

**Part I: Administrative Legislation**

**Chapter 1**

**GENERAL PROVISIONS**



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



ARTICLE I  
**Adoption of Code**  
**[Adopted 12-15-1997 by L.L. No. 4-1997]**

**§ 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 Eaton, as codified by General Code Publishers Corp., and consisting of Chapters 1 through 180, together with an Appendix, shall be known collectively as the "Code of the Town of Eaton," 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 Eaton" 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 Eaton, 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 Only such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.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 Eaton 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of this local law and not contained in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of this local law.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 Eaton prior to the effective date of this local law or any action or proceeding brought for the enforcement of such right or liability.
- B. Any offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Town of Eaton or any penalty, punishment or forfeiture which may result therefrom.
- C. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this local law brought pursuant to any legislative provision of the Town of Eaton.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Eaton.
- E. Any local law or ordinance of the Town of Eaton providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Town of Eaton or any portion thereof.
- F. Any local law or ordinance of the Town of Eaton appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Town of

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Eaton or other instruments or evidence of the town's indebtedness.

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- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The annexation or dedication of property.
- J. Any legislation relating to salaries.
- K. Any local law or ordinance amending the Zoning Map.
- L. Any legislation adopted subsequent to May 20, 1997.
- M. Any legislation relating to or establishing a pension plan or pension fund for municipal employees.
- N. A Resolution from 3-10-1951 regarding Councilmen and Justices of the Peace.

### **§ 1-5. Severability.**

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

### **§ 1-6. Copy of Code on file.**

A copy of the Code, in loose-leaf form, has been filed in the office of the Town Clerk of the Town of Eaton 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 Eaton 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 Eaton" 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 Eaton 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

§ 1-8 or resolutions until such changes, local laws, ordinances or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein. § 1-13

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

Copies of the Code may be purchased from the Town Clerk of the Town of Eaton 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 Eaton or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Town of Eaton to be misrepresented thereby or who violates any other provision of this local law shall be guilty of an offense and shall, upon conviction thereof, be subject to a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both.

**§ 1-11. Changes in previously adopted legislation; new provisions.**

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of Eaton, 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 as set forth in Schedule A attached hereto and made a part hereof (chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code).<sup>1</sup>
- C. Nomenclature. In Chapter 55, "Dog Warden" is changed to "Dog Control Officer."

**§ 1-12. Incorporation of provisions into Code.**

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

**§ 1-13. When effective.**

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

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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 1, General Provisions, Article I. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, deleted) 12-15-1997 by L.L. No. 4-1997." Schedule A, which contains a complete description of all changes, is on file in the town offices.





**Chapter 5**  
**ETHICS, CODE OF**



**[HISTORY: Adopted by the Town Board of the Town of Eaton 10-8-1990. Amendments noted where applicable.]**

**§ 5-1. Purpose and intent.**

Pursuant to the provisions of § 806 of the General Municipal Law, the Town Board of the Town of Eaton 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 Eaton. These rules shall serve as a guide for official conduct of the officers and employees of the Town of Eaton. 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.



§ 5-1  
§ 5-2. **Definitions.**<sup>2</sup>

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

**INTEREST** — A direct or indirect pecuniary or material benefit accruing to a municipal officer or employee as the result of a contract with the municipality which such officer or employee serves. For the purposes of this chapter, a municipal officer or employee shall be deemed to have an interest in the contract of:

- A. His spouse, minor children and dependents, except a contract of employment with the municipality which such officer or employee serves.
- B. A firm, partnership or association of which such officer or employee is a member or employee.
- C. A corporation of which such officer or employee is an officer, director or employee.
- D. A corporation, any stock of which is owned or controlled directly or indirectly by such officer or employee.

**MUNICIPAL OFFICER OR EMPLOYEE** — An officer or employee of the Town of Eaton 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 fireman or civil defense volunteer, except when acting as a Fire Chief or Assistant Fire Chief.

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



**§ 5-3. Standards of conduct.**

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

- A. Gifts. No officer or employee shall directly or indirectly solicit any gift having a value of \$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 could reasonably be expected to influence him in the performance of his official duties or was intended as a reward for any official action on his part.<sup>3</sup>
- B. Confidential information. No officer or employee shall disclose confidential information acquired by him in the course of his official duties or use such information to advance the financial or private interest of himself or others.
- C. Representation before one's own agency. No officer or employee shall receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency of which he is an officer, member or employee or of any municipal agency over which he has jurisdiction or to which he has the power to appoint any officer, member or employee.
- D. Representation before any agency for a contingent fee. No officer or employee shall receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any municipal agency whereby his 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 services rendered.
- E. Disclosure of interest in legislation. Any officer or employee who participates in or gives official opinion to the Town Board on any legislation shall publicly disclose on the official record the nature and extent of any direct or indirect financial or private interest he may have in such legislation.
- F. Investments in conflict with official duties. No officer or employee shall invest or hold any investment directly or indirectly in any financial, business, commercial or other private transaction which creates a conflict with his official duties.
- G. Private employment. No officer or employee shall engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of his official duties.
- H. Future employment. No officer or employee shall, after the termination of service or employment with such municipality, appear before any board or agency of the Town of Eaton in relation to any case, proceeding or application in which he personally participated during the period of his service or employment or which was under his active consideration.

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





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**§ 5-4. Filing of claims.**

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



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**§ 5-5. Distribution.**<sup>4</sup>

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The Supervisor of the Town of Eaton shall cause a copy of this chapter to be distributed to every officer and employee of the Town of Eaton within 30 days after the effective date of this chapter. Each officer and employee elected, appointed or hired 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 chapter nor the enforcement of provisions thereof.

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



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**§ 5-6. Penalties; suspension.**

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 chapter may be fined, suspended or removed from office employment as the case may be, in the manner provided by law.



**Chapter 15**  
**INVESTMENT POLICY**





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§ 15-1

**[HISTORY: Adopted by the Town Board of the Town of Eaton 8-19-1996. Amendments noted where applicable.]**

**§ 15-1. Purpose.**

The purpose of this chapter is to minimize risk; to ensure that investments mature when the cash is required to finance operations; and to ensure a competitive rate of return.



