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE or V1-30. It is also commonly referred to as the "base floodplain" or "100-year floodplain."

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

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

- **BUILDING** — See "structure."

- **CELLAR** — The same meaning as "basement."

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

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

have the top of the elevated floor or, in the case of a building in Zones V1-30, VE or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings columns (posts and piers) or shear walls parallel to the flow of the water; and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of Zones V1-V30, VE or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION — A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and other final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by the community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION — The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).

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

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

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

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

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

FLOOD INSURANCE STUDY — See "flood elevation study."
FLOOD or FLOODING —

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) The overflow of inland or tidal waters.

(b) The unusual and rapid accumulation or runoff of surface waters from any source.

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1) above.

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

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

FLOODWAY — The same meaning as "regulatory floodway."

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

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

HISTORIC STRUCTURE — Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior; or

(b) Directly by the Secretary of the Interior in states without approved programs.

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

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

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

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

MEAN SEA LEVEL — For purposes of the National Flood Insurance Program, the 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 — The same meaning as "manufactured home."

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

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

NEW MANUFACTURED HOME PARK OR SUBDIVISION — A manufactured home park or subdivision for which the construction of
facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

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

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

RECREATIONAL VEHICLE — A vehicle which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projections;

(3) Designed to be self-propelled or permanently towable by a light-duty truck; and

(4) Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

REGULATORY FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 111-13B of this chapter.

START OF CONSTRUCTION — Includes substantial improvement and means the initiation, excluding planning and design, of any phase of a project or 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. For manufactured homes the actual start means affixing of the manufactured home to its permanent site.

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

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

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

(1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of an historic structure provided that the alteration will not preclude the structure's continued designation as an historic structure.

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

C.
ARTICLE III
General Provisions

§ 111-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Horseheads, Chemung County, New York.

§ 111-6. Basis for establishing areas of special flood hazard.

A. The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency.

(1) Flood Insurance Rate Map (multiple panels), Index No. 360153 0001-0020, whose effective date is September 29, 1996.


B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at Town Hall, 150 Wygant Road, Horseheads, New York.

§ 111-7. Interpretation; conflict with other laws.

A. This chapter includes all revisions to the National Flood Insurance Program through November 1, 1989, and shall supersede all previous laws adopted for the purpose of flood damage prevention.

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

§ 111-8. Penalties for offenses.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than $250 or 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 Horseheads from taking such other lawful action as necessary to prevent flooding.
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.


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 area will be free from flooding or
flood damages. This chapter shall not create liability on the part of the Town
of Horseheads, 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

§ 111-10. Designation of local administrator.

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

§ 111-11. Floodplain development permit.

A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and ensuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 111-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include but not be limited to plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.

B. Fees. All applications for a floodplain development permit shall be accompanied by an application fee of $25. In addition, the applicant shall be responsible for reimbursing the Town of Horseheads for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of no more than $500 to cover these additional costs.


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

A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the local administrator the as-built elevation, certified by a licensed professional engineer or surveyor.

B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

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

A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit:

   (1) Review all applications for completeness, particularly with the requirements of § 111-12, Application for permit, and for compliance with the provisions and standards of this chapter.

   (2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Article V, Construction standards and, in particular, § 111-14A, Subdivision proposals.
(3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of Article V, Construction standards, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.

(4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.

B. Use of other flood data.

(1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 111-12G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.

(2) When base flood elevation data are not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this chapter.

C. Alteration of watercourses. The local administrator shall:

(1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Region II, Federal Emergency Management Agency.

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

D. Construction stage.

(1) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved
structure, the local administrator shall obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).

(2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

E. Inspections. The local administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

F. Stop-work orders.

(1) The local administrator shall issue or cause to be issued a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 111-8 of this chapter.

(2) The local administrator shall issue or cause to be issued a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 111-8 of this chapter.

G. Certificate of compliance.

(1) In areas of special flood hazard, as determined by documents enumerated in § 111-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.

(2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.
Issuance of the certificate shall be based upon the inspections conducted as prescribed in Subsection E, Inspections, of this section, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

H. Information to be retained. The local administrator shall retain and make available for inspection copies of the following:

1. Floodplain development permits and certificates of compliance.

2. Certifications of as-built lowest floor elevations of structures, required pursuant to Subsections D(1) and (2) of this section, and whether or not the structures contain a basement.

3. Floodproofing certificates required pursuant to Subsection D(1) of this section, and whether or not the structures contain a basement.

4. Variances issued pursuant to Article VI, Variance procedures.

5. Notices required under Subsection C, Alteration of watercourses, of this section.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 111-6.

A. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

(1) Proposals shall be consistent with the need to minimize flood damage.

(2) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage.

(3) Adequate drainage shall be provided to reduce exposure to flood damage.

B. Encroachments.

(1) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

(a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or

(b) The Town of Horseheads agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Horseheads for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Horseheads for all costs related to the final map revision.

(2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 111-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
(a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood; or

(b) The Town of Horseheads agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Horseheads for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Horseheads for all costs related to the final map revisions.


A. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

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

(2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.

(3) Enclosed area below lowest floor.

(a) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE or AH, and also Zone A if base flood elevation data are available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

[1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and
[2] The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

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

C. Utilities.

(1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating and air-conditioning equipment, hot water heaters, appliances, elevator lift machinery and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required.

(2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall.

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


A. Elevation. The following standards, in addition to the standards in § 111-14A, Subdivision proposals, and § 111-14B, Encroachments, and § 111-15, Standards for all structures, apply to structures located in areas of special flood hazard as indicated.

(1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above the base flood level.

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

(3) Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the
§ 111-17. Nonresidential structures.

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures, in addition to the requirements in § 111-14A, Subdivision proposals, and § 111-14B, Encroachments, and § 111-15, Standards for all structures.

A. Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:

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

(2) Be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:

(1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or

(2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in Subsection A(2) of this section.

C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Subsection A(2) of this section, including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.
D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

E. Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

§ 111-18. Manufactured homes and recreational vehicles.

The following standards in addition to the standards in § 111-14, General standards, and § 111-15, Standards for all structures apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

A. Recreational vehicles.

   (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:

      (a) Be on site fewer than 180 consecutive days;

      (b) Be fully licensed and ready for highway use; or

      (c) Meet the requirements for manufactured homes in Subsections B, D and E of this section.

   (2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH that is on a site either outside of an existing manufactured home park or subdivision as herein defined; in a new manufactured home park or subdivision as herein defined; in an expansion to an existing manufactured home park or subdivision as herein defined; or in an existing manufactured home park or subdivision as herein defined on which a manufactured home has incurred substantial damage as the result of a flood shall be elevated on a permanent foundation such that the lowest floor is elevated to or above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include but are not limited to use of over-the-top or frame ties to ground anchors.

C. A manufactured home to be placed or substantially improved in Zone A1-A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:
(1) Elevated in a manner such as required in Subsection B of this section; or

(2) Elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

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

E. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood insurance Rate Map enumerated in § 111-6 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.
ARTICLE VI
Variance Procedure

§ 111-19. Appeals Board.

A. The Board of Appeals as established by the Town of Horseheads shall hear and decide appeals and requests for variances from the requirements of this chapter.

B. The 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 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 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;
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(11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.

E. Upon consideration of the factors of Subsection D of this section and the purposes of this chapter, the 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.


A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that § 111-19D(1) through (12) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:

(1) The proposed repair or rehabilitation will not preclude the structure’s continued designation as an historic structure.

(2) The variance is the minimum necessary to preserve the historic character and design of the structure.

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

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

(2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.

D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
Variances shall only be issued upon receiving written justification of:

(1) A showing of good and sufficient cause;

(2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.

Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.
Chapter 114
FURNACES, OUTDOOR

GENERAL REFERENCES

Building Code administration — See Ch. 83.
Zoning — See Ch. 204.
Subdivision of land — See Ch. 175.

§ 114-1. Purpose.
The purpose of this chapter is to establish minimum standards for the regulation of the installation and use of outdoor furnaces.

§ 114-2. Intent.
The Town of Horseheads has determined that although outdoor furnaces may provide an economical alternative to conventional heating systems, concerns have been raised concerning the safety and environmental impacts of these devices, particularly the production of offensive odors, potential health effects of uncontrolled emissions and the deprivation of neighboring residents of the enjoyment of their property or premises. This is to insure proper regulation of the installation and operation of such appliance so that it does not create a nuisance or is not detrimental to the health, safety and welfare of the Town.

§ 114-3. Definitions.
For the purpose of this chapter, certain words and terms shall have the following meanings. Unless defined below, words and 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:

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

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

OUTDOOR FURNACE — Any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outdoors, an accessory structure, whether attached to or detached from a principal structure, designed and intended to provide large quantities of heated water, heated air or heat in general, through the burning of wood or combustion of fuel for the primary purpose of heating the principal structure, and/or any other structure located on the same premises or lot, or as a component of a heating system providing heat or hot water for any interior space. This definition shall include sheltered and unsheltered furnaces.
UNTREATED LUMBER — Dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint, or other substance.

§ 114-4. Prohibited installations.

It shall be unlawful to install or operate an outdoor furnace in a Residence B, Residence AA, Business, Neighborhood Service Zone or Residence A Zoning District under three acres. The installations shall be permitted in Agricultural and Hill, Manufacturing, and Residence A Zoning Districts over three acres.

§ 114-5. Specific requirements.

A. Permit requirements. No person shall cause, allow or maintain the use of an outdoor furnace in the Town of Horseheads without first obtaining a permit.

B. Permitted fuel. Only firewood and untreated lumber are permitted to be burned in any outdoor furnace. Burning of any and all other materials in an outdoor furnace is prohibited.

C. Setbacks. Outdoor furnaces shall be allowed only in rear yards and shall be set back not less than 200 feet from any side and rear property line.

D. Months of operation. Outdoor furnaces shall be operated only between September 15 and May 31.

E. Spark arrestors and smokestacks. All outdoor furnaces shall be equipped with properly functioning spark arrestors and smokestacks installed a minimum of 15 feet above adjacent grade or equal to or exceeding those specified by its manufacturer, if more restrictive.

F. No malodorous air contaminants from the furnace shall be detectable beyond the boundary of the property on which it is located.

G. The furnace emissions shall not interfere with the reasonable enjoyment of life or property of the residents of the Town.

H. The furnace emissions shall not cause damage to vegetation or property.

I. The extension, enlargement or replacement of any such furnace is strictly prohibited, without permit.

§ 114-6. Exemption for preexisting outdoor woodburning furnaces.

A. Any outdoor woodburning furnace existing within the Town prior to the effective date of this chapter may continue to be operated only if a permit is issued within six months of the effective date of this chapter; it is in full compliance with any applicable state and/or federal regulations; and it is operated in full compliance with the
§ 114-7. Penalties for offenses.

Violation of this chapter shall be punishable by fine or imprisonment or both as prescribed by Chapter I, Article II, of the Code of the Town of Horseheads. Each week shall be a separate violation shall constitute a separate additional offense.


Compliance with this chapter may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction. Any person who violates any provision of this chapter shall also be subject to a civil penalty of not more than the maximum amount which could be collected pursuant to § 114-7 of this chapter, to be recovered by the Town in a civil action, and each week's continued violation shall, for the purpose of this chapter, be a separate and distinct violation. In the event the Town is required to take legal action to enforce this chapter, the violator shall be responsible for any and all necessary costs relative thereto, including attorney's fees. Such costs are to be in addition to the civil penalty amount imposed hereunder. All such amounts awarded under this section may, if they remain uncollected, be charged to the property so affected by including such expense in the next annual tax levy against the property.


The Code Enforcement Officer or any police officer of the State of New York or its subordinate jurisdictions is hereby authorized in the name and on behalf of the Town to undertake and prosecute any proceedings necessary to enforce compliance with this chapter.
§ 117-1. Title.

This chapter shall be known and cited as a "Local Law Authorizing the Conduct of Games of Chance by Certain Organizations."

§ 117-2. Purpose.

The Town Board hereby declares that the raising of funds for the promotion of bona fide charitable, education, scientific, health, religious and patriotic causes and undertakings, where the beneficiaries are undetermined, may be in the best public interest.


The words and terms used in this chapter shall have the same meanings as such words and terms as are defined in Article 9-A of the General Municipal Law, as amended.


It shall be lawful for any authorized organization, upon obtaining a license as provided in Article 9-A of the General Municipal Law, to conduct games of chance within the Town of Horseheads, subject to the provisions of this chapter, Article 9-A of the General Municipal Law and the New York State Racing and Wagering Board.

§ 117-5. Enforcement.

The town or the office of the Chemung County Sheriff as its chief law enforcement officer shall have and exercise rigid control and supervision of all games of chance conducted in accordance with the provision of such license. The Town Board or any enforcement officer duly appointed by it may make an on-site inspection during the conduct of games of chance licensed pursuant to this chapter and Article 9-A of the General Municipal Law.

§ 117-6. Additional license fee.

Upon the filing of the statement of receipts, the authorized organization furnishing the same shall pay to the Town Clerk, as and for an additional
license fee, a sum equal to five percent (5%) of the reported net proceeds, if any, for the license period covered by such statement.


This chapter shall be applicable to all territory within the limits of the Town of Horseheads.

Chapter 120

ILLICIT DISCHARGE DETECTION AND ELIMINATION

GENERAL REFERENCES

Flood damage prevention — See Ch. 111. Subdivision of land — See Ch. 175.
Stormwater management and erosion and sediment control — See Ch. 166.
Zoning — See Ch. 204.

§ 120-1. Purpose; intent.

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the Town of Horseheads, New York, through the regulation of nonstormwater discharges to the municipal separate storm sewer system (MS4) to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the MS4 in order to comply with requirements of the SPDES General Permit for Municipal Separate Storm Sewer Systems. The objectives of this chapter are:

A. To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit No. GP-02-02, as amended or revised;

B. To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge nonstormwater wastes;

C. To prohibit illicit connections, activities and discharges to the MS4;

D. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter; and

E. To promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, grease, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the MS4.
§ 120-2. Statutory authority.

In accordance with § 10 Subdivision 1(ii)a(11) of the Municipal Home Rule Law of the State of New York, the Town of Horseheads has the authority to enact local laws for the protection and enhancement of its physical and visual environment as well as to promote the health, safety and general welfare of the Town. The Town of Horseheads may include in such local law provisions for the appointment of any municipal officer, employee(s) or independent contractor to effectuate, administer and enforce such local law.

§ 120-3. Applicability.

This chapter shall apply to all water and materials entering the MS4 generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

§ 120-4. Definitions.

Whenever used in this chapter, unless a different meaning is stated in a definition applicable to only a portion of this chapter, the following terms will have the 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.), and any subsequent amendments thereto.

CONSTRUCTION ACTIVITY — Activities requiring authorization under the SPDES permit for Stormwater Discharge from Construction Activity, GP-02-01, as amended or revised. These activities include construction projects resulting in land disturbance of one or more acres. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

DEPARTMENT — The New York State Department of Environmental Conservation.

DESIGN PROFESSIONAL — A New York State licensed professional engineer or licensed architect.

HAZARDOUS MATERIALS — Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
ILLICIT CONNECTION — Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the MS4, including but not limited to:

A. Any conveyances which allow any nonstormwater discharge, including treated or untreated sewage, process wastewater, and wash water, to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

B. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE — Any direct or indirect nonstormwater discharge to the MS4, except as exempted in § 120-6A(1) of this chapter.

INDUSTRIAL ACTIVITY — Activities requiring the SPDES Permit for Discharges from Industrial Activities Except Construction, GP-98-03, as amended or revised.

MS4 — Municipal separate storm sewer system.

MUNICIPALITY — The Town of Horseheads.

MUNICIPAL SEPARATE STORM SEWER SYSTEM — A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

A. Owned or operated by the Town of Horseheads;

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.

NONSTORMWATER DISCHARGE — Any discharge to the MS4 that is not composed entirely of stormwater.

NYSDEC — The New York State Department of Environmental Conservation.

OUTFALL — The terminus of a storm drain where the contents are released.

PERSON — Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT — Dredged spoil, filter backwash, solid waste, incinerator residue, treated or untreated sewage, garbage, sewage sludge, grass, brush, leaves, trees, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand and industrial, municipal, agricultural waste and ballast discharged into
water which may cause or might reasonably be expected to cause pollution of the waters of the state in contravention of the standards.

PREMISES — Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips.

SEWAGE — Refuse liquids or waste matter.

SPECIAL CONDITIONS —

A. Discharge compliance with water quality standards. The condition that applies where the Town of Horseheads 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 of Horseheads must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.

B. 303(d) listed waters. The condition in the Town of Horseheads'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 of Horseheads'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 Town of Horseheads 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 of Horseheads'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 Town of Horseheads 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 of Horseheads 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 NYSDEC that authorizes the discharge of pollutants to waters of the state.

STORMWATER — Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT OFFICER (SMO) — An employee, the municipal engineer or other public official(s) designated by the Town of Horseheads to enforce this chapter. The SMO may also be designated by the Town of Horseheads to accept and review stormwater pollution prevention
plans, forward the plans to the applicable municipal board and inspect stormwater management practices. The Stormwater Management Officer will be appointed by the Town Board by resolution.

303(d) LIST — A list of all surface waters in the state for which beneficial uses of the water (drinking, recreation, aquatic habitat, and industrial use) are impaired by pollutants, prepared periodically by the Department as required by Section 303(d) of the Clean Water Act. 303(d) listed waters are estuaries, lakes and streams that fall short of state surface water quality standards and are not expected to improve within the next two years.

TOTAL MAXIMUM DAILY LOAD (TMDL) — 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.

WATERCOURSE — Any natural or man-made swale, stream, channel, drain, or culvert in which waters flow continuously or intermittently.

WASTEWATER — Water that is not stormwater, is contaminated with pollutants and is or will be discarded.

§ 120-5. Responsibility for administration.

The Stormwater Management Officer(s) [SMO(s)] shall administer, implement, and enforce the provisions of this chapter. The Stormwater Management Officer will be appointed by the Town Board by resolution. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the SMO as may be authorized by the Town of Horseheads.

§ 120-6. Discharge and connection prohibitions.

A. Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in Subsection A(1). The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

(1) The following discharges are exempt from discharge prohibitions established by this chapter, unless the Department or the Town of Horseheads has determined them to be substantial contributors of pollutants: waterline flushing or other potable water sources, landscape irrigation or lawn watering, existing diverted stream flows, rising groundwater, uncontaminated groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains, crawl space or basement sump pumps, air-conditioning condensate, irrigation water, springs, water from individual residential car washing, natural riparian habitat or wetland flows, dechlorinated swimming pool discharges, residential street wash water, water from fire-fighting activities, and any other water source not containing pollutants. Such exempt
discharges shall be made in accordance with an appropriate plan for reducing pollutants.

(2) Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this chapter.

(3) Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.

(4) The prohibition shall not apply to any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Department, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

B. Prohibition of illicit connections.

(1) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.

(2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(3) A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the Town of Horseheads's MS4, or allows such a connection to continue.

§ 120-7. 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 of Horseheads' MS4 SPDES permit.

(2) Cause or contribute to the municipality being subject to the special conditions as defined in § 120-4, Definitions, of this chapter.

B. Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the Town of Horseheads' MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes
§ 120-8. Suspension of access to MS4.

A. Suspension due to illicit discharges in emergency situations. The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.

B. Suspension due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this chapter may have his or her MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefor. The violator may petition the SMO for a reconsideration and hearing. Access may be granted by the SMO if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section without the prior approval of the SMO.

§ 120-9. 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 of Horseheads prior to the allowing of discharges to the MS4.

§ 120-10. Access to facilities; monitoring of discharges.

A. Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this chapter, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this chapter.

B. Access to facilities.

(1) The SMO shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary
to determine compliance with this chapter. If a discharger has
security measures in force which require proper identification and
clearance before entry into its premises, the discharger shall make
the necessary arrangements to allow access to the SMO.

(2) Facility operators shall allow the SMO ready access to all parts of
the premises for the purposes of inspection, sampling, examination
and copying of records as may be required to implement this
chapter.

(3) The Town of Horseheads shall have the right to set up on any
facility subject to this chapter such devices as are necessary, in the
opinion of the SMO, to conduct monitoring and/or sampling of the
facility's stormwater discharge.

(4) The Town of Horseheads has the right to require the facilities
subject to this chapter to install monitoring equipment as is
reasonably necessary to determine compliance with this chapter.
The facility's sampling and monitoring equipment shall be
maintained at all times in a safe and proper operating condition
by the discharger at its own expense. All devices used to measure
stormwater flow and quality shall be calibrated to ensure their
accuracy.

(5) Unreasonable delays in allowing the Town of Horseheads access
to a facility subject to this chapter is a violation of this chapter.
A person who is the operator of a facility subject to this chapter
commits an offense if the person denies the Town reasonable
access to the facility for the purpose of conducting any activity
authorized or required by this chapter.

(6) If the SMO has been refused access to any part of the premises
from which stormwater is discharged, and he/she is able to
demonstrate probable cause to believe that there may be a
violation of this chapter, or that there is a need to inspect and/
or sample as part of a routine inspection and sampling program
designed to verify compliance with this chapter or any order issued
hereunder, then the SMO may seek issuance of a search warrant
from any court of competent jurisdiction.

§ 120-11. Prevention, control and reduction of stormwater
pollutants by use of best management practices.

Best management practices. Where the SMO has identified illicit discharges
as defined in § 120-4 or activities contaminating stormwater as defined
in § 120-7, the Town of Horseheads may require implementation of best
management practices (BMPs) to control those illicit discharges and
activities.

A. The owner or operator of a commercial or industrial establishment
shall provide, at his or her own expense, reasonable protection from
§ 120-11

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Notwithstanding other requirements of law, as soon as any person responsible for a property or premises which is, or may be, the source of an illicit discharge as defined in § 120-4 or an activity contaminating stormwater as defined in § 120-7, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.

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.


A. Notice of violation. When the Town of Horseheads' SMO finds that a person has violated a prohibition or failed to meet a requirement of this chapter, he/she may order compliance by written notice of violation to the responsible person via certified mailing. Such notice may require without limitation:

(1) The elimination of illicit connections or discharges;

(2) That violating discharges, practices, or operations shall cease and desist;
(3) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

(4) The performance of monitoring, analyses, and reporting;

(5) 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 advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

B. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine of not less than $50 but 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 of not less than $350 nor more than $700 or imprisonment for a period not to exceed 15 days, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than $700 nor more than $1,000 or imprisonment for a period not to exceed 15 days, or both. Each week's continued violation shall constitute a separate additional violation.

C. Alternate remedies.

(1) Where a person has violated a provision of this chapter, he/she may be eligible for alternative remedies in lieu of a civil penalty, upon recommendation of the Town Attorney and concurrence of the Town Stormwater Management Officer (SMO), where:

   (a) The violation was unintentional;

   (b) The violator has no history of previous violations of this chapter;

   (c) Environmental damage was minimal;

   (d) The violator acted quickly to remedy the violation;

   (e) The violator cooperated in investigation and resolution.

(2) Alternative remedies may consist of one or more of the following:

   (a) Attendance at compliance workshops.

   (b) Storm drain stenciling or storm drain marking.

Any person receiving a notice of violation may appeal the determination of the SMO to the Town Board for the Town of Horseheads within 15 days of its issuance, which shall hear the appeal within 30 days after the filing of the appeal, and within five days of making its decision, file its decision in the office of the Town Clerk and mail a copy of its decision by certified mail to the discharger.

§ 120-15. Corrective measures.

A. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal, within five business days of the decision of the Town Board upholding the decision of the SMO, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.

B. If refused access to the subject private property, the SMO may seek a warrant in a court of competent jurisdiction to be authorized to enter upon the property to determine whether a violation has occurred. Upon determination that a violation has occurred, the SMO may seek a court order to take any and all measures reasonably necessary to abate the violation and/or restore the property. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

§ 120-16. Cost of abatement of violation.

Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 30 days of receiving notification of the cost of the abatement. If the amount due is not paid within a timely manner as determined by the decision of the Town Board or by the expiration of the time in which to file a protest, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this chapter shall become liable to the Town by reason of such violation. Interest at the rate of 9% per annum shall be assessed on the balance beginning on the 31st day following completion of the abatement. Any unpaid abatement charges shall be added to the property tax bill for the subject property.

§ 120-17. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the SMO may petition for
a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

§ 120-18. Violations deemed public nuisance.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this chapter is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

§ 120-19. Remedies not exclusive.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

§ 120-20. Severability.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter.

§ 120-21. Compatibility with other ordinance requirements.

Approvals issued pursuant to this chapter do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable law, code, rule, act, or ordinance.

§ 120-22. Adoption of law.

This chapter shall be in full force and effect 30 days after its final passage and adoption. All prior laws and parts of law in conflict with this chapter are hereby repealed.

Chapter 128

MASS GATHERINGS

§ 128-1. Title.

This chapter shall be known as the "Mass Gathering Law of the Town of Horseheads."
§ 128-2. Purpose.

It is the purpose of this chapter to promote the health, safety, morals and general welfare of the inhabitants of the Town of Horseheads, Chemung County, New York, by efficient regulation of mass gatherings.

§ 128-3. Definitions.

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

APPLICANT — Any person holding or promoting by advertising or otherwise a mass gathering.

MASS PUBLIC GATHERING — Any mass gathering of people which is likely to attract five thousand (5,000) persons or more and continue for a period exceeding eighteen (18) hours, to be held in whole or in part within the Town of Horseheads, County of Chemung, State of New York, excluding the Chemung County Fair held each year at the Chemung County Fairgrounds.

PERMIT — The written permission from the Town Board of the Town of Horseheads, County of Chemung, State of New York.

PERSON — Any natural individual, firm, trust, partnership, association or corporation.

§ 128-4. Promotion of mass gatherings; permit required.

It shall be unlawful for any person or persons to hold or promote by advertising or otherwise a mass gathering which is likely to attract five thousand (5,000) persons or more and continue for a period exceeding eighteen (18) hours to be held, in whole or in part, within the Town of Horseheads, County of Chemung, State of New York, unless such person shall first obtain a permit.

§ 128-5. Permit application; fees.

A. A permit for the holding or promoting by advertising or otherwise of a mass gathering shall be obtained from the Town Board of the Town of Horseheads, New York.

B. The fee shall be as set forth from time to time by resolution of the Town Board of the Town of Horseheads. 21

§ 128-6. Information required for permit application.

A. The application for the permit for the holding or promoting by advertising or otherwise of a mass gathering in the Town of Horseheads, Chemung County, New York, shall be submitted to the Town Clerk of the Town of Horseheads. The application for the permit

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21. Editor’s Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
§ 128-7. Approval of permit application.

The Town Board, in reviewing applications for permits for approval, shall determine whether said gathering will be held in conformity with the requirements as herein set forth in order that the mass gathering can be held without hazard to health and safety.
§ 128-8. Mass gathering requirements.

A mass gathering shall conform to the following requirements:

A. Garbage receptacles. Garbage receptacles must be provided to ensure proper disposal of all garbage and rubbish. The cans shall be kept in sanitary conditions at all times. Garbage and rubbish shall be collected and disposed of as frequently as may be necessary to ensure that such receptacles shall not overflow. Said applicant shall also file with the Town Board a contract showing that it has contracted for adequate disposal of all garbage and rubbish for said event.

B. Undertaking. An undertaking shall be deposited with the Town Clerk after the amount is set by the Town Board to insure compliance with the provisions of this chapter.

C. Fire protection. Every mass gathering shall be equipped at all times with adequate fire-extinguishing equipment in good working order, of such type, size and number and so located on said premises as to satisfy reasonable and applicable regulations of the Fire Department. No open fires shall be permitted at any place which may endanger life or property. No fires shall be left unattended at any time.

D. Water. An adequate supply of water must be available to all in attendance at a mass gathering, and the quality must be satisfactory to the Chemung County Health Department.

E. Sewage. Facilities shall be provided and maintained for satisfactory disposal of sewage in accordance with the regulations of the Chemung County Health Department.

F. Toilet and lavatory facilities. An adequate quantity of toilet and lavatory facilities shall be provided of a quality satisfactory to the Chemung County Health Department.

G. Medical. Adequate medical and first-aid treatment facilities shall be provided in accordance with the standards of the Chemung County Health Department.

§ 128-9. Compliance with applicable provisions required.

No permit shall be issued to any applicant for a mass gathering until such applicant has complied with all the sanitary and health codes, laws, regulations and ordinances of the State of New York, County of Chemung and Town of Horseheads.

§ 128-10. Revocation of permit.

The Town Board may revoke any permit to hold or promote by advertising or otherwise a mass gathering when it becomes apparent that the holder thereof has failed to comply with any of the requirements or provisions as hereinbefore set forth.

The permit shall be conspicuously posted on the premises where the mass gathering is to be held.

§ 128-12. Penalties for offenses.

Any person, firm, corporation or other violating any provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to a fine not exceeding one thousand dollars ($1,000.) or to imprisonment not exceeding one (1) year, or to both such fine and imprisonment, for each and every violation; and for each day that such violation continues, in addition thereto, may be subject to a civil action brought in the name of the Town of Horseheads to recover any penalty in the sum of two hundred dollars ($200.) for each said violation. Each day that such violation continues shall be the basis for a separate action.

Chapter 132

MANUFACTURED/MOBILE HOME PARKS

GENERAL REFERENCES

Zoning — See Ch. 204.

§ 132-1. Title.

This chapter shall be known as "Local Law Regulating Manufactured/Mobile Homes for the Town of Horseheads, New York."

§ 132-2. Purpose.

It is the purpose of this chapter to promote the health, safety, morals and general welfare of the inhabitants of the Town of Horseheads, Chemung County, New York, by the regulation of the occupancy of manufactured/mobile home parks within said Town.

§ 132-3. Definitions.

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

LOT LINE — A line dividing one lot from another, or from a street or any public place.

MANUFACTURED HOME — A factory-manufactured dwelling unit built on or after June 15, 1976, and conforming to the requirements of the Department of Housing and Urban Development (HUD), Manufactured
Home Construction and Safety Standards, 24 CFR 3280, April 1, 1993, transportable in one or more sections, which, in the traveling mode, is eight feet (2,438 mm) or more in width or 40 feet (12,192 mm) or more in length, or, when erected on site, is 320 square feet (29.7 m²), minimum, constructed on a permanent chassis and designed to be used 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 "manufactured home" shall also include any structure that meets all the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the federal Department of Housing and Urban Development and complies with the standards established under the national Manufactured Housing Construction and Safety Act of 1974, as amended. The term "manufactured home" shall not include any self-propelled recreational vehicle.

MANUFACTURED/MOBILE HOME LOT — A parcel of land for the placement of a single mobile home and the accessory structures incident to it, including such open spaces as are used in connection with such mobile home.

MANUFACTURED/MOBILE HOME LOT WIDTH — The mean distance measured parallel to the front lot line between the two side lot lines.

MANUFACTURED/MOBILE HOME PARK — A parcel of land under single ownership which is improved for the placement of mobile homes for nontransient use and which is offered to the public for the placement of two or more mobile homes.

MANUFACTURED/MOBILE HOME STAND — That part of a mobile home lot which has been reserved for the placement of the mobile home.

MOBILE HOME — A factory-manufactured dwelling unit built prior to June 15, 1976, with or without a label certifying compliance with NFPA, ANSI or a specific state standard, transportable in one or more sections, which, in the traveling mode, is eight feet (2,438 mm) or more in width or 40 feet (12,192 mm) or more in length, or, when erected on site, is 320 square feet (29.7 m²), minimum, constructed on a permanent chassis and designed to be used 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 "mobile home" shall not include travel trailers or any self-propelled recreational vehicle.

RECREATIONAL VEHICLE (RV) — A motorized, self-propelled vehicle containing sleeping and other facilities for habitation.

STAND AREA — That part of a mobile home lot which is reserved for the placement of the mobile home stand. The stand area shall be located according to the minimum distances specified in § 132-10I of this chapter.

23. Editor's Note: See 24 CFR 3280 et seq. or 42 U.S.C. § 5401 et seq.
TRAILER, CAMPER — A trailer containing sleeping and other facilities for habitation and intended to be towed or carried by another vehicle.

§ 132-4. License required.

It shall be unlawful for any persons to construct, maintain, operate, alter or extend a manufactured/mobile home park within the limits of the Town of Horseheads, unless such person shall first obtain a license therefor. Such license shall be renewed annually.

§ 132-5. Application for license.

A. Application for initial license shall be filed with and issued by the Town Board. The application shall be in writing, signed by the applicant and shall include the following:

(1) The name and address of the applicant and owner of the land.

(2) The address, phone number and local manager of the park.

(3) A complete plan of the park in conformity with the requirements of this chapter.

(4) Plans and specifications of all buildings, improvements, facilities and landscaping existing or to be constructed or installed within the mobile home park.

(5) A copy of all proposed restrictions, rules and regulations to be imposed on occupants of the mobile home park.

(6) Such further information as may be requested by the Enforcement Officer to enable him or her to determine if the existing or proposed mobile home park will comply with the legal requirements and the New York State Health Department.

B. The application and all accompanying plans and specifications shall be filed in duplicate. The Enforcement Officer, who shall be appointed by the Town Board, shall review the application and the proposed plans and specifications and shall forward a copy to the Planning Board for its review and recommendations as to compliance with the objectives of the Comprehensive Plan. Such recommendation shall be in writing and shall be completed within 30 days from the time of submitting to the Planning Board. If the existing or proposed mobile home park will, when constructed or altered in accordance with such plans and specifications, be in compliance with all provisions of this chapter, and all other applicable local laws and statutes and regulations, including approval of the Chemung County Health Department, the Enforcement Officer shall approve the application. Upon completion of the park according to the plans, the Town Board shall issue the license.

§ 132-6. Renewal or transfer of license.
§ 132-7. Fees.

A. Application for renewal of license. Upon application, in writing, for renewal of a license and upon payment of the annual license fee, the Town Board shall renew such license for another year. Such applicant shall certify that no change has been made since the last licensing period and said trailer park conforms to all local laws, statutes and regulations applicable thereto. If any changes have taken place in the mobile home park, the applicant must produce a revised plan showing that said changes comply with this chapter and all other local laws and regulations applicable thereto.

B. Application for transfer of license. Upon application, in writing, for transfer of a license (or temporary permit) and payment of the transfer fee, the Town Board shall issue a transfer.

§ 132-8. Enforcement; inspections.

A. This chapter shall be enforced by the Enforcement Officer, and said officer and his or her inspectors shall be authorized and have the right in the performance of their duties to enter any premises and make such inspections as are necessary to determine satisfactory compliance with this chapter and regulations issued hereunder. Such entrance and inspection shall be accomplished at reasonable times and in emergencies whenever necessary to protect the public interest.

B. Owners, agents, operators and occupants shall be responsible for providing access at reasonable times to all parts of the premises within their control to the Enforcement Officer or to his or her inspectors acting in the performance of their duties.

C. It shall be the duty of the Town Board:

(1) To cause periodic inspections of all licensed premises at a minimum of 12 months and to inspect premises in pending applications for licenses or temporary permits and shall report the inspection of said manufactured/mobile home parks in the official minutes of the Town Board.

(2) To investigate all complaints made under this chapter.

(3) To request the Town Attorney to take appropriate legal action on all violations of this chapter.

A. Upon determination by the Enforcement Officer that there has been a violation of any provisions of this chapter or regulations issued hereunder, the Enforcement Officer shall give notice of such violation(s) in the following manner:

(1) The notice shall be in writing.

(2) The notice shall include a statement of the reasons for its issuance.

(3) The notice shall state a reasonable time for the performance of any act(s) necessary for compliance.

(4) The notice shall contain an outline of remedial action which, if taken, will effect compliance.

(5) The notice shall be served by certified mail and directed to the licensee of the licensed premises as stated in the application, and such notification shall be deemed sufficient legal notice under this chapter.

B. Any person affected by any notice which has been issued in connection with the enforcement of this chapter may request and shall be granted a hearing before the Town Board, provided that such person shall file with the Town Board a written petition requesting such hearing and setting forth a statement of the grounds therefor within 20 days after receipt of the notice. The filing of the request for a hearing shall serve to stay the notice, except in case of an order issued under § 132-9E of this chapter. Upon receipt of said petition, the Town Board shall set a time and place for such hearing, which time shall be not later than 30 days after the day on which the petition was filed and shall give the petitioner written notice thereof.

C. Within 30 days after such hearing, the Town Board shall issue an order, in writing, sustaining, modifying or withdrawing the notice, which order shall be served as directed in § 132-9A of this chapter. Upon failure to comply with any order sustaining or modifying a notice, the license of the mobile home park affected by the order shall be revoked.

D. The proceedings of such hearing, together with a copy of every notice and order related thereto, shall be entered as a matter of public record in the office of the Enforcement Officer.

E. Whenever the Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health, he or she may, without notice or hearing, issue an order stating the existence of such emergency and requiring that such action be taken as he or she may deem necessary to meet the emergency, including the suspension of the license or temporary permit or the closing of a park and evacuation of all occupants. Notwithstanding any other provisions of this chapter, such order shall be effective immediately. Any person
§ 132-10. Site requirements.

A. Location. Manufactured/mobile home parks shall be located in Planned Unit Development (PUD) Districts approved by the Town Board under Chapter 204, Zoning.

B. Areas for nonresidential use.

(1) If facilities are provided for servicing, maintenance and management, including laundry facilities, said facilities shall be landscaped with trees and shrubs and shall provide adequate off-street parking space and shall be adequately maintained, cleaned and improved.

(2) Nothing contained in this section shall prevent the sale of a mobile home connected to water, sewer and electrical distribution and collection systems and located on a mobile home stand within the mobile home park.

C. Density and mobile home lot size. The maximum density of a manufactured/mobile home park shall be eight mobile home lots per developed gross acre of area included in said park. Mobile home lots shall generally be a minimum of 5,000 square feet in area with a width of 50 feet. Mobile home parks in existence on the effective date of this chapter which provide mobile home lots having a width or area less than that prescribed above may continue to operate with spaces of the existing width and area as long as said manufactured/mobile home lot is not less than 25 feet wide and not less than 2,100 square feet in area.

D. Required separation between manufactured/mobile homes. There shall be a separation space of at least 15 feet between a mobile home and any other mobile home on an adjacent lot. Expandable rooms, enclosed patios, garages or structural addition patios, carports and individual storage facilities shall be included as a part of the manufactured/mobile home in determining separation and clearance.

E. Required setbacks, buffer strips and screening.

(1) All mobile homes shall be located at least 25 feet from any park boundary line.

(2) A minimum distance of six feet shall be maintained between any manufactured/mobile home and the nearest pavement edge of an adjoining park street.

F. Park street requirements.
(1) General requirements. The internal street system in a mobile home park shall be privately owned, constructed and maintained and shall be designed for safe and convenient access to all spaces and facilities intended for use by park occupants. Alignment and gradient shall be adapted to the topography, to safe movement of anticipated traffic and to satisfactory control of surface water and groundwater.

(2) Street widths. Street widths shall be measured between the edges of the pavement and shall meet the following minimum requirements:

(a) Internal streets.

[1] One-way, parking one side only: 18 feet.


(b) Access streets. At points where general traffic enters or leaves the park, regardless of widths specified above, street widths shall be sufficient to permit free movement from or to the public street and in no case shall be less than 28 feet. Parking on internal streets shall not be permitted within 75 feet of the right-of-way of the public street.