**§ 15-2. Policy; conditions.**

- A. In accordance with this chapter, the chief fiscal officer is hereby authorized to invest all funds as follows:
- (1) Proceeds of obligations and reserve funds:
    - (a) Certificates of deposit issued by a bank or trust company authorized to do business in New York State.
    - (b) Time deposit accounts in a bank or trust company authorized to do business in New York State.
    - (c) Obligations of New York State.
    - (d) Obligations of the United States Government.
  - (2) All funds except reserve funds may be invested in:
    - (a) Obligations of agencies of the federal government if principal and interest is guaranteed by the United States.
    - (b) With the approval of the State Comptroller, in revenue anticipation notes or tax anticipation notes of other towns.
  - (3) Only reserve funds may be invested in obligations of the town.
- B. All other town officials receiving money in their official capacity must deposit such funds in negotiable order of withdrawal accounts.
- C. All investments made pursuant to this investment policy shall comply with the following conditions:
- (1) Collateral:
    - (a) Certificate of deposit shall be fully secured by insurance of the Federal Deposit Insurance Corporation or by obligations of New York State or obligations of the United States or obligations of federal agencies the principal and interest of which are guaranteed by the United States or obligations of town. Collateral shall be delivered to the town or a custodial bank with which the town has entered into a custodial agreement. The market value of collateral shall at all times equal or exceed the principal amount of the certificate of deposit.
    - (b) Collateral shall not be required with respect to the direct purchase of obligations of New York State, obligations of the United States and obligations of federal agencies the principal and interest of which are guaranteed by the United States Government.
  - (2) Written contracts. Written contracts are required for certificates of deposit and custodial undertakings. With respect to the purchase of obligations of United States, New York State or other governmental entities, the interests of the town will be adequately protected by conditioning payment on the physical delivery of purchased securities to the town or custodian, or in the case of book-entry transactions, on the crediting of purchased securities to the custodian's federal reserve system account. All purchases will be confirmed, in writing, to the town in the form of a contract as follows:
    - (a) Written contracts shall be required for the purchase of all certificates of deposit.
    - (b) A written contract shall be required with the custodial bank.
  - (3) Designation of custodial bank. The Board shall designate an appropriate banking institution.
  - (4) Financial strength of institutions:
    - (a) Investments in time deposits and certificates of deposit are to be made with banks or trust

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- companies. Their annual reports must be reviewed by the chief fiscal officer to determine satisfactory financial strength.
- (b) When purchasing eligible securities, the seller shall be required to deliver the securities to our custodial bank.
  - (c) At the time independent auditors conduct the annual audit of the accounts and financial affairs of the town, the independent auditors shall audit the investments of the town for compliance with the provisions of these investment guidelines.
  - (d) At least annually, and if practicable, at the organizational meeting of the Town Board, the Board shall review and amend, if necessary, these investment guidelines.
  - (e) The provisions of these investment guidelines and any amendments hereto shall take effect prospectively and shall not invalidate the prior selection of any custodial bank or prior investment.

**Chapter 25**

**OFFICERS AND EMPLOYEES**



§ 15-2

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

§ 15-2





ARTICLE I  
**Residency Requirements**  
[Adopted 3-13-1995 by L.L. No. 1-1995]

**§ 25-1. Authority.**

This article is enacted pursuant to the authority of Chapter 365 of the Laws of 1976, which added a new Subdivision 1d(3) of § 10 of the Municipal Home Rule Law authorizing towns to adopt a local law which amends or supersedes any provision of the Town Law in relation to the property, affairs or government of the town or in relation to any of the other enumerated subject matters in such § 10, unless there is a state legislative restriction on such amendment or supersession.

**§ 25-2. Purpose.**

In order to permit the Town of Eaton to secure qualified personnel to enforce and administer the New York State Uniform Fire Prevention and Building Code, as well as the Land Use Regulations and other local laws of the Town of Eaton, it is deemed advantageous by the Town Board of the Town of Eaton to enact a local law superseding the requirement contained in Town Law § 23 and Public Officers Law §§ 3 and 30 that the Town of Eaton Code Enforcement Officer be a resident of the Town of Eaton.

**§ 25-3. Eligibility of Code Enforcement Officer.**

Section 23 of the Town Law and §§ 3 and 30 of the Public Officers Law are hereby amended and superseded in their application to the Town of Eaton to provide that the Code Enforcement Officer of the Town of Eaton at the time of his/her appointment and throughout his/her term of office, need not be an elector or resident of the Town of Eaton so long as he/she is a resident of the State of New York. A new sentence is hereby inserted at the end of §§ 23 of the Town Law and at the end of §§ 3 and 30 of the Public officers Law, as those statutes apply to the Town of Eaton, to read and provide as follows: "The Town Building Inspector or Code Enforcement Officer of the Town of Eaton, by whatever title he/she may be given and referred to, at the time of his/her appointment and throughout his/her term of office, need not be an elector or resident of the Town of Eaton so long as he/she is a resident of the State of New York."



ARTICLE II  
Assessor  
[Adopted 12-11-1995 by L.L. No. 4-1995]

**§ 25-4. Statutory authority.**

This article is enacted pursuant to § 579 of the Real Property Tax Law.

**§ 25-5. Purpose.**

- A. The Supervisor of the Town of Eaton is hereby empowered to enter into an agreement with the Town(s) of Lebanon and Georgetown pursuant to § 576 of the Real Property Tax Law, provided that one Assessor shall be appointed to hold the Office of Assessor in all the participating assessing units in the coordinated assessment program.
- B. Such a cooperative assessment agreement shall provide for the joint conduct of interviews of persons seeking the office of assessor, and that the appointment of the Assessor must be approved by a majority of each participating assessing unit's Town Boards. In addition, the agreement shall provide for the compensation of the Assessor. Each town shall enter into its own financial agreement with the appointed Assessor.
- C. Upon the expiration of the term of the appointed Assessor or in the event that the Assessor so appointed resigns or is otherwise unable to remain in office, one individual shall be appointed to succeed him or her in all the participating assessing units.
- D. Effective with the first assessment roll produced in cooperation with the other participating assessing units in the coordinated assessment program, all real property shall be assessed at the same uniform percentage of value in each assessing unit participating in the coordinated assessment program throughout the term of this cooperative assessment agreement.
- E. The dates applicable to the assessment process in each participating assessing unit, including taxable status date, and the dates for the filing of the tentative and the final assessment rolls shall be the same for each assessing unit participating in this coordinated assessment program.



ARTICLE III  
Town Clerk  
[Adopted 3-11-1996 by L.L. No. 1-1996]

**§ 25-6. Term of office.**

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

**§ 25-7. Election.**

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

**§ 25-8. Supersession of state law.**

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

**§ 25-9. Referendum.**

This article shall be submitted for approval to the electors of the Town of Eaton at the next election to be held on November 5, 1996.<sup>5</sup>

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5. Editor's Note: This article was approved on said date.



ARTICLE IV  
**Registrar of Vital Statistics**  
**[Adopted 12-15-1997 by L.L. No. 5-1997]**

**§ 25-10. Position to be held by Town Clerk.**

- A. No person shall be qualified or capable of holding the office of Registrar of Vital Statistics of the Town of Eaton unless that person is also the duly qualified holder of the office of Town Clerk of the Town of Eaton.
- B. Any person qualified to hold the office of Registrar of Vital Statistics at the time of his or her appointment to such office shall remain qualified to hold such office only for such period of time that he or she continues to lawfully hold the office of Town Clerk of the Town of Eaton.

**§ 25-11. Supersession of state law.**

This article shall supersede in its application to the Town of Eaton § 4121 of the New York Public Health Law to the extent this article is or may be inconsistent with the provisions of § 4121 of the New York Public Health Law.





**Chapter 30**

**PROCUREMENT POLICY**



§ 25-11

§ 30-1

**[HISTORY: Adopted by the Town Board of the Town of Eaton 9-14-1992. Amendments noted where applicable.]**

**§ 30-1. Evaluation of purchase.**

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



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**§ 30-2. Purchases to be formally bid.**

All purchases of supplies or equipment which will exceed \$10,000 in the fiscal year, or public works contracts over \$20,000 in the fiscal year, shall be formally bid pursuant to General Municipal Law § 103.



**§ 30-3. Estimated purchases requiring quotes or proposals.**

A. Estimated purchases.

- (1) All estimated purchases of less than \$10,000 but greater than \$3,000 require a written request for a proposal (RFP) and written/fax quotes from at least three suppliers.
- (2) All estimated purchases of less than \$3,000 but greater than \$1,000 require an oral request for goods/services and oral/fax quotes from at least two suppliers.
- (3) All estimated purchases of less than \$1,000 but greater than \$250 are left to the discretion of the purchaser, following normal operating procedure of the town.

B. Estimated public works contracts.

- (1) All estimated public works contracts of less than \$20,000 but greater than \$10,000 require a written request for proposal (RFP) and written/fax quotes from at least three suppliers.
- (2) All estimated public works contracts of less than \$10,000 but greater than \$3,000 require a written request for proposal (RFP) and written/fax quotes from at least two suppliers.
- (3) All estimated public works contracts of less than \$3,000 but greater than \$500 are left to the discretion of the purchaser, following normal operating procedure of the town.

C. All written requests for proposal (RFP) shall describe the goods/services, quantity and particulars of delivery. The purchaser shall compile a list of all suppliers from whom written/fax quotes have been requested and offered. All information gathered in complying with the procedures of this guideline shall be documented and maintained with the file or other documentation supporting the subsequent purchase or public works contract.





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**§ 30-4. Award to lowest responsible bidder.**

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



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**§ 30-5. Good faith effort.**

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



**§ 30-6. Exceptions.**

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

- A. Acquisition of professional services.
- B. Emergencies.
- C. Sole source situations.
- D. Goods/services purchased from agencies for the blind or handicapped.
- E. Goods/services purchased from correctional facilities.
- F. Goods/services purchased from other government agencies.
- G. Goods purchased at auction.
- H. Goods/services purchased for less than \$250.
- I. Public works contracts for less than \$500.
- J. Goods/services purchased under state contracts.



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**§ 30-7. Annual review.**

This policy shall be reviewed annually by the Town Board at its organizational meeting or as soon after as is reasonably practicable.





**Chapter 35**  
**RECORDS**



§ 30-7

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

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**ARTICLE I**  
**Public Access**  
**[Adopted 11-7-1974]**

**§ 35-1. Purpose; applicability.<sup>6</sup>**

The following rules and regulations shall apply to the public inspection and copying of such town records as are subject to public inspection by law, and shall continue in effect until altered, changed, amended or superseded by further resolution of the Town Board or by action of the Committee on Open Government established pursuant to state law.

**§ 35-2. Place of inspection.**

Such records shall be made available for inspection at the office of the town officer or employee charged with the custody and keeping thereof.

**§ 35-3. Time of inspection.**

Such records shall be made available for public inspection on regular business days between the hours of 10:00 a.m. and 4:00 p.m., if readily available. If not readily available, written request specifically describing records to which access is desired shall be filed with the town officer or employee charged with the custody and keeping thereof, who shall produce same within 48 hours of such request. Such written request shall be on the form prescribed by the State Comptroller. If the town officer or employee charged with the custody and keeping of the record elects to refuse access, he shall submit to the requestor a written statement of his reason therefor within 48 hours of such request.

**§ 35-4. Fees.****A. Copies.**

- (1) The town officer or employee charged with the custody and keeping of the record shall, upon request, make a copy or copies of any record subject to such inspection upon a payment of a fee of \$0.25 per page.
- (2) If a copy or copies are desired thereof by the requestor, the town officer or employee charged with the custody and keeping of the record shall make the same and mail or deliver the same to the requestor within one week depending on the volume and number of copies requested.

**B. Certification.** Any town officer or employee charged with the custody and keeping of any such record shall, upon request, certify a copy of a document or record prepared pursuant to the provisions of the preceding subsection upon payment of a fee of \$0.25.

**§ 35-5. Privacy.<sup>7</sup>**

To prevent an unwarranted invasion of personal privacy, the Committee on Open Government may promulgate guidelines for the deletion of identifying details for specified records which are to be made available. In the absence of such guidelines, an agency or municipality may delete identifying details when it makes records available. An unwarranted invasion of personal privacy includes, but shall not be limited to:

**A.** Disclosure of such personal matters as may have been reported in confidence to an agency or municipality and which are not relevant or essential to the ordinary work of the agency or municipality.

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

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

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- B. Disclosure of employment, medical or credit histories or personal references of applicants for employment, except such records may be disclosed when the applicant has provided a written release permitting such disclosure.
- C. Disclosure of items involving the medical or personal records of a client or patient in a hospital or medical facility.
- D. The sale or release of lists of names and addresses in the possession of any department is such lists would be used for private, commercial or fund-raising purposes.
- E. Disclosure of items of a personal nature when disclosure would result in economic or personal hardship to the subject party and such records are not relevant or essential to the ordinary work of the department.

**§ 35-6. List of available records.<sup>8</sup>**

Each department shall maintain and make available for public inspection and copying, in conformity with such regulations as may be issued by the Committee on Open Government, a current list, reasonably detailed by subject matter, of any records which shall be produced, filed or first kept or promulgated after the effective date of this article. Such list may also provide identifying information as to any records in the possession of the department on or before the effective date of this article.