(3) Required illumination of park street system. All parks shall be furnished with lighting units, either overhead or side lights, or a combination of both, so spaced and equipped as to provide for the safe movement of pedestrians and vehicles.

(4) Street construction and design standards.

(a) Surface. All streets shall be provided with a smooth, hard, dense surface which shall be durable and well drained under normal use and weather conditions. Pavement edges shall be protected to prevent raveling of the surface and shifting of the base. Street surfaces shall be maintained free of cracks, holes and other hazards.

(b) Grade. Grades of all streets shall be sufficient to ensure adequate surface drainage.

(c) Intersection. Street intersections shall be at approximately right angles. Offsets at intersections and intersection of more than two streets at one point shall be avoided.

G. Off-street parking requirements.

(1) Off-street parking areas shall be provided in all manufactured/mobile home parks for the use of park occupants and guests. Such areas shall be furnished at the rate of at least two car spaces for each mobile home lot, each space to be at least 180 square feet in area, plus any required access and maneuvering space.
§ 132-10

H. Walks.

(1) Common walk system. All common walkways shall be provided with a smooth, hard surface and shall have a minimum width of three feet.

(2) Individual walks. All mobile home stands shall be provided with a walkway leading from the stand to the street or to a driveway or parking space connecting to a paved street. Such walkway shall be provided with a smooth, hard surface and shall have a minimum width of three feet.

I. Manufactured/mobile home stands. No stand areas shall be closer than 12 feet to the front lot line, 18 feet to the lot line on the entrance side, 15 feet to the lot line opposite the entrance side and 25 feet to the rear lot line.

J. Storage areas. An enclosed storage facility not exceeding 100 square feet of storage space may be provided on each mobile home lot and shall be so constructed so as to blend aesthetically with the mobile home and surrounding area and be located behind the mobile home or carport or end of driveway. Such facility shall be located in such a way as to maintain the separation requirements of § 132-10D of this chapter.

K. Ground floor area. No mobile home shall have less than 980 square feet of ground floor area.


A. General requirements. An adequate, safe and potable supply of water shall be provided in each mobile home park.

B. Quantity. The water supply shall be of such quantity and supply as required by the New York State, Chemung County Health Department and New York State Building Codes.

C. Treatment. The treatment of a private water supply shall be in accordance with applicable laws and regulations.

§ 132-12. Refuse handling.

A. The storage, collection and disposal of refuse in the park shall be conducted to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution.

B. If a common refuse storage area is provided, it shall be rodentproof and located not more than 150 feet from any lot. Containers shall be provided in sufficient number and capacity to properly store all refuse.

C. If refuse containers are to be stored on individual mobile home lots, such containers shall be stored so as to prevent containers from being tipped, to minimize spillage and container deterioration and to facilitate cleaning around them.
D. Garbage in all common refuse storage areas shall be removed at least twice weekly. Where suitable collection service is not available from municipal or private agencies, the park operator shall provide this service.

E. Disposal of refuse by burning on the site is expressly prohibited.

§ 132-13. **Self-contained recreational vehicles and campers.**

A. Up to four RVs or campers can be placed in an area that is not an approved lot and a maximum of one in an approved lot for manufactured homes between April 1 to November 1.

B. At least 10 feet of separation must be maintained between a RV and any structure on an adjacent site (including pop outs, awnings, etc.).

C. Said vehicles and campers must have Chemung County Health Department approval if required.

D. Said vehicles and campers must have valid current registration.

E. Said vehicles and campers must be connected to electric, sewer and water in an approved manner.

F. Permits must be displayed in a conspicuous place.

§ 132-14. **Responsibilities of park management.**

A. The person to whom a license for a manufactured/mobile home park is issued shall operate the park in compliance with this chapter and regulations issued hereunder and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

B. The park management shall notify park occupants of all applicable provisions of this chapter and inform them of their duties and responsibilities under this chapter and regulations issued hereunder.

C. The park management shall supervise the placement of each manufactured/mobile home on its stand, which includes securing its stability and installing all utility connections.

D. The park management shall maintain a register containing the names of all park occupants. Such register shall be available to any authorized person inspecting the park in their official duties.

§ 132-15. **Responsibilities of park occupants.**

A. The park occupant shall comply with all application requirements of this chapter and regulations issued hereunder and shall maintain his or her mobile home lot, its facilities and equipment in good repair and in a clean and sanitary condition.
§ 132-15  HORSEHEADS TOWN CODE  § 132-23

B. The park occupant shall be responsible for the proper placement of his or her mobile home on its mobile home stand and the proper installation of all utility connections in accordance with the instructions of the park management.

C. The park occupant shall be responsible for complete skirting of his or her mobile home within 30 days of occupancy. Any materials used for skirting or for the construction of enclosed patios, garages or structural additions, patios, carports and individual storage facilities shall provide a finished exterior appearance.


All construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy must conform to the applicable provisions of the New York State Building Codes, Health Department and Chemung County Health Department.

§ 132-17. through § 132-20. (Reserved)


Any person, firm or corporation who violates any provision of this chapter shall be guilty of a misdemeanor and shall be subject to penalties as set forth in Chapter 1, General Provisions, Article II, General Penalty, and, in addition, any and all persons who violate any of the provisions of this chapter or who shall omit, neglect or refuse to do any act required by this chapter shall severally, for each and every such violation and noncompliance, respectively, forfeit and pay a civil penalty of $200. The imposition of all penalties for any violation of this chapter shall not excuse the violation or permit it to continue. The application of the above penalty or penalties or the prosecution of the violation of the provisions of this chapter shall not be held to prevent the enforced removal of conditions prohibited by this chapter or the taking of such other action as may be authorized by law.

§ 132-22. Enforcement Officer.

The Town Board of the Town of Horseheads shall appoint an Enforcement Officer for enforcement of the provisions hereunder.

§ 132-23. Interpretation; conflicts with other provisions.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulation or local law, the most restrictive, or that imposing the higher standards, shall prevail.

Chapter 136

136:158
§ 136-1. **Loud or disturbing noise prohibited.**

It shall be unlawful for any person to make, or cause to be made, any unreasonably loud or disturbing noise which either annoys, disturbs, or endangers the comfort repose, health, peace or safety of others within the limits of the Town of Horseheads.

§ 136-2. **Enumeration of loud or disturbing noises.**

The following acts, among others, are declared to be unreasonably loud or disturbing and noises of a character to be detrimental to the peace, welfare or good order of the people, in violation of this chapter, but said enumeration shall not be deemed to be exclusive, namely:

A. Horns, devices, etc. The sounding of any horn, or device on any automobile, motorcycle, truck or other vehicle within the Town, except as a danger warning; the sounding of any horn or device for an unnecessary or unreasonable period of time.

B. Radios, phonographs, televisions, CD players. The using, operating of radios, phonographs, televisions, or CD players, or permitting them to be played, or producing sound in such manner as to disturb the peace, quiet or comfort of the neighboring inhabitants. The operation of any such set, instrument, phonograph, machine or device, particularly between the hours of 9:00 p.m. and 7:00 a.m., in such a manner as to be plainly audible at a distance of 50 feet from the building, structure, or vehicle in which it is located shall be prima facie evidence of a violation of this section.

C. Loud speaker, amplifiers for advertising. The using, operating or permitting to be played of any loudspeaker, sound amplifier, or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting attention of the public.

D. Yelling, shouting, etc. Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 9:00 p.m. and 7:00 a.m., or any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or any dwelling, or other type of residence, or of any persons in the vicinity.
§ 136-2. Presumption of vehicle ownership.

It shall be presumption that the ownership and operation of any vehicle violating the provisions of this chapter shall be deemed to be that as indicated by the registration plates of such vehicle.

§ 136-4. Penalties for offenses.

Any person who violates any provision of this chapter shall be deemed guilty of an offense and, upon conviction thereof, shall be punished by a fine of not less than $50 or more than $250, or by imprisonment for not more than 10 days, or by both. Each day on which such violation continues shall constitute a separate offense.

Chapter 140

PEDDLING AND SOLICITING

§ 140-1. Title.

This chapter shall be known as the "Hawkers and Exhibition Law of the Town of Horseheads."

§ 140-2. Definitions.

When used in this chapter, unless otherwise expressly stated or unless the context of subject matter requires a different interpretation, the following terms shall have the meanings indicated:
§ 140-2  PEDDLING AND SOLICITING

HAWKER or PEDDLER — Includes, except as hereinafter expressly provided, any person, either principal or agent, who, from any car or railroad track or in any public street or public place or by going from house to house or place of business to place of business on foot or on or from any animal or vehicle sells or barters, offers for sale or barters or carries or exposes for sale or barter any goods, wares or merchandise, except milk, water or newspapers.

PERSON — Includes, one (1) or more persons, corporations, partnerships, associations, joint-stock companies, societies and all other entities of any kind capable of being sued.

SOLICITOR — Includes any person who goes from place to place or house to house or who stands in any street or public place taking or offering to take orders for goods, wares or merchandise, except newspapers, milk and water, or for services to be performed in the future or for making, manufacturing or repairing any article or thing whatsoever for future delivery.

TRANSIENT MERCHANT — Any person who merchandises or sells with the intent to close out or discontinue such business within a period of one (1) year from the date of commencement and who occupies a room, building, tent, lot or other premises for the purpose of selling merchandise.

§ 140-3. License required.

No person shall within the Town of Horseheads, Chemung County, New York, act as a hawker, peddler, solicitor or transient merchant as herein defined without first having obtained a license and having the same in force and effect as hereinafter provided.

§ 140-4. Exemptions.

Nothing in this chapter shall be held to apply to any sales conducted pursuant to statute or by order of any court, to any person selling personal property at wholesale to dealers in such articles, to merchants having an established place of business within the town or their employees for soliciting orders from customers and delivering the same, to farmers and truck gardeners who themselves or through their employees vend, sell or dispose of products of their own farms and gardens, to any honorably discharged soldier, sailor or marine who has procured a license as provided by the General Business Law of the State of New York or to persons collecting for any bona fide charitable organization as determined by the Town Board or Town Clerk. This chapter shall not apply so as to unlawfully interfere with interstate commerce.

§ 140-5. Application for license.

Any person desiring to have a license shall file with the Town Clerk a written application setting forth the following minimum information:
§ 140-6. Issuance of licenses.

A. The name, date of birth and resident and business address of the applicant.

B. The name, date of birth and resident and business address of the principal, if the applicant is the agent, including the names and address of all partners if a partnership, and the names and addresses of the principal officers if a corporation, and the name and address of a person upon whom a legal notice may be served.

C. A general description of the merchandise to be sold or the kind of service he desires to render.

D. A general description of the method of distribution to be used and, if vehicles are involved, the name and address of the owner, together with registration information.

E. The length of time that the applicant expects to be making local distribution and the names and addresses of all solicitors.

F. Such other information as the Town Clerk may desire.

G. A statement as to whether the applicant has been convicted of a felony or misdemeanor and the nature of the offense and the punishment, in any jurisdiction.

§ 140-6. Issuance of licenses.

A. Upon payment of the fees hereinafter set forth, the Town Clerk shall issue the license applied for, unless it shall appear from the application or other information that:

   (1) The applicant has not complied with applicable statutes or other ordinances applying to the application.

   (2) Protection of the public safety, health, morals or general welfare of the community may be adversely affected.

   (3) The Town Board has, by resolution duly adopted, notified the Clerk not to issue such license.

B. A license shall not be assignable. Any holder of such license who permits it to be used by any other person, and any person who uses such license granted to any other person, shall be guilty of a violation of this chapter. Such license shall automatically expire on January 1 following the date of issuance of such license, but such license may provide for an earlier expiration date. No license shall be granted to a person under eighteen (18) years of age. No applicant to whom a license has been refused or who has had a license which has been revoked shall make further application until a period of at least six (6) months shall have elapsed since the last previous rejection or revocation unless he can show that the reason for such rejection or revocation no longer exists. Every licensee, while exercising his license,
shall carry the license with him and shall exhibit the same upon demand to any police officer or citizen.

C. Such license shall give the licensee the right to use only one (1) vehicle in carrying on the business for which he or she is licensed. For each additional vehicle so used by him or her, the licensee shall state the number of vehicles permitted to be used. A licensee may employ an unlicensed person to assist in selling and delivering his or her wares but such unlicensed person shall so act only while accompanying a licensed peddler, hawker or solicitor.

§ 140-7. Revocation of licenses.
Upon the refusal of the Town Clerk to issue a license to any applicant or upon the determination of the Town Board that any license should be revoked, the procedure prescribed in § 137 of the Town Law, as amended, shall be complied with. When a license shall be revoked, no refund of any unearned portion of any fee shall be made. Notice of such revocation and the reason therefor in writing shall be served by the Town Clerk upon the person named in the application or by mailing the same to the address given in the application, and a copy of such notice shall be filed with the Town Clerk.

§ 140-8. Exhibition of license.
Every licensee, as well as every person holding a license under the provisions of § 32 of the General Business Law, shall, while engaged in hawking, peddling or soliciting within the town, carry his or her license upon his or her person and shall produce and exhibit the same upon demand of any officer or citizen. The refusal of any such person to produce a license upon demand shall be presumptive evidence that he is hawking, peddling or soliciting without a license.

Any licensee hereunder shall not:

A. Blow a horn, ring a bell or use any other noisy device to attract public attention to his or her wares or shout or cry out his or her wares, except that a circus or exhibition may reasonably so advertise on the premises designated for the holding of such circus or exhibition.

B. Stand or permit the vehicle used by him or her to stand in any one (1) place in any public street or place for more than ten (10) minutes or in front of any premises for any time if the owner of or lessee of the ground floor thereof objects.

C. Permit any vehicle used by him to stop or remain on any crosswalk.

D. Create or maintain any booth or stand or place any barrels, boxes, crates or other obstructions upon any street or public place for the
§ 140-10. Penalties for offenses.

A violation of the provisions of this chapter is hereby declared to be an offense, punishable as set forth in Chapter 1, Article II, General Penalty.

§ 140-11. Fees.

Fees relating to peddling and soliciting shall be as set forth from time to time by resolution of the Town Board.

Chapter 144

RECORDS

Chapter 152

SIGNS

GENERAL REFERENCES

Zoning — See Ch. 204.

§ 152-1. Title.

This chapter shall hereafter be known as the "Sign Ordinance for the Town of Horseheads."

§ 152-2. Purpose.

The purpose of this chapter is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising, outdoor Advertising signs and outdoor signs of all types. It is intended to enhance and protect the physical appearance of the community and to preserve the scenic and natural beauty of the areas in the town and to provide a more enjoyable and pleasing community and to protect property values and to maintain a favorable economic and business climate consistent with the topography and the present use and development of lands in the town and the needs of the town. It is further intended hereby to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents and to reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way and blocking views. This chapter recognizes the obligation to the town for its people, to protect and preserve the community's environment and to provide open space and to curb the deterioration of the town's natural beauty.
§ 152-3. Definitions.

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

ADVERTISING SIGN — A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where such sign is located or to which it is affixed.

BUSINESS SIGN — A sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.

CODE ENFORCEMENT OFFICER — The official designation by the Town Board of the Town of Horseheads to administer the provisions of this chapter.

ERECT — To build, construct, alter, repair, display, relocate, attach, hang, place, suspend, affix or maintain any sign.

FACE OF A BUILDING — Any outer surface of a building.

FACING OR SURFACE — The surface of the sign upon, against or through which the message is displayed or illustrated on the sign.

FLASHING SIGN — Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at any time when such sign is in use. For the purpose of this chapter, any revolving, illuminated sign shall be considered a "flashing sign."

FREESTANDING SIGN — Any sign or sign structure not attached to the exterior of a building.

FRONT OF A BUILDING — That face which contains the main entrance. If there is more than one (1) entrance, only one (1) face shall be deemed to be the "front."

ILLUMINATED SIGN — Any sign which has any face or surface, character, letter, figure, design or outline lighted or illuminated internally or externally, whether the source of light or illumination is a part of the sign proper or otherwise.

NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE — Constitutes updated, uniform regulations in terms of performance covering all types of building construction as proclaimed by the State Building Code Council pursuant to its authority under Article 18 of the Executive Law of the State of New York.

OTHER ADVERTISING STRUCTURE — Any marquee, canopy, awning or street clock.

OWNER — Person, firm, partnership or association, company or corporation holding title to the land and/or building or structure upon which or to which said sign or advertising structure is erected, supported or affixed.
PERMITTEE — Includes any person, firm, partnership, association, corporation, company or organization of any kind who either by ownership or lease holds title to the sign or signs on the premises and is the person to whom a permit under this chapter has been issued or may be issued.

PERSON — Includes any person, firm, partnership, association, corporation, company or organization of any kind.

PROJECTING SIGN — Any sign which projects from the exterior of any building.

SHOPPING CENTER OR MULTIUSE COMMERCIAL FACILITY — Any group of two (2) or more stores for which there is provided off-street parking.

SIGN — Any material, structure, device or other advertising structure or part thereof composed of lettered or pictorial matter or upon which lettered or pictorial matter is or may be placed when used or located out of doors or on the exterior of any building for the display of announcements, notices, directional matter or name, and includes sign frames, billboards, signboards, pole or pylon signs, ground signs, hanging signs, projecting signs, illuminated signs, pennants and fluttering devices, and shall also include any announcement, declaration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person or business when the same is placed in view of the general public. However, a "sign" shall not include any display of an official court or required public official notices or signs nor any official traffic control device, nor shall it include the flag, emblem or insignia of a nation, political unit, school or religious group. A "sign" shall not include a sign located completely within an enclosed building unless the context shall so indicate.

SIGN AREA — The surface area of the sign, including the frame, place or structure used to hold up any lettering or pictorial matter. In the event that a sign is irregular in shape, the area of the sign shall be taken as the area of the smallest rectangle that can be placed over the entire sign, including its lettering, devices, frame and decorative moldings along its edges and background, if of a different color than the predominant color surrounding the sign, except as otherwise provided herein. In the event that a letter or letters or other pictorial matter are placed as separate units on the background boards, the sign area shall be calculated as the sum of the areas of the background boards. In the case of a two-sided freestanding sign, the "sign area" is considered to be the entire surface area of one (1) face of the sign. The "sign area" of signs having more than two (2) sides is the sum of the surface area of all sides.

STRUCTURAL TRIM — The molding, battens, cappings, nailing strips, latticing and platforms which are attached to the sign structure.

TEMPORARY SIGN — A sign which due to its construction or material is intended to be of a nonpermanent duration or is placed upon legs, skids, wheels or other nonpermanent method.
§ 152-4. Permit required.

No person shall erect any sign without first obtaining a permit from the Code Enforcement Officer, except in those cases where this chapter specifically permits the erection of a sign without a permit.

§ 152-5. Application for permit.

Application for permit shall be made in writing, in duplicate, upon forms prescribed and provided by the Code Enforcement Officer, to the Code Enforcement Officer. It shall be the duty of the Code Enforcement Officer, upon the filing of an application for any sign permit, to examine such plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure. If it appears that the proposed structure is in compliance with all requirements of this chapter, the New York State Uniform Fire Prevention and Building Code and other laws and ordinances of the Town of Horseheads, the Code Enforcement Officer shall then issue the sign permit.

§ 152-6. Duration of permit.

If work authorized under a sign permit has not been completed within six (6) months after the date of issuance, such permit shall be null and void.

§ 152-7. Permit revocable at any time.

All rights and privileges acquired under the provisions of this chapter or any amendment thereto are merely licenses, revocable at any time by the Code Enforcement Officer or other authorized person or body, upon failure of the holder thereof to comply with any provision of this chapter, and all such permits shall contain this provision.

§ 152-8. General regulations.

The prohibitions contained in this section shall apply to all signs constructed and maintained in the Town of Horseheads, exclusive of the incorporated Villages of Horseheads and Elmira Heights:

A. Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity, and no sign shall be illuminated by or contain flashing, intermittent, rotating or moving light or lights. In no event shall an illuminated sign or lighting device be so placed or directed so as to permit the beams and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or a nuisance.

B. No part of a sign shall project more than two (2) feet from the front or face of a building, except as provided in § 152-9 herein.

C. No signs shall be placed on the roof of any building.
§ 152-8  HORSEHEADS TOWN CODE  § 152-10

D.  No portable or temporary sign shall be placed outside or on the front or face of any building except as provided in § 152-12 herein.

E.  No sign or part thereof shall contain or consist of a string of lights, banners, posters, pennants, ribbons, streamers, spinners or other similar moving, fluttering or revolving devices, revolving beacon, oscillating light, flashing light, strobe light, flashing wand or pointer or light designed to imitate any emergency vehicle warning light.

F.  No sign shall be erected or displayed on any public property, including the right-of-way of any street, roadway or highway.

G.  Advertising signs facing a public highway shall be no closer to one another than five hundred (500) feet.

H.  No advertising sign, including billboards, shall be located within an area of six hundred sixty (660) feet of the right-of-way of a federally aided primary highway, including the Southern Tier Expressway.

I.  No advertising sign shall be located within three hundred (300) feet of a residential district nor within three hundred (300) feet of a school, library, church or hospital. Further, such advertising sign shall be so located that its message or legend shall not be legible from any residential district, school, library, church or hospital or portion thereof.


All signs shall conform to the following restrictions concerning setback and height:

A.  Every sign shall be setback one-half (1/2) the required front yard setback for the district in which the sign is located, with a required minimum setback of fifteen (15) feet. The setback shall be measured from the public right-of-way. In the event that the building sets closer to the right-of-way than the required setback for the sign, then the owner shall be allowed to erect a sign upon the building which shall not project more than three (3) feet therefrom.

B.  No sign shall be higher than the maximum height allowed in feet for the particular zoning district, except residence districts, wherein such sign is located and all signs or advertising structures are subject to further restrictions of height as herein specified or as specified in the Ch. 204, Zoning, of the Code of the Town of Horseheads.

C.  No sign in any residential district shall exceed ten (10) feet in height.

§ 152-10.  Permitted signs.

A.  The following signs may be erected in any district of the Town of Horseheads without a permit:
§ 152-11. Signs in all districts except Residence AA, A and B Districts.

In all districts, except Residence AA, A and B, of the Town of Horseheads, no signs shall be erected or maintained except as follows:
§ 152-12. Temporary signs.

All signs of a temporary nature shall be erected only as follows:

A. All signs of a temporary nature, not advertising or business signs, such as political or civic posters, and other signs of a similar nature may be erected without a permit for a period not to exceed forty-five (45) days, provided that the written consent of the property owner is obtained and that such signs are not attached to fences, trees, utility poles or the like, and further provided that such signs are not placed in a position that will obstruct or impair vision or traffic or in any manner create a hazard or disturbance to the health and welfare of the general public. Such signs shall not be erected within the right-of-way of any street or highway and shall conform to all other requirements of this chapter. Upon the expiration of the forty-five-day period, such sign shall be removed by the person, persons, firm or corporation who, or at whose request and direction, caused the same to be erected.

B. All advertising or business signs of a temporary nature or construction may be erected, with a permit, for a period not to exceed a total of thirty (30) days in any calendar year, provided that the written consent of the property owner is obtained, and further provided that such signs are not placed or in any manner create a hazard or disturbance to the health and welfare of the general public. Such signs shall not be erected within the right-of-way of any street or highway and shall conform to all other requirements of this chapter. Upon the expiration of said thirty-day period, such sign shall be removed by the person, persons, firm or corporation who, or at whose request and direction, caused the same to be erected; and the person, persons, firm or corporation shall cause to be returned to the Code Enforcement Officer for the Town of Horseheads a duplicate copy of the permit with a certification thereon as to the date of removal of said sign.

C. Immediate removal of the signs or issuance of permits on all signs within sixty (60) days of effective date of this chapter, notwithstanding any contrary provision of this chapter.

All signs shall comply with the provisions of this section or be removed or altered to comply within thirty (30) days after written notification by the Code Enforcement Officer.

A. Any sign which advertises a business no longer in existence on the premises or product no longer sold or which does not have a valid permit shall be removed.23

B. No sign, whether new or existing, shall hereafter be erected or altered except in conformity with the provisions of this chapter. However, notwithstanding any provisions contained herein, the sign must be kept clean, neatly painted and free from all hazards, including but not limited to holes in the sign, faulty wiring and loose fastenings, and the sign must otherwise be maintained at all times in good repair and shall not be detrimental or dangerous to the public health or safety. All signs shall be erected and maintained in conformity with the New York State Uniform Fire Prevention and Building Code.

C. No sign or advertising structure shall be erected, relocated or maintained so as to prevent free ingress or egress from any door, window or fire escape. No sign of any kind shall be attached to a standpipe or fire escape.

D. In the event of failure to comply with the requirements of said notice within the period required therein, the permit for such sign shall be automatically revoked, and such sign shall be removed by the owner thereof or by the owner of the land on which such sign is located.

E. If the permittee or owner fails to remove or alter the sign or other advertising structure so as to comply with standards herein set forth within thirty (30) days after such notice, such sign or other advertising structure may be removed or altered to comply by order of the Code Enforcement Officer, and the expense thereof shall be levied against the owner of the land, building or structure to which said sign was attached. Thereafter, the Code Enforcement Officer shall refuse to issue any permit to any permittee or owner who refuses to pay the cost so assessed until the same is paid.

F. Notwithstanding anything hereinbefore contained, if the Supervisor, Code Enforcement Officer or Town Highway Superintendent shall determine that any sign is unsafe or is an actual or imminent traffic or other hazard or danger to the public, he or she may require that such sign be either removed or corrected to remove such hazards or dangers within a shorter period than is above provided, but not less than two (2) days. If said sign is not removed or repaired within the required period, the Code Enforcement Officer may remove said sign and any permit for such sign shall be revoked, or he may repair said...
sign. All costs and expenses incurred in the removal or repair of such sign shall be collected either from the owner of the land or the owner of the sign in an action at law after written demand of at least five (5) days served on either the owner or permittee or such costs and expenses shall be assessed against the owner of the land upon which the sign is erected and shall be paid and collected as part of the town and county tax next due and payable, but no such amount shall be so assessed and collected unless a notice in writing of the amount due has been delivered personally or mailed to the owner of the land upon which sign is erected prior to the first day of September of the year in which the amount is first levied and assessed for collection along with the general town tax.

G. If it is determined that any sign is a source of immediate peril to any person or property, such sign may be removed summarily and without notice by the Code Enforcement Officer, and the costs and expenses thereof shall be collected or assessed as provided above.


Any notice or written demand required to be served hereunder shall be delivered either personally or sent by mail to the owner or permittee of the sign or the owner of the land upon which the sign is erected, or to both, as their names and addresses appear in applications for a permit for such sign or in any other documents on file with the Code Enforcement Officer setting forth the names and addresses of the owners or permittees of the sign and of the land upon which the signs are to be erected. The period stated in any notice or written demand shall commence from the date on which any notice is delivered personally to any such owner or, if mailed, the date on which such notice is deposited in a duly maintained post office box or officer branch office of the United States Postal Service. Any such notice may be delivered to any agent or representative of the owner or employee of the owner. The owner of any lands or sign may notify the Code Enforcement Officer in writing of any change in address to which any notices may be sent.


Any sign which has been in existence by duly issued permit prior to the effective date of this chapter and which does not conform to the provisions and standards of this chapter and any amendments thereto, shall be removed within three (3) years from the effective date hereof, unless within such period, such sign has been changed or repaired in a manner which will meet the requirements of this chapter, and provided that such sign is not otherwise prohibited by this chapter.

§ 152-16. Review and appeal.

Any person aggrieved by any decision of the Code Enforcement Officer relative to the provisions of this chapter may appeal such decision to
the Zoning Board of Appeals as provided in Chapter 204, Zoning, of the Code of the Town of Horseheads and shall also comply with all procedural requirements prescribed by such Zoning Board of Appeals; in addition, the provisions of Article 16 of the Town Law pertaining to appeals to a Board of Appeals shall apply to the appeal permitted herein.

§ 152-17. Legal fees.
Whenever any action at law is brought to collect a sum of money, the defendant shall pay attorney's fees, if any.

§ 152-18. Penalties for offenses.26
A violation of the provisions of this chapter is hereby declared to be an offense, punishable as set forth in Chapter 1, Article II, General Penalty. However, for the purpose of conferring jurisdiction upon the courts and judicial officers generally, the owner, general agent, contractor, lessee and/or tenant of any part of a building or premises in which part such violation has been committed or shall exist and the general agent, architect, builders, contractor or any person who knowingly commits, takes part or assists in any such violation shall be deemed guilty of misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violation. Each week's continued violation shall constitute a separate additional violation.

§ 152-19. Fees.27
Fees relating to these sign regulations shall be as set forth from time to time by resolution of the Town Board.

Chapter 158
SNOWMOBILES

GENERAL REFERENCES

Vehicles and traffic — See Ch. 196.

§ 158-1. Legislative intent.
The purpose of this chapter is to protect the public health, welfare and safety by regulating the operation of snowmobiles on public highways and places of the Town of Horseheads in a manner which will be compatible with the use of such highways and places for vehicular and pedestrian travel and other uses and which will promote the safe and proper use of snowmobiles

26.Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
27.Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
for recreation and commerce and minimize detrimental effects of such use on the environment.

§ 158-2. Definitions.

A. The terms, words and phrases used in this chapter shall have the same meanings as such terms, words and phrases defined in § 21.05 of the Parks, Recreation and Historical Preservation Law.  

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

SHOULDER — That portion of a public right-of-way which lies outside of the paved or unpaved roadway immediately adjacent to the portion of the roadway which may be used by motor vehicles.

TOWN — The Town of Horseheads.

§ 158-3. Operation on town streets and highways.

Operation of snowmobiles on highways and public ways of the town shall be subject to the applicable provisions of Title D of the Parks, Recreation and Historical Preservation Law and the rules, restrictions and conditions set forth in this chapter.

§ 158-4. Uncongested highways.

Only the streets or highways of the town designated by the Town Board from time to time are hereby designated as uncongested for the purpose of operation of snowmobiles on the shoulders thereof as authorized by § 25.05 of the Parks, Recreation and Historical Preservation Law.

§ 158-5. Limited operation on highway.

When authorized or directed by a state police officer or county sheriff or Town of Horseheads Code Enforcement Officer, Highway Superintendent or other authorized emergency personnel, a snowmobile may be operated on any portion of the highway for the purpose of an emergency as authorized by § 25.05 of the Parks, Recreation and Historical Preservation Law.

§ 158-6. Prohibited acts.

Except as provided in § 158-4, the operation of snowmobiles on any other public parks and places of the town is hereby expressly prohibited.

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28.Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
29.Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
30.Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
31.Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
§ 158-7. Conditions and restrictions.

Whenever the operation of a snowmobile is permitted on the shoulder, roadway of any town street or highway or portion thereof as provided in this chapter, the following conditions and restrictions are hereby imposed to all such snowmobile operations:

A. Prohibited operating hours. No person shall operate snowmobiles on any town highway between the hours of 11:00 p.m. and 7:00 a.m.

B. Financial security. It shall be unlawful for any person to operate a snowmobile on any town highway or on public lands thereof unless the owner or operator of such snowmobile is insured against public liability and carries with him proof of financial responsibility, such as a certificate of liability insurance of the type, coverage and of the minimum amount as defined and required of owners and operators of snowmobiles as stated in § 25.13 of the Parks, Recreation and Historical Preservation Law of the State of New York. Such proof shall be displayed by the owner or operator of any snowmobile upon request to any law enforcement officer or to any person who has suffered or claims to have suffered either personal injury or damage to property as a result of the operation of such snowmobile by any such snowmobile owner or operator.\(^{32}\)

C. Direction of operation. No person shall operate a snowmobile within the street or highway right-of-way of the town between sunrise and sunset except on the right side of such right-of-way and in the same direction as the highway traffic. Operation on other public places shall be only in the direction, if any, marked by appropriate route direction markers.

D. Unattended snowmobile. It shall be unlawful for any owner or operator to leave or allow a snowmobile to be left unattended on any town highway or public place while the motor is running or with any key for starting the same left in the ignition or elsewhere in said snowmobile.

E. Obedience to vehicular traffic controls. Each person operating a snowmobile on any town highway shall observe strictly all vehicular traffic signs and signals and all other rules and regulations applicable to vehicular traffic and shall obey the orders and directions of any state or local police or other law enforcement officer authorized to direct or regulate traffic and shall otherwise comply with the applicable provisions of Title D of the Parks, Recreation and Historic Preservation Law of the State of New York.\(^{33}\)

F. No person shall operate a snowmobile as herein stated under the age of sixteen (16) years.

G. A snowmobile operated pursuant to this chapter shall have its headlights and tail lights on at all times during operation.

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\(^{32}\)Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

\(^{33}\)Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

Failure to comply with any of the provisions of this chapter shall be deemed a violation, and the violator shall be liable to a fine of not less than five dollars ($5.) nor more than one hundred dollars ($100.).

§ 158-9. When effective.\(^{34}\)

This chapter shall take effect immediately upon its filing in accordance with the provisions of § 27 of the Municipal Home Rule Law; provided, however, that no snowmobile shall be operated under the provisions hereof until such time as the signs and markers are installed or constructed in accordance with Title D of the Parks, Recreation and Historic Preservation Law and the rules and regulations of the New York State Office of Parks and Recreation and the Department of Transportation.

Chapter 161

SOLAR ENERGY SYSTEMS AND EQUIPMENT

GENERAL REFERENCES

Building Code — See Ch. 83.  
Zoning — See Ch. 204.

§ 161-1. Purpose.

It is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life. The purpose of this chapter is to facilitate the development and operation of renewable energy systems based on sunlight. Solar energy systems are appropriate in all zoning districts when measures are taken, as provided in this chapter, to minimize adverse impacts on neighboring properties and protect the public health, safety and welfare. Solar farms should complement the municipality and its residents' way of life and not be solely a method to replace otherwise viable current or future use of property in the Town, for example, aesthetics of historically or culturally significant property or views, tillable or farm land, tree removal, impact upon future development in the area due to utility requirements for operation of the solar farm with commercially viable premises, as well as quality-of-life issues.


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

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34. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
ACCESSORY STRUCTURE — A structure, the use of which is customarily incidental and subordinate to the principal building, and which is located on the same lot or premises as the principal building.

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) SYSTEMS — A solar energy system that consists of integrating photovoltaic modules into the building structure, such as the roof or facade, and which does not alter the relief of the roof.

COLLECTIVE SOLAR — Solar installations owned collectively through subdivision homeowners' associations, college student groups, "adopt-a-solar-panel" programs, or other similar arrangements.

ENERGY STORAGE DEVICE — A device that stores energy from the sun or another source and makes it available for use.

FLUSH-MOUNTED SOLAR PANEL — Solar collector systems, panels, and tiles that are installed flush to the surface of a roof or wall of a principal and/or an accessory structure and which cannot be angled or raised for the direct conversion of solar energy into electricity.

FREESTANDING OR GROUND-MOUNTED SOLAR COLLECTOR SYSTEM — A solar collector system that is directly installed off the ground and is not attached or affixed to an existing structure, and used for the direct conversion of solar energy into electricity.

GLARE — The effect produced by light with intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

MAJOR SOLAR COLLECTION SYSTEM or SOLAR FARM — An area of land or other area used for a solar collection system principally used to capture solar energy and convert it to electrical energy to transfer to the public electric grid in order to sell electricity to or receive a credit from a public utility entity, but also may be for on-site use. Solar farm facilities consist of one or more freestanding ground- or roof-mounted solar collector devices, solar-related equipment and other accessory structures and buildings, including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

MINOR OR ACCESSORY SOLAR COLLECTION SYSTEM — A solar photovoltaic cell, panel, or array, or solar hot-air or -water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat, secondary to the use of the premises for other lawful purposes, with the total surface area of all solar collectors on the lot not to exceed 4,000 square feet.

NET-METERING — A billing arrangement that allows solar customers to get credit for excess electricity that they generate and deliver back to the grid so that they only pay for their net electricity usage at the end of the month.

PERMIT GRANTING AUTHORITY — The Town of Horseheads Code Enforcement Officer is the authority authorized to grant permits for the installation of alternative energy systems.
PHOTOVOLTAIC (PV) SYSTEMS — A solar energy system that produces electricity by the use of semiconductor devices, called "photovoltaic cells," that generate electricity whenever light strikes them.

ROOFTOP OR BUILDING-MOUNTED SOLAR COLLECTOR SYSTEM — A solar collector in which solar panels are mounted on top of a roof on a principal and/or an accessory structure, either as a flush-mounted system, for the direct purpose of converting solar energy into electricity.

SETBACK — The distance from a front lot line, side lot line, or rear lot line of a parcel within which a freestanding or ground-mounted solar energy system is installed.

SMALL-SCALE SOLAR COLLECTOR SYSTEM — A solar energy system that is designed and/or built to provide power for use by owners, lessees, tenants, residents, or other occupants of the premises on which it is erected, and is constructed for the sale of excess power through an arrangement in accordance with New York Public Service Law § 66-j or similar state or federal law or regulation.

SOLAR ARRAY — A group of multiple solar modules with purpose of harvesting solar energy.

SOLAR CELL — The smallest basic solar electric device which generates electricity when exposed to light.

SOLAR COLLECTOR — A solar 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 ENERGY EQUIPMENT/SYSTEM — Solar collectors, controls, energy devices, heat pumps, heat exchangers, and/or other materials, hardware or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation, and distributed. Solar systems include solar thermal, photovoltaic and concentrated solar.

SOLAR PANEL — A device for the direct conversion of solar energy into electricity.

SOLAR STORAGE BATTERY — A device that stores energy from the sun and makes it available in an electrical form.

SOLAR, GROUND OR POLE-MOUNTED SOLAR ARRAY — Any solar collector, controls, solar energy device, heat exchanger or solar thermal energy system which is directly installed on the ground and not affixed to an existing structure.

UTILITY-SCALE SOLAR COLLECTOR SYSTEM — A solar energy system that is designed and/or built to provide energy as an ongoing commercial enterprise, or for commercial profit, and designed to distribute energy generated to a transmission system for distribution to customers rather than for use on the site. A utility-scale solar use may include solar energy system equipment and uses, such as, but not limited to, supporting posts and frames, buildings and/or other structure(s), access drives, inverter
equipment, wires, cables and other equipment for the purpose of supplying electrical energy produced from solar technologies, whether such use is a principal use, a part of the principal use or an accessory use or structure.


A. Rooftop and building-mounted solar collectors are permitted in all zoning districts in the Town. Building permits shall be required for installation of rooftop and building-mounted solar collectors.

B. Ground-mounted and freestanding solar collectors are permitted as accessory structures in all zoning districts of the Town, subject to the following requirements:

1. The location of the solar collectors meets all applicable setback requirements for accessory structures of the zone in which they are located.

2. The height of the ground-mounted and freestanding solar collectors and any mounts shall not exceed 15 feet in any zone, when oriented at maximum tilt.

3. The total surface area of all solar collectors on the lot shall not exceed 4,000 square feet and, when combined with all other buildings and structures, including accessory structures, on the lot, shall not exceed 50% lot coverage.

4. A building permit has been obtained for the solar collectors.

5. The solar collectors are located in a side or rear yard.

6. Solar collectors and other facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjoining properties and roads.

C. Where site plan approval is required elsewhere in the regulations of the Town for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of proposed solar collectors.

D. All solar collector installations must be performed in accordance with applicable electrical and building codes, the manufacturer's installation instructions, and industry standards; and prior to operation the electrical connections must be inspected by the Town Code Enforcement Officer or by an appropriate electrical inspection person or agency, as determined by the Town. In addition, any connection to the public utility grid must be inspected by the appropriate public utility.