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

ARTICLE II  
**Retention and Disposition**  
**[Adopted 2-13-1989]**

**§ 35-7. Adoption of schedule.**

The Records Retention and Disposition Schedule MU-1 is adopted.





**Part II: General Legislation**

**Chapter 55**

**ANIMALS**



§ 35-7

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

§ 35-7



ARTICLE I  
**Control of Dogs**  
**[Adopted 7-6-1978 by L.L. No. 1-1978]**

**§ 55-1. Purpose.**

The purpose and intent of this article shall be to preserve the public peace and good order of the Town of Eaton, Madison County, New York, to contribute to the public welfare and to preserve and protect of the property and person of the inhabitants of said Town by declaring and enforcing certain regulations and restrictions on activities of dogs and owners of dogs within the township.

**§ 55-2. Exclusions. [Amended 6-13-1988 by L.L. No. 1-1988]**

This article shall not apply to dogs owned by such persons or confined to such societies, hospitals or institutions as defined by Article 7, § 107 of the Agriculture and Markets Law.

**§ 55-3. Definitions.**

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

AT LARGE — Any dog shall be deemed at large when it is off the property of its owner and not under restraint.

DOG — Any dog, both male and female, whether such female dog is spayed or not.

OWNER — Any person who owns, keeps, harbors or has the care, custody or control of a dog. Dogs owned by minors shall be deemed to be in the custody and control of the minor's parents or other head of the household where the minor resides.

RESTRAINT — A dog which is:[Amended 11-7-1988 by L.L. No. 4-1988]

- A. Controlled by a leash and not on the premises of another without consent;
- B. In the presence of a competent person and obedient to that person's commands and not on the premises of another without consent;
- C. On or within a vehicle being driven or parked on the street;
- D. Within the property limits of its owner or keeper; or
- E. Upon the premises of another with the consent of such other person.

**§ 55-4. Dog Control Officer. [Added 6-11-1988 by L.L. No. 1-1988p; 12-15-1997 by L.L. No. 4-1997]**

The position of the Dog Control Officer may be created by the Town Board of the Town of Eaton, and such Dog Control Officer shall have all of the powers of a peace officer in the execution of this article and in the execution of Article 7 of the Agriculture and Markets Law, including the service of summons, and the service and execution of any other order of process. Every dog seized by the Dog Control Officer shall be maintained, redeemed, sold or disposed of in accordance with Article 7 of the Agriculture and Markets Law. The Dog Control Officer shall have the power to issue appearance tickets or, in lieu thereof, uniform appearance tickets or, in lieu thereof, uniform appearance tickets and simplified informations.

**§ 55-5. Restrictions.**

- A. No owner shall permit or allow a dog to run at large within the Town of Eaton, unless such dog shall be restrained as provided in Subsection D herein.
- B. No dog shall be permitted to cause damage or destruction to property or commit a nuisance or to defecate

§ 55-5 upon the premises of a person, other than to or upon premises of the dog's owner or the premises of another person with the consent of such other person. [Amended 6-13-1988 by L.L. No. 1-1988] § 55-9

- C. No owner shall keep or harbor a dog which howls or barks so as to disturb the peace and quiet of other persons.
- D. No dog shall be permitted to chase or otherwise harass any person in such manner as to reasonably cause intimidation or to put such person in reasonable apprehension of bodily harm or injury except in defense of property or inhabitants.
- E. No dog shall be permitted to chase or bark at moving motor vehicles, bicycles, animals or snowmobiles.
- F. No unspayed female dog in season shall be permitted to be outside a building or a fenced enclosure, except that the owner may exercise such dog while on a securely fastened leash not more than six feet long.
- G. No owner shall fail to provide dogs with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering and with humane care and treatment.
- H. Except as otherwise provided in § 55-2, all dogs owned or harbored in the Town of Eaton shall be licensed as provided by Article 7 of the Agriculture and Markets Law. The fact that a dog is without a license tag attached to a collar shall be presumptive evidence that the dog is unlicensed. [Added 6-13-1988 by L.L. No. 1-1988]

**§ 55-6. Additional license fees. [Amended 6-13-1988 by L.L. No. 1-1988; 6-12-2006 by L.L. No. 2-2006]**

In addition to the fee imposed in Article 7 of the Agriculture and Markets Law for the dog licenses required therein, there shall be imposed by the Town of Eaton an additional fee for each license issued in such amounts as are allowed under the Agriculture and Markets Law and determined from time to time by resolution of the Town Board.

**§ 55-7. Violations of restrictions.**

- A. Any person who observes a dog violating or which is being permitted to violate any of the restrictions set forth in § 55-5 herein may file a complaint, signed under oath, with the Town Justice of the Town of Eaton specifying the violation, the date thereof, damage, if any, caused, a description of the dog and name and residence, if known, of the owner or other person harboring such dog.
- B. Upon receipt by the Town Justice of any complaint against the conduct of any particular dog or the owner thereof, the Town Justice shall, upon a three-day notice, summon the alleged owner or other person harboring said dog to appear in person before him to answer to said complaint. If the summons is disregarded, the Justice may permit the filing of an information and issue a warrant for the arrest of such person.
- C. Upon observing a violation of either § 55-5 of this article or a violation of any provision of Article 7 of the Agriculture and Markets Law, the Dog Control Officer may issue an appearance ticket, uniform appearance ticket or uniform appearance ticket and simplified information directing the owner of the dog to appear in Town Court. [Added 6-13-1988 by L.L. No. 1-1988]

**§ 55-8. Penalties for offenses. [Amended 12-15-1997 by L.L. No. 4-1997]**

Except as otherwise provided in § 119 of the Agriculture and Markets Law, a violation of the article shall be deemed an offense and a violation thereof shall be punishable by a fine of not more than \$250 or imprisonment not to exceed 15 days, or both, for each violation.

**§ 55-9. Additional civil penalties.**

- A. Any violation of the article observed by or acted upon by the Dog Control Officer shall subject the owner of

§ 55-9 such dog to civil penalties which shall be in addition to or instead of such other penalty or fine as may be provided for in this article or pursuant to Article 7 of the Agriculture and Markets Law. § 55-9

- B. Any owner found guilty of a violation of § 55-5 of this article or of any provision of Article 7 of the Agriculture and Markets Law shall, in addition to any fine paid pursuant to either § 55-8 of this article or any provision of Article 7 of the Agriculture and Markets Law, pay to the Town an additional civil penalty of \$15. In the event that an owner is found guilty of a second violation within one year of either § 55-5 of this article or of any provision of Article 7 of the Agriculture and Markets Law, such civil penalty shall be \$25. **[Amended 6-13-1988 by L.L. No. 1-1988]**





ARTICLE II  
**Licensing and Identification of Dogs**  
**[Adopted 12-9-2010 by L.L. No. 3-2010<sup>9</sup>]**

**§ 55-10. Purpose.**

The purpose of this article is to provide for the identification and licensing of dogs, so as to aid in the control and protection of the dog population and the protection of persons, property and domestic animals within the Town of Eaton.

**§ 55-11. Applicability.**

This article shall apply to all areas of the Town of Eaton and to all dogs harbored within the Town of Eaton.

**§ 55-12. Definitions.**

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

**ADOPTION** — The delivery to any natural person 18 years of age or older, for the limited purpose of harboring a pet, of any dog, seized or surrendered.

**CLERK** — The Town Clerk of the Town of Eaton.

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

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

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

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

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

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

**IDENTIFICATION TAG** — A tag issued by the Town of Eaton which sets forth an official identification number, together with the words "Town of Eaton" and "State of New York," the telephone number for the Town Clerk of the Town of Eaton, and any other information as may be required by the provisions of this article.

**IDENTIFIED DOG** — Any dog carrying an identification tag as provided in this article.

**OFFICIAL IDENTIFICATION NUMBER** — A series or combination of letters, numbers and/or symbols approved and furnished by the Town of Eaton.

**OWNER** — Any person who keeps or harbors any dog.

**OWNER OF RECORD** — The person in whose name any dog was last licensed pursuant to this article and/or Article 7 of the New York State Agriculture and Markets Law, except that if any license is issued upon application of a person under 18 years of age, the owner of record shall be deemed to be the parent or guardian of such person.

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9. Editor's Note: This local law provided that it would apply to all dog licenses issued by the Town on and after 1-1-2011.

§ 55-12  
PERSON — Any individual, corporation, partnership, association or other organized group of persons, or other legal entity. § 55-13

PERSON WITH A DISABILITY — Any person with a disability as that term is defined in Subdivision 21 of § 292 of the New York State Executive Law.

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

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

SERVICE DOG — Any dog that has been or is being individually trained to do work or perform tasks for the benefit of a person with a disability, provided that the dog is or will be owned by such person or that person's parent, guardian or other legal representative.

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

WAR DOG — Any dog which has been honorably discharged from the United States armed services.

WORKING SEARCH DOG — Any dog that is trained to aid in the search for missing persons, is actually used for such purpose and is registered with the Department of Agriculture and Markets; provided, however, that such services provided by said dog shall be performed without charge or fee.

### **§ 55-13. Licensing of dogs; rabies vaccination requirement.**

#### **A. Licensing of dogs.**

- (1) Except as otherwise specifically provided in this article or in Article 7 of the New York State Agriculture and Markets Law, all dogs at large, and all dogs four months of age or older, shall be licensed in accordance with the provisions of this article.
- (2) All applications for a dog license shall be made to the Eaton Town Clerk.
- (3) The application shall state the sex, actual or approximate age, breed, color, and official identification number of the dog, and other identification marks, if any, and the name, address and telephone number of the owner.
- (4) The application shall be accompanied by the license application fee, any applicable license surcharges, and any such additional fees as may be established from time to time by resolution of the Eaton Town Board. Each license application shall be accompanied by a certificate of rabies vaccination or a statement from a licensed veterinarian in lieu thereof that such vaccination would endanger the dog's life. In the case of a spayed or neutered dog, every application shall also be accompanied by a certificate signed by a licensed veterinarian or an affidavit signed by the owner, showing that the dog has been spayed or neutered, provided such certificate or affidavit shall not be required if the same is already on file with the Clerk. In lieu of the spay or neuter certificate, an owner may present a statement certified by a licensed veterinarian stating that he has examined the dog and found that, because of old age or other reason, the life of the dog would be endangered by spaying or neutering. In such case, the license fee for the dog shall be the same as for a spayed or neutered dog as set forth in this article.
- (5) Upon validation by the Town Clerk, the application shall become a license for the dog described therein. Once an application has been validated, no refund shall be made of the fees paid therefor, or any portion thereof.

§ 55-13

§ 55-14

- (6) The Town Clerk shall provide an identification tag and a copy of the license to the owner, and retain the license and all documentation supporting the issuance of the license in accordance with the Records Retention and Disposition Schedule MU-1 issued by the New York State Archives and Records Administration. If the application for a dog license (or renewal) is made by mail and the owner requests a validated copy, the owner shall provide a stamped, self-addressed envelope for that purpose.
- (7) No license shall be transferable. Upon the transfer of ownership of any dog, the new owner shall immediately make application for a license for such dog.
- (8) The Town of Eaton hereby establishes a common renewal date of the 30th day of June for all dog licenses issued pursuant to this article. Except as hereafter provided, each license issued by the Town of Eaton shall be valid for the period beginning on the date of its issuance and ending on the next occurring 30th day of June. All licenses issued during the month of June shall expire on the 30th day of June in the following calendar year. Licenses issued by the Town of Eaton between January 1, 2011, and May 31, 2011, shall expire June 30, 2012.

B. Purebred license.

- (1) The owner of one or more purebred dogs registered by a recognized registry association 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.
- (2) Such application shall be made to the Town Clerk. Each purebred license application shall be accompanied by a certificate of rabies vaccination for each dog listed in the application, or a statement from a licensed veterinarian in lieu thereof that such vaccination would endanger the life of the dog or dogs.
- (3) The application shall state the name, address and telephone number of the owner; 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 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.
- (4) The application shall be accompanied by the license application fee, any applicable license surcharges, and any such additional fees as may be established from time to time by resolution of the Eaton Town Board.
- (5) 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, shall issue a purebred license and shall provide a copy of the purebred license to the owner. Once a purebred license has been issued, no refund of any fees paid upon the application therefor shall be made.
- (6) No purebred license shall be transferable. Upon change of ownership of any dog licensed under a purebred license, such individual dog shall become subject to the licensing provisions of this article.

C. Relocation/relicensing.

- (1) The owner of any dog currently licensed in another municipality who relocates his place of residence to the Town of Eaton shall apply for and obtain a Town of Eaton dog license for each dog owned.
- (2) Any dog adopted from an incorporated humane society or similar incorporated dog protective association must be licensed in the Town of Eaton prior to being released from said shelter.