E. When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use, and when no longer used shall be disposed of in accordance with the
§ 161-4. Solar collectors and installations for major systems or solar farms.

A. Where applicable, and unless more-restrictive regulations also apply, the requirements of § 161-3 of this chapter shall apply to solar collectors and installations for major systems or solar farms, if applicable.

B. A major system or solar farm shall be constructed pursuant to a site plan permit from the Town Planning Board, pursuant to Article XIII of the Zoning Code of the Town, as the same may be amended from time to time, and must meet the criteria set forth below and obtain all other necessary approvals.

C. Areas of potential sensitivity:

   (1) Flood Hazard Zones A and AE on the FEMA Flood Maps, commonly referred to as "100-year flood hazard zones."

   (2) Historic and/or culturally significant resources in an historic district or historic district transition zone.

   (3) Within 100 feet landward of a freshwater wetland.

   (4) Adjoining to, or within, the control zone of any airport.

   (5) Clearing of one acre or more of land (stormwater regulations may apply).

   (6) Tillable land or farmland.

   (7) Area of potential housing or commercial development, other than major systems or solar farms, which may require access to similar utilities.

D. A major system or solar farm may be permitted in all zoning districts in the Town when authorized by site plan permit from the Planning Board, subject to the following terms and conditions:

   (1) Height and setback restrictions.

      (a) The maximum height for freestanding solar panels located on the ground or attached to a framework located on the ground shall not exceed 15 feet in height above the ground.

35. Editor's Note: See Ch. 204, Zoning.
(b) The minimum setback from front, side and rear property lines shall be 75 feet.

(2) Design standards.

(a) Removal of trees and other existing vegetation should be minimized or offset with planting elsewhere on the property.

(b) Roadways within the site shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction.

(c) All on-site utility and transmission lines shall, to the extent feasible, be placed underground.

(d) Solar collectors and other facilities shall be designed and located in order to prevent reflective glare toward any public roads and/or inhabited buildings on adjoining properties.

(e) All mechanical equipment, including any structure for batteries or storage cells, shall be enclosed by a minimum six-foot-high fence with a self-locking gate and provided with landscape screening.

(f) A landscaped buffer shall be provided around all equipment and solar collectors to provide screening from adjoining single-family homes located within 75 feet of the common boundary, which single-family homes shall have existed as of the date of approval of the site plan and public roads. The landscaped buffer shall be a minimum of six feet in height and located along the common boundary and be 200 feet in length. Existing foliage may remain to comply with this requirement.

(g) The developer shall provide a "proof of concept" letter from the utility company acknowledging the solar farm will be connected to the utility grid in order to sell electricity to the public utility.

(h) Impact of the development upon lands or property which may retain historical and/or cultural significance to the public at large.

(3) Signs.

(a) A sign not to exceed 16 square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number.

(b) Clearly visible warning signs concerning voltage must be placed at the base of all pad-mounted transformers and substations.

(4) Abandonment.
(a) All applications for a solar farm shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of the facility, prior to issuance of a building permit.

(b) If the applicant begins but does not complete construction of the project within 18 months after receiving final site plan approval, this may be deemed abandonment of the project and require implementation of the decommissioning plan to the extent applicable.

(c) The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, including, but not limited to, the following:


[3] Revegetation of restored soil areas with native seed mixes, excluding any invasive species.

[4] The plan shall include a time frame for the completion of site restoration work.

(d) In the event the facility is not completed and functioning within 18 months of the issuance of the final site plan approval, the Town may notify the operator and/or the owner to complete construction and installation of the facility within 180 days. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of notification by the Town.

(e) Upon cessation of activity of a constructed facility for a period of 12 months, the Town may notify the owner and/or operator of the facility to implement the decommissioning plan. Within 180 days of notice being served, the owner and/or operator can either restore operation equal to 80% of approved capacity or implement the decommissioning plan.

(f) If the owner and/or operator fails to fully implement the decommissioning plan within the 180-day time period, the Town may, at its discretion, provide for the restoration of the site in accordance with the decommissioning plan and may recover all expenses incurred for such activities from the defaulted property owner and/or operator. The cost incurred by the Town may be assessed against the property, shall become a lien and tax upon the property, and shall be enforced
§ 166-1. Purpose.

The purpose of this chapter is to establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public residing within this jurisdiction and to address the findings of fact in § 166-3 hereof. This chapter seeks to meet those purposes by achieving the following objectives:

A. Meet the requirements of Minimum Measures 4 and 5 of the SPDES general permit for stormwater discharges from municipal separate stormwater sewer systems (MS4s), Permit No. GP-02-02 or as amended or revised;

B. Require land development activities to conform to the substantive requirements of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) general permit for construction activities GP-02-01 or as amended or revised;

C. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature, and streambank erosion and maintain the integrity of stream channels;

D. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;

E. Minimize the total annual volume of stormwater runoff that flows from any specific site during and following development to the maximum extent practicable; and
§ 166-2. 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 Horseheads has the authority to enact local laws and amend local laws and for the purpose of promoting the health, safety or general welfare of the Town of Horseheads and for the protection and enhancement of its physical environment. The Town Board may include in any such local law provisions for the appointment of any municipal officer, employees, or independent contractor to effectuate, administer and enforce such local law.

§ 166-3. Findings of fact.

It is hereby determined that:

A. Land development activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion, or sediment transport and deposition;

B. This stormwater runoff contributes to increased quantities of waterborne pollutants, including siltation of aquatic habitat for fish and other desirable species;

C. Clearing and grading during construction tend to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;

D. Improper design and construction of stormwater management practices can increase the velocity of stormwater runoff, thereby increasing streambank erosion and sedimentation;

E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;

F. Substantial economic losses can result from these adverse impacts on the waters of the Town;

G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;

H. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion, and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety;
§ 166-4. Applicability.

A. This chapter shall be applicable to all land development activities as defined in this chapter.

B. The Town shall, from time to time, designate a Stormwater Management Officer, who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may:

(1) Review the plans;

(2) Upon approval by the Horseheads Town Board, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board; or

(3) Accept the certification of a licensed professional that the plans conform to the requirements of this chapter.

C. All land development activities subject to review and approval by the Town of Horseheads Town Board, Planning Board, or Zoning Board or Appeals under subdivision, site plan or special permit regulations or other local law, resolution, ordinance or regulation of the Town shall be reviewed subject to the standards contained in this chapter.

D. All land development activities not subject to review as stated in Subsection C shall be required to submit a stormwater pollution prevention plan (SWPPP) to the Stormwater Management Officer, who shall approve the SWPPP if it complies with the requirements of this chapter.

§ 166-5. Exemptions.

The following activities may be exempt from review under this chapter:

A. Agricultural activity as defined in this chapter.

B. Logging activity undertaken pursuant to an approved timber management plan prepared or approved by the County Soil and Water Conservation District or the New York State Department of Environmental Conservation, except that landing areas and log haul roads are subject to this chapter.

C. Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or the original purpose of a facility.
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D. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer.

E. Any part of a subdivision if a plat for the subdivision has been approved by the Town of Horseheads Planning Board on or before the effective date of this chapter.

F. Land development activities for which a building permit has been approved on or before the effective date of this chapter.

G. Cemetery graves.

H. Installation of fence, sign, telephone, and electric poles and other kinds of posts or poles.

I. Emergency activity immediately necessary to protect life, property or natural resources.

J. Activities of an individual engaging in home gardening by growing flowers, vegetables and other plants primarily for use by that person and his or her family.

K. Landscaping and horticultural activities in connection with an existing structure.

§ 166-6. Definitions.

A. Except where specifically defined herein, all words used in these regulations shall have their customary meaning.

B. The following specific words and terms used in these regulations shall have the meanings indicated:

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 an agent of a property owner who has filed an application for a land development activity.

BUILDING — Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

CHANNEL — A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING — Any activity that removes the vegetative surface cover.

DEDICATION — The deliberate appropriation of property by its owner for general public use.
DEPARTMENT — The New York State Department of Environmental Conservation.

DESIGN MANUAL — The New York State Stormwater Management Design Manual, the most recent version, including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

DEVELOPER — A person who undertakes land development activities.

EROSION CONTROL MANUAL — The most recent version of the New York Standards and Specifications for Erosion and Sediment Control manual, commonly known as the "Blue Book."

GRADING — Excavation or fill of material, including the resulting conditions thereof.

IMPERVIOUS COVER — Those surfaces, improvements and structures that cannot effectively be infiltrated by rainfall, snowmelt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

INDUSTRIAL STORMWATER PERMIT — A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INfiltrATION — The process of percolating stormwater into the subsoil.

JURISDICTIONAL WETLAND — An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

LAND DEVELOPMENT ACTIVITY — Construction activity, including clearing, grading, excavating, soil disturbance or placement of fill, that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

LANDOWNER — The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

MAINTENANCE AGREEMENT — A legally recorded document which acts as a property deed restriction and which provides for 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, silvicultural, mining, construction, subsurface disposal and urban runoff sources.
PHASING — Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

POLLUTANT OF CONCERN — Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

PROJECT — Land development activity.

RECHARGE — The replenishment of underground water reserves.

SEDIMENT CONTROL — Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS — Cold-water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, and habitats for threatened, endangered or special-concern species.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01 — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate the disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02 — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards.

STABILIZATION — The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER — An order issued which requires that all construction activity on a site be stopped.

STORMWATER — Rainwater, surface runoff, snowmelt and drainage.

STORMWATER HOT SPOT — A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

STORMWATER MANAGEMENT — The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY — One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER — An employee or officer designated by the Town to accept and review stormwater pollution
prevention plans, forward the plans to the applicable municipal board and inspect 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 on the surface of the ground, resulting from precipitation.

SURFACE WATERS OF THE STATE OF NEW YORK — Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, 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), that 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 that were originally neither created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

WATERCOURSE — A permanent or intermittent stream or other body of water, either natural or man-made, that gathers or carries surface water.

WATERWAY — A channel that directs surface runoff to a watercourse or to the public storm drain.

§ 166-7. Stormwater pollution prevention plans.

A. Requirement. No application for approval of a land development activity shall be reviewed until the appropriate board has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications in this chapter.

B. Contents of stormwater pollution prevention plans.

(1) All SWPPPs shall provide the following background information and erosion and sediment controls:

(a) Background information about the scope of the project, including location, type and size of project;
(b) Site map/construction drawing(s) for the project at a scale no smaller than one inch equals 100 feet, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);

(c) A description of the soil(s) present at the site;

(d) A construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP;

(e) A description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;

(f) A description of construction and waste materials expected to be stored on site, with updates as appropriate, and a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;

(g) 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 closeout;

(h) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice at a scale no smaller than one inch equals 50 feet;

(i) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;

(j) Temporary practices that will be converted to permanent control measures;

(k) An implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and the duration that each practice should remain in place;
(l) A maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
(m) The name(s) of the receiving water(s);
(n) Delineation of SWPPP implementation responsibilities for each part of the site;
(o) A description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
(p) Any existing data that describes the stormwater runoff at the site.

(2) Land development activities meeting Condition A, B or C below shall also include water quantity and water quality controls (postconstruction stormwater runoff controls) as set forth in Subsection B(3).

(a) Condition A: stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a total-maximum-daily-load (TMDL)-designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
(b) Condition B: stormwater runoff from land development activities disturbing five or more acres.
(c) Condition C: stormwater runoff from construction activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.

(3) SWPPP requirements for Conditions A, B and C are as follows:

(a) All information in § 166-7B(1) of this chapter;
(b) A description of each postconstruction stormwater management practice;
(c) A site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction stormwater management practice at a scale no smaller than one inch equals 50 feet;
(d) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
(e) A comparison of postdevelopment stormwater runoff conditions with predevelopment conditions;

(f) Dimensions, material specifications and installation details for each postconstruction stormwater management practice;

(g) A maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice;

(h) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;

(i) An inspection and maintenance agreement binding on all subsequent landowners served by the on site stormwater management measures in accordance with § 166-9D of this chapter.

C. Plan certification. The SWPPP shall be prepared by a landscape architect, certified professional, or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this chapter.

D. Other environmental permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

E. Contractor certification.

(1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the stormwater pollution prevention plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

(2) The certification must include the name and title of the person providing the signature; address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.

(3) The certification statement(s) shall become part of the SWPPP for the land development activity.
§ 166-8. Performance and design criteria.

All land development activities shall be subject to the following performance and design criteria:

A. Technical standards. For the purpose of this chapter, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this 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").

B. Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.


A. Maintenance during construction.

(1) The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

(2) The applicant or developer or his or her representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices. Inspection reports shall be completed every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. The reports shall be delivered to the Stormwater Management Officer and also copied to the site logbook.
B. Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The casement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Horseheads to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the Counsel for the Town of Horseheads.

C. Maintenance after construction. Permanent stormwater management practices installed in accordance with this chapter shall be operated and maintained by the owner or operator to achieve the goals of this chapter. Proper operation and maintenance also 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) that are installed or used by the owner or operator to achieve the goals of this chapter.

2. Written procedures for operation and maintenance and training new maintenance personnel.

3. Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § 166-8B.

D. Maintenance agreements. The Town of Horseheads shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this chapter entitled "Sample Stormwater Control Facility Maintenance Agreement." The Town of Horseheads, in lieu of a maintenance agreement, at its sole discretion, may accept dedication of any existing or future stormwater management facility, provided that such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

§ 166-10. Construction inspection.

A. Erosion and sediment control inspection.

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36 Editor's Note: Schedule B is included at the end of this chapter.
The Town of Horseheads Stormwater Management Officer may require such inspections as necessary to determine compliance with this chapter and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this chapter and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Town of Horseheads enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:

(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.

If any violations are found, the applicant and developer shall be notified, in writing, of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

B. Stormwater management practice inspections. The Town of Horseheads Stormwater Management Officer is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit as-built plans for any stormwater management practices located on site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

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. [Inspections may be performed by local government staff, or the local government may designate an inspector required to have a professional engineer's (PE) license or a certified professional in erosion and sediment control (CPESC) certificate, as long as the designated inspector is required to submit a report.]

D. Submission of reports. The Town of Horseheads Stormwater Management Officer may require monitoring and reporting from entities subject to this chapter as are necessary to determine compliance with this chapter.

E. Right-of-entry for inspection When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public stormwater system, the landowner shall grant to the Town of Horseheads the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Subsection C.


A. Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Horseheads in its approval of the stormwater pollution prevention plan, the Town of Horseheads may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of Horseheads as the beneficiary. The security shall be in an amount to be determined by the Town of Horseheads based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town of Horseheads, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility or facilities have been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the Town of Horseheads. Per-annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.

B. Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town of Horseheads with an irrevocable letter of credit
from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of Horseheads may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

C. Recordkeeping. The Town of Horseheads may require entities subject to this chapter to maintain records demonstrating compliance with this chapter.

§ 166-12. Enforcement; penalties for offenses.

A. Notice of violation. When the Town of Horseheads determines that a land development activity is not being carried out in accordance with the requirements of this chapter, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

(1) The name and address of the landowner, developer or applicant;

(2) The address, when available, or a description of the building, structure or land upon which the violation is occurring;

(3) A statement specifying the nature of the violation;

(4) A description of the remedial measures necessary to bring the land development activity into compliance with this chapter and a time schedule for the completion of such remedial action;

(5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;

(6) A statement that the determination of violation may be appealed to the Town by filing a written notice of appeal within 15 days of service of the notice of violation.

B. Stop-work orders. The Town of Horseheads may issue a stop-work order for violations of this chapter. Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Town of Horseheads confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this chapter.

C. Violations. Any land development activity that is commenced or is conducted contrary to this chapter, may be restrained by injunction or otherwise abated in a manner provided by law.
§ 166-12. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine not exceeding $350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than $350 nor more than $700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than $700 nor more than $1,000 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors, and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

E. Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this chapter, the Stormwater Management Officer may prevent the occupancy of said building or land.

F. Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Horseheads may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

§ 166-13. Fees for services.

The Town of Horseheads may require any person undertaking land development activities regulated by this chapter to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Town of Horseheads or performed by a third party for the Town of Horseheads.


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.

Chapter 169

STREETS AND SIDEWALKS
ARTICLE I
Notification of Defects
[Adopted 7-12-1995 as L.L. No. 4-1995]

§ 169-1. Written notice of defects required.
No civil actions shall be maintained against any town or Town Superintendent of Highways for damages or injuries to person or property sustained by reason of any highway, bridge, street, sidewalk, crosswalk or culvert being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous or obstructed condition of such highway, bridge, street, sidewalk, crosswalk 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. No such action shall be maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, street, sidewalk, crosswalk 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 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.

§ 169-2. Presentation of notices to Town Board.
The Town Superintendent of Highways shall transmit in writing to the Town Clerk within five (5) days after the receipt thereof all written notices received pursuant to this chapter and Subdivision 2 of § 65-a of the Town Law. The Town Clerk shall cause all written notices received pursuant to this chapter and Subdivision 2 of § 65-a of the Town Law to be presented to the Town Board within five (5) days of the receipt thereof or at the next succeeding Town Board meeting, whichever shall be sooner.

This chapter shall supersede in its application to the Town of Horseheads Subdivisions 1 and 3 of § 65-a of the Town Law.
Chapter 175
SUBDIVISION OF LAND

GENERAL REFERENCES

Building Code administration — See Ch. 83.
Driveways — See Ch. 95.
Flood damage prevention — See Ch. 111.

Stormwater management and erosion and sediment control — See Ch. 166.
Zoning — See Ch. 204.
§ 175-1. Title.

This chapter shall be known as the "Subdivision Regulation of the Town of Horseheads."

§ 175-2. Purpose.

These regulations are enacted for the following purposes and for such other purposes as may be authorized by law and the Town Board of the Town of Horseheads:

A. To regulate the subdivision of land in a manner which will result in the orderly growth and development of the Town of Horseheads.

B. To assure the provision of municipal services and facilities for housing, distribution, vehicular and pedestrian traffic and outdoor space suitable for parks, playgrounds or other recreational uses.

C. To establish minimum standards by which land in the Town of Horseheads is to be subdivided and to ensure that such land is of a type which can be used for building purposes without endangering the public health, safety and general welfare.

§ 175-3. Definitions.

A. Except where specifically defined herein, all words used in these regulations shall have their customary meaning.

B. The following specific words and terms used in these regulations shall have the meanings indicated:

DATE OF APPROVAL OF FINAL PLAT — The date on which official action approving or conditionally approving the final plat is taken by the Planning Board.

DATE OF SUBMISSION OF FINAL PLAT — The date on which a subdivider submits a final plat of all or a portion of the subdivision with all the data, documentation and approvals required by these regulations to the Chairperson of the Planning Board for consideration by the Planning Board.

DATE OF SUBMISSION OF PRELIMINARY PLAT — The date on which a subdivider submits a preliminary plat and supporting data to the Chairperson of the Planning Board for consideration by the Planning Board.

169:201
DATE OF SUBMISSION OF SKETCH PLAN — The date of the regular meeting of the Planning Board immediately following the date on which a subdivider submits a sketch plan for classification by the Planning Board in accordance with Article II, § 175-6A, of these regulations.

FINAL PLAT — A map or drawing in final form showing all or a portion of the subdivision, containing all supporting information, documentation and approvals required by Article III, § 175-14, of these regulations which shall be submitted to the Planning Board for action and which, if approved, shall be endorsed by the Planning Board and filed or recorded by the applicant in the office of the County Clerk in accordance with the provisions of Article II, § 175-9, of these regulations. After filing of said map with the County Clerk, a copy of said receipted map as filed shall be filed with the Town of Horseheads Building Inspector, showing case map reference number.

INSPECTION OFFICER — That person designated by the governing body to make the inspections, approvals and determinations stipulated in these regulations.

LAND DEVELOPMENT ACTIVITY — Construction activity, including clearing, grading, excavating, soil disturbance or placement of fill, that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.[Added 9-14-2005 by Res. No. 107-2005]

LOT — Any plot, parcel, tract or site of land separated from other plots, parcels, tracts or sites by description as on a subdivision map or survey or by deed description or by metes and bounds for the purpose of sale, lease, donation or separate use.

PERFORMANCE GUARANTY — A form of security as required by law, approved by the Planning Board and acceptable to the Town Board, guaranteeing that all improvements shall be made by the subdivider in compliance with such conditions as may be approved by the Planning Board.

PRELIMINARY PLAT — Any drawing(s) of the proposed subdivision, clearly marked "preliminary plat" and showing the information specified in Article III, § 175-13, of these regulations and any other supplementary information requested by the Planning Board in its action on the sketch plan.

SKETCH PLAN — Any drawing(s) of the proposed subdivision showing the information specified in Article III, § 175-12, of these regulations and of sufficient accuracy and detail to be submitted to the Planning Board for the purpose of discussion and classification in accordance with the provisions of Article II, § 175-6.

SUBDIVIDER — Any person, firm, corporation, partnership, association or agent of the same who shall lay out or propose any subdivision of
land for the purpose of transfer of ownership or development, either immediate or future.

SUBDIVISION — The division of any tract or parcel of land, with the exception of cemeteries and mobile home parks, into two or more lots, parcels, tracts or sites, with or without the creation of new streets, for immediate or future transfer of ownership, whether or not new building or development is to occur. The term "subdivision" shall include resubdivision in whole or in part of any lot, parcel, tract or site, filed or unfiled, which is entirely or partially undeveloped.

(1) MINOR SUBDIVISION — The subdivision of any tract or parcel of land into more than two but fewer than six lots, parcels, tracts or sites to be used for residential purposes and fronting on an existing street, not involving any new street or road or the extension of any municipal facilities, not adversely affecting the development of the remainder of the property or of adjoining parcels and not in conflict with the Comprehensive Plan or Chapter 204, Zoning, of the Code of the Town of Horseheads.

(2) MAJOR SUBDIVISION — Any subdivision not classified as a minor subdivision, including subdivisions of:

(a) Three or more lots.

(b) Any subdivision requiring any new street or road.

(c) The extension of municipal facilities.
ARTICLE II

Procedure

§ 175-4. Purpose.

The purpose of this Article is to set forth for the guidance of the subdivider the actions which shall be taken whenever land is to be subdivided or resubdivided in the Town of Horseheads before any contract for the sale of a lot or lots in such subdivision is made and before any permit for the erection of a structure in such proposed subdivision is granted.

§ 175-5. Informal consideration.

Prior to developing detailed plans or submitting a sketch plan of a subdivision for approval, the subdivider may discuss with the Planning Board the scope and nature of the proposed subdivision. The purpose of such a meeting is to afford an opportunity for informal consultation with the Planning Board in order to conserve time and expense for the subdivider and create an opportunity for achievement of a desirable subdivision in the public interest.

§ 175-6. Sketch plan.

A. Prior to subdividing or resubdividing land, the subdivider shall submit to the Planning Board a written request for approval and four copies of a sketch plan of the proposed subdivision prepared in accordance with the requirements of § 175-12 of these regulations. Such written request and sketch plan shall be submitted at least 10 days prior to the regular meeting of the Planning Board at which it is to be considered.

B. The subdivider or his or her authorized representative shall attend the meeting of the Planning Board to discuss the requirements of these regulations as well as zoning requirements, existing and proposed private and public developments which might affect the proposed subdivision and other pertinent information. Possible changes in the plan should be discussed if the proposed subdivision does not meet the objectives and standards of these regulations or if the quality of the development might be improved, taking into consideration the character of the development and the area in which it is located. The Planning Board, before acting on any sketch plan, may require the subdivider to submit any additional information deemed necessary. Classification of the sketch plan as to whether it is a minor or major subdivision as defined in § 175-3B of these regulations shall be made within 10 days of the date of submission of the sketch plan.

C. If the sketch plan has been classified as a minor subdivision and has received any required Board of Health approval for underground sewage disposal systems, the Planning Board may waive the requirement for submission of a preliminary plat and require only a final plat. When the waiver is granted, the Planning Board shall establish a date for a public hearing on the proposed subdivision. If
a waiver of the preliminary plat submission is granted, the subdivider shall comply with §175-8 of these regulations regarding final plat approval. If no waivers are granted, the subdivider shall comply with the provisions of §§175-7 and 175-8 of these regulations regarding preliminary plat and final plat approval and public hearing.

D. When a public hearing is required in accordance with §175-6C of these regulations, the Planning Board shall, within 62 days from the date of the public hearing, approve, with or without modification, or disapprove the sketch plan for a minor subdivision. Such action may be taken at either a regular or a special meeting and the Planning Board shall notify the subdivider of the action within 10 days of such meeting. Grounds for requiring modification or for disapproval of any sketch plan shall be entered on the records of the Planning Board and attached to each copy of the sketch plan. Upon approval or approval with modification, each copy of the sketch plan shall be endorsed and dated by the chairperson of the Planning Board or the member acting in his or her place.

E. Of the four copies received, two copies of the final plat shall be returned to the subdivider, one of which shall be filed with the County Clerk within 60 days of the date of Planning Board's endorsement; one copy shall be transmitted to the Town Board; and one copy retained for the Planning Board files. Failure to file with the County Clerk by the subdivider within the allotted time shall make the Planning Board approval null and void. No building permits shall be issued until said plat plan is filed with the County Clerk.

F. After a subdivider has submitted one minor subdivision to the Planning Board for approval, the Board, when it deems it necessary for the protection of the public health, safety or general welfare, shall classify any subsequent subdivision on the same street, or on an intersecting street, submitted by said subdivider as a major subdivision. If the sketch plan is classified as a major subdivision, the subdivider shall comply with the requirements of §§175-7, 175-8 and 175-9 of these regulations.

§ 175-7. Preliminary plat.

A. Within 60 days following approval or conditional approval of the sketch plan for a major subdivision, the subdivider shall submit to the Planning Board a written request for approval and four copies of a preliminary plat and such supplementary material as may be required in accordance with §175-13 of these regulations. Such written request and preliminary plat shall be clearly marked "preliminary plat" and shall be submitted at least 10 days prior to the regular meeting of the Planning Board at which it is to be considered.

B. The subdivider or his or her authorized representative shall attend the meeting of the Planning Board to discuss compliance with these regulations and with any conditions which may have been attached to the sketch plan. In the case of any noncompliance, the Planning Board
Board shall return the plat drawing to the subdivider for the purpose of bringing it into compliance unless a variance has been granted.

C. Before acting on the proposed preliminary plat, the Planning Board shall hold a public hearing within 62 days from the date of submission. This hearing shall be advertised in a newspaper of general circulation in the town at least five days before such hearing as required by law.

D. Within 62 days from the date of such public hearing, the Planning Board shall take action to approve, with or without modifications, or disapprove such preliminary plat, and the grounds for any modifications required or the grounds for disapproval shall be stated upon the records of the Planning Board. In the event that the Planning Board fails to take action on the preliminary plat within the specified time, such plat shall be deemed to have received preliminary approval. The time for action may be extended by mutual agreement between the subdivider and the Planning Board.

E. When granting approval of a preliminary plat, the Planning Board shall state the conditions, if any, of such approval with respect to:

(1) Specific changes which will be required in the final plat.

(2) The character and extent of required improvements for which waivers have been requested and which in its opinion may be waived without jeopardy to the public health, safety, morals and general welfare.

(3) The extent of improvement or the amount of bonds or guaranties therefor which it will require as prerequisite to approval of the final plat.

F. The action of the Planning Board, plus any conditions attached thereto, shall be noted on or attached to all copies of the preliminary plat. Within five days of approval of such preliminary plat it shall be certified as approved by the Chairperson of the Planning Board. one copy shall be returned to the subdivider; one retained by the Planning Board; and one sent to the Town Board.

G. Referral to county agencies.

(1) Referral of preliminary plats to the Chemung County Planning Board and the Chemung County Highway Department shall be made, if applicable, in compliance with § 239-k of the General Municipal Law.

(2) Referral of preliminary plats to the Chemung County Planning Board shall be made, if applicable, in compliance with § 239-n of the General Municipal Law.

H. Approval of the preliminary plat shall not constitute final approval of the proposed subdivision but shall be considered as general approval of the design and notice to proceed with the preparation of the final
plat. Prior to approval of the final plat, the Planning Board may require additional changes as a result of further study of the subdivision in its final form or as a result of new information obtained.

§ 175-8. Final plat.

A. Within six months from the date of approval of the preliminary plat, the subdivider shall submit to the Planning Board a written request for approval and four copies of the final plat and all supporting documents in accordance with the requirements of § 175-14 of these regulations. These submissions shall be accompanied by a fee in an amount as set forth from time to time by resolution of the Town Board, paid to the Town Clerk. All material is to be submitted at least 10 days prior to the Planning Board meeting at which the final plat is to be considered. If the final plat is not submitted within six months after conditional approval of the preliminary plat, the Planning Board may extend the time for submission or refuse to consider the final plat and require resubmission of the preliminary plat.

B. The final plat shall conform substantially to the preliminary plat as approved by the Planning Board. If the subdivider so desires, the final plat may consist of only that portion of the subdivision which is to be developed and recorded at that time, provided that such portion contains at least 10% of the lots in the entire subdivision and conforms to all the requirements of these regulations.

C. The Planning Board shall hold a second public hearing on the proposed subdivision within 62 days of the time of submission of the final plat. This hearing shall be advertised in a newspaper of general circulation in the Town of Horseheads at least five days before the hearing. When the Planning Board determines that the final plat is in substantial agreement with the approved preliminary plat and any conditions imposed thereon, it may waive the second public hearing required by this section.

D. The Planning Board shall act on a final plat within 62 days of the date of the second public hearing or, if such public hearing is waived, within 62 days from the date of submission of said final plat, approving the plats submitted, conditionally approving it subject to modification or disapproving it with the grounds for modification or disapproval entered on the records of the Planning Board. Such action of the Board, including the grounds for modification or disapproval, shall be noted on or attached to all copies of the final plat. The resolution to approve a final plat, with or without conditions, shall authorize endorsement of said plat when any conditions, as stated in the resolution, have been complied with and all proposed improvements have been completed or appropriate guaranties of completion have been accepted by the Town Board. The time for action on a final plat may be extended by mutual agreement between the subdivider and the Planning Board.

A. Within 180 days after the Planning Board has approved or conditionally approved the final plat or a section of it and conditions have been met and improvements made or suitably guaranteed in accordance with § 175-28 of these regulations, the plat or section thereof shall be endorsed by the Chairperson of the Planning Board or a duly authorized member acting in the Chairperson's place. Such endorsement shall constitute final approval by the Planning Board. Approval or conditional approval of any plat or section shall expire if it has not been endorsed within said one-hundred-eighty-day period. The Planning Board may extend the time period within which a conditionally approved plat must be submitted for endorsement, but such extension shall not exceed two ninety-day periods.

B. Two copies of the endorsed plat or section thereof shall be returned to the subdivider, one of which must be filed with the County Clerk within 62 days from the date of endorsement or certification of Planning Board failure to act (see § 175-8F). Any plat or section not so filed by the subdivider shall be null and void. The Planning Board shall retain one copy of the endorsed plat for its files and transmit one copy to the Town Board. Amended 9-14-2005 by Res. No. 107-2005]

C. No plat or section thereof shall be accepted for filing by the County Clerk unless it has been duly endorsed by the Planning Board in accordance with this section.

D. No plat or section thereof shall be in any way altered or revised after it has been given approval and has been properly endorsed in accordance
with this section. Such alterations or revisions shall cause said plat to be null and void.

E. In the event that the subdivider elects to file the approved final plat with the County Clerk in sections, the entire approved plat shall be filed with the Town Clerk within 30 days of filing of the first section with the County Clerk. The remaining sections of the plat shall be endorsed and filed with the County Clerk within two years of the date of filing of the first section or be null and void unless said time is extended by resolution of the Planning Board and so noted on said final plat.

§ 175-10. Notices to property owners.

In any public hearing requested, however, the subdivider shall send notice of the same to all property owners within 500 feet of the boundaries of the lot or lots under consideration. Such notice shall be by mail and shall state the time and day of the public hearing, the relief sought, the type of use contemplated, the subdivider’s name and the location of the property in question. Such notices shall be mailed so as to arrive at least five days prior to the public hearing date and an affidavit or service filed with the Planning Board on the date of said public hearing.
ARTICLE III
Plan Details

§ 175-11. Purpose.
The purpose of this article is to establish a uniform format for the submission of all subdivisions and to specify the information which is to be included on all subdivision submissions.

§ 175-12. Sketch plan.
The following information shall be submitted to the Planning Board with all sketch plans:

A. An accurate base map at a scale no smaller than 100 feet to the inch showing:

   (1) The location of the proposed subdivision in relation to the surrounding area.

   (2) The name, if any, of the proposed subdivision.

   (3) The name of the owner of record, subdivider and all adjoining property owners. (If the owner and subdivider are not the same person, a written statement from the owner shall be submitted indicating concurrence with the intent to subdivide.)

   (4) Existing streets and utility rights-of-way.

   (5) All existing structures and natural features, including streams, water bodies, large trees and wooded areas; ditches, swales and other drainage facilities; and other significant physical features. If topographic conditions are significant, contours shall also be indicated at intervals of not more than 10 feet. [Amended 9-14-2005 by Res. No. 107-2005]

   (6) All existing restrictions on the use of the land, including easements, covenants and zoning boundaries.

   (7) A sketch drawing of the proposed layout of streets, lots, easements and any other features, indicating the dimensions and area of each lot and the general location and width of street and easement rights-of-way. The sketch plan shall also indicate the scale, date, North arrow and total acreage of the proposed subdivision.

   (8) General information regarding proposed water supply and sewage treatment facilities. Where connection with a public sewer is not contemplated, a Board of Health report on the proposed sewage disposal system shall be submitted.

B. Such other information as may have been requested by the Planning Board at the time of informal consideration of the proposed subdivision.

The following information, in addition to all information required by § 175-12 of these regulations, shall be submitted to the Planning Board with all preliminary plats:

A. Zoning restrictions, including boundary lines if more than one district is involved and any proposed variances which may be approved by the Planning Board in accordance with Article VII of these regulations.

B. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.

C. The location of existing sewers, water mains, culverts and drains on the property with direction of flow indicated.

D. The approximate location and size of all proposed waterlines and sewer lines with connection to existing lines shown or alternate means of water supply and sewage disposal and treatment indicated.

E. A stormwater pollution prevention plan as described in Chapter 166, Stormwater Management and Erosion and Sediment Control. The Chemung County Soil and Water Conservation District shall be consulted and a copy of its report included. [Amended 9-14-2005 by Res. No. 107-2005]

F. The width, location, approximate grades and names of all proposed streets or public ways.

G. The type and location of any proposed sidewalks, streetlights, trees and other landscaping materials, curbs and any bridges or culverts which may be required.

H. Such other information as may have been requested by the Planning Board at the time of approval of the sketch plan.

§ 175-14. The final plat.

The following information, in addition to all information required by § 175-13 of these regulations, as finalized for the final plans and approved by the Town Planning Board, shall be submitted to the Planning Board with all final plats:

A. An accurate base map at a scale no smaller than 100 feet to the inch clearly and legibly drawn in black, waterproof ink on tracing cloth or other permanent material, the basis for which shall be an actual field survey of the proposed subdivision giving complete descriptive data by bearings and distances made and certified to by a licensed land surveyor and/or professional engineer and showing:

   (1) The name and location of the proposed subdivision, the name and address of the owner of record and subdivider and the name,
license number and seal of the licensed professional engineer or land surveyor.

(2) Boundary lines of the proposed subdivision or that portion of it being submitted for final approval.

(3) The scale, date and North arrow.

(4) Street lines, pedestrianways, easements and areas to be dedicated to public use.

(5) Sufficient data acceptable to the Town Highway Superintendent to determine the location, bearing and length of every street line, lot line and boundary line.

(6) Property lines of all lots with accurate dimensions, bearings or angles and radii and arcs of all curves.

(7) All public open spaces and those spaces to which the subdivider reserves title. For any of the latter, copies of agreements or other documents showing the manner in which such areas are to be maintained and the provisions made therefor.

(8) Lots and blocks within the proposed subdivision, numbered and lettered in accordance with prevailing local practice.

(9) The location of all required permanent monuments.

(10) Existing and proposed grades. Contours shall be at intervals of not more than two feet.

(11) Proposed basement floor elevations.

(12) Indications where each lot drainage is taken and disposed of.

B. Detailed drawings showing the profile and cross section of all proposed streets.

C. Formal offers of cession to the public of all streets, highways, parks or other open spaces not specifically reserved to the owner.

D. County Board of Health certification of the subdivision or that portion thereof submitted for final approval.

E. A statement from the Town Highway Superintendent that all required improvements have been installed in accordance with approved specifications and specifications of other appropriate authority with his or her cooperation. Prior to said certification, the subdivider shall have his or her engineer certify relative to the installations of said improvements pursuant to said specifications.

F. A statement from the Town Attorney that the forms of all deed transfers, easements and offers of cession are satisfactory. A certificate shall be filed by the subdivider's attorneys that said deeds, easements
and offers of cession are such that the title thereto is marketable, free and clear of all liens and encumbrances and the town will have good and marketable title thereto.

G. A copy of any deed restrictions applicable to said subdivision and certifications that said restrictions shall be filed with the subdivision map.

H. Such other provisions as may be applicable thereto pursuant to any law, rule or regulation.
ARTICLE IV
Design Standards

§ 175-15. Purpose.

The purpose of this article is to establish design principles and minimum standards which shall be applied to the subdivision of any land in the Town of Horseheads. These principles and standards are intended to promote and ensure sound, consistent, efficient and safe long-range development throughout the town. All subdividers in the Town of Horseheads shall observe the following requirements and guiding principles of land subdivision in the design of each subdivision or portion thereof.


A. Subdivision plats shall be designed so as to promote efficient and beneficial land development patterns within the town. Plats shall conform to the proposals and conditions shown on the Comprehensive Plan, Official Map, and Chapter 204, Zoning. Streets, drainage rights-of-way, school sites, public playgrounds and open spaces shown on any Comprehensive Plan of the town shall be considered in review of subdivision plats.

B. Land to be subdivided for residential occupancy shall not be subject to flooding (i.e., it shall not be land known to be flooded periodically) or other hazards to health and safety, as hereinafter stated.

§ 175-17. Natural features.

A. All natural features such as streams, hilltops, trees and views shall be preserved in designing and laying out any subdivision containing such features.

B. No topsoil shall be removed from the subdivision for sale, nor shall filling of streams or natural drainageways be permitted. Trees and soil may be removed or altered only for the purposes of creating a usable building site or improving the flow of water to drainageways.

C. No land development activity may be undertaken without the approval of a stormwater pollution prevention plan by the Town of Horseheads. [Added 9-14-2005 by Res. No. 107-2005]


A. The layout of new streets in any subdivision shall be such as to provide for the extension of existing streets and utilities and shall take into consideration topography, drainage, views, public convenience and safety and the proposed uses of the land to be served by such streets.

Editor's Note: The Official Map is on file in the Town offices.
B. Secondary streets and local streets shall be designed to discourage through traffic.

C. When a subdivision abuts or contains an existing or proposed primary street (such as a state highway or any road that carries a large volume of fast-moving traffic) the Planning Board may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line (see illustration 38) or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

D. Street right-of-way widths shall not be less than the following:

<table>
<thead>
<tr>
<th>Type of Street</th>
<th>Width (feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary</td>
<td>60</td>
</tr>
<tr>
<td>Secondary</td>
<td>50</td>
</tr>
<tr>
<td>Local</td>
<td>50</td>
</tr>
</tbody>
</table>

E. In general, all streets shall be centered in the right-of-way. Street grades shall not exceed 6% for primary streets and 6% for secondary and local streets without approval of the Town Planning Board. No street shall have a grade of less than 0.5%.