**§ 55-14. License fees.**

§ 55-14

A. A fee schedule for all license fees and other fees to be charged and collected pursuant to this article shall be established by resolution of the Eaton Town Board. Such fee schedule may thereafter be amended from time to time by further resolution of the Town Board. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected prior to the issuance of the license for which the fees are due.

B. All fees established by the Town Board shall be in accordance with the following limitations:

- (1) The application fee for an unspayed or unneutered dog shall be at least \$5 more than the application fee for a spayed or neutered dog.
- (2) There shall be a surcharge fee in an amount not less than \$1 for spayed and neutered dogs, and not less than \$3 for unspayed or unneutered dogs, for the purpose of supporting animal population control efforts.
- (3) A surcharge fee in an amount not less than \$3 shall be imposed upon each purebred license for the purpose of supporting animal population control efforts.
- (4) A surcharge fee in an amount not less than \$5 shall be imposed upon a dog or purebred license for a dog identified as unlicensed during an enumeration conducted pursuant to Article 7 of the New York State Agriculture and Markets Law.

C. There shall be no fee for any license issued for any guide dog, hearing dog, service dog, war dog, working search dog, detection dog, police work dog or therapy dog. Each license for any such dog shall be conspicuously marked by the Clerk, "guide dog," "hearing dog," "service dog," "working search dog," "war dog," "detection dog," "police work dog," or "therapy dog," as applicable.

#### **§ 55-15. Disposition of license fees and fines.**

Except as otherwise provided in Article 7 of the New York State Agriculture and Markets Law, and/or under any other provision of this article, all fees, fines and/or penalties collected upon the application for a license and/or the prosecution of any violation of this article shall be the property of the Town of Eaton and shall be paid to the Town Supervisor.

#### **§ 55-16. Identification of dogs.**

- A. Each dog licensed pursuant to this article shall be assigned, at the time the dog is first licensed, a permanent official identification number. The official identification number shall constitute the official identification of the dog to which it is assigned, regardless of changes of ownership, and the number shall not be reassigned to any other dog during the lifetime of the dog to which it is assigned. Such identification number shall be carried by the dog on an identification tag which shall be affixed to a collar on the dog at all times, provided that a dog participating in a dog show shall be exempt from this requirement during such participation.
- B. At the time a dog is first licensed, one identification tag shall be furnished to the owner at no charge. Should an official Town of Eaton dog tag be lost, a new tag will be issued upon payment of the fee prescribed by resolution of the Town Board.
- C. No tag carrying an official identification number shall be affixed to the collar of any dog other than the one to which that number has been assigned.
- D. The holder of a purebred license may procure, at his expense, any number of tags imprinted with the same number as the purebred license. One such tag shall be affixed to the collar of each dog harbored pursuant to the purebred license at all times, provided that a dog participating in a dog show shall be exempt from this requirement during such participation. Such a tag shall be affixed only to the collar of a dog owned by the holder of the purebred license and harbored on his premises.

§ 55-16

§ 55-18

E. The size, shape and form of imprints on identification tags and purebred license tags shall be prescribed by the Town Board, and any tag bearing an imprint other than that prescribed shall not constitute valid identification for the purposes of this article.

**§ 55-17. Change of ownership; lost, stolen or deceased dog.**

- A. In the event of a change in the ownership of any dog which has been assigned an official Town of Eaton identification number or change in the address of the owner of record of any such dog, the owner of record shall, within 10 days of such change, file with the Town Clerk a written report of such change. Such owner of record shall be liable for a violation of this section until such filing is made, or until the dog is licensed in the name of the new owner.
- B. If any dog which has been assigned an official identification number is lost or stolen, the owner of record shall, within 10 days of the discovery of such loss or theft, file with the Town Clerk a written report of such loss or theft. In the case of a loss or theft, the owner of record of any such dog shall not be liable for any violation of § 55-17A of this article, and/or of any violation of Article 7 of the New York State Agriculture and Markets Law if committed after such report is filed.
- C. In the case of a dog's death, the owner of record shall so notify the Town Clerk, in writing, either prior to renewal of licensure or upon the time of such renewal as set forth in this article. Failure to notify the Town Clerk of the death of a dog as so required herein shall constitute a violation, and the owner of record shall be liable for such violation.

**§ 55-18. Penalties for offenses.**

- A. It shall be a violation, punishable as provided in § 55-18B of this article, for:
  - (1) Any owner to fail to license any dog;
  - (2) Any owner to fail to have any dog identified as required by this article;
  - (3) Any person to knowingly affix to any dog any false or improper identification tag;
  - (4) Any owner or custodian of any dog to fail to confine, restrain or present such dog for any lawful purpose required pursuant to this article and/or Article 7 of the New York State Agriculture and Markets Law;
  - (5) Any person to furnish any false or misleading information on any form required to be filed with the Town of Eaton pursuant to this article and/or Article 7 of the New York State Agriculture and Markets Law;
  - (6) The owner or custodian of any dog to fail to exercise due diligence in handling his or her dog if the handling results in harm to another dog that is a guide, hearing or service dog;
  - (7) The owner of a dog to fail to notify the Town Clerk of any change of ownership or address as required by this article.
- B. It shall be the duty of the Dog Control Officer of the Town of Eaton to prosecute an action or proceeding against any person who has committed within the Town of Eaton any violation of this article and/or Article 7 of the New York State Agriculture and Markets Law. The Dog Control Officer may elect either to prosecute such action as a violation under the penal law or as a civil action to recover a civil penalty. A violation of this section shall be punishable, subject to such an election, either:
  - (1) By a fine or penalty of not less than \$25, and not more than \$250, except that:
    - (a) Where the person was found to have violated this section and/or Article 7 of the New York State Agriculture and Markets Law within the preceding five years, the fine may be not less than \$50,

§ 55-18

§ 55-18

and;

- (b) Where the person was found to have committed two or more such violations within the preceding five years, the subsequent violation shall be punishable by a fine of not less than \$100 or imprisonment for not more than 15 days, or both.
- (2) A defendant charged with a violation of any provision of this article may plead guilty to the charge in open court. He may also submit to the Magistrate having jurisdiction, in person, by duly authorized agent, or by mail, a statement:
- (a) That he waives arraignment in open court and the aid of counsel;
  - (b) That he pleads guilty to the offense charged;
  - (c) That he elects and requests that the charge be disposed of and the fine or penalty fixed by the court;
  - (d) Of any explanation that he desires to make concerning the offense charged; and
  - (e) That he makes all statements under penalty of perjury. Thereupon the Magistrate may proceed as though the defendant had been convicted upon a plea of guilty in open court; provided, however, that any imposition of fine or penalty hereunder shall be deemed tentative until such fine or penalty shall have been paid and discharged in full. If, upon receipt of the aforesaid statement, the Magistrate shall deny the same, he shall thereupon notify the defendant of this fact, and that he is required to appear before the said Magistrate at a stated time and place to answer the charge which shall thereafter be disposed of pursuant to the applicable provisions of law.
- (3) Each day that a person is in violation of any provision of this article shall constitute a separate offense, with each such offense being subject to the fines and penalties set forth herein.

**Chapter 60**

**BINGO**





§ 55-18

**[HISTORY: Adopted by the Town Board of the Town of Eaton 7-14-1958; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]**

§ 55-18

**GENERAL REFERENCES**

**Games of chance — See Ch. 100.**



**§ 60-1. 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 Eaton, subject to the provisions of this chapter, Article 14-H of the General Municipal Law and Article 19-B of the Executive Law.



§ 60-1

§ 60-2

**§ 60-2. 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 65**

**BOATING**





§ 60-2

§ 65-1

**[HISTORY: Adopted by the Town Board of the Town of Eaton 2-1-1958. Amendments noted where applicable.]**

**§ 65-1. Definitions. [Amended 12-15-1997 by L.L. No. 4-1997]**

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

**MOTOR BOAT** — Any boat propelled by any mechanical means other than by hand, including personal watercraft as defined in § 2 of the Navigation Law.

**PERSONAL WATERCRAFT** — A vessel which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing or kneeling on, or being towed behind the vessel rather than in the conventional manner of sitting or standing inside the vessel, or as otherwise defined in § 2 of the Navigation Law. **[Added 10-14-2002 by L.L. No. 2-2002]**



§ 65-1

§ 65-2

**§ 65-2. Speed.**

- A. The speed of any motor boat operated on any water or waterways in the Town of Eaton at any time shall not exceed 25 miles per hour.
- B. The speed of any motor boat operated on any water or waterways situate in the Town of Eaton between the hours of 8:00 p.m. and 9:00 a.m. shall not exceed 10 miles per hour.
- C. The speed of any motor boat operated on any of the water or waterways in the Town of Eaton, within 200 feet of the shore, a dock, pier, raft, float or any anchored or moored vessel, shall not exceed 10 miles per hour.



§ 65-2

§ 65-3

**§ 65-3. Age of operator.**

No motor boat shall at any time be driven or operated by any person less than 12 years of age unless accompanied by an adult, and no person between 12 and 16 years of age shall drive or operate a motor boat in excess of 10 miles per hour.



§ 65-3

§ 65-4

**§ 65-4. Lighting; noise. [Amended 12-15-1997 by L.L. No. 4-1997]**

Motor boats, row boats and canoes shall display lights in accordance with § 43 of the Navigation Law and comply with noise restrictions in § 44 of the Navigation Law.





§ 65-4

§ 65-5

**§ 65-5. Safe operation.**

Every operator of a motor boat shall at all times operate his boat in a careful and prudent manner so as not to endanger the property of another or the life or limb of any person, or to interfere with the free and proper use of the water or waterways in the Town of Eaton.



§ 65-5

**§ 65-6. Regulations prohibiting use or operation of personal watercraft. [Added 10-14-2002 by L.L. No. 2-2002]**

§ 65-6

Effective April 1, 2003, the use or operation of personal watercraft is prohibited in or upon the waters of Hatch Lake and Bradley Brook Reservoir within the Town of Eaton. There shall be constructed and erected permanent signboards bearing therein large letters "PERSONAL WATERCRAFT REGULATION ZONE," and further stating that the use or operation of personal watercraft (jet skis) is prohibited in or upon the waters of Hatch Lake and Bradley Brook Reservoir. One such signboard shall be visible from the waters of each lake, and two such signboards shall be conspicuously placed along Westcott Road near these lakes so as to be visible to motorists traveling in either direction, with other such signboards to be erected, with the consent of the New York State Department of Transportation and the Madison County Highway Department respectively, in at least one conspicuous location facing each direction of travel near these lakes on NYS Route 26 and Eatonbrook Road, respectively, and such other locations as the Town Board may designate.



§ 65-6

§ 65-7

**§ 65-7. Enforcement; penalties for offenses. [Amended 10-14-2002 by L.L. No. 2-2002]**

The regulations set forth in this chapter shall be enforced by peace and law enforcement officers of the State of New York, including the New York State Police and Department of Environment Conservation; the Madison County Sheriff's Department; the Code Enforcement Officer of the Town of Eaton; and such other officials as may otherwise be empowered to do so. Any person violating the regulations established in this chapter shall be guilty of a violation punishable, upon conviction thereof, by a fine of not more than \$250 or imprisonment for a term of not more than 15 days, or both.



**Chapter 70**

**BUILDINGS, NUMBERING OF**





§ 65-7

§ 70-1

**[HISTORY: Adopted by the Town Board of the Town of Eaton 3-12-1960. Amendments noted where applicable.]**

**§ 70-1. Adoption of numbering system.**

Pursuant to Subdivision 9 of § 64 of the Town Law, this Town Board does hereby adopt said uniform "Approved Property Numbering System" and hereby designates by name and number the roads, streets and avenues, which method is hereby adopted as the official system for the town and ordered filed in the office of the Town Clerk.



**Chapter 72**

**BUILDINGS, UNSAFE**



**[HISTORY: Adopted by the Town Board of the Town of Eaton 11-5-2009 by L.L. No. 1-2009. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Fire prevention and building construction — See Ch. 90.**

**Property maintenance — See Ch. 145.**



**§ 72-1. Purpose.**

The purpose of this chapter is to promote and preserve the health, welfare and property of residents of and owners of property located within this Town by providing a method for the removal or repair of buildings and structures within the limits of this Town that, from any cause, may now be or shall hereafter become dangerous or unsafe to the public. Nothing in this chapter shall be deemed or construed as a limitation or supercession of the provisions, obligations or remedies provided under the New York State Building Code, New York State Property Maintenance Code, New York State Fire Code, or other applicable code, statute or regulation.





**§ 72-2. Definitions.**

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

**BUILDINGS** — A structure wholly or partly enclosed within exterior walls or within exterior or party walls and a roof, affording shelter to persons, animals or property.

**STRUCTURE** — Any assembly of materials constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground, including but not limited to fences, satellite dishes and swimming pools.



§ 72-2

§ 72-3

**§ 72-3. General prohibition.**

No person, firm, corporation or association owning, possessing or controlling a building or structure in this Town shall permit, suffer or allow the building or structure to continue or become dangerous or unsafe to the public from any cause whatsoever.