F. Horizontal and vertical curves shall be designed with a minimum radius of 150 feet to provide a safe sight distance.

G. Permanent dead-end streets shall not be longer than six times the minimum frontage required by Chapter 204, Zoning. All permanent dead-end streets shall provide a turnaround at the end with a paved radius of not less than 30 feet. Streets which are to be continued at a later date shall provide a temporary turnaround as approved by the Town Highway Superintendent.

H. If a subdivision shows reserve strips at the end of streets controlling access to adjacent land, control of such reserve strips shall be placed in the governing body under conditions approved by the Planning Board. (See illustrations. 39)

I. Subdivisions which include or continue existing streets which do not conform to the minimum right-of-way width as specified in these rules and regulations shall dedicate additional width along either or both sides of said streets to bring them into compliance. If the subdivision is located along one side of an existing narrow street, 1/2 of the required total extra width shall be dedicated.

38.Editor's Note: The Design Standards illustration is located at the end of this chapter.
39.Editor's Note: Said illustrations are located at the end of this chapter.
§ 175-18  STREETS AND SIDEWALKS  § 175-20

J. Half streets (streets providing only 1/2 the required right-of-way) shall not be permitted.

K. No developer shall propose a name for a street which will duplicate or so nearly duplicate as to be confused with the names of existing streets. A continuation of an existing street shall have the same name. All names of streets shall be approved by the Town Board pursuant to the Town Law.

L. No street in any subdivision shall be deemed a public street until it has been formally offered for cession to the Town Board and formally accepted by resolution of said Town Board.


A. All streets shall intersect as nearly at right angles as possible and in no case shall they intersect at an angle of less than 60º.

B. At intersections, streets shall form a cross or a tee. (See illustration.) If "tee" intersections are used, center lines shall be offset by a minimum of 125 feet.

C. Intersections of local street with primary streets shall be kept to a minimum in subdivision design so that hazard and delay of traffic movement on the primary street can be reduced to a minimum.

D. Street grades at intersections shall not exceed 3% for a distance of 60 feet from the center of the intersection unless approved by the Town Planning Board.

E. All street corner radii shall be at least 25 feet.

§ 175-20. Blocks.

A. The size and shape of blocks shall be determined on the basis of convenient circulation, control and safety of vehicular traffic and pleasing physical design.

B. Insofar as practical, block lengths should not exceed 1,500 feet nor be less than 400 feet.

C. In general, the length, width and shape of blocks shall be determined with due regard to:
   (1) Zoning requirements.
   (2) Limitations and opportunities of topography and natural features.
   (3) Provision of attractively laid-out building sites suitable to the land uses proposed.

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40.Editor's Note: The Design Standards illustration is located at the end of this chapter.

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(4) The need for convenient circulation, control and safety of street traffic and for reducing the potential conflict between local and through traffic.

(5) Provision of utilities and public services.

§ 175-21. Lots.

A. Each lot must have satisfactory access to a public street in accordance with the minimum frontage Chapter 204, Zoning.

B. Lot dimensions and area shall conform to the requirements of the Chapter 204, Zoning, unless modified by the Planning Board in accordance with Article VII of these rules and regulations.

C. Parking lots for apartments, rooming houses, industrial plants and commercial enterprises shall be screened from abutting roads and properties by landscaping. The latter may include leaving trees on the lot, planting trees, flowers, etc., and the use of fences or lighting.

D. Insofar as practical, side lot lines shall be perpendicular or radial to street lines.

E. Double frontage lots and extreme lot depth (four times the width) shall be avoided if possible.

F. Corner lots shall have sufficient extra width to permit front yard setbacks from both sides.


Wherever possible, electrical and communications service shall be located underground or along rear property lines. Where a subdivision contains a drainage right-of-way or stormwater management facilities, easements shall be provided which meet the requirements of Chapter 166, Stormwater Management and Erosion and Sediment Control.

§ 175-23. Parks, playgrounds and open spaces.

A. The subdivider of each subdivision shall be required to contribute to the recreation facilities of the town. For each lot shown on a final plat or section thereof, the subdivider shall contribute an amount as set forth from time to time by resolution of the Town Board to the Town of Horseheads before said plat or section thereof is endorsed by the Planning Board. Such contribution shall be held in a special fund for acquisition and development of recreation land. All money in this fund is to be used only for:

(1) The purchase of land that is suitable for new or enlarged parks, playgrounds or open spaces and located so as to serve the inhabitants of the Town’s residential neighborhoods.

Land subject to serious or regular flooding shall not be subdivided for residential occupancy or for such other uses as may increase danger to life or property or aggravate the flood hazard, but such land may be used for such uses or in such a way that the flood danger to this property and other upstream or downstream properties will not be increased and periodic or occasional inundation will not be a substantial threat to life or property. The provisions of this section shall apply to all land designated as a one-hundred-year floodplain area as determined by the Department of Housing and Urban Development or the United States Army Corps of Engineers and shown on appropriate flood hazard boundary maps.\footnote{Editor's Note: See also Ch. 111, Flood Damage Prevention.}
§ 175-25. Purpose.

The purpose of this Article is to establish minimum standards for the installation and construction of those improvements which all subdividers are required to install when land in the Town of Horseheads is subdivided.

§ 175-26. Subdivider's responsibility.

Prior to requesting approval of a final plat, the subdivider shall have made or furnished a performance guaranty to make, the following improvements:

A. Monuments. Permanent monuments (concrete, stones, iron pins or galvanized pipe) shall be set at all corners of the subdivision tract and at each corner of each lot in the subdivision. If backfilling is practiced, monuments shall be raised and be left visible. The location of such markers shall be shown on the final plat and approved by the Code Enforcement Officer.

B. Streets. All streets, roads and thoroughfares shall be graded to their full width and improved in accordance with specifications provided by the Town Highway Superintendent.

C. Curbs, gutters and sidewalks. Where curbs or gutters or sidewalks exist on abutting properties, their extension throughout the proposed subdivision shall be required of the developer if specified in the stormwater pollution prevention plan as defined in Chapter 166. In other cases the Planning Board may require curbs, gutters and sidewalks if, in its judgment, development densities, traffic volumes or other considerations warrant such improvements. Grades and construction specifications shall be approved by the Town Highway Superintendent. [Amended 9-14-2005 by Res. No. 107-2005]

D. Water and sewer facilities. In areas where public water and sewer facilities exist or will exist, the subdivider shall install all water- and sewer lines and shall provide for the connection of each lot with the public system. In areas where public water and sewer facilities are not available, the subdivider or lot developer shall install wells and septic tanks which meet County Health Department standards.

E. Fire hydrants. If a subdivision is located in an existing or proposed water district, the subdivider shall install fire hydrants at intervals of no more than 1,000 feet and in accordance with the regulations of the New York State Board of Fire Underwriters.

F. Drainage. [Amended 9-14-2005 by Res. No. 107-2005]

(1) All drainage ditches, culverts, storm sewers and erosion and sedimentation controls required by the Planning Board shall be provided by the subdivider and shall be designed and located in
accordance with the stormwater pollution prevention plan as required by Chapter 166.

(2) The following guidelines are intended to ensure that stormwater runoff is safely conveyed through a development site, to minimize streambank erosion, to maintain groundwater recharge, and to reduce flooding related to land development:

(a) Any alteration of the hydrology of the site shall be designed to minimize adverse impacts on water quality, peak discharge, groundwater recharge, and drainage patterns.

(b) The quantity, quality, and timing of stormwater runoff during and after development shall not be substantially altered from predevelopment conditions.

(c) Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in the surface waters of the State of New York.

(d) Preservation of natural watercourses and drainage patterns is generally preferable to the construction of drainage channels or the diversion of flow into other drainageways.

(e) Maintaining existing stormwater systems. Any existing stormwater management system, including a swale, ditch, basin, pond, dry well, catch basin, stream or other system component, shall be maintained in such a manner as to be functional or replaced by a system that meets or exceeds the standards of the existing system. No building or structure shall be erected, altered or moved within any drainagecourse, including a swale, ditch, or stream.

G. Utilities. The subdivider must submit evidence that the subdivision will receive electric service.

H. Street name signs. All street name signs shall be provided and installed by the town at the subdivider's expense.

I. Street trees.

(1) A tree of at least two-inch caliper at a height of four feet shall be planted in the front yard area (adjacent to the street) of each lot in the subdivision if no tree of at least equal caliper exists. The Planning Board shall approve the type of tree to be planted. Trees shall be guaranteed by bond to live two years.

(2) At the discretion of the Planning Board, a planting screen may be required of the developer along the line of lots abutting land zoned for or presently used for commercial or industrial purposes or along lots abutting a major highway.
§ 175-27. Installation.

All improvements listed in this article shall be installed by the subdivider at his expense and shall be subject to approval by the Town Building Inspector, Highway Superintendent or the state and county health authorities, according to the nature of the improvement.


Before a final plat or section thereof is endorsed by the Planning Board, the subdivider shall have satisfactorily completed the construction or installation of all improvements required by these regulations. In the event that the subdivider is unable to complete all improvements, the inspection officer and other town officials, as appropriate, shall estimate the reasonable cost of such completion and the subdivider shall submit to the Planning Board a performance guaranty that will assure the completion of said improvements. The type and amount of said performance guaranty shall be acceptable to the Town Board and the Town Attorney before it is approved by the Planning Board.
ARTICLE VI
Public Streets and Recreation Areas

§ 175-29. Purpose.
The purpose of this article is to define the conditions under which public streets and recreation areas will become the property of the Town of Horseheads and the conditions under which private recreation areas will be maintained.

§ 175-30. Acceptance.
No street, park or recreation area, easement or other proposed public space shown on an approved final plat shall become town property until accepted by the Town Board.

§ 175-31. Ownership and maintenance of recreation areas.
When parks, playgrounds or other common spaces are not offered for dedication or are not accepted by the Town Board, the Planning Board shall require filing with the Town Clerk of a written agreement between the subdivider and the Town Board covering ownership, development and maintenance of the space.
ARTICLE VII
Variances and Modifications

§ 175-32. Purpose.

The purpose of this Article is to set forth those conditions under which the requirements of these regulations may be waived or modified by the Planning Board, provided that such waiver or modification is in the public interest, does not violate the intent and objectives of these regulations and is not contrary to any statutes or ordinances governing the same.

§ 175-33. Hardship.

Where the Planning Board finds that practical difficulty or extraordinary hardship may result from strict compliance with these regulations because of exceptional narrowness, shallowness or shape of the subdivision or because of unusual topographic conditions or other unusual physical conditions, it may grant a variance from the regulations in the specific case, so that substantial justice may be done and the public interest is secured, provided that such variation will not have the effect of nullifying the intent and purpose of these regulations. In granting a variance, the Planning Board may require such conditions as will, in its judgment, secure substantially the objectives of the subdivision regulations.

§ 175-34. Special circumstances.

When the Planning Board finds that, due to the special circumstances of a particular area, the provision of certain required improvements is not necessary in the interest of public health, safety and general welfare or is inappropriate due to the inadequacy or lack of existing or proposed connecting facilities, it may waive such requirements, subject to appropriate conditions it may wish to impose.

§ 175-35. Design innovations.

It is not the intent of these regulations to effect uniformity or standardization in the development of subdivisions in the Town of Horseheads. When design concepts which are imaginative and consistent with the public interest are proposed by a subdivider, the Planning Board may modify the requirements of these regulations as necessary to permit accomplishment of such concepts. Modifications are at the discretion of the Planning Board. In no case shall the overall density be increased beyond that generally permitted in the underlying zone.

§ 175-36. Modification of zoning regulations.

In the review and approval of subdivision plats, the Planning Board shall have the authority to modify applicable provisions of Chapter 204, Zoning, for the subdivision under consideration only when so authorized by the Town Board and after such modifications have been fully disclosed at the
public hearing required for preliminary plat approval. Changes made pursuant to this section must be in accordance with § 278 of the Town Law.
§ 175-37. Amendments.

These regulations may be amended by local law of the Town Board, after recommendation by the Planning Board, as provided in § 271, Subdivision 13, of the Town Law.

§ 175-38. Violations and penalties.

A. The violation of any regulation approved by the Town Board shall be considered an offense against such regulations.

B. Any person violating these regulations shall be subject to punishment as provided in Chapter 1, General Provisions, Article II, General Penalty.

C. In addition to the above penalties, the Town Board may also initiate an action in the name of the Town of Horseheads in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of these regulations.


Any person or persons, jointly or severally, aggrieved by any decision of the Planning Board concerning a subdivision plat may have said decision reviewed by a Special Term of the Supreme Court in the manner provided by Article 78 of the Civil Practice Law and Rules, provided that the procedure is commenced within 30 days after the filing of the decision in the office of the Planning Board, all as set forth in § 282 of the Town Law.
Part 2
Street Dedications

ARTICLE IX
Construction Standards

§ 175-40. Purpose.
The purpose of this article is to regulate the laying out and construction of highways prior to their dedication to the Town of Horseheads public highways.

§ 175-41. Definitions; word usage.
A. As used in this article, the following terms shall have the meanings indicated:
   HIGHWAY — Includes any type of street or thoroughfare constructed or planned to be constructed for dedication to the Town of Horseheads as a public highway pursuant to law.
B. Wherever used in this article, words in the singular number include the plural and words in the plural number include the singular.
C. The word "shall" is mandatory and not directory. Words in the present tense include the future.
D. All references made herein to NYS or NYSDOT shall mean a reference to the most current NYSDOT Standard Specifications.
E. If in any place in the NYSDOT Standard Specifications, the word "engineer" is used, it will also mean Town Highway Superintendent or the engineer he or she may designate.

§ 175-42. Applications.
A. All applications for approval of plans shall be made as heretofore specified in this regulation.
B. All applications shall be accompanied by three copies of the highway plan and profiles of each highway showing existing and proposed grades as well as all the necessary detail required by the provisions of this regulation.
C. All applications for the dedication of a highway to the Town of Horseheads shall be accompanied by a proposed warranty deed conveying said highway to the Town, with all necessary releases from mortgages or other claimants. Such deed shall describe the street to be conveyed as shown on a map and shall state the date on which said
§ 175-43. Surveying; mapping required.

The owner or all the owners shall have had the land comprising the highway surveyed, mapped and a map thereof shall have been filed in the Chemung County Clerk's office and adequate metal or stone markers shall be inserted in a permanent manner at intervals of not less than 500 feet on tangents and at P.C. and P.T. of curves along all boundary lines of such highways.

§ 175-44. Installation of utility services.

If sewer, water, gas or other utility service is to be installed in such highway, they shall be installed prior to any surfacing of such highway, and all laterals and other service connections shall be installed and brought to the outer right-of-way line prior to any surfacing. All manhole covers, valves, vents, shutoffs or similar devices shall be located out of the paved portion of the right-of-way and so as not to interfere with any drainage area. If the contractor amends his plans for the installation of any service within the paved portion of the roadway, the contractor shall bore under the roadway.

§ 175-45. Minimum width.

The minimum width of streets or highways hereinafter laid out shall be 50 feet. These widths shall be measured from lot line to lot line. Said widths shall be measured normal to the lot lines on tangents and on radial lines with curves. Approved turnarounds or T's, paved as to the specifications of the Highway Superintendent, shall be used on all dead-end highways or temporary turnarounds.

§ 175-46. Reserve strips.

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

§ 175-47. Grades.

Highway grades shall not exceed 8% and not be less than 1% at the gutter. The Town Highway Superintendent shall have the authority to authorize modifications to highway grades, upon the presentation of special circumstances.

§ 175-48. Drainage; standard specifications.

A. The highway shall be shaped and crowned so as to slope laterally in order to drain surface water off the carriageway onto sides of the highway where shallow ditches or gutters shall be built to carry off said water. The highway shall be crowned with a two-percent grade from center line to ditch, except under circumstances the Town Highway
Superintendent may allow or direct changes. If the grade or pitch of the road is, based upon determination of the Town Highway Superintendent, sharp enough so that flow of surface water might wash out said ditches or gutters, the ditches or gutters shall be lined to prevent such washing out. Any lining shall be installed so the depth to the lining from the edge of pavement shall be one inch below the edge of pavement. Ditches or gutters shall be connected by piping of a size and length prescribed by the Town Highway Superintendent and he or she may require the installation of catch basins at such locations as he or she deems necessary to properly catch and carry off such surface water as he or she may estimate will accumulate along the highway or at said highway or at said highway intersections. Headwalls may be required by the Town Highway Superintendent or by the engineer he or she may designate.

B. Proper drainage shall be installed where required. Reinforced concrete pipe or corrugated metal pipe or polyethylene pipe with smooth interior shall be used throughout for all culverts or surface drains. Said pipe is to conform to the latest NYS Department of Transportation Standard Specifications dated May 4, 2006, as the same may be amended from time to time, and approved by the Town Superintendent of Highways. A profile map, in duplicate, shall be filed with the Town Board, showing the grade and fall of surface water to be not less than one percent and also showing the final disposition of flow, which must be to a live stream or well-established natural drainage ditch. If the grade or fall of surface water is shown to be less than the above prescribed, the Town Highway Superintendent shall require the installation of a surface water drainage system consisting of piping and catch basins of such size as he or she deems necessary under the circumstances. In a case where access to a live stream or well-established natural drainage ditch is required, easements or rights-of-way leading thereto shall be secured and conveyed to the Town of Horseheads as set forth below.

C. The developer or owner laying out said street or highway shall obtain all necessary easements or rights-of-way to take care of any surface water caused by reason of the development of said street or highway, and by reason of the installation of culverts or surface drains. No street or highway will be taken over by the Town of Horseheads, nor approved by the Town Superintendent of Highways, before such necessary easements or rights-of-way have been obtained and the sufficiency thereof shall be passed upon by the attorney for the Town of Horseheads. Such easements or rights-of-way shall be at least 20 feet in width. Any changes requested by the contractor must be in writing to the Town Highway Superintendent and be approved by the Town Highway Superintendent in writing.

D. For all the following operations, reference is made to the NYSDOT Standard Specifications, as the same may be amended from time to time:

(1) Borrow or fill: § 203 et seq.;
§ 175-49. Grading and surfacing.

Prior to being offered for dedication to the Town, all streets shall be graded and surfaced as follows:

A. All highways or roads offered for dedication shall be suitably and properly graded and shall meet with the approval of the Town Supervisor of Highways. All materials and construction techniques shall be as specified under the most current NYSDOT Standard Specifications. All material will be approved by a material testing lab approved by the Highway Superintendent using the same basic testing as a NYS testing lab.

B. There shall be a carriageway of at least 28 feet in width located in the center of the proposed highway limits or at 24 feet in width located in the center of the proposed highway limits if sidewalks are to be installed on both sides of the road at a minimum width of four feet for each sidewalk. If only a phase of the highway is to be dedicated, then, in that event, the carriageway shall be installed a minimum of 50 feet beyond the boundary of the last lot approved in the phase, and such area intended to be a turnaround shall be completed as per the specifications of the Town Highway Superintendent.

C. The Town Highway Superintendent, at his or her discretion, may require density testing by a licensed professional at the contractor's expense.

D. After the above has been approved by the Highway Superintendent and all water, gas, and sewers, including the telephone etc., are in place and to the outer edges of the highway at each lot or parcel, the contractor shall blacktop the road surface and shoulders where required by the Highway Superintendent. Reference is made to the NYSDOT Standard Specifications.

§ 175-50. Responsibility for final surfacing and approval; snow and ice removal.

When a street has been accepted by the Town under conditions outlined in § 277 of the Town Law pending final surfacing and approval, the responsibility shall rest with the owner and/or developers. The Town Board shall set the amount and duration of the financial guarantee the Town shall require for such partial acceptance. The Town shall be responsible for snow removal and ice control.

§ 175-51. Street names.

The use of proper names for street names is discouraged. The Town Board of the Town of Horseheads must by law approve street names and may
change any chosen by the developer or owner to avoid duplication or for any other reason of its own.

§ 175-52. Takeover by Town; proof of compliance.

No street or highway shall be taken over by the Town unless it meets all of the above requirements and approval of the Town Superintendent of Highways. Notwithstanding the other requirements of this article, the owner shall supply the following as proof of compliance with all requirements of this article:

A. Final report of the Town Highway Superintendent that all requirements have been met for the installation, which report shall be based upon the following information:

1. The observation and records of the Town Highway Superintendent as to the dates and times of his or her inspections of the premises;

2. The unqualified report of the owner's engineer as to compliance with this article, which shall include, but not be limited to, digital photographs of the installation process, timed and dated, showing at a minimum the type of equipment used on each date of operations during installation of the roadway, and the depth of the uncompacted material in place with reference to a measuring device showing in the picture for each 100 feet of installation, including the mathematical computation showing the depth of material laid based upon the length and width of the project and results of nuclear densometer tests for each 100 feet of the installation; and copies of all receipts, clearly showing date and time of purchase, for all material purchased for the installation.

3. Presentation of financial security by bond or letter of credit, approved by the Town Attorney, for a period of three years from the date of acceptance of the roadway by the Town Board in a minimum amount of 10% of the total final cost of the installation or such other amount as the Town Board may set.

4. No special district improvements shall be placed or installed in any street or highway of the Town until such street or highway has been properly graded and drained as provided in this article and approval by the Superintendent of Highways.

§ 175-53. Approval in writing required.

Approval in writing shall be obtained by the owner and/or developers from the Chemung County Superintendent of Highways regarding drainage where proposed streets or highways intersect county roads and said Superintendent's permission to connect said streets with such county roads.
§ 175-54. Previous regulations rescinded.

All previous regulations or resolutions affecting the acceptance of streets by the Town are hereby rescinded.

§ 175-55. Refusal to accept.

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

§ 175-56. Rounding.

The property at all street corners shall be rounded or otherwise set back sufficiently to allow a radius on the property line of 50 feet. The Town Highway Superintendent may modify requirements.
§ 187-1. Purpose and intent.

The purpose and intent of this chapter is to promote the health and safety of the residents of the Town of Horseheads by protecting the natural environment as affected by timber harvesting. The town recognizes that the timber resource in the town is a renewable resource of a significant value and may be harvested. The town also recognizes that if the timber harvesting practices are poorly carried out they can result in significant environmental damage to the land and to adjacent lands, waters and roads. Thus, this chapter is intended to regulate those harvesting activities that most readily affect the environment, such as stream crossings and the location of landings, haul roads and skid trails, particularly to control soil erosion and sediment-laden runoff, and to encourage the use of professional forest management expertise in the preparation and evaluation of timber harvests.

§ 187-2. Registration.

A. Prior to the start of any timber harvesting operation, the property owner shall register with the town.

B. Exclusions from registration. The following acts shall not require registration:

(1) The clearing of land for rights-of-way for utilities, except that said clearing shall comply with accepted forest management practices.

(2) The harvesting of trees by the owner for personal use of said owner.

(3) The removal of trees for site preparation for construction or land development which has been approved by the Town Board or Town Planning Board.

(4) The harvesting of Christmas trees.

§ 187-3. Registration information to be provided; review.
A. The following shall be provided to the town:

   (1) A registration fee in an amount set forth from time to time by resolution of the Town Board.\textsuperscript{42}

   (2) The name, address and phone number of the property owners(s).

   (3) The name, address and phone number of the harvester.

   (4) The name, address and phone number of the consultant forester, if any.

   (5) The number of acres to be harvested, harvesting dates, type of harvest, stream crossings and other permits required.

   (6) The book and page of deed for property and Tax Map number.

   (7) A sketch map to scale, showing:

       (a) The boundaries of the property.

       (b) The access roads into the property.

       (c) The area within which the logging operation will occur.

       (d) The location of the product loading area.

B. The registration form shall be signed by the property owner(s) and the harvester.

C. At the time of registration, the town shall provide the timber harvesting guidelines of the town, as may have been promulgated by the Town Board, and the responsibilities of the owner and/or harvester upon completion of the timber harvesting operation.

D. Review of the registration by the Town Highway Superintendent shall be required.

\section*{§ 187-4. Insurance.}

A. The harvester and/or the property owner shall include with the registration proof of current liability insurance in the amount of five hundred thousand dollars ($500,000.) and keep it in force during the life of the harvesting contract.

B. The harvester shall include with the registration proof of worker's compensation and disability coverage.

\section*{§ 187-5. Procedures.}

A. Within ten (10) days after the receipt of the completed registration, unless the time is extended by mutual consent, the Code Enforcement Officer shall review the registration certificate and advise the property

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

A. This chapter shall be enforced by the Code Enforcement Officer appointed by the Town Board.

B. Any person registering hereunder or person or persons authorizing or consenting to such registration shall be deemed to have authorized the Code Enforcement Officer or his or her designee to enter upon
the premises at any reasonable time for the purpose of inspecting
the same. Said Officer shall be authorized and have the right in the
performance of his or her duties to enter upon any property proposed
to be harvested, in the process of being harvested or in the process
of being reclaimed after harvesting to make such inspections as are
necessary to determine satisfactory compliance with the provisions
of this chapter. Such entrance and inspection shall be initiated at
reasonable time upon notice to the harvester and property owner and
in emergencies whenever necessary to protect the public interest.
Owners, agents or harvesters on a property being harvested shall
be responsible for allowing walking access to appropriate parts of
the premises within their control to the Code Enforcement Officer or
his inspectors acting in accordance with the requirements of these
provisions.

C. It shall be the duty of the Code Enforcement Officer to investigate
all complaints made under this chapter and to take appropriate legal
action on all violations of this chapter.

D. As part of the registration, the applicant shall submit to personal
jurisdiction of all matters of violation under this chapter to the Town
Justice of the Town of Horseheads.


A. Upon determination by the Code Enforcement Officer that there has
been a violation of any provision of this chapter, he or she shall serve
upon the property owner, the owners' representative or the harvester
a written stop-work order direction that conditions therein specified be
brought into compliance within three (3) working days after the serving
of such order. Work that is in compliance shall be permitted to continue
while violations are brought into compliance.

B. Where violations cannot reasonably be corrected within three (3) days
and where the violator has demonstrated good faith efforts to comply,
said time period may be extended by the Code Enforcement Officer for
not more than thirty (30) days.

C. If, after the expiration of such period or any extension thereof, the
conditions are not corrected, the Code Enforcement Officer shall serve
written notice upon the owner and the harvester, suspending the
registration and requiring them to appear before the Town Justice of
the town.

D. The Town Justice may, after a hearing at which the testimony and
witnesses of the Code Enforcement Officer and violator shall be heard,
call for compliance within thirty (30) days. If compliance is not
achieved, a fine of not less than five hundred dollars ($500.) nor more
than five thousand dollars ($5,000.) may be imposed for each violation
cited.

Whenever a registration has been suspended or is restricted or suspended, the town shall, personally or by certified or registered mail, serve notice upon the harvester, property owner and consulting forester, if any, which shall state that the registrant may request an appeal hearing before the Town Board by delivery of a written request therefor to the Town Clerk within seven (7) days of personal service or ten (10) days after service by certified or registered mail. A request for hearing shall be signed by the party requesting the hearing and shall state his or her address, that a hearing is requested and the facts and law relied upon. The hearing shall be held at the next regularly scheduled Town Board meeting unless sooner scheduled. If scheduled at a time other than at the next regularly scheduled Town Board meeting, the town shall give the appealing party at least five (5) days' written notice of the time and place of the hearing, but the appealing party may waive the notice provision by filing a written waiver thereof with the Town Clerk.


The following shall be grounds for suspension, restricting or conditioning a registration of any harvester, property owner or any person connected or associated with the registrants as a partner, director, officer, stockholder, general manager or person who is exercising managerial authority of or in behalf of the registrant or acting under the authority of such registrant:

A. Violation of any provisions of this chapter or other applicable statutes, codes, rules or regulations pertaining to the harvesting or trees for commercial use, or a violation of any of the restrictions or conditions placed upon the harvesting operation of the registrant.

B. Making any false, misleading or fraudulent statement of a material fact in the registration or any report or record required to be kept or filed with the town.

C. Operation of the tree harvesting in a manner so as to be detrimental to the health, welfare and safety of the public.

§ 187-10. Appeals.

Any person aggrieved by any decision of the Code Enforcement Officer may take an appeal to the Town Board. Any determination by the Town Board under this chapter may be appealed to the Supreme Court under Article 78 of the Civil Practice Law and Rules.
Chapter 191

VACANT AND AT-RISK PROPERTY REGISTRATION AND REMEDIATION

GENERAL REFERENCES

Building Code administration — See Ch. 83.  Zoning — See Ch. 204.
Subdivision of land — See Ch. 175.

§ 191-1. Authority, findings, and purpose.
A. Authority. This chapter is adopted pursuant to Article 2, § 10, of the Municipal Home Rule Law of the State of New York.
B. Findings; purpose. It is hereby found and declared there exists within the Town a large number of real properties that are or have the potential to be habitually vacant, and the existence of such habitually vacant properties contributes to the decline of neighborhoods and business development within the Town. It is further found the existence of habitually vacant structures adversely affects the economic well-being of the Town and is adverse to the health, safety and welfare of the Town's residents. It is further found that many of the vacant properties can be rehabilitated, reconstructed, demolished and/or reused to prevent blighted conditions, so as to provide decent, safe, sanitary and productive residential, industrial or commercial facilities and that such rehabilitation, reconstruction, demolition and/or reuse would eliminate, remedy and prevent the adverse conditions described above. As such, the purpose of this chapter is to establish a uniform and effective program to prevent, identify and remedy the existence of such vacant properties within the Town.

§ 191-2. Definitions; word usage.
For the purposes of this chapter, the following words, terms and phrases shall have the following ascribed meanings, unless the context clearly indicates otherwise. Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include both genders:

AT-RISK PROPERTIES — All parcels of land located within the Town that are either:
A. Identified within the Town Assessor's Office as being in a poor or fair condition under the Office of Real Property Tax Services real property data inventory software; or
B. Identified by the Town's Code Enforcement Office as being a vacant structure.
PROPERTY INCENTIVE PROGRAMS — Each and every local, state or federal economic development program; property enhancement, improvement, revitalization, or protection program; industrial development agency programs; or similar property incentive programs or services, as may be available in the Town.

REDEVELOPMENT AND/OR REPAIR PLAN — A detailed plan or report prepared by or on behalf of the subject property owner setting forth the property owner’s action plan to accomplish the redevelopment, renovation, repair, improvement, safe occupation and full utilization of the at-risk property. Said detailed plan shall contain both short and long-term goals with estimated dates of completion regarding the redevelopment, renovation, repair, improvement, safe occupation and/or full utilization of the property and, if applicable, a prevention plan to ensure the property does not become an at-risk property again in the future.

SECURED BY OTHER THAN NORMAL MEANS — A structure secured by means other than those used in the designed and approved plans for the structure.

STRATEGIC DEVELOPMENT OR PROPERTY PROTECTION AREAS — Geographical areas of the Town that possess one or more of the following characteristics and that are designated as such by resolution of the Town Board:

A. Areas in which the Town's primary retail and commercial centers are located;

B. Areas of the Town in which the traveling public primarily travels;

C. Areas of the Town designated as qualifying for a specific area-wide property incentive program; or

D. Areas of the Town in which at-risk properties are predominately located in relationship to the other areas of the Town.

TOWN — The Town of Horseheads.

UNOCCUPIED — A structure of portion thereof which lacks the habitual presence of human beings who have a legal right to be on the premises, including structures ordered vacated by the Code Enforcement Officer. In determining whether a structure is unoccupied, the Code Enforcement Officer may consider these factors, among others:

A. Whether lawful residential or business activity has ceased;

B. The percentage of the overall square footage of the occupied to unoccupied space or the overall number of occupied and unoccupied units;

C. The structure is substantially devoid of contents of minimal value, of fixtures or personal property in the structure;

D. The structure lacks utility services;
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E. The structure is subject to a foreclosure action; or
F. The presence or reoccurrence of Code violations.

UNSECURED — A structure or portion of a structure which is open to entry by unauthorized persons without the use of tools or ladders.

VACANT STRUCTURE — A structure or portion of a structure which is any one or more of the following:

A. Unoccupied and unsecured;
B. Unoccupied and secured by other than normal means;
C. Unoccupied and an unsafe structure as determined by a Code Enforcement Officer;
D. Unoccupied and the Code Enforcement Officer has issued an order to correct Code violations;
E. Illegally occupied; or
F. Unoccupied for a period of time over 90 days.

§ 191-3. Vacant structure administrative procedures.

A. Vacant Structure Commission. The Town hereby designates the Town Board, or, by resolution, the Town Board shall be authorized to designate any other Town official, employee, board, commission, intermunicipal agency, or any individual to be the Vacant Structure Commission (the "Commission") of the Town.

B. Responsibilities of the Vacant Structure Commission. The Vacant Structure Commission shall be responsible for:

   (1) Creating, maintaining, and classifying a list of at-risk properties within the Town based upon uniform criteria and evaluation standards developed and adopted by said Commission;

   (2) Encouraging and coordinating interdepartmental and intermunicipal cooperation and action regarding inspections necessary to identify at-risk properties in the Town and the enforcement of the provisions of this chapter;

   (3) Developing and implementing specific strategies to eliminate identified at-risk properties within the Town.

C. Submit annual reports. The Commission shall prepare, submit, present and file a written report to the Town annually. Such report shall include:

   (1) A list of all such identified at-risk properties within the Town; and

   (2) The actions planned or taken to eliminate potentially blighted property conditions.
§ 191-4. Registration, identification and classification of at-risk properties.

A. The owner of an unoccupied property shall register with the Code Enforcement Office, on forms to be promulgated by the Code Enforcement Office, no later than 90 days after any structure becomes a vacant structure, as defined herein, or not later than 30 days after being notified by a Code Enforcement Officer of the requirement to register. A Code Enforcement Officer may identify vacant structures through the routine inspection process as well as through notification by residents, neighborhood associations, Town employees, law enforcement officers or other community groups that a structure may be eligible for inclusion on the registry. Notice will be served upon, or sent by mail to, the owner, or any registered property manager, as well as to the property address. Notice will be deemed received upon personal delivery or after five days after service by first class mail.

B. The Town, at its discretion, may post notices on the Town's website. The Town's failure to post such violations on the Town's website shall not constitute a defense to any proceeding for enforcement or collection of fines.

C. All at-risk properties shall annually be identified and listed by the Commission.

D. For all at-risk properties identified and listed by the Commission, the Commission shall annually evaluate and classify the properties into the following categories based upon uniform standards of review, established by resolution of the Town Board, classifying the level of risk the property poises to the overall future welfare and economic well-being of the Town and its residents:

(1) High-risk properties;

(2) Medium-risk properties; or

(3) Low-risk properties.

§ 191-5. Minimum required actions for classified properties.

A. Low-risk properties. For all properties classified in the low-risk category, the Commission shall, at a minimum, do the following in regards to such properties:

(1) Annually compile a list of all such properties containing the following information:

(a) Name and address of the last known property owner as identified from the Town's most recent tax assessment roll;

(b) A brief description of the condition of the property and any known unusual risk factors attributable to the property.
(2) Annually send a letter to the last known owner of the property, advising the property owner of the following:

(a) The property has been classified in the low-risk category under the terms and conditions of this chapter;

(b) The property owner may be requested, by the Code Enforcement Office, to complete and return the property registration form, to be promulgated by the Town Board containing such information as deemed relevant by the Commission, without an annual registration fee.

B. Medium-risk properties.

(1) For all properties classified in the medium-risk category, the Commission shall, at a minimum, do the following in regards to such properties:

(a) Annually compile a list of all such properties setting forth the name and address of the last known property owner as identified from the Town's most recent tax assessment roll;

(b) Annually send a letter to the last known property owner, advising the property owner of the following:

[1] The property has been classified in the medium-risk category under the terms and conditions of this chapter;

[2] The property owner shall be obligated to complete and return the property registration form, to be promulgated by the Town Board containing such information as deemed relevant by the Commission, along with an annual registration fee; and

[3] A summary of the property incentive programs known to the Town, if any, that may be available to assist the property owner in the redevelopment or increased utilization of the identified medium-risk property. Such summary shall consist of the name, address, contact information and services offered by such local, state or federal property incentive program.

(2) For all properties classified in the medium-risk category, the property owner of such medium-risk property shall annually complete and return the property registration form provided to the property owner under this section and pay the annual registration fee associated therewith. The annual registration fee shall be determined by resolution of the Town Board.

C. High-risk properties.
(1) For all properties classified in the high-risk category, the Commission shall, at a minimum, do the following in regards to such properties:

(a) Annually compile a list of all such properties setting forth the name and address of the last known property owner as identified from the Town's most recent tax assessment roll which may be published on the Town's website, if any, and in the official minutes of the applicable Town's regularly scheduled Town Board meeting next occurring after receipt of such listing by the Town Clerk;

(b) Annually send a letter to the last known property owner, advising the property owner of the following:

[1] The property has been classified in the high-risk category under the terms and conditions of this chapter;

[2] The obligation of the property owner to complete and return the property registration form containing such information as deemed relevant by the Commission, along with an annual registration fee; and

[3] A summary of the property incentive programs that may be available to assist the property owner in the redevelopment or increased utilization of the identified high-risk property.

(2) For all properties classified in the high-risk category, the property owner of such high-risk property shall annually:

(a) Complete and return the property registration form provided to the property owner under this section.

(b) Pay the annual registration fee associated therewith.

[1] The annual registration fee shall be determined by resolution of the Commission.

[2] In addition, due to the increase costs associated with monitoring such high-risk properties, the Town Board may establish, by resolution, an annual increase to the registration fee to offset such increasing costs and inflationary factors.

(c) Prepare and file a redevelopment and/or repair plan with the Commission regarding the property. If the property owner has previously submitted a redevelopment and/or repair plan regarding the subject property, such property owner must submit reasonable proof that positive action in accordance with the redevelopment and/or repair plan has been taken in regard to such property each year the property is required to prepare and file such a redevelopment and/or repair plan.
§ 191-6. Remedial measures; waiver.

A. The property and/or property owner shall be subject to the remedial measures set forth in Subsections B through F of this section, if:

1. The property owner fails to comply with the requirements regarding high-risk properties under § 191-5 of this chapter; or

2. The classifying point assessment for such high-risk property increases from the prior year as determined and reviewed by the Commission.

B. Repairs/corrective action.

1. For the first year an at-risk property is subject to the imposition of a remedial measure under this section, and for each and every year thereafter, the Town may issue an order directing the property owner to repair or correct any conditions of the property that may exist thereon, including, but not limited to:

   a. Doors, windows or other openings into houses, apartments, structures or commercial structures which are:
      
      [1] Broken or missing;
      
      [2] Boarded up with unpainted wood, metal or other material;
      
      [3] Boarded up, but some or all of the material used to board up the windows or doors in question have been broken, pried off or apart, or otherwise vandalized.

   b. Collapsing or missing walls, floors or roof;

   c. Exterior walls which contain holes, breaks, loose or rotting materials which are not properly surface-coated to prevent deterioration or the paint on which is significantly discolored or faded;

   d. Foundation walls which contain open cracks and breaks;

   e. Overhang extensions, including, but not limited to, canopies, marquees, signs, awnings, stairways, fire escapes, standpipes and exhaust ducts which contain rust, tearing, fading or other decay;

   f. Chimneys and similar appurtenances which are in a state of disrepair;
(g) Screening which contains tears or ragged edges;

(h) Vermin infestation;

(i) Garbage, trash, debris, brush piles, or abandoned vehicles on the premises, unless the premises is a junkyard licensed by the State of New York or Town;

(j) Uncut grass, weeds or undergrowth at least one foot in length;

(k) A fence with missing or rotted boards or with broken or ragged links or other material or which, if made from wood, is not properly surface-coated to prevent deterioration, significant discoloration or fading;

(l) Bushes, trees, or brush allowed to grow anywhere in an area more than one-foot laterally and less than seven feet vertically over a walkway, driveway or street;

(m) Accumulation of stagnant or unsanitary water;

(n) Dead trees deemed hazardous to the public or to adjacent property;

(o) Display lights or exterior signs in a broken or disassembled state;

(p) Exterior paint significantly chipped or faded;

(q) Clothing left hanging from trees, shrubs or fences in the front yard of any residence;

(r) Interior furniture, furnishing or appliances left outside, exposed to the elements;

(s) Accumulations of feces or putrefying substances;

(t) Vehicles parked on premises unlawfully;

(u) Graffiti on the property; or

(v) Similar conditions.

(2) A property owner served with an order under this subsection shall comply with such order within 30 days following the service of such order.

(3) If a property owner fails to comply with such order within the time frame set forth therein, the Town may:

(a) Enter upon the property to repair or correct the conditions upon which the order was based. Any and all costs incurred by the Town shall be recoverable against the property as provided under § 191-7 of this chapter; or
(b) Issue an appearance ticket for such violation under Subsection F of this section.

C. At-risk property impact fees.

(1) If an at-risk property has been subject to the imposition of a remedial measure under this section for two or more years, the Town may issue an order, and may issue such order each and every year thereafter, imposing the assessment of an at-risk property impact fee against the subject property.

(2) The at-risk property impact fee shall be established by resolution of the Town Board annually and be levied and collected against the property as other similar Town charges.

(a) Such at-risk property impact fees may increase significantly on an annual basis.

(b) In establishing such fee, the Town Board may secure a recommendation of the Commission of the amount to be so assessed.

(3) In determining the amount to be assessed, the following criteria shall be considered:

(a) The amount of administrative costs associated with implementing this chapter in regard to the subject property; plus

(b) Inflationary effects from year to year; plus

(c) The estimated negative impact costs to the community caused by the existence of the at-risk property in the Town; plus

(d) An upward adjustment in the assessment if the property owner has demonstrated a lack of compliance with the terms and conditions of this chapter or has historically failed to make good-faith efforts in improving or redeveloping the subject property. Such upward adjustment is to be in an amount significant enough to serve as a warning to others against engaging in the dilatory or neglectful practice demonstrated by the subject property owner in warranting the imposition of this upward adjustment.

D. Demolition surety.

(1) If an at-risk property has been subject to the imposition of a remedial measure under this section for three or more years, the Town may issue an order, and may issue such order each and every year thereafter, requiring the property owner to deposit or deliver with the Town a surety in an amount sufficient to cover the costs of demolishing the at-risk property if the demolition remedial measure is imposed pursuant to Subsection E of this section.
(2) Such surety shall be in one of the following forms, subject to the review and final approval of the attorney for the Town:

(a) Cash;
(b) Irrevocable letter of credit; or
(c) Insurance bond.

(3) Such demolition surety shall be released or returned to the property owner only upon the subject property's condition being improved to the point where the property no longer qualifies as an at-risk property.

E. Demolition.

(1) If an at-risk property has been subject to the imposition of a remedial measure under this section for five or more years, the Town may issue an order, and may issue such order each and every year thereafter, directing any and all structures on the subject property be demolished.

(2) Such demolition order shall contain the following information:

(a) The name and address of the property owner as it appears on the tax records for the Town;
(b) A description of the structure or structures on the subject property that need to be demolished;
(c) The date by which the property owner must demolish such structure, said date being no longer than 45 days from the date of the demolition order; and
(d) Shall advise the property owner of the administrative and judicial review rights the property owner is required or eligible to undertake in challenging the issuance of the demolition order as provided under §§ 191-9 and 191-10 of this chapter.

(3) Service and posting. The demolition order shall be served on the property owner of the subject property as shown by the records of the Town Receiver of Taxes, County Clerk's office, or County Register:

(a) Either personally; or
(b) By U.S. registered mail, return receipt requested, if after a good-faith effort to serve the property owner personally fails or if the property owner is not known or available for personal service in the County of Chemung; and
(c) Shall be posted on the property that is the subject of said order.
(4) Town removal. In the event the property owner refuses, fails or neglects to comply with the demolition order issued under this subsection, the Town may enter upon such property and utilize Town employees to complete such removal or contract for the removal of such property by a private entity.

(5) Recovery of costs. The Town shall first recover the Town's costs for completing such demolition by executing upon any demolition surety posted under Subsection D of this section. For any sums due the Town beyond the amount reimbursed by such demolition surety, the Town shall recover such costs as provided under § 191-7 of this chapter.

F. Violations.

(1) In addition to any other remedial measure set forth herein, or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine of not less than $50 but 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 of not less than $350 nor more than $700 or imprisonment for a period not to exceed 15 days, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than $700 nor more than $1,000 or imprisonment for a period not to exceed 15 days, or both. Each week's continued violation shall constitute a separate additional violation.

(2) Such violation shall be commenced in the local justice court in which the property is located in accordance with the relevant procedures for violation level offenses as set forth in the New York State Criminal Procedure Law.

G. Waiver and alternative remedies.

(1) Where a person has violated a provision of this chapter, he/she may be eligible upon a plea of guilty for a waiver, conditional discharge or alternative remedies in lieu of a civil penalty; the Town shall have the authority to waive the imposition of any and all of the remedial measures, upon recommendation of the Town Attorney and the Code Enforcement Officer, set forth in this section, if the property owner can establish the following:

(a) Good cause why the property owner failed to comply with the necessary requirements under this chapter; and

(b) The continuing existence of the subject property in the same condition or state will not present a significant threat to the health, safety or welfare of the residents of the Town affected thereby; and

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(c) The violation was unintentional; and
(d) The violator has no history of previous violations of this chapter; and
(e) The violator cooperated in investigation and resolution; or
(f) The violator acted quickly to remedy the violation.

(2) Alternative remedies may consist of one or more of the following:
   (a) Attendance at compliance workshops;
   (b) Conditional discharge of not less than six months;
   (c) Such other remedies as may be determined.

§ 191-7. Assessment of cost of abatement of violation.

A. Within 30 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. Any expenses incurred by the Town for any action taken pursuant this chapter concerning cost of the abatement, including administrative costs and all costs associated with the performance of such remedial measures, shall be the responsibility of the property owner of the property upon which the remedial measure was imposed.

B. The property owner may file a written protest objecting to the amount of the assessment within 30 days of receiving notification of the cost of the abatement.

C. If the amount due is not paid within a timely manner as determined by the decision of the Town Board or by the expiration of the time in which to file a protest, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment. Any person violating any of the provisions of this chapter shall become liable to the Town by reason of such violation. Interest at the rate of 9% per annum shall be assessed on the balance beginning on the 31st day following completion of the abatement. Any unpaid abatement charges shall be added to the property tax bill for the subject property.

§ 191-8. Strategic development or property protection areas.

A. On an annual basis, the Commission shall identify areas of the Town to be classified as strategic development or property protection areas and forward such recommendation to the Town Board for consideration and action;

B. At-risk properties located within a strategic development or property protection area shall automatically be classified as high-risk properties under § 191-4 of this chapter.

A. Any person aggrieved by a notice or order of the Commission in connection with any section of this chapter shall first apply to the Commission for reconsideration of such notice or order, provided such application is made within 30 calendar days after the original notice or order was sent to the owner by certified mail or by way of personal delivery.

B. Upon receipt of the appeal, the Commission shall meet within a reasonable time for the hearing of the appeal and shall advise the petitioner in writing of the time and place where the appeal will be heard.

C. Factors to be considered by Commission. In considering an appeal, the Commission should consider the following factors:

   (1) Whether there is reasonable evidence to support the existence of a condition constituting the basis of a notice or order issued under this chapter;

   (2) Whether an extension of time for compliance or a modification of the notice or order is appropriate based upon evidence presented relating to the following:

      (a) There are special circumstances in carrying out the strict letter of the notice or order as it applies to the specific case which outweigh the benefits that enforcing such notice or order would provide to the impacted individuals by the property's condition and the general public as a whole.

      (b) Such an extension is in harmony with the general purpose and intent of this chapter in securing the public health, safety and general welfare.

      (c) The extension will not serve the purpose of transferring responsibility for compliance to another party by, for example, sale or transfer of ownership.

      (d) The violations continuing during the period of the extension will not constitute a imminent danger to the health and safety of the neighborhood or general public.

D. Action following appeal hearing. After the completion of the hearing as provided Subsection B of this section, the Commission shall sustain, modify or withdraw the notice or order upon which the appeal had been brought.

E. Such final decision of the Commission shall be filed in the office of the Town Clerk of the Town in which the property is located and either mailed to the petitioner by way of certified U.S. Mail or personal delivery.

A. Any person aggrieved by the final decision of the Commission by way of the administrative review required under § 191-9 of this chapter may obtain judicial review of such final decision in the New York State Supreme Court located in the County of Chemung as provided by the Laws of the State of New York, Civil Practice Laws and Rules (CPLR), Article 78, for commencing a proceeding against a municipal entity.

B. Such judicial review must be commenced within 30 days of the filing of the final decision in the Town Clerk's office.

§ 191-11. Compatibility with other ordinance requirements.

Approvals issued pursuant to this chapter do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable law, code, rule, act, or ordinance.

§ 191-12. Adoption of law.

This chapter shall be in full force and effect upon filing with the Secretary of State. All prior laws and parts of law in conflict with this chapter are hereby repealed.

Chapter 193

VEHICLES, ABANDONED

§ 193-1. Definitions.

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


JUNKED VEHICLE — Any vehicle, trailer, motor vehicle, motorcycle or house coach which is not currently, validly licensed and/or registered, as the case may be, such that the same may be operated on the streets and highways of this state in accordance with law, or is in any one (1) or more of the following conditions: rusted, wrecked, dismantled, partially dismantled, discarded, inoperative or abandoned.


OWNER — Any person, firm or corporation, directly or indirectly, in whole or in part, holding title to or being in control of the junked vehicle or holding title to the real property whereon said vehicle is situate. Thus it is noted that there may be multiple "owners."


It shall be unlawful for any person, firm, corporation, partnership or entity either as owner, lessee, occupant, user or otherwise to store or deposit, or cause or permit to be stored or deposited, any junk vehicle in or upon any land or place within the municipal boundaries of the Town of Horseheads. Nothing to the contrary contained herein withstanding, it shall not be unlawful for any person, firm, corporation or entity to keep, store, deposit or maintain a junk vehicle in the Town of Horseheads if the same is at all times contained, in whole and in part, in a fully enclosed structure or building. Nothing in this chapter shall be construed to prohibit the storing, depositing or maintenance of a junked vehicle in a private garage or to interfere with the operation of a business enterprise lawfully situated upon the property, such as, but not limited to a new or used car sales establishment, gasoline service station, motor vehicle repair establishment or bodyshop.


A. In the event that the Code Enforcement Officer of the Town of Horseheads shall observe a condition which he or she believes to be in violation of this chapter, he or she shall post or cause to be posted in a conspicuous place upon the premises where the violation is observed or the vehicle itself a notice to comply with the provisions of this chapter. Further, the Code Enforcement Officer shall mail or cause to be mailed a copy of said notice to the owner of the premises, within seven (7) days of such posting, directing compliance with the provisions of this chapter. The Code Enforcement Officer shall mail or cause to be mailed such notice to the owner of the premises, addressed to such owner as the same's address may appear upon the last town assessment roll. Alternatively, the Code Enforcement Officer may personally serve or cause to be personally served upon the owner of such premises the notice to comply in the same manner as service of a summons is permitted in Article 3 of the Civil Practice Law and Rules of the State of New York.

B. If the owner upon whom the notice is served fails, neglects or refuses to comply with the provisions of said notice within thirty (30) days after the later of such posting, mailing or service of such notice, the Code

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Enforcement Officer shall cause such junked vehicle to be removed and destroyed or disposed of. The total cost thereof may be certified by the Code Enforcement Officer to the Assessor of the Town of Horseheads to be assessed by the latter upon the premises on which such junked vehicle was found. Said total costs shall constitute a lien and charge on the lot or parcel of land on which said vehicle was found and on which said assessment shall be levied until paid or otherwise satisfied or discharged and shall be collected in the manner provided by law for the collection of delinquent taxes.


If a property owner has been served a notice to comply and elects to relinquish his or her right, title and interest in and to the junked vehicle and to permit the town to carry out the abatement of the violation as listed on the notice without further delay, then, in that event, the town may proceed to remove the junked vehicle, provided that the owner signs a written waiver permitting such removal holding the town harmless from any damage, claim, cost, expense or liability arising out of or resulting from such removal or abatement and submits same to the Code Enforcement Officer. Any expense incurred by the town as a result of such removal of a junked vehicle following the receipt of such a waiver by the owner or his or her duly authorized representative shall be at the town's expense.

§ 193-5. Hearing.

The owner may, within fifteen (15) days following the later of the posting, mailing or service, as provided for hereinabove, request a hearing before the Town Supervisor or his or her designated representative by filing a written notice of appeal of the Code Enforcement Officer's determination with the Town Clerk of the Town of Horseheads, who shall receive same and report the receipt thereof to the Town Board. The Town Supervisor shall hold a hearing on the same within ninety (90) days following the receipt of the notice of appeal, which hearing shall be upon notice to the owner and other interested parties. The rules of evidence prevailing in courts of record shall not be controlling in hearings held pursuant to this chapter.

§ 193-6. Penalties for offenses.

Any person found guilty of a violation of this chapter shall be punished as provided in Chapter 1, General Provisions, Article II, General Penalty.

Chapter 196

VEHICLES AND TRAFFIC
ARTICLE I
General Provisions

§ 196-1. Definitions.

A. The words and phrases used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them by Article 1 of the Vehicle and Traffic Law of the State of New York.

B. The following words and phrases, which are not defined by Article 1 of the Vehicle and Traffic Law of the State of New York, shall have the meanings respectively ascribed to them in this section for the purposes of this chapter:

CURBLINE — The prolongation of the lateral line of a curb or, in the absence of a curb, the lateral boundary line of the roadway.


OFFICIAL TIME STANDARD — Whenever certain hours are named herein or on traffic control devices, they shall mean the time standard which is in current use in this state.

§ 196-2. Authority to install traffic control devices.

The Highway Department shall install and maintain traffic control devices when and as required under the provisions of this chapter, to make effective the provisions of this chapter, and may install and maintain such additional traffic control devices as it may deem necessary to regulate, warn or guide traffic under the Vehicle and Traffic Law of the State of New York, subject to the provisions of §§ 1682 and 1684 of that law.

§ 196-2.1. Authority of Town Highway Superintendent. [Added 2-10-2010 by Res. No. 64-2010]

A. The Town Board of the Town of Horseheads hereby delegates the following authority to the Town Highway Superintendent and, in his or her absence, to the Deputy Town Highway Superintendent and concurrent authority to the Town Supervisor or, in his or her absence, the Deputy Town Supervisor for the Town of Horseheads:

(1) Pursuant to Subdivision (a)10 of § 1660 of the Vehicle and Traffic Law, the authority to establish a system of truck routes;

(2) Pursuant to Subdivision (a)11 of § 1660 of the Vehicle and Traffic Law, the authority to temporarily exclude from any portion of any Town highway any vehicle, as defined therein;

(3) Pursuant to Subdivision (a)28 of § 1660 of the Vehicle and Traffic Law, the authority to exclude trucks and all other vehicles, as
§ 196-3. Schedules; adoption of regulations.

A. Regulations shall be adopted by the Town Board in accordance with provisions of the Town Law and the Vehicle and Traffic Law, or by an officer or agency authorized by the Town Board to adopt regulations pursuant to § 1603 of the Vehicle and Traffic Law.

B. The exercise of any authority delegated hereunder shall be by order, in writing, with copies filed with the Town Clerk and Town Board.

C. The delegation of such powers shall not limit the authority of the Town Board to exercise any authority granted to the Town under the Vehicle and Traffic Law of the State of New York.

D. The Chemung County Sheriff, New York State Troopers or the Code Enforcement Office of the Town may enforce this section, and all violations, if any, shall be subject to the general penalties of the Code of the Town of Horseheads. 43

§ 196-3. Schedules; adoption of regulations.

A. For the purpose of maintaining an accurate record of all regulations adopted under the provisions of this chapter, there is hereby established a system of schedules, appearing as Article VI of this chapter, in which shall be entered all regulations after adoption. Such schedules shall be deemed a part of the section to which they refer. All regulations shall be adopted with reference to the appropriate schedule as indicated in the various sections of this chapter.

B. Regulations shall be adopted by the Town Board in accordance with provisions of the Town Law and the Vehicle and Traffic Law, or by an officer or agency authorized by the Town Board to adopt regulations pursuant to § 1603 of the Vehicle and Traffic Law.

43 Editor’s Note: See Ch. 1, Art. II, General Penalty.
ARTICLE II
Traffic Regulations

§ 196-4. Traffic control signals.

Traffic control signals shall be installed and operated at the intersection of those streets described in Schedule I (§ 196-31), attached to and made a part of this chapter.

§ 196-5. Speed limits.

The speed limit for both directions of traffic along the streets or parts thereof described in Schedule II (§ 196-32), attached to and made a part of this chapter, is hereby established at the rate of speed indicated.


No person shall drive a vehicle at a speed in excess of that indicated in Schedule III (§ 196-33), attached to and made a part of this chapter, in the areas described in said schedule, during school days between the hours of 7:00 a.m. and 6:00 p.m.

§ 196-7. One-way streets.

The streets or parts of streets described in Schedule IV (§ 196-34), attached to and made a part of this chapter, are hereby designated as one-way streets in the direction indicated.


No person shall make a U-turn on any of the streets or parts of streets described in Schedule V (§ 196-35), attached to and made a part of this chapter.


No person shall make a turn of the kind designated (left, right, all) at any of the locations described in Schedule VI (§ 196-36), attached to and made a part of this chapter.

§ 196-10. Prohibited right turns on red signal.

No person shall make a right turn when facing a steady red signal (stop indication) at any of the locations described in Schedule VII (§ 196-37), attached to and made a part of this chapter.

§ 196-11. Through streets.

The streets or parts of streets described in Schedule VIII (§ 196-38), attached to and made a part of this chapter, are hereby designated as

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through streets. Traffic control devices shall be installed on each street intersecting the through street.

§ 196-12. Stop intersections.

The intersections described in Schedule IX (§ 196-39), attached to and made a part of this chapter, are hereby designated as stop intersections. Stop signs shall be installed as provided therein.


The intersections described in Schedule X (§ 196-40), attached to and made a part of this chapter, are hereby designated as yield intersections. Yield signs shall be installed as provided therein.

§ 196-14. Trucks over certain weights excluded.

Trucks in excess of the weights indicated are hereby excluded from the streets or parts of streets described in Schedule XI (§ 196-41), attached to and made a part of this chapter, except for the pickup and delivery of materials on such streets.

§ 196-15. Operation of vehicles on Town land. [Added 6-12-2013]

Control of operation of vehicles of all types upon lands of the Town of Horseheads as described in Schedule XIA (§ 196-41.1).

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44. Editor’s Note: This resolution also provided for the renumbering of former § 196-15 as § 196-15.1.
ARTICLE III
Parking, Standing and Stopping

§ 196-15.1. Application of article.
The provisions of this article shall apply except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

§ 196-16. Parking prohibited at all times.
No person shall park a vehicle at any time upon any of the streets or parts thereof described in Schedule XII (§ 196-42), attached to and made a part of this chapter.

§ 196-17. No stopping.
No person shall stop a vehicle upon any of the streets or parts of streets described in Schedule XIII (§ 196-43), attached to and made a part of this chapter.

§ 196-18. No standing.
No person shall stand a vehicle upon any of the streets or parts of streets described in Schedule XIV (§ 196-44), attached to and made a part of this chapter.

§ 196-19. Parking prohibited certain hours.
No person shall park a vehicle between the hours specified in Schedule XV (§ 196-45) of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said schedule, attached to and made a part of this chapter.

§ 196-20. No stopping certain hours.
No person shall stop a vehicle during the times specified in Schedule XVI (§ 196-46) of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said schedule, attached to and made a part of this chapter.

§ 196-21. No standing certain hours.
No person shall stand a vehicle during the times specified in Schedule XVII (§ 196-47) of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said schedule, attached to and made a part of this chapter.
§ 196-22. Time limit parking.

No person shall park a vehicle for longer than the time limit shown in Schedule XVIII (§ 196-48) at any time between the hours listed in said schedule of any day, unless otherwise indicated, upon any of the streets or parts of streets described in said schedule, attached to and made a part of this chapter.

§ 196-23. Angle parking.

No person shall park a vehicle upon any of the streets or parts thereof described in Schedule XIX (§ 196-49), attached to and made a part of this chapter, except at the angle designated and only within the painted stall lines. On all streets or portions thereof where angle parking is now or shall hereafter be authorized, all vehicles parked thereon shall be parked with the front thereof nearest the curb.


The locations described in Schedule XX (§ 196-50), attached to and made a part of this chapter, are hereby designated as loading zones.

§ 196-25. Taxi stands.

The locations described in Schedule XXI (§ 196-51), attached to and made a part of this chapter, are hereby designated as taxi stands.


The locations described in Schedule XXII (§ 196-52), attached to and made a part of this chapter, are hereby designated as bus stops.
ARTICLE IV
Removal and Storage of Vehicles

§ 196-27. Authority to impound vehicles.
A. When any vehicle is parked or abandoned on any highway or public parking lot within this Town during a snowstorm, flood, fire or other public emergency which affects that portion of the public highway or parking lot upon which said vehicle is parked or abandoned, said vehicle may be removed by or under the direction of the Highway Superintendent or Code Enforcement Officer.

B. When any vehicle is found unattended on any highway or public parking lot within the Town where said vehicle constitutes an obstruction to traffic, said vehicle may be removed by or under the direction of the Highway Superintendent or Code Enforcement Officer.

C. In the event that any vehicle is unlawfully parked, stopped, standing or abandoned as provided by this chapter or New York State law, the Highway Superintendent or Code Enforcement Officer is authorized to tow away or have towed away, by a competent person, all such vehicles. [Added 12-13-2006 by L.L. No. 2-2006]

D. Nothing herein shall be taken or construed as obligating the Highway Superintendent or Code Enforcement Officer, or any other municipal department, for damage done to or destruction of a vehicle impounded, removed, stored, or towed unless otherwise provided by law. [Added 12-13-2006 by L.L. No. 2-2006]

A. After removal of any vehicle as provided in this article, Highway Superintendent or Code Enforcement Officer may store or cause such vehicle to be stored in a suitable place at the expense of the owner. Such owner or person in charge of the vehicle may redeem the same upon payment to the person with whom it was stored the cost or charges therefor.

B. The cost of towing and storage as hereinbefore provided shall be determined as follows:

(1) If the towing or storage is done by a municipal department, the cost thereof shall be in accordance with the reasonable expense incident to same, plus a reasonable charge as compensation therefor, such storage charges not to exceed an amount set forth from time to time by the Town Board.

(2) If the towing or storage is done by a private company or individual, then the cost shall be at the rate usually charged for such service by such company or individual, but in no case shall the cost exceed
§ 196-28  HORSEHEADS TOWN CODE  § 196-29

a reasonable compensation for the actual labor, material or space involved.

(3) It shall be entirely within the discretion of the Highway Superintendent or Code Enforcement Officer as to whether the towing and storage provided in this chapter shall be done by the Town or by a private company or individual; nevertheless, best judgment shall be exercised in determining the means for such towing and the place for storage.

(4) The cost of towing and storage shall be charged against the owner of the vehicle and shall be added to and be made a part hereof of any fine hereafter imposed for the above reasons. Irrespective of any method for collecting fines for traffic violations, and in addition thereto, all towing and storage costs imposed under this section shall constitute and be a lien against any vehicle impounded as provided above, and such lien shall not be lost, nor shall same be considered waived, by reason of the owner's taking possession of the vehicle before the costs are paid.


It shall be the duty of the Highway Superintendent or Code Enforcement Officer to ascertain to the extent possible the owner of the vehicle or the person having the same in charge and to notify him of the removal and disposition of such vehicle and of the amount which will be required to redeem same. Said Highway Superintendent or Code Enforcement Officer shall also, without delay, report to the Town Clerk the removal and disposition of any vehicle removed as provided in this article.
ARTICLE V
Miscellaneous Provisions


A. It is a traffic infraction for any person to violate any of the provisions of this chapter.

B. Except as otherwise provided herein, every person convicted of a traffic infraction for violation of any of the provisions of this chapter shall be punished by such fine or by imprisonment or by both such fine and imprisonment for the first and any subsequent convictions as is provided in § 1800(b) of the Vehicle and Traffic Law of New York State, as the same is amended from time to time.

C. The penalties provided for in this article shall be in addition to and not in derogation of any other penalties, towing and/or storage charges as provided for in Article IV.

D. Violation of the provisions of Article III of this chapter and failure to respond to the notice of violation of a parking violation shall subject the violator and/or the owner of the vehicle to a minimum fine of $10, which minimum fine, if not paid within 30 days of the date of notice of violation (issuance of parking violation), shall increase to $25, and, if not paid within 60 days after the date of notice of violation, said minimum fine shall increase to $50, and, if not paid within 90 days after the date of notice of violation, said fine shall increase to $100. [Amended 2-28-2007 by L.L. No. 1-2007]

<table>
<thead>
<tr>
<th>Violation</th>
<th>Code Section</th>
<th>Paid less than 30 Days</th>
<th>Paid greater than 30 Days</th>
<th>Paid greater than 60 Days</th>
<th>Paid greater than 90 Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>All roads</td>
<td>§§ 196-15 through 196-26</td>
<td>$10</td>
<td>$25</td>
<td>$50</td>
<td>$100</td>
</tr>
</tbody>
</table>

Table of Fines for Parking Violations
ARTICLE VI
Schedules


In accordance with the provisions of § 196-4, traffic control signals shall be installed at the following described intersections:

Intersection

(Reserved)


In accordance with the provisions of § 196-5, speed limits are hereby established upon the following described streets or parts thereof:

<table>
<thead>
<tr>
<th>Name of Street</th>
<th>Speed limit</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Breesport area</td>
<td>35</td>
<td>The boundary descriptions of this area are on file in the office of the Town Highway Superintendent</td>
</tr>
<tr>
<td>East Mill Street</td>
<td>30</td>
<td>From Village of Horseheads line to Village of Horseheads line for a distance of 0.4+ mile</td>
</tr>
<tr>
<td>Grand Central Avenue area, south of the village</td>
<td>30</td>
<td>The boundary descriptions of this area are on file in the office of the Town Highway Superintendent</td>
</tr>
<tr>
<td>Hickory Grove -Sing Sing area</td>
<td>30</td>
<td>The boundary descriptions of this area are on file in the office of the Town Highway Superintendent</td>
</tr>
<tr>
<td>Moss Hill Road</td>
<td>45</td>
<td>From County Route 20 (Franklin Street) easterly to Ormiston Hill Road for a distance of 1.5+ miles</td>
</tr>
<tr>
<td>North Hoffman Road [Added 12-8-2010 by Res. No. 101-2010]</td>
<td>45</td>
<td>From the Town of Horseheads southerly boundary to Halderman Hollow Road</td>
</tr>
<tr>
<td>Oak Hill Road</td>
<td>30</td>
<td>362 feet northeast thence 700 feet east thence 240 feet northeast thence 1,064 feet north to the end of Oak Hill Road</td>
</tr>
<tr>
<td>Orchard Knoll area</td>
<td>30</td>
<td>The boundary descriptions of this area are on file in the office of the Town Highway Superintendent</td>
</tr>
</tbody>
</table>
§ 196-33. Schedule III: School Speed Limits.

In accordance with the provisions of § 196-6, no person shall drive a vehicle in excess of the speeds indicated below, in the areas designated below, during school days between the hours of 7:00 a.m. and 6:00 p.m.:

### Speed limit

<table>
<thead>
<tr>
<th>Name of Street</th>
<th>(mph)</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prospect Hill Road</td>
<td>35</td>
<td>From Catlin Town line southerly for a distance of 0.6+ mile</td>
</tr>
<tr>
<td>Ridge Road area</td>
<td>30</td>
<td>The boundary descriptions of this area are on file in the office of the</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Town Highway Superintendent</td>
</tr>
<tr>
<td>West Lenox Avenue - Philo</td>
<td>30</td>
<td>The boundary descriptions of this area are on file in the office of the</td>
</tr>
<tr>
<td>Road area</td>
<td></td>
<td>Town Highway Superintendent</td>
</tr>
</tbody>
</table>

§ 196-34. Schedule IV: One-Way Streets.

In accordance with the provisions of § 196-7, the following described streets or parts thereof are hereby designated as one-way streets in the direction indicated:

<table>
<thead>
<tr>
<th>Name of Street</th>
<th>Direction of Travel</th>
<th>Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(Reserved)</td>
</tr>
</tbody>
</table>


In accordance with the provisions of § 196-8, no person shall make a U-turn at any of the following locations:

<table>
<thead>
<tr>
<th>Name of Street</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(Reserved)</td>
</tr>
</tbody>
</table>

§ 196-36. Schedule VI: Prohibited Turns at Intersections.

In accordance with the provisions of § 196-9, no person shall make a turn of the kind designated below at any of the following intersections:

<table>
<thead>
<tr>
<th>Name of Street</th>
<th>Direction of Travel</th>
<th>Prohibited Turn</th>
<th>Hours</th>
<th>At Intersection</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(Reserved)</td>
</tr>
</tbody>
</table>

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In accordance with the provisions of § 196-10, no person shall make a right turn when facing a steady red signal (stop indication) at any of the following locations:

<table>
<thead>
<tr>
<th>Name of Street</th>
<th>Direction of Travel</th>
<th>At Intersection of Prohibited Turn of</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(Reserved)</td>
</tr>
</tbody>
</table>


In accordance with the provisions of § 196-11, the following described streets or parts thereof are hereby designated as through streets. Traffic control devices shall be installed on each street intersecting the through street:

<table>
<thead>
<tr>
<th>Name of Through Street</th>
<th>Name of Entrance Street</th>
<th>Direction From Which Entering Traffic Control Device</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(Reserved)</td>
</tr>
</tbody>
</table>


In accordance with the provisions of § 196-12, the following described intersections are hereby designated as stop intersections, and stop signs shall be installed as follows:

<table>
<thead>
<tr>
<th>Stop Sign on</th>
<th>Direction of Travel</th>
<th>At Intersection of</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aberdeen Drive</td>
<td>Both</td>
<td>Overlook Drive</td>
</tr>
<tr>
<td>Arnold Avenue</td>
<td>South</td>
<td>McConnell Avenue</td>
</tr>
<tr>
<td>Arthur Street</td>
<td>Both</td>
<td>Carroll Street</td>
</tr>
<tr>
<td>Arthur Street</td>
<td>East</td>
<td>Center Street</td>
</tr>
<tr>
<td>Benita Avenue</td>
<td>South</td>
<td>McConnell Avenue</td>
</tr>
<tr>
<td>Bennett Circle East</td>
<td>West</td>
<td>Legion Road</td>
</tr>
<tr>
<td>Bennett Circle West</td>
<td>East</td>
<td>Legion Road</td>
</tr>
<tr>
<td>Biltmore Drive</td>
<td>West</td>
<td>Gardner Road</td>
</tr>
<tr>
<td>Bluejay Drive</td>
<td>[Added 8-22-2018 by Res. No. 102-2018]</td>
<td>East</td>
</tr>
<tr>
<td>Bond Street</td>
<td>East</td>
<td>Vermont Avenue</td>
</tr>
<tr>
<td>Bond Street</td>
<td>West</td>
<td>Kentucky Avenue</td>
</tr>
<tr>
<td>Stop Sign on</td>
<td>Direction of Travel</td>
<td>At Intersection of</td>
</tr>
<tr>
<td>-------------------</td>
<td>---------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td>Bluegrass Lane</td>
<td>Both</td>
<td>Meadowbrook Parkway</td>
</tr>
<tr>
<td>Bradley Court</td>
<td>South</td>
<td>Hilton Drive</td>
</tr>
<tr>
<td>Butler Avenue</td>
<td>South</td>
<td>Steele Street</td>
</tr>
<tr>
<td>Cameo Circle</td>
<td>Both</td>
<td>Ormiston Road</td>
</tr>
<tr>
<td>Carroll Street</td>
<td>South</td>
<td>Hemlock Street</td>
</tr>
<tr>
<td>Center Street</td>
<td>South</td>
<td>Hemlock Street</td>
</tr>
<tr>
<td>Claire Boulevard</td>
<td>Both</td>
<td>Carroll Street</td>
</tr>
<tr>
<td>Claire Boulevard</td>
<td>East</td>
<td>Center Street</td>
</tr>
<tr>
<td>Clove Circle</td>
<td>Both</td>
<td>Bluegrass Drive</td>
</tr>
<tr>
<td>Cornell Street</td>
<td>Both</td>
<td>Arnold Avenue</td>
</tr>
<tr>
<td>Cornell Street</td>
<td>Both</td>
<td>Butler Avenue</td>
</tr>
<tr>
<td>Cornell Street</td>
<td>East</td>
<td>Camden Avenue</td>
</tr>
<tr>
<td>Denver Street</td>
<td>Both</td>
<td>Arnold Avenue</td>
</tr>
<tr>
<td>Denver Street</td>
<td>Both</td>
<td>Butler Avenue</td>
</tr>
<tr>
<td>Denver Street</td>
<td>East</td>
<td>Camden Avenue</td>
</tr>
<tr>
<td>East Vargo Road</td>
<td>East</td>
<td>Bannister Road</td>
</tr>
<tr>
<td>East Vargo Road</td>
<td>West</td>
<td>Vargo Road</td>
</tr>
<tr>
<td>Florence Street</td>
<td>East</td>
<td>Center Street</td>
</tr>
<tr>
<td>Florence Street</td>
<td>West</td>
<td>Carroll Street</td>
</tr>
<tr>
<td>Golf Course Road</td>
<td>North</td>
<td>Halderman Hollow Road</td>
</tr>
<tr>
<td>Haines Road</td>
<td>North</td>
<td>Crane Road</td>
</tr>
<tr>
<td>Halderman Hollow</td>
<td>East</td>
<td>Philo Road</td>
</tr>
<tr>
<td>Road</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hillside Drive</td>
<td>West</td>
<td>Philo Drive</td>
</tr>
<tr>
<td>Hilton Drive</td>
<td>South</td>
<td>Gardner Road</td>
</tr>
<tr>
<td>Jackson Avenue</td>
<td>South</td>
<td>Mill Street</td>
</tr>
<tr>
<td>Jackson Avenue</td>
<td>West</td>
<td>Mill Street</td>
</tr>
<tr>
<td>Joseph Street</td>
<td>Both</td>
<td>Carroll Street</td>
</tr>
<tr>
<td>Joseph Street</td>
<td>East</td>
<td>Center Street</td>
</tr>
<tr>
<td>Kentucky Avenue</td>
<td>South</td>
<td>Lenox Avenue</td>
</tr>
<tr>
<td>Lancelot Drive</td>
<td>East</td>
<td>Philo Road</td>
</tr>
<tr>
<td>Legion Road</td>
<td>North</td>
<td>West Lenox Avenue</td>
</tr>
<tr>
<td>Lewis Street</td>
<td>West</td>
<td>Valley Avenue</td>
</tr>
<tr>
<td>Meadowbrook Parkway</td>
<td>North</td>
<td>Meadowbrook Parkway</td>
</tr>
<tr>
<td></td>
<td>West</td>
<td>East</td>
</tr>
<tr>
<td>Stop Sign on</td>
<td>Direction of Travel</td>
<td>At Intersection of</td>
</tr>
<tr>
<td>----------------------------</td>
<td>---------------------</td>
<td>---------------------------</td>
</tr>
<tr>
<td>Meadowlark Road</td>
<td>East</td>
<td>Bluejay Drive</td>
</tr>
<tr>
<td>[Added 8-22-2018 by Res. No. 102-2018]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Michigan Avenue</td>
<td>South</td>
<td>Bond Street</td>
</tr>
<tr>
<td>Mill Street</td>
<td>East</td>
<td>Church Street</td>
</tr>
<tr>
<td>Mill Street</td>
<td>West</td>
<td>Ormestead Road</td>
</tr>
<tr>
<td>North Hoffman Road</td>
<td>West</td>
<td>Halderman Hollow Road</td>
</tr>
<tr>
<td>Nottingham Way</td>
<td>East</td>
<td>Philo Road</td>
</tr>
<tr>
<td>Oak Hill Road</td>
<td>West</td>
<td>Gardner Road</td>
</tr>
<tr>
<td>O’Hanlon Street</td>
<td>West</td>
<td>Valley Avenue</td>
</tr>
<tr>
<td>Orchard Hill Road</td>
<td>West</td>
<td>North Hoffman Road</td>
</tr>
<tr>
<td>Orchard Knoll Road</td>
<td>East</td>
<td>Old Edinburg Road</td>
</tr>
<tr>
<td>Oriole Drive [Added 8-22-2018 by Res. No. 102-2018]</td>
<td>East</td>
<td>Meadowlark Road</td>
</tr>
<tr>
<td>Owen Street</td>
<td>West</td>
<td>Valley Avenue</td>
</tr>
<tr>
<td>Park Avenue</td>
<td>Northeast</td>
<td>Meadowbrook Parkway</td>
</tr>
<tr>
<td>Pine View Drive</td>
<td>South</td>
<td>West</td>
</tr>
<tr>
<td>Prospect Ridge</td>
<td>East</td>
<td>Prospect Road</td>
</tr>
<tr>
<td>Redwing Lane [Added 8-22-2018 by Res. No. 102-2018]</td>
<td>West</td>
<td>Oriole Drive</td>
</tr>
<tr>
<td>Rilla Street</td>
<td>Southwest</td>
<td>West Lenox Avenue</td>
</tr>
<tr>
<td>Robin Road [Added 8-22-2018 by Res. No. 102-2018]</td>
<td>Both</td>
<td>Bluejay Drive</td>
</tr>
<tr>
<td>Robin Road [Added 8-22-2018 by Res. No. 102-2018]</td>
<td>North</td>
<td>Redwing Lane</td>
</tr>
<tr>
<td>Robin Road [Added 8-22-2018 by Res. No. 102-2018]</td>
<td>South</td>
<td>Oriole Drive</td>
</tr>
<tr>
<td>St. Andrew's Drive</td>
<td>East</td>
<td>St. Andrew's Drive</td>
</tr>
<tr>
<td>St. Andrew's Drive</td>
<td>South</td>
<td>St. Andrew's Drive</td>
</tr>
<tr>
<td>[Added 7-9-2008 by Res. No. 108-2008]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>St. Andrew's Drive</td>
<td>South</td>
<td>Gardner Road</td>
</tr>
<tr>
<td>Scenic View</td>
<td>South</td>
<td>Scenic Drive</td>
</tr>
<tr>
<td>Stop Sign on</td>
<td>Direction of Travel</td>
<td>At Intersection of</td>
</tr>
<tr>
<td>--------------------</td>
<td>---------------------</td>
<td>----------------------------</td>
</tr>
<tr>
<td>Steele Street</td>
<td>Both</td>
<td>Arnold Avenue</td>
</tr>
<tr>
<td>Steele Street</td>
<td>East</td>
<td>Camden Avenue</td>
</tr>
<tr>
<td>Stewart Street</td>
<td>West</td>
<td>Rockwell Avenue</td>
</tr>
<tr>
<td>Sunset Terrace</td>
<td>West</td>
<td>Philo Road</td>
</tr>
<tr>
<td>Talarico Road</td>
<td>North</td>
<td>Moss Hill Road</td>
</tr>
<tr>
<td>Timothy Lane</td>
<td>North</td>
<td>Meadowbrook Parkway</td>
</tr>
<tr>
<td>Timothy Lane</td>
<td>South</td>
<td>Daffodil Drive</td>
</tr>
<tr>
<td>Trenton Street</td>
<td>West</td>
<td>Rockwell Avenue</td>
</tr>
<tr>
<td>Turnberry Drive</td>
<td>Northwest</td>
<td>Barrington Road</td>
</tr>
<tr>
<td>Turner Road</td>
<td>West</td>
<td>Vargo Road</td>
</tr>
<tr>
<td>Upland Run</td>
<td>North</td>
<td>Oak Hill Road</td>
</tr>
<tr>
<td>Upland Run</td>
<td>South</td>
<td>St. Andrew's Drive</td>
</tr>
<tr>
<td>[Added 7-9-2008 by Res. No. 108-2008]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vanderhoff Road</td>
<td>East</td>
<td>North Hoffman Road</td>
</tr>
<tr>
<td>Vargo Road East</td>
<td>East</td>
<td>Bannister Road</td>
</tr>
<tr>
<td>Vargo Road East</td>
<td>West</td>
<td>Vargo Road</td>
</tr>
<tr>
<td>Wabash Street</td>
<td>East</td>
<td>Rockwell Avenue</td>
</tr>
<tr>
<td>Wabash Street</td>
<td>West</td>
<td>Rockwell Avenue</td>
</tr>
<tr>
<td>Westlake Road</td>
<td>Northeast</td>
<td>Snake Hill Road</td>
</tr>
<tr>
<td>Westlake Road</td>
<td>West</td>
<td>Prospect Hill Road</td>
</tr>
<tr>
<td>Whippoorwill Lane</td>
<td>South</td>
<td>Redwing Lane</td>
</tr>
<tr>
<td>[Added 8-22-2018 by Res. No. 102-2018]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Woodlane Terrace</td>
<td>West</td>
<td>Sandy's Lane</td>
</tr>
<tr>
<td>Woods Lane</td>
<td>East</td>
<td>Halloran Drive</td>
</tr>
</tbody>
</table>


In accordance with the provisions of § 196-13, the following described intersections are hereby designated as yield intersections, and yield signs shall be installed as follows:
<table>
<thead>
<tr>
<th>Yield Sign on</th>
<th>Direction of Travel</th>
<th>At Intersection of</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acorn Drive</td>
<td>Both</td>
<td>Ivy Lane</td>
</tr>
<tr>
<td>Bluejay Drive</td>
<td></td>
<td></td>
</tr>
<tr>
<td>[Repealed 8-22-2018 by Res. No. 102-2018]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bluejay Drive</td>
<td></td>
<td></td>
</tr>
<tr>
<td>[Repealed 8-22-2018 by Res. No. 102-2018]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Chelsea Court</td>
<td>South</td>
<td>Barrington Road</td>
</tr>
<tr>
<td>Chelsea Drive</td>
<td>West</td>
<td>Barrington Road</td>
</tr>
<tr>
<td>Dutchess Drive</td>
<td>North</td>
<td>Oldenburg Road</td>
</tr>
<tr>
<td>Dutchess Drive</td>
<td>West</td>
<td>Babcock Road</td>
</tr>
<tr>
<td>Esthers Way</td>
<td>North</td>
<td>Royal Crest</td>
</tr>
<tr>
<td>Evergreen Circle</td>
<td>West</td>
<td>Evergreen Drive</td>
</tr>
<tr>
<td>Evergreen Lane</td>
<td>South</td>
<td>Woods Lane</td>
</tr>
<tr>
<td>Fairfield Drive</td>
<td>North</td>
<td>Barrington Road North</td>
</tr>
<tr>
<td>Frier Road</td>
<td>West</td>
<td>Hardscrabble Road</td>
</tr>
<tr>
<td>Greenridge Drive</td>
<td>South</td>
<td>Holiday Drive</td>
</tr>
<tr>
<td>Harvard Road</td>
<td>East</td>
<td>Biltmore Drive</td>
</tr>
<tr>
<td>Hidden Lane</td>
<td>North/South</td>
<td>Scenic Drive</td>
</tr>
<tr>
<td>Hilton Drive</td>
<td>North</td>
<td>Harvard Road</td>
</tr>
<tr>
<td>Holiday Drive</td>
<td>North</td>
<td>Greenridge Drive</td>
</tr>
<tr>
<td>Ivy Lane</td>
<td>East</td>
<td>Sandy's Lane</td>
</tr>
<tr>
<td>Ivy Lane</td>
<td>West</td>
<td>Orchard Knoll</td>
</tr>
<tr>
<td>McCann Road</td>
<td>West</td>
<td>Moss Hill Road</td>
</tr>
<tr>
<td>Meadowbrook Parkway</td>
<td>South</td>
<td>Daffodil Drive</td>
</tr>
<tr>
<td>East</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Meadowlark Road</td>
<td></td>
<td></td>
</tr>
<tr>
<td>[Repealed 8-22-2018 by Res. No. 102-2018]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Orchard Hill Road</td>
<td>South</td>
<td>Ashland Avenue</td>
</tr>
<tr>
<td>Oriole Drive</td>
<td>[Repealed 8-22-2018 by Res. No. 102-2018]</td>
<td></td>
</tr>
<tr>
<td>Ormiston Hill Road</td>
<td>West</td>
<td>Moss Hill Road</td>
</tr>
</tbody>
</table>

In accordance with the provisions of § 196-14, trucks in excess of the weights indicated are hereby excluded from the following streets or parts thereof, except for the pickup and delivery of materials on such streets:

<table>
<thead>
<tr>
<th>Yield Sign on</th>
<th>Direction of Travel</th>
<th>At Intersection of</th>
</tr>
</thead>
<tbody>
<tr>
<td>Redwing Lane</td>
<td></td>
<td></td>
</tr>
<tr>
<td>[Repealed 8-22-2018 by Res. No. 102-2018]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ridge Haven</td>
<td>West</td>
<td>Overlook Drive</td>
</tr>
<tr>
<td>Robert Drive</td>
<td>Both</td>
<td>Stuart Street</td>
</tr>
<tr>
<td>Robert Drive</td>
<td>East</td>
<td>Segar Road</td>
</tr>
<tr>
<td>Robin Road</td>
<td>[Repealed 8-22-2018 by Res. No. 102-2018]</td>
<td></td>
</tr>
<tr>
<td>Robin Road</td>
<td>[Repealed 8-22-2018 by Res. No. 102-2018]</td>
<td></td>
</tr>
<tr>
<td>Robin Road</td>
<td>[Repealed 8-22-2018 by Res. No. 102-2018]</td>
<td></td>
</tr>
<tr>
<td>Sandy's Lane</td>
<td>North</td>
<td>Ivy Lane</td>
</tr>
<tr>
<td>Scotch Pine Lane</td>
<td>North</td>
<td>Woods Lane</td>
</tr>
<tr>
<td>Short Hills Drive</td>
<td>West</td>
<td>Overlook Drive</td>
</tr>
<tr>
<td>Steeple Chase</td>
<td>Northwest</td>
<td>Hunter's Run</td>
</tr>
<tr>
<td>Sunnyfield Drive</td>
<td>East</td>
<td>Stuart Street</td>
</tr>
<tr>
<td>Sunset Circle</td>
<td>Both</td>
<td>Overlook Drive</td>
</tr>
<tr>
<td>Vargo Road East</td>
<td>East</td>
<td>Bannister Road</td>
</tr>
<tr>
<td>Vargo Road West</td>
<td>East</td>
<td>Vargo Road</td>
</tr>
<tr>
<td>West Lenox Avenue</td>
<td>East</td>
<td>Corning Road</td>
</tr>
<tr>
<td>Wexford Lane</td>
<td>North</td>
<td>Royal Crest</td>
</tr>
<tr>
<td>Whipporwill Lane</td>
<td>[Repealed 8-22-2018 by Res. No. 102-2018]</td>
<td></td>
</tr>
<tr>
<td>Willow Road</td>
<td>Northeast</td>
<td>Chestnut Drive</td>
</tr>
<tr>
<td>Woodgate Road</td>
<td>East</td>
<td>Prospect Road</td>
</tr>
</tbody>
</table>

193:276
### Weight Limit

<table>
<thead>
<tr>
<th>Name of Street</th>
<th>Weight Limit (tons)</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Burns Road</td>
<td>4</td>
<td>Entire length</td>
</tr>
<tr>
<td>Camden Avenue</td>
<td>10</td>
<td>Entire length</td>
</tr>
<tr>
<td>Hardscrabble Road</td>
<td>20</td>
<td>Entire length</td>
</tr>
<tr>
<td>Hemlock Street</td>
<td>5</td>
<td>Entire length</td>
</tr>
<tr>
<td>Monkey Run Road</td>
<td>5</td>
<td>Entire length</td>
</tr>
<tr>
<td>Ormiston Hill Road</td>
<td>15</td>
<td>Entire length</td>
</tr>
<tr>
<td>Philo Road</td>
<td>5</td>
<td>Entire length</td>
</tr>
<tr>
<td>South Carroll Street</td>
<td>5</td>
<td>Entire length</td>
</tr>
<tr>
<td>South Center Street</td>
<td>5</td>
<td>Entire length</td>
</tr>
<tr>
<td>Vanderhoff Road</td>
<td>20</td>
<td>Entire length</td>
</tr>
<tr>
<td>Vargo Road</td>
<td>5</td>
<td>Entire length</td>
</tr>
<tr>
<td>West Lenox Avenue</td>
<td>5</td>
<td>Entire length</td>
</tr>
</tbody>
</table>

### § 196-41.1. Schedule XIA: Operation of Vehicles on Town Land.

**[Added 6-12-2013]**

In accordance with the provisions of § 196-15, no person shall operate a vehicle on any lands leased, owned or controlled by the Town of Horseheads, at any time, except in areas designated for vehicular traffic or upon direction of supervision of the Town. This prohibition includes, but is not limited to, levees, dikes, drainage basins, parks, gravel mines, and the Town Hall complex.

### § 196-42. Schedule XII: Parking Prohibited at All Times.  

In accordance with the provisions of § 196-16, no person shall park a vehicle at any time upon any of the following described streets or parts thereof:

<table>
<thead>
<tr>
<th>Name of Street</th>
<th>Side</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arnold Avenue</td>
<td>Both</td>
<td>From McConnell Avenue to Lenox Avenue</td>
</tr>
<tr>
<td>Cheryl Street</td>
<td>Both</td>
<td>Entire length</td>
</tr>
<tr>
<td>Lake Road</td>
<td>Both</td>
<td>From 14th Street northerly to Lenox Avenue</td>
</tr>
<tr>
<td>Nancy Street</td>
<td>Both</td>
<td>Entire length</td>
</tr>
<tr>
<td>Philo Road</td>
<td>Both</td>
<td>From the South BOCES Line north to Halderman Hollow Road</td>
</tr>
<tr>
<td>Prospect Hill Road</td>
<td>Both</td>
<td>From Hickory Grove Road to a point 1,000 feet north thereof</td>
</tr>
</tbody>
</table>

In accordance with the provisions of § 196-17, no person shall stop a vehicle upon any of the following described streets or parts thereof:

<table>
<thead>
<tr>
<th>Name of Street</th>
<th>Side</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hemlock Street</td>
<td>Both</td>
<td>Entire length</td>
</tr>
</tbody>
</table>

§ 196-44. Schedule XIV: No Standing.

In accordance with the provisions of § 196-18, no person shall stand a vehicle upon any of the following described streets or parts thereof:

<table>
<thead>
<tr>
<th>Name of Street</th>
<th>Side</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Reserved)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


In accordance with the provisions of § 196-19, no person shall park a vehicle between the times specified upon any of the following described streets or parts thereof:

<table>
<thead>
<tr>
<th>Name of Street</th>
<th>Side</th>
<th>Hours/Days</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>All roads in the Town</td>
<td>Both</td>
<td>24 hours/All; Nov. 1 - Apr. 30</td>
<td>All roads in the Town</td>
</tr>
</tbody>
</table>

§ 196-46. Schedule XVI: No Stopping Certain Hours.

In accordance with the provisions of § 196-20, no person shall stop a vehicle between the times specified upon any of the following described streets or parts thereof:

<table>
<thead>
<tr>
<th>Name of Street</th>
<th>Side</th>
<th>Hours/Days</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Reserved)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
§ 196-47. Schedule XVII: No Standing Certain Hours.

In accordance with the provisions of § 196-21, no person shall stand a vehicle between the times specified upon any of the following described streets or parts thereof:

<table>
<thead>
<tr>
<th>Name of Street</th>
<th>Side</th>
<th>Hours/Days</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Reserved)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


In accordance with the provisions of § 196-22, no person shall park a vehicle for longer than the time limit specified upon any of the following described streets or parts thereof:

<table>
<thead>
<tr>
<th>Name of Street</th>
<th>Side</th>
<th>Time Limit; Hours/Days</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grand Central Avenue</td>
<td>East</td>
<td>1 hour</td>
<td>Between Steele Street and Cornell Street</td>
</tr>
</tbody>
</table>

[Added 10-4-2000 by Res. No. 115-2000]


In accordance with the provisions of § 196-23, no person shall park a vehicle upon any of the streets or parts thereof described below, except at the angle designated:

<table>
<thead>
<tr>
<th>Name of Street</th>
<th>Side</th>
<th>Angle (degrees)</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Reserved)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

§ 196-50. Schedule XX: Loading Zones.

In accordance with the provisions of § 196-24, the following described locations are hereby designated as loading zones:

<table>
<thead>
<tr>
<th>Name of Street</th>
<th>Side</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Reserved)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


In accordance with the provisions of § 196-25, the following described locations are hereby designated as taxi stands:

<table>
<thead>
<tr>
<th>Name of Street</th>
<th>Side</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Reserved)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
§ 196-52. Schedule XXII: Bus Stops.

In accordance with the provisions of § 196-26, the following described locations are hereby designated as bus stops:

<table>
<thead>
<tr>
<th>Name of Street</th>
<th>Side</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(Reserved)</td>
</tr>
</tbody>
</table>
Chapter 204

ZONING

GENERAL REFERENCES

Building construction and fire prevention — See Ch. 83.
Flood damage prevention — See Ch. 111.
Mobile homes and mobile home parks — See Ch. 132.
Signs — See Ch. 152.
Stormwater management and erosion and sediment control — See Ch. 166.
Subdivision of land — See Ch. 175.
ARTICLE I
Title and Purpose

§ 204-1. Title.
This chapter shall be known and may be cited as the "Town of Horseheads Zoning Ordinance."

§ 204-2. Purpose.
The intended purpose of the chapter is
A. To promote the health, morals, safety and general welfare of the community.
B. To reduce congestion on the streets and highways.
C. To ensure safety from fire, panic and other dangers.
D. To provide adequate light and air.
E. To prevent overcrowding of land and avoid undue concentrations of population.
F. To facilitate the provision of public facilities.
G. To make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.
H. To establish zones wherein regulations concerning the use of land and structures, the density of development, the size of yards, the percentage of lot that may be occupied and the provision of parking will be set forth to encourage the most appropriate development of the Town in accordance with a Comprehensive Development Plan.
§ 204-3. Word usage.

Except where specifically defined, all words in this chapter shall carry their customary meanings. Words used in the present tense include the future; the singular includes the plural and the plural and singular; the word "building" includes the word "structure"; the words "occupied" or "used" include the words "arranged, designed or intended to be used"; and the word "shall" is intended to be mandatory.

§ 204-4. Definitions.

Certain words and terms used in this chapter are to be interpreted as defined in this section, as follows:

ACCESSORY USE — A land use activity which is subordinate and incidental to the main use permitted on the same lot.

BASEMENT — As defined in the Uniform Fire Prevention and Building Code of the State of New York, as amended.[Added 12-14-1994]

BUILDING, ACCESSORY — A subordinate building clearly incidental to the principal building on the same lot and used for purposes customarily incidental to those of the principal building.

BUILDING, PRINCIPAL — A building or buildings within which is conducted the primary use of the lot on which said building is located.

BUILDING — Any structure where space is covered or enclosed.

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.

CABIN or COTTAGE — A building designed for seasonal occupancy and not suitable for year-round living.

CELLAR — As defined in the Uniform Fire Prevention and Building Code of the State of New York, as amended.[Added 12-14-1994]

CLUB — Any organization, premises or building catering exclusively to members and their guests and containing no merchandising or commercial activities except as required for the membership and purposes of such "club."

DWELLING — Any building or part thereof designed and used for year-round human habitation.

DWELLING UNIT, MULTIFAMILY — One or more dwellings on a single lot containing separate dwelling units for three or more families.

DWELLING UNIT, ONE-FAMILY — A detached dwelling having accommodations for only one family.
DWELLING UNIT, TWO-FAMILY — A detached dwelling containing two dwelling units.

DWELLING UNIT — One or more rooms located within a dwelling and providing complete living accommodations for one family, including cooking and bathroom facilities and an independent entrance.

FAMILY — One or more persons occupying a dwelling unit as a single, nonprofit housekeeping unit, who are living together as a bona fide stable and committed living unit, being a traditional family unit or the functional equivalent thereof, exhibiting the generic character of a traditional family.[Amended 10-4-1995 by L.L. No. 5-1995]

FRONTAGE — The distance between side lot lines measured at the street right-of-way line.

GARBAGE — Includes animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.[Added 12-14-1994]

GASOLINE SERVICE STATION — Any area of land, including structures thereon, that is used for the sale of gasoline or any other motor vehicle fuel, oil and other lubricating substances and motor vehicles accessories, and the station may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles.

HOME OCCUPATION — A business, profession, occupation or trade, not including retail sales or retail store, conducted for gain entirely within the living space of a residential building, which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential residential character of such building.[Added 10-4-1995 by L.L. No. 5-1995; amended 8-13-1997]

KENNEL — An establishment for the treatment, care, boarding or breeding of dogs or cats for a fee, or the keeping of a total of three or more dogs or cats over six months of age.[Added 10-4-1995 by L.L. No. 5-1995]

LAND DEVELOPMENT ACTIVITY — Construction activity, including clearing, grading, excavating, soil disturbance or placement of fill, that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.[Added 9-14-2005 by Res. No. 107-2005]

LIVESTOCK — Ungulates, game birds, or poultry, including, but not limited to, chickens, turkeys, ducks, or geese. Species of cattle, sheep, swine, goats, llamas, horses or fur-bearing animals, as defined in § 11-1907 of the Environmental Conservation Law. Fur-bearing animals shall not include dogs and cats unless being raised for commercial or subsistence purposes.[Added 6-13-2012]

LOT — A parcel of land with or without buildings delineated by lot lines.
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 — That portion of the lot area within the building lines of the principal buildings.

LOT LINE — The boundary line of a lot.

MOBILE HOME — A self-contained, transportable, single-family dwelling unit suitable for year-round occupancy and containing the same suitable water supply, sewage disposal and electrical systems as immobile housing.

MOBILE HOME PARK — A parcel of land under single ownership which is improved for the placement of mobile homes for nontransient use and which is offered to the public for the placement of two or more mobile homes.

OPEN FIRE — Any outdoor fire or smoke producing process from which any contaminants are emitted directly into the outdoor atmosphere, except outdoor grills or fireplaces for the preparation of food.[Added 12-14-1994]

PARKING SPACE — An area of at least 200 square feet being at least 10 feet in width and 20 feet in length.

PLANNED UNIT DEVELOPMENT — An area of at least three acres in size in one ownership designed and built as a single unit providing a street system and water and sewer facilities as necessary and used for residential or commercial or industrial purposes or some combination thereof.

PROFESSIONAL OFFICE — One used by a duly licensed architect, attorney, certified public accountant, dentist, optometrist, chiropractor, engineer, insurance broker or salesman, physician or surgeon, real estate broker or surveyor.[Added 12-14-1994]

RETAIL SALES — Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.[Added 8-13-1997]

RETAIL STORE — A commercial activity designed for and primarily characterized by the on-premises sale of goods directly to the ultimate individual or household consumer, but also including servicing, preparation, storage and wholesale business transaction related to such goods and customarily associated therewith but clearly incidental thereto. This term shall not include commercial activity which may also be similarly characterized, but which is separately identified as use a permitted within a zoning district.[Added 8-13-1997]

ROADSIDE STAND — A temporary, seasonal and movable structure, not in excess of 120 square feet in size, which is intended for use during a specified period of time.[Added 10-4-1995 by L.L. No. 5-1995]

ROOMING HOUSE — A dwelling or that part of a dwelling in which rooms are offered for hire for more than two persons.

RUBBISH — Includes all solid or liquid waste material, including but not limited to paper products, rags, trees, leaves, needles and branches thereof,
vines, lawn and garden debris, furniture, cans, crockery, plastics, chemicals, paint, grease, sludge, oils and other petroleum products, wood, sawdust, demolition materials, tires, automobiles and other vehicle parts for junk, salvage or disposal, incinerator residue, street sweepings, dead animals or offal. [Added 12-14-1994]

SIGN — Any device, object or building facade used for the visual communication or advertisement of a place, building, product, service or name.

STORMWATER MANAGEMENT FACILITY — One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff. [Added 9-14-2005 by Res. No. 107-2005]

STORY — That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, the space between such floor and the ceiling next above it.

TOURIST HOME — See "rooming house."

TRAVEL OR CAMPING TRAILER — A transportable accommodation or vehicle suitable for seasonal living only.

YARD, FRONT — The area between the front lot line and the front line of the principal building extended to the side lines of the lot.

YARD, REAR — The area between the rear lot line and the rear line of the principal building extended to the side lines of the lot.

YARD, SIDE — The area between the side line of the principal building and a side lot line extending from the front lot line to the rear lot line.
ARTICLE III  
District Boundaries; Zoning Map  

§ 204-5. Enumeration of districts. [Amended 8-9-2006 by Res. No. 126-2006]

For the purpose specified in this chapter, the Town of Horseheads is divided into 10 zone districts as follows:

Residence AA  
Residence A  
Residence B  
Neighborhood Service  
Business  
Industrial and Manufacturing  
Agricultural and Hill  
Industrial Park  
Highway Corridor Overlay District  
Planned Unit Development.

§ 204-6. Official Zoning Map. [Amended 10-4-1995 by L.L. No. 5-1995]

All land in the Town of Horseheads shall fall within one of the established zones as shown on the Official Zoning Map, as amended. Said map and all notations and references shown thereon are hereby incorporated into and made a part of this chapter.45

§ 204-7. Determination of district boundaries.

In determining zone boundaries, the following guides shall apply:

A. Zone boundaries are intended to follow center lines of streams, streets, roads and railroad main lines as shown on plots or records at the time this chapter becomes effective.

B. Where the Zoning Map indicates a boundary approximately upon a lot line, such lot line shall be construed to be the boundary.

C. Where zone boundaries are shown approximately parallel to streets and highways, such boundaries shall be construed to be parallel to the right-of-way line of said street or highway at such distance therefrom as indicated on the Zoning Map. If no dimension is specified on the Zoning Map, the boundary shall be determined by use of the scale on the Zoning Map. Street lines shown on said map are intended to represent right-of-way lines.

45.Editor's Note: The Official Zoning Map is on file in the Town offices.
§ 204-8. General development regulations.

Except as hereinafter provided, the following general provisions shall apply to land use and development in the Town of Horseheads:

A. No land or building shall hereinafter be used or occupied and no building 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.

B. No land to be offered for sale or transfer of ownership shall hereafter be built upon unless it has frontage on or direct permanent access to a street improved in accordance with Town standards.

C. Minimum lot sizes specified in this chapter shall be subject to approval and modification by the Chemung County Health Department to meet applicable Health Department regulations. In areas where public sewer and/or water facilities are not available, the Health Department standards for minimum lot size shall take precedence over any less restrictive provisions of this chapter.

D. No lot shall hereafter be reduced or altered so as to result in a lot that does not meet the minimum area or yard requirements prescribed by this chapter.

E. Any lot held in single and separate ownership prior to the adoption of this chapter whose area and/or width and/or depth are less than the specified minimum lot requirements of this chapter for that district may be considered as complying with such minimum lot requirements, and no variance shall be required, provided that:

(1) Such lot does not adjoin other undersized lot or lots held by the same owner, whose aggregate area is equal to or greater than the minimum lot area required for that district. [Amended 8-11-1982]

(2) Such lot has an area of at least 4,000 square feet and a minimum width of at least 50 feet at the required setback line.

(3) All front, side and rear and all bulk requirements for that district are complied with.

F. Hereafter, if a residential and nonresidential use are to be located in one structure on a single lot within any zone, the applicable lot area and frontage requirements for the dwelling in that zone shall apply, to which shall be added 25% of the applicable lot area and frontage requirements for the nonresidential use.

G. No yard or off-street parking space provided about any building for the purpose of complying with the provision of this chapter shall be
considered as providing a yard or off-street parking for any other building.

H. No single-family dwelling in any district shall be erected or altered so as to provide for less than 750 square feet of enclosed first floor areas.

I. In determining the percentage of building coverage of the size of yards for the purpose of this chapter, porches or covered terraces open at the sides but roofed shall be considered a part of the building.

J. The provisions of this chapter shall not apply to fences and walls less than six feet above the natural grade, except as specified in Subsection K below. Further, the provisions of this chapter shall not apply to steps, unroofed porches or terraces or other similar features less than three feet above ground floor level.

K. No structure, fence or planting over three feet in height or less than 12 feet from the ground shall be maintained on any corner lot within a triangular area formed by the lot lines, along the streets to the points on such lines a distance of 40 feet from their intersection and a line connecting such points. Any fence or planting that does not conform to the requirements of this subsection and which results in an obstruction to the vision of motorists shall be made to conform within 30 days from the effective date of this chapter.

L. The height limitations of this chapter shall not apply to farm buildings or structures, church spires, belfries, cupolas, chimneys, sky lights, mechanical equipment, water tanks, monuments, utility lines, solar energy equipment, windmills for energy generation and similar features.

M. Within six months after work on any excavation for a building has begun, such excavation shall be covered over or filled by the owner to the normal grade. Any excavation or cellar hole remaining after the demolition or destruction of a building from any cause shall be covered over or filled after 30 days' notice by the Code Enforcement Officer. The Town Board may order said excavation to be covered and filled and shall charge the owner of said property any cost connected therewith. If an excavation meets the definition of “land development activity” as defined in this chapter, a stormwater pollution prevention plan must be prepared in conformance with Chapter 166. [Amended 9-14-2005 by Res. No. 107-2005]

N. No travel or camping trailer, unlicensed or unregistered motor vehicle, boat or snowmobile or similar equipment shall be stored in the front yard of any lot in a residential zone.

O. When a lot is divided by a zone boundary, the regulations and requirements of the least restrictive zone may be extended on application to the Zoning Board of Appeals or upon application for a variance.
P. Mobile home parks, trailer camps, tourist camps or similar facilities may only be permitted after application for and approval of zoning in a planned unit development pursuant to Article XIV of this chapter and shall be developed in accordance with the provisions of said Planned Unit Development District and Chapter 132, Mobile Homes and Mobile Home Parks.

Q. Except in a manufacturing or agricultural district, there shall be no outdoor storage of goods, supplies, equipment, rubbish, refuse or junk. No permanent storage shall be allowed in a trailer or other nonpermanent movable structure. [Amended 10-4-1995 by L.L. No. 5-1995]

R. No garbage or rubbish shall be burned in any open fire in any district in the Town. [Amended 12-14-1994]

S. The business of selling and dealing in secondhand and used cars permitted in a business and/or manufacturing district may be carried on, provided that all said cars, trucks and other automobiles shall be in a good state and condition of repair and can be operated at all times under their own power and shall comply at all times with all requirements of the laws of the State of New York and rules and regulations promulgated thereunder for operation thereof on public highways, and provided that such cars, trucks or other automobiles shall not be parked or stored within the required front yard for the district.

T. Natural drainageways shall be preserved in their natural state and shall be kept free of debris or other obstructions to water flow. Where relocations of such a drainageway cannot be avoided, it must be carried out in a way that will assure the free and unobstructed flow of stormwater in accord with a stormwater pollution prevention plan as required by Chapter 166. [Amended 9-14-2005 by Res. No. 107-2005]

U. Flood hazard areas.

(1) Notwithstanding any other provision of this chapter, all development occurring within a flood hazard area as delineated on the Zoning Map and involving a building or landfill shall be permitted only by approval of the Zoning Board of Appeals upon recommendation of the Town Planning Board. In considering requests for such approval, the Board of Appeals shall be satisfied that such structure or fill will not significantly retard the free flow of floodwaters and that the lowest habitable floor of any dwelling will be above the flood level or be floodproofed.

(2) In general, the flood hazard boundary will be considered to coincide with the limit of the special flood hazard area as shown on maps prepared by the Town of Horseheads and the United States
Department of Housing and Urban Development, as periodically amended.

(3) The Zoning Board of Appeals may require floodproofing measures for all buildings and structures other than those which have low flood damage potential. Of special concern will be:

   (a) Provisions for anchorage or added weight to prevent flotation and lateral movement of the structure.

   (b) Design of water supply systems so as to minimize infiltration of floodwater.

   (c) Design and location of sewage disposal systems so as to prevent contamination from said systems during flooding.

(4) This provision shall be applicable to construction in all zone districts to the extent that such districts are within the flood hazard area.

V. Roadside stands. [Amended 10-4-1995 by L.L. No. 5-1995]

   (1) All roadside stands allowed in any zone hereunder shall be in place only during its period of use and thereafter shall be removed and stored out of sight of the public highway.

   (2) In the event that a permanent, nonbusiness structure not in excess of 400 square feet is permitted to be used hereunder, then, upon expiration of the permit, all goods held for sale shall be removed from the premises or stored and not held for sale.
§ 204-9. Intent.
The intent and purpose of the Residence AA Zone and the following regulations are to preserve the quality and appearance of established low-density residential neighborhoods and to provide minimum standards to guide the continued development of these neighborhoods in a manner which will be compatible with the character of existing development.

§ 204-10. Permitted uses.
Permitted uses in the Residence AA Zone shall be as follows:
A. One-family dwellings.
B. Educational buildings, churches, community buildings and other semipublic structures.
C. Such accessory uses as are customarily incidental to the above uses.

§ 204-11. Accessory uses.
Accessory uses in the Residence AA Zone shall be as follows:
A. Living quarters in the principal building or in a private garage for domestic employees of the resident of the principal building.
B. A temporary building for sales, rental or construction where such building is necessary or incidental to the development of a residential area. After two years, the temporary building shall be removed or brought into compliance.
C. Satellite dishes or receivers, which shall be located in the rear yard and shall be located not less than 1 1/2 times the height of the structure from the rear and side lot lines. [Added 10-4-1995 by L.L. No. 5-1995]
D. Home occupations, which shall be allowed as follows: [Added 12-14-1994]
   (1) The home occupation shall only be allowed upon filing with the Code Enforcement Officer an application, pursuant to and in compliance with this subsection, which shall include:
      (a) A copy of the proof of ownership of the dwelling (deed or land contract).
      (b) A statement as to the occupation to be conducted.
(c) A diagram of the dwelling unit drawn to scale of one inch to five feet, showing the entire dwelling and the portion to be used for the home occupation.

(d) An initial permit fee in an amount as set forth from time to time by resolution of the Town Board. [Amended 10-4-1995 by L.L. No. 5-1995]

(2) The person conducting the home occupation shall be required annually, on or before July 1 of each year, to certify to the Code Enforcement Officer the continued conduct of the home occupation, compliance with the terms and condition of this subsection and the payment of a fee in an amount as set forth from time to time by resolution of the Town Board. [Amended 10-4-1995 by L.L. No. 5-1995]

(3) Hairdresser or cosmetologist, barber, financial consultant, accountant, tutor, artist, author, licensed massage therapist, computer consultant, home secretary, contractor, custom dressmaking or tailoring, desktop publishing, professional office, cruise agent and catalog and mail-order sales. [Amended 5-10-1995; 8-13-1997]

(4) The occupation must be conducted by the person or persons owning and residing in the dwelling unit and no more than one additional employee, whether employed on site or off site.

(5) There shall be no external evidence of the occupation other than one sign not exceeding four square feet in area, which shall be attached to the dwelling.

(6) A home occupation shall generate no traffic which cannot be accommodated in the existing residential driveway serving the residence and shall produce no noise, smoke, dust, odor, heat, glare or electronic disturbances beyond the property it occupies.

(7) The amount of the entire dwelling that may be used for the conduct of the home occupation shall be no more than 25% or 500 square feet of the living space, whichever is less. For purposes of this subsection, "living space" shall not include the garage, attic or cellar, and such home occupation may not be conducted in such space.

(8) The Code Enforcement Officer shall be required to conduct a biannual inspection of the premises upon which the home occupation is conducted for compliance with this subsection and other rules and regulations, including the New York State Uniform and Fire Prevention and Building Code.

(9) All presently conducted home occupations which have been previously issued a special permit shall be terminated on or before
three years from the date a notice to terminate is sent by certified mail, if not otherwise in compliance with this subsection.

§ 204-12. Uses permitted by special permit.

For uses permitted by special permit, see Article XV.

§ 204-13. Density and area requirements. [Amended 8-11-1982]

A. The lot area shall be not less than 15,000 square feet, with at least 100 feet of street frontage.

B. All buildings, including accessory buildings, shall not cover more than 30% of the lot area.

§ 204-14. Yards and landscaping.

A. Front yard. The depth shall not be less than 40 feet.

B. Rear yard. The depth shall not be less than 40 feet.

C. Side yards. The total aggregate width shall be not less than 35 feet with a minimum width of 15 feet in any one yard. Corner lots shall have 40 foot setback from each street.

D. Not more than two parking spaces in addition to a normal driveway shall be located in any front yard.

E. All yards shall be appropriately landscaped with trees, shrubs, grass or other forms of ground cover.

F. An unenclosed, one-story covered entryway or porch on the front of a residence shall not extend greater than eight feet into the front yard from the affected entry and shall not extend, in width, beyond the corners of the front line of the residence. Such entryway or porch shall only be permitted if the remaining unobstructed front yard setback is a minimum of 30 feet. [Added 8-11-2010 by Res. No. 115-2010]

§ 204-15. Off-street parking.

For off-street parking regulations, see Article XVI.

§ 204-16. Building height and floor area requirements.

A. Building height. Building heights shall not exceed two stories or 30 feet, whichever is more restrictive.

B. Building floor area. Notwithstanding the provisions of § 204-8H of this chapter to the contrary, no dwelling in a Residence AA Zone shall be erected or altered so as to provide less than the following: 1,000 square feet of enclosed floor area for a one-story house, and 1,200 square feet of enclosed floor area for a split-level or two-story house. Such area shall not include garage or carport areas.
C. All accessory buildings shall be located in the rear yard and shall not be less than five feet from any principal structure and not less than five feet from any rear or side property lines. [Added 10-4-1995 by L.L. No. 5-1995]
ARTICLE VI
Residence A Zone

§ 204-17. Intent.

The intent and purpose of the Residence A Zone and the following regulations are to preserve the quality and appearance of established medium-density residential neighborhoods in a manner which will be compatible with the character of existing development and in the future permit the expansion of medium-density housing.

§ 204-18. Permitted uses.

Permitted uses in the Residence A Zone shall be as follows:

A. One-family dwelling. [Amended 10-4-1995 by L.L. No. 5-1995]

B. Educational buildings, churches, community buildings and other semipublic structures. [Added 10-4-1995 by L.L. No. 5-1995]

C. Two-family dwellings.

D. Public or private golf course, except a miniature golf course.

E. Noncommercial garden, nursery or greenhouse.

F. Hospitals, clinics, nursing or convalescent homes, sanatoriums and funeral homes.

G. Such accessory uses as are customarily incidental to the above uses.

§ 204-19. Accessory uses. [Amended 1-10-1990]

Accessory uses in the Residence A Zone shall be as follows:

A. Living quarters in the principal building or in a private garage for domestic employees of the resident of the principal building. [Amended 10-4-1995 by L.L. No. 5-1995]

B. A temporary building for sales, rental or construction where such building is necessary or incidental to the development of a residential area. After two years, the temporary building shall be removed or brought into compliance. [Added 10-4-1995 by L.L. No. 5-1995]

C. Satellite dishes or receivers, which shall be located in the rear yard and shall be located not less than 1 1/2 times the height of the structure from the rear and side lot lines. [Added 10-4-1995 by L.L. No. 5-1995]

D. Home occupations, which shall be allowed as follows: [Amended 12-19-1994]
The home occupation shall only be allowed upon filing with the Code Enforcement Officer an application, pursuant to and in compliance with this subsection, which shall include:

(a) A copy of the proof of ownership of the dwelling (deed or land contract).

(b) A statement as to the occupation to be conducted.

(c) A diagram of the dwelling unit drawn to scale of one inch to five feet, showing the entire dwelling and the portion to be used for the home occupation.

(d) An initial permit fee in an amount as set from time to time by resolution of the Town Board. [Amended 10-4-1995 by L.L. No. 5-1995]

(2) The person conducting the home occupation shall be required annually, on or before July 1 of each year, to certify to the Code Enforcement Officer the continued conduct of the home occupation, compliance with the terms and condition of this subsection and the payment of a fee in an amount as set forth from time to time by resolution of the Town Board. [Amended 10-4-1995 by L.L. No. 5-1995]

(3) Hairdresser or cosmetologist, barber, financial consultant, accountant, tutor, artist, author, licensed massage therapist, computer consultant, home secretary, contractor, custom dressmaking or tailoring, desktop publishing, professional office, cruise agent and catalog and mail-order sales. [Amended 5-10-1995; 8-13-1997]

(4) The occupation must be conducted by the person or persons owning and residing in the dwelling unit and no more than one additional employee, whether employed on site or off site.

(5) There shall be no external evidence of the occupation other than one sign not exceeding four square feet in area, which shall be attached to the dwelling.

(6) A home occupation shall generate no traffic which cannot be accommodated in the existing residential driveway serving the residence and shall produce no noise, smoke, dust, odor, heat, glare or electronic disturbances beyond the property it occupies.

(7) The amount of the entire dwelling that may be used for the conduct of the home occupation shall be no more than 25% or 500 square feet of the living space, whichever is less. For purposes of this subsection, "living space" shall not include the garage, attic or cellar, and such home occupation may not be conducted in such space.
(8) The Code Enforcement Officer shall be required to conduct a biannual inspection of the premises upon which the home occupation is conducted for compliance with this section and other rules and regulations, including the New York State Uniform Fire Prevention and Building Code.

(9) All presently conducted home occupations which have been previously issued a special permit shall be terminated on or before three years from the date a notice to terminate is sent by certified mail, if not otherwise in compliance with this subsection.

§ 204-20. Uses permitted by special permit.

For uses permitted by special permit, see Article XV.

§ 204-21. Density and area requirements.

A. The lot area shall not be less than 9,000 square feet for each single-family dwelling unit, with a minimum street frontage of 75 feet. For a two-family dwelling, the lot area shall not be less than 13,000 square feet, with a minimum street frontage of 85 feet.

B. All buildings, including accessory buildings, shall not cover more than 35% of the lot area.

§ 204-22. Yards and landscaping.

A. Front yard. The depth shall not be less than 40 feet.

B. Rear yard. The depth shall not be less than 30 feet.

C. Side yards. The total aggregate width shall be not less than 30 feet, with a minimum width of 10 feet in any one yard. Corner lots shall be a minimum of 40 feet from each street.

D. Not more than two parking spaces per dwelling unit shall be located in the front yard of any single-family or two-family dwelling.

E. All yards shall be landscaped with trees, shrubs, grass or other forms of organic ground cover.

F. An unenclosed, one-story covered entryway or porch on the front of a residence shall not extend greater than eight feet into the front yard from the affected entry and shall not extend, in width, beyond the corners of the front line of the residence. Such entryway or porch shall only be permitted if the remaining unobstructed front yard setback is a minimum of 30 feet. [Added 8-11-2010 by Res. No. 115-2010]

§ 204-23. Off-street parking.

For off-street parking regulations, see Article XVI.
§ 204-24. Building height and area requirements.

A. Building heights. Building heights shall not exceed 2 1/2 stories or 35 feet, whichever is most restrictive.

B. Building area. Single-family dwellings in the Residence A Zone shall conform to the provisions of § 204-8H.

C. All accessory buildings shall be located in the rear yard and shall not be less than five feet from any principal structure and not less than five feet from any rear or side property lines. [Added 10-4-1995 by L.L. No. 5-1995]
§ 204-25. Intent.

The intent and purpose of the Residence B Zone and the following regulations are to preserve the quality and appearance of established residential neighborhoods with relatively high densities, to guide the continued development of the character of the existing development and to permit and encourage the development of high-density housing.

§ 204-26. Permitted uses.

Permitted uses in the Residence B Zone shall be as follows:
A. All uses permitted in § 204-18.
B. Rooming houses, tourist homes and multifamily dwellings.
C. Such accessory uses as are customarily incidental to the above uses.

§ 204-27. Accessory uses. [Added 10-4-1995 by L.L. No. 5-1995]

Accessory uses in the Residence B Zone shall be as follows:
All accessory uses permitted in § 204-19.

§ 204-28. Uses permitted by special permit.

For uses permitted by special permit, see Article XV.

§ 204-29. Density and area requirements.

A. The lot area shall not be less than 5,000 square feet for each single-family dwelling unit, with a minimum street frontage of 50 feet. For each additional unit in a two-family or multifamily dwelling, an additional frontage of 10 feet shall be required. Two hundred five feet of frontage satisfies all frontage requirements regardless of the number of family dwelling units.
B. All buildings, including accessory buildings, shall not cover more than 35% of the lot area.

§ 204-30. Yards and landscaping.

A. Front yard. The depth shall not be less than 25 feet.
B. Rear yard. The depth shall not be less than 25 feet.
C. Side yards. The total aggregate width shall be not less than 15 feet, with a minimum width of five feet in any one yard.
§ 204-30 HORSEHEADS TOWN CODE § 204-32

D. Not more than two parking spaces per dwelling unit shall be located in the front yard of any single-family or two-family dwelling.

E. Landscaping. All yards shall be landscaped with trees, shrubs, grass or other forms of organic ground cover.

§ 204-31. Off-street parking.
For off-street parking regulations, see Article XVI.

§ 204-32. Building height and floor area requirements.

A. Building heights. Building height shall not exceed 2 1/2 stories or 35 feet, whichever is more restrictive.

B. Building floor area. Dwellings in the Residence B Zone shall conform to the provisions of § 204-8H.

C. All accessory buildings shall be located in the rear yard and shall not be less than five feet from any principal structure and not less than five feet from any rear or side property lines. [Added 10-4-1995 by L.L. No. 5-1995]
ARTICLE VIII

Neighborhood Service Zone

§ 204-33. Intent. [Amended 11-5-1997]

The intent and purpose of the Neighborhood Service Zone and the following regulations are to identify areas within existing or proposed residential neighborhoods where the location of low-intensity commercial and service uses would be beneficial to residents of these neighborhoods and prevent the proliferation of such uses in a scattered and uncontrolled manner. The district regulations are designed to promote convenience shopping and the stability of retail development by encouraging continuous retail frontage and by prohibiting large service and manufacturing establishments which tend to break continuity.

§ 204-34. Permitted uses.

Permitted uses in the Neighborhood Service Zone shall be as follows:

A. All uses permitted in § 204-26.

B. Additional permitted uses. [Amended 11-5-1997]

(1) Convenience stores, provided that there is no gasoline or other fuel dispensing apparatus on the premises.

(2) Bakery and confectionery shops, including the manufacture of baked and confectionery goods primarily for on-site retail sale.

(3) Apparel and accessories.

(4) Restaurant, sit-down and/or take-out with no drive-through service.

(5) Drugstore.

(6) Liquor store.

(7) Antiques and secondhand merchandise.

(8) Book and stationery store.

(9) Sporting goods store.

(10) Neighborhood eating establishment.

(11) Jewelry store.

(12) Laundromat and cleaning pickup station.

(13) Photographic store.

(14) Florist.

(15) Cigars and cigarettes.
§ 204-35. Accessory uses.

Accessory uses in the Neighborhood Service Zone shall be as follows:
All accessory uses permitted in § 204-27.

§ 204-36. Uses permitted by special permit.

For uses permitted by special permit, see Article XV.

§ 204-37. Density and area requirements.

A. All buildings, improvements, parking areas or any other improved area shall not be allowed within the required setback except areas for ingress and egress to the public right-of-way. [Amended 11-5-1997]

B. The lot area for all dwelling units shall conform to the requirements of the residential zone within which the Neighborhood Service Zone is located.

C. The maximum lot area allowed in a Neighborhood Service Zone shall be one acre. [Added 11-5-1997]

§ 204-38. Yards and landscaping.

A. Front and rear yards. The depth shall conform to the requirements of the residential zone in which the Neighborhood Service Zone is located.

B. Side yards. The width shall conform to the requirements of the residential zone in which the Neighborhood Service Zone is located.
C. All land not used for buildings or parking and loading facilities shall be improved by grass, trees, shrubs or other forms of landscaping.

D. When a nonresidential use locates adjacent to a residential use, such nonresidential use must be screened from the residential use by a landscaped buffer strip dense enough and high enough to reduce noise and screen out objectionable views.


Off-street parking shall conform to the requirements which apply to business uses.

§ 204-40. Building requirements.

A. Building heights. Building height shall conform to the requirements of the residential zoning in which the Neighborhood Service Zone is located.

B. All accessory buildings shall be located in the rear yard and shall not be less than five feet from any principal structure and not less than five feet from any rear or side property lines.\textsuperscript{46}

\textsuperscript{46}Editor’s Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
§ 204-41. Intent.47

The intent and purpose of the Business Zone and the following regulations are to identify and establish areas where more intensive retail, wholesale and commercial uses will be encouraged to locate, thereby restricting the random development of these uses in residential areas.

§ 204-42. Permitted uses.

Permitted uses in the Business Zone shall be as follows:

A. All uses permitted in § 204-34.

B. Customary business uses, including but not limited to retail and wholesale stores and shops, shopping centers, banks and office buildings.

C. Hotels, motels and other public lodging facilities of a transient nature and commercial recreation and amusement facilities such as theaters and bowling alleys.

D. Roadside stands upon permit of the Town.48

E. Such accessory uses as are customarily incidental to the above uses.

§ 204-43. Accessory uses.

Accessory uses in the Business Zone shall be as follows: All accessory uses permitted in § 204-35.

§ 204-44. Uses permitted by special permit.

For uses permitted by special permit, see Article XV.

§ 204-45. Density and area requirements.

A. All buildings, including accessory buildings, shall not cover more than 60% of the lot area.

B. Residential lots in the Business Zone shall have the same minimum area and frontage requirements as set forth in § 204-29 of this chapter.

§ 204-46. Yards and landscaping.

A. Front yard. The depth shall not be less than 25 feet.

B. Rear yard. The depth shall not be less than 25 feet.
§ 204-47. Off-street parking.

For off-street parking regulations, see Article XVI.

§ 204-48. Building requirements.

A. Building height. Building height shall not exceed six stories or 70 feet, whichever is more restrictive.

B. All accessory buildings shall be located in the rear yard and shall not be less than five feet from any principal structure and not less than five feet from any rear or side property lines. [Added 10-4-1995 by L.L. No. 5-1995]
ARTICLE X
Industrial and Manufacturing Zones

§ 204-49. Intent.
The intent and purpose of the Industrial and Manufacturing Zone and the following regulations are to identify and establish specific areas where industrial and manufacturing development meeting minimum performance standards will be encouraged and to protect the value and efficiency of such areas by excluding, to the extent possible, noncompatible land uses.

§ 204-50. Permitted uses.
Provided that the provisions of § 204-56B(2) are met, the following uses shall be permitted:

A. Manufacturing of machinery and machine parts.

B. Fabrication of metal, paper, wood or plastic products, such as furniture, toys, electrical equipment, boxes and packing materials, office equipment and supplies, boats and similar products.

C. Food and associated industries such as bakeries, bottling plants, food processing and similar processing or manufacturing activities.

D. Wholesale, bulk storage and warehouse facilities.

E. Building supplies and printing, heating, welding, plumbing and similar shops.

F. Administrative office buildings, laboratories and installations for research and development.

G. Any other manufacturing or industrial establishments which comply with the performance standards of § 204-56B(2).

H. Oil, gas and solution salt mining. [Added 7-14-2010 by Res. No. 109-201049]

I. Such accessory uses as are customarily incidental to the above uses.

§ 204-51. Uses permitted by special permit.
For uses permitted by special permit, see Article XV.

§ 204-52. Prohibited uses.
All types of dwellings, including mobile homes, shall be prohibited.

49. Editor's Note: This resolution also redesignated former Subsection H as Subsection I.
§ 204-53. Density and area requirements.

Not more than 40% of the gross lot area may be occupied by any structure and no more than 80% of the gross lot area may be occupied by any permitted use, including structures, parking, loading, access drives and any unenclosed storage or display area required by said permitted use.

§ 204-54. Yards and landscaping.

A. Front yards. The depth shall be not less than 50 feet.
B. Rear yards. The depth shall be not less than 50 feet.
C. Side yards. The width shall be not less than 25 feet, except that when any lot in an Industrial and Manufacturing Zone directly abuts a residence zone, a side yard of no less than 50 feet shall be provided along such lot line as abuts the residence zone.
D. All land not used for building or parking and loading facilities shall be improved by grass, trees, shrubs and other forms of ground cover.
E. When a nonresidential use is located adjacent to a residential use, such nonresidential use must be screened from the residential use by a landscaped buffer strip dense enough and high enough to reduce noise and screen out objectionable views.
F. Any removal pursuant to § 204-50H shall be set back from the front property line greater than 75 feet and shall not be undertaken within 1,000 feet of any residential use. [Added 7-14-2010 by Res. No. 109-2010]

§ 204-55. Off-street parking.

For off-street parking regulations, see Article XVI.

§ 204-56. General regulations.

A. Building height. Building height shall not exceed four stories or 70 feet, whichever is more restrictive.
B. Industrial and manufacturing performance standards.

(1) No building permit for industrial or manufacturing uses in an Industrial and Manufacturing Zone shall be issued until the Code Enforcement Officer has been provided with a description of the proposed industrial or manufacturing process. If it appears that the proposed use will not produce conditions which are noxious, offensive or hazardous to the health, safety or general welfare of the community, a building permit may be issued.

(2) The Code Enforcement Officer shall require a determination that:
(a) Liquid waste and effluent shall be treated and discharged in a manner approved by the County Health Department.

(b) Disseminated smoke shall be as required by the State of New York.

(c) Protection against fire hazards, explosion and proper handling and storage of combustible material shall be approved by the appropriate Town fire official.

(d) No odors, noises, vibrations or glare will be permitted in violation of any federal or state regulations applicable thereto.

C. General maintenance. The owner or occupant shall maintain the roads within his or her own property and the structures in good condition, and the grounds, roads, parking areas, grass, shrubs and trees in a clean and tidy manner. In the event that the owner or occupant (if the occupant has assumed such obligation under its lease of the property fails to do so, the Town Board reserves the right, after advance written notice, to have the necessary work performed and billed to the owner and/or occupant on the next tax bill. [Added 10-4-1995 by L.L. No. 5-1995]
ARTICLE XI
Agricultural and Hill Zone

§ 204-57. Intent.
The intent and purpose of the Agricultural and Hill Zone and the following regulations are to identify and establish specific areas where intensive development is to be restricted because of steep topography or poor soil conditions or an absence of public utilities to facilitate the orderly and economic provision of public streets and services in these areas and to preserve open land in its natural form.

§ 204-58. Permitted uses.
Permitted uses in the Agriculture and Hill Zone shall be as follows:
A. Single-family dwellings, including farm dwellings and buildings.
B. Farming, gardening and the keeping or raising of livestock. Personal riding horses shall be limited to one horse per acre, and stables shall be located 200 feet from any lot line.
C. Roadside stands in connection with a farm operation for the purpose of display and sale of farm products.
D. Public and private parks, playgrounds, golf courses, camps, campgrounds, ski slopes and similar outdoor recreation facilities and the equipment and mechanical installations necessary for the operation of the same.
E. Clubs and fraternal organizations.
F. The removal of sod, sand, gravel or quarried stone, except when incidental to or in connection with the construction of a building or subdivision development. [Amended 10-4-1995 by L.L. No. 5-1995]
G. Oil, gas and solution salt mining. [Added 7-14-2010 by Res. No. 109-2010]
H. Such accessory uses as are customarily incidental to the above uses.

§ 204-59. Uses permitted by special permit.
For uses permitted by special permit, see Article XV.

§ 204-60. Density and area requirements. [Amended 10-4-1995 by L.L. No. 5-1995]
The lot area shall be not less than one acre, with a minimum road frontage of 200 feet. The County Health Department may require three acres per lot in soils in percolation rates of more than one minute.

50.Editor's Note: This resolution also redesignated former Subsection G as Subsection H.
§ 204-61. Yards and landscaping.
A. Front yard. The depth shall be not less than 40 feet.
B. Rear yard. The depth shall be not less than 50 feet.
C. Side yards. The total aggregate width shall be not less than 30 feet, with a minimum width of 10 feet in any one yard.

§ 204-62. General regulations.
A. Building floor area. Dwellings in the Agricultural and Hill Zone shall conform to the provisions of § 204-8H.
B. Any removal pursuant to § 204-58F and G shall not be undertaken within 1,000 feet of any residential use. [Added 10-4-1995 by L.L. No. 5-1995; amended 7-14-2010 by Res. No. 109-2010]
§ 204-63. Intent.

The provisions of this article are intended to encourage the development of industrial parks in the Town devoted to industrial, manufacturing and research establishments, permitted on the basis of performance standards and located in attractive, landscaped settings. They should be served with good transportation and adequate off-street parking. Because such industrial parks are likely to require large tracts of land, they would normally be located in undeveloped or underdeveloped areas yet close to highway access, although not necessarily to rail, and to other utilities such as water supply, sewage disposal and power. They are intended to harmonize reasonably with surrounding commercial or residential areas and to be an asset to the Town's economic base.

§ 204-64. Permitted principal uses.

A. Permitted uses in the Industrial Park Zone shall be as follows:

(1) Any industrial or manufacturing use operations utilizing electric power or other unobjectionable motor power or fuel or hand labor which can meet the performance standards listed below.

(2) Research and development establishments.

(3) Retail warehousing and wholesale warehousing. [Amended 9-26-2001]

(4) Essential public utility facilities.

(5) Specifically prohibited uses. Residential uses except those accessory to the principal uses as indicated in § 204-65.

§ 204-65. Permitted accessory uses.

Permitted accessory uses in the Industrial Park Zone shall be as follows:

A. Any accessory buildings or uses customarily incidental to the permitted uses above, including recreation for employees and tourism attractions related to the principal uses.

B. Caretaker accommodations.

C. Retail sales and consumer services related to principal uses only, i.e., to employees, customers and tourists.

D. Storage facilities meeting the standards below.

E. Signs in accordance with the standards below.

§ 204-66. Size standards.
§ 204-66

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§ 204-67. Off-street parking and loading.

For off-street parking and loading requirements, see Article XVI.

§ 204-68. Enclosed and outdoor storage.

A. All permitted uses and accessory activities shall be confined within completely enclosed buildings with the exception of off-street parking and loading berths, accessory fuel storage and employee recreational facilities. In addition, temporary outdoor storage of materials, equipment or vehicles in an orderly manner is permitted in any areas other than required yard areas or in areas devoted to park or recreation uses on the site plan, provided that such storage does not exceed 15 feet in height or 10% of the area of the lot and is effectively screened from any adjacent residential area as required for parking areas.

B. All street, drives, parking and loading areas shall be permanently paved with a hard-surfaced, dustless material of a depth of at least six inches.

§ 204-69. Performance standards.

Standards for the performance of all uses in an Industrial Park District shall conform to those set forth below:

A. Smoke and particulate matter. All uses shall meet the requirements of state and federal air pollution requirements in the district in which the use is located.

B. Noise. All noise shall be muffled so as not to be objectionable beyond the lot line due to intermittence, beat frequency or shrillness, in
§ 204-70. Sign regulations.

Signs or display devices not exceeding 300 square feet nonilluminated or 100 square feet illuminated, per establishment, shall be permitted. There shall be no flashing signs or signs extending above a wall of a structure or a roof. The wording of a sign or display shall be limited to the identification of a business or the project of the firm occupying the premises. Signs visible from an expressway or arterial or major thoroughfare shall be limited to no more than 10 words, syllables or symbols or combination. Advertising (billboard) signs are prohibited.

§ 204-71. Landscaping of yards.

Any required yards shall be landscaped with grass, trees and shrubs except when required for access drives, parking and loading or storage or other accessory uses. Required front yards shall not be devoted to any use except for access drives, sidewalks and landscaping.

§ 204-72. General maintenance. [Amended 10-4-1995 by L.L. No. 5-1995]

The owner or occupant shall maintain the roads within his or her own property and the structures in good condition, and the grounds, roads, parking areas, grass, shrubs and trees in a clean and tidy manner. In the event that the owner or occupant (if the occupant has assumed such obligation under its lease of the property) fails to do so, the Town Board reserves the right, after advance written notice, to have the necessary work performed and billed to the owner and/or occupant on the next tax bill.
§ 204-73. Waste disposal.

Sewage and solid waste disposal shall meet all Town, county, state and federal requirements, including those of the County Sewer District No. 1, the County Solid Waste District and the County Health Department.
ARTICLE XIIA
Highway Corridor Overlay District (HCOD)
[Added 8-9-2006 by Res. No. 126-2006]

§ 204-73.1. Intent and Purpose.

A. The purpose of this article is to allow a diversity of land uses in close proximity within a limited area; the standards contained herein are intended to protect the health, safety and welfare of the public by preventing or reducing distracting visual clutter associated with developments along the major thoroughfares in the Town; to establish controls which will facilitate development by setting regulations within the corridor and set other district-wide requirements while permitting flexible development scale and configuration on individual lots within the corridor; to allow a broad set of land uses within the corridor; and to encourage development of appropriate density for all classes of land use.

B. The standards achieve the stated intent and purpose by addressing the following characteristics of development: buffer and landscaping, access, lighting, outdoor storage, architecture and signage.

C. In addition to standards contained in this article, all other applicable regulations in the Code shall apply.

D. Unless otherwise specified in the ordinance creating the corridor, when any lot or use is located partially within the corridor, the remainder of the lot or use shall not be subject to the provisions of this article.

§ 204-73.2. Classifications.

The following three classes of Highway Corridor Overlay District (HCOD) are established:

A. Miracle Mile Overlay District (MMOD).

B. Watkins Road NYS Route 14 (WROD).

C. NYS Route 13 (NYS13OD).

§ 204-73.3. Effect upon zoning.

These overlay district regulations shall be superimposed over, and supplement, the underlying restrictions. Each use must conform to the development standards required by the underlying zoning district and other provisions of this chapter, as well as the overlay district, and the more stringent standards shall apply. Where the HCOD authorizes uses not otherwise allowed in the underlying district, the provisions of the HCOD shall control.

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§ 204-73.4 Location.

Three areas of the Town shall be subject to the overlay zone, as follows:

A. Miracle Mile from the northerly boundary of the Mark Twain Golf Course north to Village of Horseheads (MMOD).

B. NYS Route 14 Watkins Road from Village of Horseheads to Town of Horseheads northerly boundary (WROD).

C. NYS Route 13 from I-86 interchange to Town of Horseheads northerly boundary (NYS13OD).

§ 204-73.5 Permitted uses.

A. Miracle Mile Overlay District (MMOD):
   
   (1) Restaurants, including, but not limited to, full-service, drive-up, drive-in, and drive-through.
   
   (2) Retail shopping.
   
   (3) Garden center.
   
   (4) Banks/credit unions.
   
   (5) Offices, including but not limited to professional, travel, medical, and dental.
   
   (6) Convenience store.
   
   (7) Video rental stores.
   
   (8) Car wash.
   
   (9) Motor vehicle sales or Service.
   
   (10) Fuel-dispensing facilities.
   
   (11) Mortuary, funeral chapel and wedding chapel.

B. Watkins Road NYS Route 14 (WROD):
   
   (1) Restaurants, including, but not limited to, full-service, drive-up, drive-in, and drive-through.
   
   (2) Retail shopping.
   
   (3) Garden center/nursery.
   
   (4) Banks/credit unions.
   
   (5) Offices, including but not limited to professional, travel, medical, and dental.
   
   (6) Convenience store.
(7) Video rental store.
(8) Car wash.
(9) Motor vehicle sales or service.
(10) Fuel-dispensing facilities.
(11) Mortuary, funeral chapel and wedding chapel.

C. NYS Route 13 (NYS13OD):
(1) Restaurants, including, but not limited to, full-service, drive-up, drive-in, and drive-through.
(2) Retail shopping.
(3) Garden center/nursery.
(4) Banks/credit unions.
(5) Offices, including but not limited to professional, travel, medical, and dental.
(6) Convenience stores.
(7) Video rental stores.
(8) Car wash.
(9) Motor vehicle sales or service.
(10) Fuel-dispensing facilities.
(11) Truck stops.
(12) Hotels and motels.
(13) Mortuary, funeral chapel and wedding chapel.
(14) Manufacturing.
(15) Warehousing.
(16) Shopping center.
(17) Any other nonresidential use not listed above, except adult uses as defined under Chapter 60, Adult Uses.

§ 204-73.6. Site design provisions.
A. Aesthetic and architectural features. The intent of the following design standards and provisions is to enhance the appearance of the built environment. By adding design detail, you can improve the character and appeal of the community. These improvements, in turn, can result
in increased investment in the commercial districts, enhancement of property values, and overall enrichment of the quality of life in the area.

(1) All new buildings shall be set back not less than 25 feet nor more than 35 feet from the property line fronting on any street. Parking shall not be allowed within this area, only driveway access.

(2) A yard area measuring a minimum of five feet shall separate any proposed parking area from the side and rear property line; exception may be made in the case of a continuous building which provides for private or unitized ownership.

(3) In the MMOD and WROD only, windows shall cover a minimum of 35% of any facade facing a roadway but not exceed 75% of this area.

(4) Refuse dumpsters or containers shall be located at the rear of the property and shall be properly gated and screened from view with wooden or other style of fencing acceptable to the Planning Board. These structures shall be located not less than 20 feet from adjoining residential properties.

(5) Loading areas shall not face the roadway.

(6) Flat roof structures are discouraged. Flat roofs shall be prohibited on buildings measuring less than 10,000 square feet.

(7) Rooftop mechanicals shall be screened from the public view by the use of architecturally compatible materials and components.

(8) Ground level mechanicals shall be fully screened from public view through the use of landscaping, fencing, or other design treatments compatible with the buildings. Ground level mechanicals shall be located on site to provide the least impact on neighboring residential uses.

(9) Site design shall demonstrate architectural compatibility of buildings on the site, with consideration given to the appearance and style of surrounding uses.

(10) All building facades visible from roadways, parking areas or adjacent sites shall be architecturally designed to enhance the aesthetic appearance.

(11) In the MMOD and WROD only, buildings shall be designed to eliminate long expanses of blank walls of a single color or texture.

(12) The front facade of any building in the MMOD or WROD shall be constructed of brick, split-rock stone, stucco, or wood frame with cedar, lap or vinyl siding or other materials acceptable to the Planning Board. The use of concrete block, cast-in-place concrete, cinder block, or metal buildings is prohibited.
(13) Buildings designed to advertise or promote a uniform corporate image shall be subject to the review and approval of the Planning Board.

(14) In the MMOD and WROD only, multiuser structures must be designed in such a way as to avoid the appearance of strip plaza development.

(15) In addition to any other site plan review requirements, elevations (minimum front and sides) and an architectural rendering with detailed drawings of facade treatments and selected building materials, specific to the proposed site, shall be submitted to the Planning Board for review and approval.

(16) Outdoor storage shall be prohibited except by special approval of the Planning Board.

(17) In the MMOD only, sidewalks measuring no less than four feet in width shall be installed to allow for adequate pedestrian activity. (Sidewalks, may be allowed within the right-of-way, with approval of either the state or county.)

(18) In the MMOD only, sidewalks or paths should be included as part of site design to assist with walkability.

(19) In the MMOD and WROD only, pedestrian walkways shall be provided between buildings on a single site. Walkways shall also be incorporated into cross-access points.

(20) Pedestrian walkways shall be constructed of concrete or decorative brick or similar material, including walkways within parking areas. The use of blacktop is prohibited, unless of a printed or stamped design.

(21) Walkways located within parking areas shall be properly striped or otherwise delineated.

(22) In the MMOD, sidewalks shall be included along the extent of the frontage of the premises or may be incorporated in the site design to allow continuous pedestrian traffic from property to property through the HCOD.

(23) The maximum lot size for a business use in the MMOD in the area south of the Town Park and west of NYS Route 14 shall be one acre with a minimum frontage of 150 front feet on NYS Route 14.

B. Off-street parking. For off-street parking regulations, see Article XVI.

C. Landscaping; general. Landscaping and the preservation of natural vegetation facilitates the creation of an attractive and a harmonious community. The intent of these standards and provisions is to preserve and create a healthful and pleasant setting that relieves the stark appearance of the built environment. Encouraging the aesthetic
improvement of site development through the use of trees and plantings can result in the overall improvement of scenic quality and the stabilization and enhancement of property values and the business environment.

(1) All open space area, including front and side setback areas, shall be landscaped.

(2) All landscaped areas required or permitted by this article shall be reviewed by the Planning Board.

(3) All landscaped areas required or permitted by this article shall be maintained and preserved according to the plan as originally approved or amended by the Planning Board. Flora that dies shall be replaced within the next planting season with plants of a similar nature.

(4) Parking, loading and stacking areas and driveways located adjacent to residential districts shall be landscaped by screening and/or buffering. Such screening and/or buffering shall be so designed that a person standing on the adjacent residential parcel on the minimum setback line, at the average finished grade, would not be able to perceive by eye any uses, activities or automobile lights originating from these areas or driveways. This may be accomplished through the use of various measures such as fencing, planted materials, earthen berms or any combination thereof. Such measures shall be applied within the required rear and side yards.

(5) The Planning Board, as part of site plan review, may reduce the minimum number of off-street parking places required by not more than 10%, provided that the land areas so removed are not used to meet landscaped area herein required and are used exclusively for additional landscaping or open space. If at any time thereafter the Planning Board determines that the land area so removed is needed to provide necessary off-street parking, it may order installation thereof. Any certificate of occupancy issued for any parking area and the building serviced thereby shall be deemed conditional upon the possible requirement for the future installation of additional parking, upon such order of the Planning Board. Failure to comply with such an order within the time fixed thereby shall constitute a violation of this article.

D. Site lighting.

E. It is the intent of these standards and provisions to define the lighting equipment and design criteria that minimize the causes of sky glow, light trespass and glare while providing a comfortable, visually effective, energy-efficient and safe/secure outdoor environment. The purpose of these standards is to ensure that outdoor lighting does not interfere with the reasonable use and enjoyment of property, and to encourage efficient and compatible lighting practices. These regulations are also intended to provide for the safe movement of
traffic, for satisfactory vision for pedestrians and for the guidance of both vehicles and pedestrians.

(1) Therefore, outdoor lighting fixtures utilized for lighting parking areas, sidewalks, roadways, buildings and structures, recreation and landscape areas shall be designed to improve safety, and to minimize glare and light trespass. Lighting shall be contained on the site using shielded fixtures, full cutoff, recessed, flush lenses, or comparable standards so as to protect the public from exposure to the direct light of the fixture and to minimize the amount of light that is directed to the sky.

(2) Spacing of poles shall be designed such that the luminance on the ground is uniform to the greatest extent practicable.

(3) Lighting of building facades is allowed so long as shielded and directional fixtures are used.

(4) The following are exempt from the provisions hereof:
   (a) Holiday lighting.
   (b) The lighting of the American flag. Fixtures must be installed and aimed so as to minimize glare, sky glow and light trespass.
   (c) Emergency lighting used by police, fire-fighting or medical personnel, at their direction, for as long as the emergency exists.
   (d) Temporary lighting such as used at construction sites or other uses of a temporary nature. However, temporary lighting shall be aimed so as to minimize glare and light trespass to adjacent properties and turned off upon completion of the project.
   (e) Lighting for Town, county, state or federal highways.

(5) Light poles and all fixture types shall not exceed 30 feet in height above the average grade around the structure.

(6) In the MMOD only, lighting along roadways shall be decorative with a consistent design.

(7) Lighting levels shall be reduced to security levels within one hour after the close of the business or the end of the business activity.

F. Waivers from these provisions may be granted by the Planning Board upon documentation that meeting the specific provisions hereof would result in an unsafe condition, impede normal operations or inflict undue hardship.

G. Signage. The intent of the following standards and provisions is to protect and improve property values, create a more attractive economic and business environment and reduce distractions and obstructions that can disrupt the visual appeal of a commercial district. These
provisions are aimed at creating a more pleasant and uniform visual setting and eliminating the chaotic and haphazard design, orientation and placement of signage that can result in scenic blight.

(1) Any freestanding sign in the HCOD shall be low-profile, ground-level monument-type signage which shall not exceed the following: 

[Amended 9-12-2012]

(a) Monument sign: 120 square feet per face maximum; 15 feet tall. For good cause, the Town Planning Board may, upon site plan review, increase the height of the sign above grade level to 20 feet.

(b) Low-profile sign: 150 square feet per face maximum; eight feet tall with a two-foot-tall base under the full length of the sign.

(2) No sign shall be erected in such a manner as to prevent the driver of any vehicle from having a clear and unobstructed view of any official sign(s), any entrance or exit roadway, any intersection, or approaching or merging traffic.

(3) Street address numbers shall be posted on all buildings.

(4) No signs shall be placed, inscribed or supported on the roof or above the highest part of the roofline.

(5) In addition to the above-noted provisions, all signage shall comply with the standards set forth in Chapter 152, Signs. In the event the provisions hereof conflict with the provisions of Chapter 152, the provisions of this article shall take precedence.

H. Access management. One of the most important objectives of access management is reducing the potential for conflicts, particularly along the most heavily traveled roads. The best methods for achieving a reduction in conflicts are by reducing the number of conflict points and separating through traffic from local traffic, where possible. Land use development and transportation can be brought into balance, and conflicts reduced, through the appropriate limitations on the number of driveways and the enforcement of driveway and corner clearance standards.

(1) The site layout, location and design of driveways and parking areas should be based on full buildout of the parcel and neighboring parcels, if joint or shared access is determined to be necessary in the future. Future subdivision of the parcel or any future action that is contrary to the approval plan cannot occur without Planning Board approval.

(2) Properties with frontage on two or more roads do not have the right to driveway access to all such roads.

(3) Driveways may be required to be located so as to provide shared access and/or cross access with an abutting parcel or properties.
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(4) Shared driveways and/or cross-access driveways shall be of sufficient width (minimum 20 feet) to accommodate two-way travel for automobiles and for service and loading vehicles.

(5) Corner properties present special problems because they are extremely attractive to high-volume peak-hour-traffic businesses whose designs often create conflict areas that overlap with the conflict area of the intersection.

(a) Corner clearance is to be measured along the road from the center line of the driveway pavement to the closest edge of the road pavement. Where road widening is planned or anticipated in the future, corner clearance should be increased to provide for the width of the additional lane.

(b) Driveways for corner properties shall meet or exceed the minimum corner clearance requirements of distance from the corner of 110 feet as measured along the property line fronting on any street.

§ 204-73.7. Legal fees.
Whenever any action at law is brought to collect a sum of money, the defendant shall pay attorneys' fees, if any.

§ 204-73.8. Penalties for offenses.

A. A violation of this article is hereby declared to be an offense punishable by a fine not to exceed $350 or imprisonment for a period not to exceed six months, or both, for a conviction of a first offense; for a 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 of 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 nor 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.

B. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained or any building, structure or land is used or any land is divided into lots, blocks or sites in violation of the provisions of this article, the Town Board or Code Enforcement Officer of the Town, in addition to other remedies as provided for by law, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, 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; and upon the failure or refusal of the Town to institute any such appropriate action or proceeding for a period of 10 days after
written request by a resident taxpayer of the Town to so proceed, any three taxpayers of the Town residing in the district wherein such violation occurred may institute such appropriate action or proceeding in the manner as the Town is authorized to do.
ARTICLE XIII
Site Plan Review Procedure

§ 204-74. Intent.

A. The intent and purpose of a site plan review are to evaluate specified land uses in terms of their suitability to natural site conditions, their compatibility with surrounding land uses and their conformance with overall plans for the community, thus minimizing possible adverse effects on the health, safety and welfare of local residents. The following uses are subject to site plan review: all uses requiring the issuance of a building permit in any district, except for one- or two-family dwellings and related accessory uses or a general farming use permitted in Residence AA, Residence A and Agricultural and Hill District, shall require the preparation of a site plan.

B. The Code Enforcement Officer shall refer the site plan to the Planning Board for its review and approval in accordance with the standards and procedures set forth in this article.

§ 204-75. Statutory authority.

The power to approve, approve with conditions or deny site plans for specified uses as required by this chapter is vested in the Planning Board. Section 274-a of the Town Law provides the legislative authority for the Town Board to designate the Planning Board to review site plans. Prior to the issuance of a building permit for the construction of a specified use, the Code Enforcement Officer shall refer the site plan and supporting documentation to the Planning Board for its review and approval in accordance with the standards and procedures set forth in this article. All site plans shall be prepared by a licensed architect or engineer unless specifically waived by the Planning Board. The waiver shall depend upon the complexity of the site and the structure(s) as related to the land use.

§ 204-76. Preapplication conference.

A. The purpose of this step is to afford the person applying for a use subject to site plan review an opportunity to consult early and informally with the Planning Board in order to save time and money and to make the most of opportunities for desirable development. This conference can be used by the Planning Board and applicant to review the basic site design concept, to discuss site characteristics (advantages and limitations), to determine the information to be required on the preliminary site plan and to address environmental concerns as required by SEQR.

B. Developers of land adjoining state or county highways are advised to consult with the district engineer of the New York State Department of Transportation or the County Highway Superintendent at this stage in order to resolve problems of street openings or stormwater drainage at the earliest possible stage in the design process. The Planning Board
shall advise the developer of areas of particular concern which have been identified at the preapplication conference that must be detailed in the preliminary site plan application. The Planning Board may, at this time, and at its discretion, waive any preliminary requirements which are clearly not relevant to the proposed development.

C. Preapplication conference information. At the preapplication conference, the applicant should provide the data described below in addition to a statement or rough sketch describing what is proposed. Although this step is not required, developers are encourage to provide the Planning Board with a plan showing as much detail as is available at this stage.

(1) An area map showing:

(a) The applicant's entire holdings and that portion of the applicant's property under consideration.

(b) Existing natural features such as water bodies; watercourses; ditches, swales and other drainage facilities; wetlands; wooded areas; individual large trees; and flood hazard areas. [Amended 9-14-2005 by Res. No. 107-2005]

(c) Zoning districts, certified agricultural districts and school districts.

(d) Special improvement districts (water, sewer, light, fire, drainage and the like).

(e) Easements.

(f) All properties, their ownership and uses, subdivisions, streets, zoning districts, easements and adjacent buildings within 500 feet of the applicant's property.

(2) A map of site topography at no more than five-foot contour intervals. If general site grades exceed 5% or portions of the site have susceptibility to erosion, flooding or ponding, a soils overlay and a topographic map showing contour intervals of not more than two feet of elevation should also be provided.

§ 204-77. Preliminary site plan.

An application for preliminary site plan approval shall be made in writing to the Code Enforcement Officer to be submitted to the Planning Board for its review and approval. For the purpose of this chapter, the submission date shall be taken as the first regular Planning Board meeting following the submission. The application shall be accompanied by information drawn from the following checklist as determined necessary by the Planning Board. In the event that a preapplication conference was not requested, the Planning Board may, at this time and at its discretion, waive any preliminary requirements which are clearly not relevant to the proposed development.
A. Preliminary site plan information. The preliminary site plan information required shall be as follows:

(1) All information as requested at a preapplication conference [§ 204-76C(1) and (2)].

(2) The title of the drawing, including the name and address of the applicant and person responsible for the preparation of such drawing.

(3) North arrow, scale and date.

(4) Boundaries of the property plotted to a scale of not more than 100 feet to one inch.

(5) Existing natural features such as watercourses; water bodies; ditches, swales and other drainage facilities; wetlands; wooded areas; individual large trees; and flood hazard areas. Features to be retained in the development should be indicated. [Amended 9-14-2005 by Res. No. 107-2005]

(6) A grading plan showing existing and proposed contours.

(7) A stormwater pollution prevention plan as described in Chapter 166, Stormwater Management and Erosion and Sediment Control. [Amended 9-14-2005 by Res. No. 107-2005]

(8) An erosion control plan if a stormwater pollution prevention plan is not required. [Amended 9-14-2005 by Res. No. 107-2005]

(9) The location and proposed development of all buffer areas, including existing vegetative cover.

(10) A general landscaping plan and planting schedule.

(11) The location and size in acres of proposed land uses; the location, proposed use and height of all buildings; and building orientation and site design for energy efficiency.

(12) The approximate location and dimensions of areas proposed for neighborhood parks or playgrounds, or other permanent open space.

(13) The location and design of all streets, parking and truck loading areas, entrances and exits.

(14) Provision for pedestrian access.

(15) The location, size, design and construction materials of all proposed signs and lighting facilities.

(16) The location, design and construction materials of all existing and proposed on-site or nearby improvements, including drainage,
culverts, waterlines, sewers, bridges, retaining walls, fences and easements, whether public or private.

(17) The location of any outdoor storage, if any.

(18) A drainage plan if a stormwater pollution prevention plan is not required. [Amended 9-14-2005 by Res. No. 107-2005]

(19) A description of the method of sewage disposal and the location design and construction materials of such facilities.\textsuperscript{51}

(20) A description of the method of securing water supply and the location and design and construction materials of such facilities.

(21) The location of fire and other emergency zones, including the location of fire hydrants.

(22) The location, design and construction materials of all energy distribution facilities, including electrical, gas and solar energy.

(23) A designation of the amount of building area proposed for retail sales or similar commercial activity.

(24) The lines and dimensions of all property which is offered or to be offered for dedication for public use with the purpose indicated thereon and of all property that is proposed to be reserved by deed covenant for the common use of the property owners of the development.

(25) Other elements integral to the proposed development as considered necessary by the Planning Board, including identification of any state or county permits required for the project's execution.

B. Required fee. An application for preliminary site plan review and approval shall be accompanied by a fee in an amount as set forth from time to time by resolution of the Town Board. No further fee is required at the final detailed site plan stage. [Amended 10-4-1995 by L.L. No. 5-1995]

C. Planning Board review of preliminary site plan. The Planning Board's review of a preliminary site plan shall include, as appropriate, but is not limited to, the following:

(1) General considerations.

(a) Compatibility of development with natural features of the site and with surrounding land uses.

\textsuperscript{51}Editor's Note: Former Subsection A(19), which listed the location and design for stormwater management facilities as information required for a preliminary site plan, was repealed 9-14-2005 by Res. No. 107-2005. This resolution also provided for the renumbering of former subsection A(20) to A(26) as Subsection A(19) to A(25), respectively.
(b) Floodproofing and prevention measures consistent with floodplain regulations.

(c) 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 for aesthetic qualities.

(d) The adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.

(e) The adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.

(f) The location, arrangement, appearance and sufficiency of off-street parking and loading.

(g) The location, arrangement, size, design and general site compatibility of buildings, lighting and signs.

(h) Building orientation and site design for energy efficiency.

(i) Buffers to protect neighboring properties against noise, glare, unsightliness or other objectionable features.

(j) Open space for play areas, informal recreation and the retention of natural areas such as wildlife habitats, wetlands and wooded areas.

(k) The adequacy of fire lands and other emergency zones and the provision of fire hydrants.

(l) Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.

(m) The adequacy of erosion control methods. [Amended 9-14-2005 by Res. No. 107-2005]

(n) The adequacy of sediment control facilities. [Amended 9-14-2005 by Res. No. 107-2005]

(o) The adequacy of stormwater and drainage facilities. [Amended 9-14-2005 by Res. No. 107-2005]

(p) The adequacy of sewage disposal facilities. [Amended 9-14-2005 by Res. No. 107-2005]

D. Consultant review. The Planning Board may consult with the Town Code Enforcement Officer, Fire Commissioners, other local and county officials and its designated private consultants in addition to representatives of federal and state agencies, including but not limited
to the Soil Conservation Service, the State Department of Transportation and the State Department of Environmental Conservation.

E. Public hearing. The Planning Board may conduct a public hearing on the preliminary site plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within 62 days of the submission of the application for preliminary site plan approval and shall be advertised in a newspaper of general circulation in the Town at least five days before the public hearing. [Amended 10-4-1995 by L.L. No. 5-1995]

F. Planning Board action on preliminary site plan.

(1) Within 62 days of the public hearing or such longer period as may have been mutually agreed upon, the Planning Board shall act on it. If no public hearing has been called, the Planning Board shall act on it within 62 days of the submission of the application for preliminary site plan approval.

(2) If no decision is made within said period, the preliminary site plan shall be considered approved. Notwithstanding the preceding, the time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, disapproved or approved with modifications and shall be filed with the Town Clerk and Code Enforcement Officer. [Amended 10-4-1995 by L.L. No. 5-1995]

(3) The Planning Board's statement may include recommendations of desirable modifications to be incorporated in the final site plan, and conformance with said modifications shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Board's statement shall contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission as a new application to the Planning Board after it has been revised or redesigned.

§ 204-78. Final site plan.

A. After receiving approval, with or without modifications, from the Planning Board on a preliminary site plan, the applicant shall submit a final, detailed site plan to the Planning Board for approval. If more than six months has elapsed since the time of the Planning Board's action on the preliminary site plan, and if the Planning Board finds that conditions may have changed significantly in the interim, the Planning Board may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.
B. The final site plan shall conform substantially to the approved preliminary site plan. It should incorporate any modifications that may have been recommended by the Planning Board in its preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.

C. The following additional information shall accompany an application for final site plan approval:

(1) A record of application for approval status of all necessary permits from state and county officials.

(2) Detailed sizing and final material specification of all required improvements.

(3) An estimated project construction schedule.

D. Public hearing. The Planning Board may conduct a public hearing on the final site plan. If a public hearing is considered desirable by a majority of the members of the Planning Board, such public hearing shall be conducted within 62 days of submission of the application for final site plan approval and shall be advertised in a newspaper of general circulation in the Town at least five days before the public hearing. [Amended 10-4-1995 by L.L. No. 5-1995]

E. Planning Board action on final detailed site plan. Within 62 days of receipt of the application for final site plan approval, the Planning Board shall render a decision to the Code Enforcement Officer. If no decision is made within the sixty-two-day period, the final site plan shall be considered approved. Notwithstanding the preceding, the time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board. [Amended 10-4-1995 by L.L. No. 5-1995]

(1) Upon approval of the final site plan and payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board shall endorse its approval on a copy of final site plan and shall forward such copy to the Code Enforcement Officer.

(2) Upon disapproval of a final site plan, the Planning Board shall so inform the Code Enforcement Officer and the Code Enforcement Officer shall deny a building permit to the applicant. The Planning Board shall also notify the applicant in writing of its decision and its reasons for disapproval.

(3) Specifications for improvements shown on the site plan shall be those set forth in this chapter and in other ordinances, rules and regulations as adopted by the community.
§ 204-79. **Referral of plan to county agency.**

Prior to taking action on the final site development plan, the Planning Board shall refer the plan to the County Bureau of Planning for advisory review and a report in accordance with § 239-m of the General Municipal Law.

§ 204-80. **Costs.**

Costs incurred by the Planning Board or the Town for consultation fees, advertising expenses or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant.

§ 204-81. **Performance guaranty.**

No certificate of occupancy shall be issued until all improvements shown on the site plan are installed or a sufficient performance guaranty has been posted for improvements not yet completed. The sufficiency of such performance guaranty shall be determined by the Planning Board after consultation with the Code Enforcement Officer, Town Attorney or other competent persons.

§ 204-82. **Inspection of improvements.**

The Code Enforcement Officer shall be responsible for the overall inspection of site improvements, including coordination with other officials and agencies, as appropriate.

§ 204-83. **Compliance with other provisions.**

Whenever the particular circumstances of a proposed development require compliance with either the special use procedure in this chapter or the requirements of Chapter 175, Subdivision of Land, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this section with the procedural and submission requirements for such other compliance.

§ 204-84. **Appeal.**

The applicant or any interested person may appeal a decision of the Planning Board. The appeal is made to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within 30 days after filing of a decision with the Town Clerk.
ARTICLE XIV
Planned Unit Development

§ 204-85. Intent and purpose.

The intent and purpose of this article is to set forth the procedure and conditions governing the establishment of Planned Unit Development Districts (PUD) in order to ensure the orderly and effective growth of the community, to introduce a degree of flexibility which will permit and encourage imaginative and innovative development and to protect the community interest. Such PUD shall consist of three or more acres.

§ 204-86. Preapplication conference.

Before submitting a request for a planned development, an applicant, at his or her option, may confer with the Planning Board, Code Enforcement Officer and Assessor to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys and other data.

§ 204-87. Preliminary proposal.

An applicant shall submit his request for the establishment of a PUD to the Town Board in the form of a preliminary proposal which shall include:

A. An outline development plan showing:
   (1) The existing topographic character of the land.
   (2) Existing and proposed land uses and the approximate location of buildings. Unless otherwise recommended by the Planning Board, not less than 30% of the gross area of the PUD shall be devoted to open space, including adequate usable recreation areas.
   (3) The approximate location of streets.
   (4) Existing land uses adjacent to the proposed PUD.

B. An explanation of the character of the planned unit development, including the approximate density of dwelling units if housing accommodations are included. Unless otherwise recommended by the Planning Board, the overall gross density of any proposed residential development shall not exceed 10 dwelling units per acre except that mobile home parks shall not exceed a net density of eight units per acre, i.e., excluding streets.

C. A statement of proposed financing.

D. A statement of present ownership of all land included within the proposed development.

E. A general indication of the expected timetable for development.
§ 204-88. Developer's conference.\textsuperscript{52}

Upon receipt of the preliminary proposal, the Town Board shall forward the proposal to the Planning Board for recommendation. Within 62 days after submission of the preliminary proposal to the Planning Board, the Planning Board shall schedule a conference with the applicant for the purpose of reviewing the proposed PUD and, if approval seems warranted, establishing the conditions under which the applicant may proceed. For the purpose of the article, the submission date shall be taken as the first regular Planning Board meeting following the submission. If the applicant wishes to proceed he or she shall then submit to the Planning Board in written form a statement of intent to comply with the conditions as established.

§ 204-89. Approval of statement of intent.

A. Upon receipt of the applicant's statement of intent to comply with the required conditions, the Planning Board shall, within 62 days after receipt of recommendation from any political subdivision or agency to which the application has been referred, forward to the Town Board its recommendation of the establishment of the proposed PUD. Such recommendation shall include: \textbf{[Amended 10-4-1995 by L.L. No. 5-1995]}

(1) A statement as to the effect of the proposed PUD on the objectives of the Comprehensive Plan and the character of the neighborhood.

(2) A statement of the conditions and covenants by which the applicant should abide in developing the proposed PUD.

(3) The applicant's statement of intent of compliance with the required conditions.

(4) A statement of the amount and type of performance guaranty which the developer should provide.

B. In the event that the Planning Board recommends that the PUD not be approved, such recommendation shall include a detailed explanation of the basis for the Planning Board's decision.

\textsuperscript{52}Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
§ 204-90. Public hearing. [Amended 10-4-1995 by L.L. No. 5-1995]

Upon receipt of the Planning Board's recommendation, the Town Board may schedule a joint public hearing with the Planning Board in accordance with the requirements of § 204-77C of this chapter, such hearing to be held not more than 62 days after receipt of the Planning Board's recommendation.

§ 204-91. Approval. [Amended 10-4-1995 by L.L. No. 5-1995]

Within 62 days after the public hearing, the Town Board shall approve conditionally or disapprove the proposed PUD. Conditional approval shall be made for a period of six months, subject to review of the final development plan by the Planning Board and acceptance by the Town Board. If the PUD is conditionally approved, the Town Board shall amend the Zoning Map to show the location of the district.

§ 204-92. Final development plan.

Upon conditional approval by the Town Board, the applicant shall prepare a final development plan for submission to the Planning Board. Such submission shall include, in addition to those items required in the preliminary proposal:

A. Drawings showing:

   (1) Street systems and plot lines.

   (2) Areas proposed to be conveyed, dedicated or reserved for parks and open spaces if such areas are included as part of the PUD.

   (3) A plot plan showing the location of all buildings and improvements.

   (4) Elevations and materials to be used on all proposed improvements except single-family residences and their accessory buildings. Elevations shall be shown.

   (5) A landscaping and tree-planting plan.

   (6) A stormwater pollution prevention plan or an erosion and sediment control plan and drainage plan if an SWPPP is not required. [Added 9-14-2005 by Res. No. 107-2005]

B. A written statement, including:

   (1) A development schedule, indicating:

      (a) The approximate date when construction of the project can be expected to begin.

      (b) The stages in which the project will be built, and the approximate date when construction of each stage can be expected to begin.

      (c) The anticipated rate of development.
§ 204-93. Review.

Within one year from the date of conditional approval by the Town Board, the proposed development shall be subject to review by the Planning Board. If a final development plan has not been submitted or substantial progress made toward the eventual completion of the project, the Planning Board may recommend to the Town Board that conditional approval of the PUD be revoked. In its discretion and for good cause, the Planning Board may recommend that conditional approval be extended. In any event, the PUD shall be subject to yearly review by the Planning Board and action by the Town Board until completion in accordance with the final development plan.

§ 204-94. Control of planned unit development following completion.

A. Upon completion of the project, the Planning Board shall issue a certificate certifying the completion of the PUD, and the Chairperson of the Planning Board shall note the issuance of the certificate on the recorded final development plan.

B. After the certificate of completion has been issued, no changes may be made in the PUD except upon application to the appropriate agency under the procedures provided below:

(1) A building that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved under Subsection B(3) of this Section.

(2) Changes in the use of common open space may be authorized by an amendment to the final development plan under Subsection B(3) of this Section.

(3) All other changes in the final development plan must be made by the Town Board, under the procedures authorized by this chapter for the amendment of the Zoning Map. No changes may be made in the final development plan unless they are required for the continued successful functioning of the PUD or unless they are required by changes in conditions that have occurred since the final plan was approved or by changes in the development policy of the community.

§ 204-95. Subdivisions of planned unit development.
A. All sections of a subdivided or resubdivided PUD are to be controlled by the final development plan rather than by the provisions of this chapter that otherwise would be applicable. The provisions of § 204-94 governing changes in the final development plan will apply.

B. The owners or lessees of a subdivided or resubdivided PUD may jointly make application under this chapter for a specially permitted use or for an amendment to the final development plan.
§ 204-96. Intent and purpose.

A. The intent and purpose of this article are to establish supplemental regulations and conditions applicable to certain land uses in the Town of Horseheads which shall be considered sufficiently unique to warrant special evaluation of each individual case and shall act so as to protect the best interests of the community. Failure of the applicant to apply for a special permit or to carry out the approval of the Board of Appeals shall result in a fine to be levied by the Town Justice of the Town of Horseheads.

B. Such uses will be permitted only if supplemental regulations and conditions specified in this article have been complied with and a special permit issued. In reviewing requests for special permits, the Board of Appeals and the Planning Board shall be guided by the character of the neighborhood around the proposed location and by the intent of the applicant and shall act so as to protect the best interests of the community.

§ 204-97. Existing uses permitted by special permit.\(^{53}\)

Uses lawfully existing at the time of adoption of this chapter and falling within the category of "uses permitted by special permit" may continue indefinitely, except as otherwise noted in this article, but shall not be enlarged or expanded until a special permit has been issued. In such cases where enlargement or expansion is proposed, a special permit will be issued only if the supplemental regulations and conditions of this article have been complied with.

§ 204-98. Application.

Application for a special permit pursuant to this article shall be made in the office of the Code Enforcement Officer.

§ 204-99. Review and recommendation.

Any request for a special permit shall be forwarded to the Town Planning Board for review and recommendation. The Planning Board shall review all applications for special permits pursuant to the requirements as listed in Article XIII, §§ 204-77C and 204-78A. The Planning Board shall act on such request within 30 days and shall forward its recommendation to the Board of Appeals. If the Planning Board fails to issue its report within such thirty-day period, the Board of Appeals shall assume that a favorable report has been issued.

\(^{53}\)Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
§ 204-100. Procedure.

The Board of Appeals shall proceed on all requests for a special permit in the manner set forth in § 204-120 of this chapter.

§ 204-101. Conditions; requirements.

The Code Enforcement Officer shall issue a building permit for the following land uses only when so authorized by the Zoning Board of Appeals after such Board of Appeals has determined that the conditions and requirements set forth hereinafter have been satisfied.

A. Cemeteries and the buildings incident thereto in any zoning district shall be permitted upon written approval of the Chemung County Health Department and a finding by the Planning Board that the proposed cemetery or extension thereof does not conflict with the objectives of the Comprehensive Plan.

B. Public utility lines and structures in any zoning district.

   (1) Public utility lines and structures shall be permitted when such lines or structures conform to the requirements of § 175-21 of Chapter 175, Subdivision of Land of the Code of the Town of Horseheads, provided that structures must be attractively landscaped and, if located adjacent to residential uses, screened from such uses by a buffer strip dense enough and high enough to act as an effective barrier between such structure and adjacent residential use.

   (2) When a request for a special permit under this subsection involves the installation of a high-pressure gas line, the Board of Appeals may require such line to be installed within a safety zone the width of which shall be determined by the Board of Appeals.

C. Gasoline service stations in Business and Industrial and Manufacturing Zones. Gasoline service stations may be located in these specified zoning districts, provided that: [Amended 11-5-1997]

   (1) The site for such use has a minimum area of 20,000 square feet and a grade not more than the center line of the adjacent road or roads.

   (2) The vehicular entrances and exits shall not be located within 300 feet of entrances or exits to public parks or playgrounds, and that such entrances and exits are so planned that, at maximum expected operation, vehicular movements into or from the service station will cause a minimum of obstruction on streets or sidewalks.

   (3) Any facilities for lubrication, motor repairs or washing are located within a completely enclosed building.

   (4) The site is so designed to provide waiting space for five automobiles within the lot area in addition to spaces available within an enclosed lubricatorium or at the pump or pumps.
shall be no storage of unlicensed and/or unregistered vehicles or facilities for trailer rentals, etc.

(5) Entrances and exits are so planned that, at maximum expected operation, vehicular movement into or from the service station will cause a minimum of obstruction on streets or sidewalks. In no case shall curb cuts be located less than 25 feet from the street right-of-way line at an intersection.

(6) Along any rear lot line or side lot line adjoining a residential zoning district the lot is screened by either of the following methods:

(a) A strip at least four feet wide, densely planted with shrubs or trees at least four feet high at the time of planting and which are of a type which may be expected to form a year-round dense screen at least six feet high within three years; or

(b) A wall, barrier or fence not more than eight feet high, opaque or perforated, provided that not more than 50% of its face is open.

(7) Any proposed sign complies with the requirements of Town Law.

(8) No major repair work such as engine overhaul or bodywork shall be performed in stations permitted in Neighborhood Service Zones, and not within 200 feet of a residential zone in other permitted zones.

(9) All fuel pumps, car lifts, pits and other service equipment or appliances are located at least 20 feet from any street or highway right-of-way line and at least 35 feet from other property lines.

(10) Lots on which gasoline stations are located shall be maintained at all times. No equipment, vehicles, salvage materials, tires, batteries, accessories or parts are to be stored outside unless screened or enclosed so as not to be visible from off the property.

(11) Any additional conditions or safeguards to minimize adverse effects on the character of the surrounding area and to protect adjoining properties may be required by the Board of Appeals.

(12) The business of selling and dealing in secondhand and used cars permitted in a business and/or manufacturing district may be carried on, provided that all said cars, trucks and other automobiles shall be in a good state and condition of repair and can be operated at all times under their own power and shall comply at all times with all requirements of the laws of the State of New York and rules and regulations promulgated thereunder for operation thereof on public highways and provided that such cars, trucks or other automobiles shall not be parked or stored within the required front yard for the district.
D. Passenger transportation terminals in industrial and manufacturing zones.
   (1) All parking areas and access drives shall be paved.
   (2) Driveways shall be no wider than 22 feet and shall be located so as not to interfere with traffic at any street intersection.
   (3) Any passenger transportation terminal located adjacent to residential uses shall be screened from such residential uses by a landscaped buffer strip dense enough and high enough to reduce noise and screen out objectionable views. [See § 204-101C(6)(a) and (b).]

E. Single-family or two-family dwellings in Business Zones. Such uses must conform to the provisions of § 204-29 of this chapter.

F. Animal hospital, kennel or place for the boarding of animals in Business Zones, Industrial and Manufacturing Zones, or Agricultural and Hill Zones. These uses shall be:
   (1) Permitted when such use will not create undue noise and odor.
   (2) No structure, runway or outdoor kennel may be located within 200 feet of any residential use.  

G. Nurseries and greenhouses, commercial nurseries and greenhouses in Residence B, Industrial and Manufacturing Zones, and Agricultural and Hill Zones.
   (1) The applicant must demonstrate that adequate and safe parking off the right-of-way will be provided.
   (2) The storage or stockpiling of material or produce shall not occur in the front or side yard area of any retail sales building.

H. Motor vehicle sales, repair and service establishments in Business Zones and Industrial and Manufacturing Zones.
   (1) Driveways and curb cuts shall be clearly defined and no wider than 25 feet.
   (2) Driveways and parking areas shall be drained and paved and any front yard area not used for parking shall be landscaped.
   (3) A strip at least six feet wide across the road frontage shall not be used for the parking and display of vehicles. Such strip shall be landscaped.
   (4) The business of selling and dealing in secondhand and used cars permitted in a business and/or manufacturing district may be

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54. Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
55. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
carried on, provided that all said cars, trucks and other automobiles shall be in a good state and condition of repair and can be operated at all times under their own power and shall comply at all times with all requirements of the laws of the State of New York and rules and regulations promulgated thereunder for operation thereof on public highways, and provided that such cars, trucks or other automobiles shall not be parked or stored within the required front yard for the district.\textsuperscript{56}

(5) No equipment or any type of salvage, maintenance materials, parts or junk shall be stored in front or side yards unless enclosed by decorative fencing designed to screen out objectionable views.

(6) The vehicular entrances and exits shall not be located within 300 feet of entrances or exits to public parks or playgrounds, and such entrances and exits shall be so planned that, at maximum expected operation, vehicular movements into or from the service station will cause a minimum of obstruction on streets or sidewalks.

(7) Along any rear lot line or side lot line adjoining a residential zoning district the lot shall be screened by either of the following methods:

(a) A strip at least four feet wide, densely planted with shrubs or trees at least four feet high at the time of planting and which are of a type which may be expected to form a year-round dense screen at least six feet high within three years; or

(b) A wall, barrier or fence not more than eight feet high, opaque or perforated, provided that not more than 50\% of its face is open.

I. \textsuperscript{57}Towers (electronic, radio and television transmitting and receiving), poles, whips, or antennas. In all districts in which the building height is restricted the aforesaid towers (electric, radio and television transmitting and receiving), poles, whips or antennas may be permitted, provided that the following requirements are met along with any other requirements deemed necessary by the Board of Appeals so as to protect the health, safety and welfare of the public, as follows:

(1) Said towers, poles, whips or antennas shall meet the yard requirements of the primary use in the district except that guy wires and anchors may be located within such required rear yard area.

(2) If required by the Board, the applicant shall submit plans along with engineering and structural data relative to the aforesaid towers, etc.

\textsuperscript{56}Editor's Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.

\textsuperscript{57}Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
(3) The applicant shall file all applicable Federal Aviation Administration (FAA) and Federal Communications Commission (FCC) permits.\textsuperscript{58}

(4) If the applicant is not the owner of the structure upon which the tower is to be connected or attached or located thereon of the adjoining land, the consent of the owner of the structure and/or land shall be obtained by the applicant. Said tower should be adequately covered by the applicant with general liability insurance, and a certificate of such insurance shall be filed upon approval of the application.

\textsuperscript{58}Editor's Note: Former Subsection 1714d, exempting seasonal display supports, which immediately followed this subsection, was deleted at time of adoption of Code; see Ch. 1, General Provisions, Art. 1.
ARTICLE XVI
Off-Street Parking and Loading

§ 204-102. Intent and purpose.

The intent and purpose of this article and the following regulations are to ensure the provision of adequate off-street parking and loading space in order to facilitate the movement of traffic and avoid congestion in the street.

§ 204-103. General requirements.

Off-street parking and loading shall be provided as specified in this article and shall be paved or graveled, drained, maintained and provided with necessary access driveways. All such parking and loading spaces shall be considered to be required space on the lot on which they are located, unless otherwise stated, and not, therefore, to be encroached upon in any manner.

§ 204-104. Required space.

All uses permitted in this chapter, including use variances and special permits, shall provide at least the amount of off-street parking and loading space specified in the following schedule:

A. For each single- or two-family dwelling unit: two parking spaces, one of which may be garage or carport. For multifamily dwelling units: 1 1/2 parking spaces for each unit.

B. For hotels, motels or rooming or tourist houses without restaurant or lounge: one parking space for each room let for rent.

C. For a church: one parking space for each three persons to be seated.

D. For an educational building: two parking spaces for each classroom, plus one space for each employee.

E. For a community center or other civic or semipublic structure: one parking space for each 100 square feet or increment thereof of gross floor space, plus one space for each employee.

F. For private parks or playgrounds: one parking space for each 5,000 square feet of open space area or major fraction thereof up to 10 spaces and thereafter one space for every 20,000 square feet or major fraction thereof.

G. For commercial recreation facilities: one parking space for each employee, one parking space for each 200 square feet of space enclosed for indoor facilities up to 10 spaces and thereafter one space for every 30,000 square feet or major fraction thereof of outdoor facilities. 59

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

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H. For restaurant, club, lodge or similar use: one parking space for each 100 square feet or increment thereof of gross floor area, plus one space for each employee.

I. For any retail commercial use: one parking space for each 250 square feet or increment thereof of business floor area, plus one space for each employee.

J. For professional offices, research offices and laboratories, studios or banks: one parking space for each 250 square feet or increment thereof of gross floor area, plus one space for each employee.

K. For hospitals, clinics, nursing or convalescent homes, and sanatoriums: one parking space for each three beds, plus one space for each employee.

L. For theaters: one parking space for each four seats.

M. For bowling alleys: eight parking spaces for each alley.

N. For all service uses such as printing, welding, plumbing or other similar shops: one space for each employee, plus one space for each 300 square feet or increment thereof of floor area.

O. For a home occupation: in addition to the dwelling unit requirement, one parking space for each 300 square feet or increment thereof of floor area used for the home occupation.

P. For a manufacturing, assembly or other industrial use: one space for each two employees.

Q. For all business or manufacturing uses with over 3,000 square feet and less than 10,000 square feet of floor area: one off-street loading space; for each additional 15,000 square feet or increment thereof, one additional space shall be provided. Business or manufacturing uses with less than 3,000 square feet of floor area shall not be required to provide off-street loading facilities if it can be demonstrated to the satisfaction of the Code Enforcement Officer that such facilities are unnecessary. In no event shall any servicing, loading or unloading be permitted from the street.

R. Industrial park zones: one off-street parking space at least 180 square feet in area not including aisles, per 1 1/2 employees; plus customer and visitor parking as appropriate; and at least one off-street loading area per principal building.
ARTICLE XVII
Nonconforming Uses

§ 204-105. Intent and purpose.
The intent and purpose of this article and the following regulations are to define the conditions under which nonconforming uses will be permitted in any zone in the Town of Horseheads.

§ 204-106. Continuation of existing uses.
A. Except as otherwise provided in this article, the lawful use of any building or land existing at the time that this chapter becomes effective may be continued although such building or use does not conform to the provisions of this chapter.

B. Nonconforming use rights subject to the provisions of this article remain with the land when title is transferred.

§ 204-107. Junkyards and billboards.
Notwithstanding any other provisions of this chapter, any automobile salvage yard or other junkyard or any billboard or other nonconforming sign or advertising device in existence in a residence district at the time that this chapter becomes effective shall be discontinued within two years of such date.

§ 204-108. Restoration and repair.
Nothing herein shall prevent the substantial restoration within six months and continued use of a nonconforming building damaged less than 75% of the equalized assessed value of such building immediately prior to such damage by fire, flood or other causes.

§ 204-109. Extension or enlargement.
A nonconforming building or use may not be extended or enlarged to other structures or land not already devoted to such use except by means of a variance granted by the Board of Appeals. No variance permitting the construction or enlargement of a nonconforming use or structure shall be granted by the Board of Appeals unless the regulations of this chapter other than permitted uses (i.e., density, yards, parking, etc.) for the district in which said nonconforming use is located can be substantially complied with.

§ 204-110. Change to another nonconforming use.
A nonconforming use may be changed to another nonconforming use of the same or more restrictive classification, and when so changed to a more restrictive use it shall not again be changed to a less restrictive nonconforming use.
§ 204-111. Abandonment or discontinuance.

When a nonconforming use has been abandoned or discontinued for a period of 12 consecutive months from a date to be determined by the Code Enforcement Officer, such nonconforming building or use shall not be reestablished except by a variance granted by the Board of Appeals. Any subsequent use of such building or land shall be in conformance with the provisions of this chapter for the district in which such building or land is located.
ARTICLE XVIII
Administration

§ 204-112. Enforcement.
This chapter shall be enforced by the Code Enforcement Officer who shall in no case except under a written order of the Board of Appeals grant any building permit or certificate of occupancy for any building or premises where the proposed construction, extension or use thereof would be in violation of any provisions of this chapter.

§ 204-113. Building permits.
No building in any zoning district shall be begun, extended or carried on without a building permit issued by the Code Enforcement Officer.

A. Every application for a building permit shall state the intended use of the building and shall be accompanied by a sketch plan drawn to scale and with all dimensions shown indicating the size and shape of the lot and the location of all buildings. The sketch shall indicate lots and buildings on lots immediately adjacent.

B. Such permit shall be conspicuously displayed on or near the building or buildings during the entire course of construction.

C. Unless there has been substantial progress in the work for which a building permit was issued, said permit shall expire one year from the date of issuance.

D. A fee shall be charged for every permit issued according to the schedule adopted by the Town Board whether as an amendment to this chapter or otherwise.

E. All building permits previously issued shall expire 30 days after this chapter becomes effective unless construction has commenced to a point where footings are completed.

F. Any permit issued shall be void if construction, alteration or extension does not comply with plot plan submitted and approved.

G. The Town Board shall have the power to withhold building permits in any area where water, sewer or soil conditions are deemed to be a health hazard.

§ 204-114. Certificate of occupancy.
Each property owner shall be responsible for compliance with all terms of this chapter affecting his or her property. Upon application, the Code Enforcement Officer shall issue a certificate of occupancy when he or she is satisfied that the proposed use complies with this chapter and that buildings have been constructed and the site developed in accordance with
submitted plans. No property shall be occupied or used until said certificate of occupancy has been issued.

§ 204-115. Health Department requirements.

No building permit or certificate of occupancy issued under the terms of this chapter shall become or remain valid unless the holder thereof complies with the requirements of the New York State and Chemung County Health Department.

§ 204-116. Penalties for offenses.

A. A violation of this chapter is hereby declared to be an offense punishable by a fine not to exceed $350 or imprisonment for a period not to exceed six months, or both, for a conviction of a first offense; for a 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 of 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 nor 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. [Amended 10-4-1995 by L.L. No. 5-1995]

B. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained or any building, structure or land is used or any land is divided into lots, blocks or sites in violation of the provisions of this chapter, the Town Board or Code Enforcement Officer of the Town, in addition to other remedies as provided for by law, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, 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; and upon the failure or refusal of the Town to institute any such appropriate action or proceeding for a period of 10 days after written request by a resident taxpayer of the Town so to proceed, any three taxpayers of the Town residing in the district wherein such violation occurred may institute such appropriate action or proceeding in the manner as the Town is authorized to do.
§ 204-117. Board of Appeals established.60

There is hereby established a Board of Appeals of five members which shall function in a manner prescribed by § 267 of the Town Law and whose office shall be located in the office of the Town Clerk of the Town of Horseheads. The Board of Appeals shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this chapter, and all its resolutions and orders shall be in accordance therewith. The Board of Appeals shall take minutes of all of its meetings and keep a public record of its proceedings and the vote of each member on every question.

§ 204-118. Procedure.

Any person aggrieved by any decision or determination of the Code Enforcement Officer may take an appeal to the Board of Appeals. In accordance with the provisions hereinafter contained, the Board of Appeals shall have the following authority:

A. Appellate jurisdiction.

(1) To hear and decide appeals from, and review, any order, requirement, decision or interpretation made by the Code Enforcement Officer, including the issuance of building permits and certificates of occupancy and determination of the exact location of any district boundary if there is uncertainty with respect thereto.

(2) Use variances. Where there are unnecessary hardships in the way of carrying out the strict letter of this chapter, the Board of Appeals shall have the power to vary or modify the application of any of the use regulations or provisions of this chapter so that the spirit of the chapter shall be observed. No use variance shall be granted by the Board of Appeals, however, unless it finds:

(a) That there are special circumstances or conditions, fully described in the findings of the Board of Appeals, applying to such land or buildings in the neighborhood, that said circumstances or conditions are such that strict application of said provision of this chapter would deprive the applicant of the reasonable use of such land or buildings and that the land in question can not yield a reasonable return if used only for an activity which is permitted on said land.

(b) That, for reasons fully set forth in the findings of the Board of Appeals, the granting of the variance is necessary for the reasonable use of the land or building and that the variance

60.Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
as granted by said Board is the minimum variance that will accomplish this purpose.

(c) That the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(d) That the use complies with the criteria in Town Law § 267-b, Subdivision 3(b). 61

(3) Area variance.

(a) Where there are practical difficulties or special conditions which make regulations governing lot size, yard size, building height and all other regulations not specifically related to use of land or building unreasonable or impossible to comply with, the Board of Appeals shall have the power to vary or modify these regulations as long as the spirit of the regulation to be altered is observed. In granting an area variance the Board of Appeals shall find that:

[1] There is no practical way for the applicant to accomplish intended objectives by observing the area regulations specified in this chapter.

[2] The variance requested will not be unduly detrimental to adjoining properties.

[3] The proposed use complies with all of the criteria in Town Law § 267-b, Subdivision 3(b). 62

(b) In granting any area variance the Board of Appeals shall prescribe any conditions that it deems necessary or desirable.

B. Original jurisdiction.

(1) Special permits. The Board of Appeals shall be authorized to issue special permits for any of the uses for which this chapter required the obtaining of such permits from the Board of Appeals. 63

§ 204-119. Planning Board referral.

All appeals shall be referred to the Planning Board for review as to conformance with the objectives of the Comprehensive Plan. No decision shall be made by the Board of Appeals until such Planning Board review has been completed and a report issued. If the Planning Board fails to act within 30 days, the Board of Appeals shall assume that a favorable report has been issued.

61. Editor’s Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
62. Editor’s Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
63. Editor’s Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
§ 204-120. Procedure.

A. All appeals and applications made to the Board of Appeals shall be in writing and shall be filed with the Town Clerk 60 days after the decision of the Code Enforcement Officer. Each appeal or application shall refer to the special provision of the ordinance involved and shall set forth the interpretation that is claimed, the use for which the special permit is sought, or the details of the variance that is applied for, and the grounds on which it is claimed that the variance should be granted, as the case may be. 64

B. The Board of Appeals shall hold a public hearing on appeals within 60 days after receipt and give due notice of such public hearing by advertising in the official newspaper of the Town of Horseheads at least five days prior to the date thereof.

C. The applicant shall mail notices at least 10 days before any hearing to all property owners within 200 feet of the property under consideration and provide to the Zoning Board of Appeals an affidavit stating the names, addresses, date and a copy of letter sent. 65

D. At least 10 days before any public hearing, the Zoning Board of Appeals shall mail notices thereof to the applicants and to the Regional State Park Commission having jurisdiction over any state park or parkway within 500 feet of the property affected. 66

E. The Board of Appeals, before taking a final action on any special permit or variance affecting real property lying within a distance of 500 feet from the boundary of any city, village or Town or from the boundary of any existing or proposed county or state park or other recreation area or from the right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines or from the existing or proposed boundary of any county- or state-owned land on which a public building or institution is situated shall refer such matter to the Chemung County Planning Board for report and recommendation. If the County Planning Board fails to make such report within 30 days after receipt of referred matter, the Board of Appeals may act without such report. If the County Planning Board recommends modification or disapproval of a proposed action, the Zoning Board of Appeals shall not act contrary to such recommendation except by a majority vote plus one of all the members of the Zoning Board of Appeals. The Zoning Board of Appeals shall file a report of its action with the County Planning Board within 30 days. If the Zoning Board of Appeals acts contrary to a recommendation or modification or disapproval of a proposed action, the Zoning Board of Appeals shall set forth the reasons for the contrary action in the report. 67

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64.Editor’s Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
65.Editor’s Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
66.Editor’s Note: Added at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
§ 204-120 HORSEHEADS TOWN CODE § 204-122

F. The Board of Appeals shall decide on appeals and on other matters referred to it within 62 days after the final hearing. Every decision shall be by resolution and shall contain a full record of the findings of the Board of Appeals in the particular case.68

§ 204-121. Rehearing.

A. Upon motion initiated by any member of the Board of Appeals and adopted by the unanimous vote of the members present, the Board of Appeals shall review at a rehearing any new information not previously reviewed which might affect the original order, decision or determination.69

B. Notice of such rehearing shall be given in the same manner as the original hearing.

C. By a concurring vote of all members present at such rehearing, the Board of Appeals may reverse or modify its original order, decisions or determination if it appears that the rights vested prior to such rehearing in persons acting in good faith in reliance on such original order, decisions or determination will not be prejudiced thereof.

§ 204-122. Court review.

Any person or persons jointly or severally aggrieved by any decision of the Board of Appeals or any office or board of the Town may apply to the Supreme Court for relief by a proceeding under Article 78 of the Civil Practice Law and Rules. Such action must be instituted within 30 days after the filing of a decision in the office of the Town Clerk.

67.Editor’s Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
68.Editor’s Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
69.Editor’s Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
ARTICLE XX
Amendments

§ 204-123. Legal notice and public hearing required.

The regulations and provisions of this chapter may be amended, supplemented or repealed by the Town Board after legal notice and public hearing.

§ 204-124. Review by Planning Board.

Each proposed amendment, if initiated by an agency other than the Planning Board, shall be referred to the Planning Board for review and recommendation thereon before the public hearing hereinafter provided for.

§ 204-125. Notice of public hearing.

The Town Board shall fix the time and place for a public hearing on the proposed change or amendment and cause notice to be given as follows:

A. By publishing a notice of time and place at least 10 days in advance of such hearing in the official paper of the Town.

B. By submitting a written notice of any change or amendment affecting property within 500 feet of the boundaries of any state park or parkway to the Regional Park Commission having jurisdiction over such park or parkway at least 10 days prior to such hearing.

C. By submitting a written notice of any proposed change or amendment affecting property within 500 feet of the boundaries of any adjacent village or Town to the Clerk of such village or Town at least 10 days prior to such hearing.

§ 204-126. Final action.

Before taking final action on certain proposed change or amendment to this chapter, the Town Board shall refer such proposed change or amendment to the Chemung County Planning Board as specified in, and in accordance with, §§ 239-l and 239-m or Article 12-B of the General Municipal Law.

§ 204-127. Protest.

In case of a protest against such proposed change or amendment signed by the owners of 20% or more of the area of land included in proposed change or by 20% or more of all landowners within 100 feet from the boundaries of the area of land to be included in such proposed change, such amendment shall not become effective except by a favorable vote of three-fourths (3/4) of the members of the Town Board.

§ 204-128. Authorized changes.70

70.Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I.
§ 204-128 HORSEHEADS TOWN CODE § 204-128

A. In approving subdivision plats which require modifications in the zoning, changes for the subdivision under consideration shall be approved only if so authorized by the Town Board, after these have been disclosed at the public hearing required by Chapter 175, Subdivision of Land, of the Code of the Town of Horseheads.

B. Changes made pursuant to this section are at the discretion of the Planning Board and must be made in accordance with the provisions of § 278 of the Town Law.
§ 204-129. Interpretation.

The provisions of this chapter shall be held to be the minimum requirements necessary to accomplish the purpose of the chapter and shall be interpreted and applied as such. When requirements of this chapter conflict with the requirements of other lawfully developed rules, regulations, or ordinances, the most restrictive or that imposing higher standards shall take precedence.
# Disposition List

## Chapter DL

### DISPOSITION LIST

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