**§ 72-4. Defects deemed unsafe or dangerous.**

All buildings and structures which have one or more of the following conditions shall be deemed unsafe or dangerous within the meaning of this chapter:

- A. Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- B. Those which, exclusive of the foundation, show 33% or more of damage or deterioration of the supporting member or members or 50% or more of damage or deterioration of the nonsupporting member or members, enclosing walls, or outside walls or covering (siding).
- C. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- D. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of this Town.
- E. Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease so as to work injury to the health, morals, safety or general welfare of those living therein.
- F. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.
- G. Those having inadequate facilities for egress in case of fire or panic, or those having insufficient stairways, elevators, fire escapes or other means of access.
- H. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- I. Those which because of their condition are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of this Town.
- J. Those which provide a substantial life-safety hazard to the occupants or general public because of noncompliance with the New York State Fire Code, Building Code and/or Property Maintenance Code.



**§ 72-5. Inspections and reports.**

The Code Enforcement Officer or his designee is authorized to enforce the provisions of this chapter and shall make inspections of all potentially unsafe buildings and structures within the Town. Upon receiving information of the existence of an unsafe structure or building, the Code Enforcement Officer shall inspect the same and shall determine if, in his opinion, the structure is unsafe and dangerous so as to warrant its removal or repair. In the event he shall so determine, the Code Enforcement Officer shall give notice to all interested persons or corporations and order the repair or removal of the building or structure. The Code Enforcement Officer shall then make a written report to the Supervisor and Town Board of the property inspected, the result of the inspection and all actions taken by the Code Enforcement Officer concerning the building or structure.





**§ 72-6. Contents of notice and order to repair or remove.**

The notice and order to interested persons and/or corporations referenced in § 72-5 shall contain the following information:

- A. A description of the premises.
- B. A statement of the particulars in which the building or structure is unsafe or dangerous.
- C. An order requiring the same to be made safe and secure or removed.
- D. That the securing or removal of said building or structure shall commence within a specified date subsequent to the serving of the notice, as hereinafter provided, and shall be completed within a specified number of days thereafter.
- E. That in the event of the neglect or refusal of the persons or corporations served with the order to comply with the order, the Town reserves all legal rights to enforce compliance, including but not limited to commencing an action pursuant to this chapter for violation of this chapter, and/or, following a hearing, proceeding with repairs or demolition, and/or commencing an action before the New York State Supreme Court for an order of demolition and/or such other or further action that the Town may deem appropriate.



**§ 72-7. Service of notice and order.**

The notice and order referenced in §§ 72-5 and 72-6 shall be served in the following manner:

- A. By personal service a copy thereof upon the owner or some one of the owners, executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the premises as shown by the last preceding completed assessment roll of the Town, and filing of an affidavit of personal service upon the owner with the Town Clerk; or
- B. In the event that the owner shall not be readily located or personally served, by mailing a copy of said notice to such owner as aforesaid, by certified mail, return receipt requested, addressed to the last known address of the owner, and personally serving said notice upon an adult residing in the premises, if any, and by affixing a copy of said notice to the premises, such service to be complete after filing of the return receipt and the affidavit(s) of service and posting with the Town Clerk.



§ 72-7

§ 72-8

**§ 72-8. Inspection and evaluation by town upon noncompliance with order.**

In the event of neglect or refusal of the persons so notified to comply with said order of the Code Enforcement Officer, the Town Board may direct an inspection, evaluation and report of the condition of said premises be made by the Town Engineer or such other engineer retained by the Town for such purpose, and a signed copy of such engineer's report shall be forwarded to the Supervisor, Town Board and Code Enforcement Officer, and all costs of said engineer's report and inspection shall be charged to the owner and levied against the premises if not paid.



§ 72-8

§ 72-9

**§ 72-9. Town Board hearing.**

Upon receipt of the Engineer's report described in the preceding § 72-8, the Town Board shall consider such report, along with the prior report of the Code Enforcement Officer, and shall determine by resolution, whether the building(s) is unsafe or dangerous, and whether the repair and/or demolition and removal of the building(s) is warranted, and, if so, that a hearing will be held before the Town Board at which time the owner will be heard and allowed to present witnesses and evidence to rebut the findings of the Town Board.





**§ 72-10. Notice of hearing.**

In the event a hearing is to be held pursuant to the provisions of the preceding § 72-9, a notice of such hearing shall be served upon the owner, in a manner authorized in § 72-7 above, at least 10 days prior to the scheduled date of such hearing. Such notice shall contain the following:

- A. A description of the premises;
- B. A statement of the particulars in which the building(s) has been deemed unsafe or dangerous;
- C. The manner in which the building(s) is to be made safe and/or secure;
- D. The date, time and place for the hearing to be held before the Town Board at which time the owner, and/or the owner's representative, may present witnesses and evidence refuting the Town Board's finding that the building(s) is unsafe and/or dangerous; and
- E. That upon the conclusion of the hearing, or upon the owner's failure to appear at such hearing, the Town Board shall have the authority to, and may order the repair and/or demolition and removal of the building(s), and that all costs associated with such remedial action by the Town shall be the responsibility of the owner and assessed and levied against the owner's property in the same manner as general Town taxes.



§ 72-10

§ 72-11

**§ 72-11. Service and filing of order.**

Upon the conclusion of the hearing as contemplated in the preceding § 72-9, or upon the owner's failure to appear at such hearing, the Town Board shall make a determination, by resolution and order, based upon the preponderance of evidence before it, whether to provide for, and direct the repair and/or demolition and removal of the building(s) at issue, and in such event shall cause a certified copy of said resolution and order to be recorded as a miscellaneous record in the office of the Madison County Clerk, and also to be served upon the owner in a manner provided in § 72-7 above.



§ 72-11

§ 72-12

**§ 72-12. Application to Supreme Court for order.**

In the event that the building or other structure shall be reported unsafe or dangerous by the Town Engineer as provided in § 72-8 above, the Town Board may, in lieu of the scheduling of a hearing before the Town Board as provided in § 72-9 above, pass a resolution directing the Supervisor to make an application to the Supreme Court for an order determining the building or other structure to be a public nuisance and directing that it shall be repaired and secured or taken down and removed.



§ 72-12

§ 72-13

**§ 72-13. Compensation of professionals and tradesmen.**

All engineers, attorneys, professionals, workers and tradesmen rendering services to the Town shall be paid reasonable compensation for the service performed by them in making their inspections and in preparing the report thereof, in conducting the proceedings contemplated under this chapter, and in securing, repairing, demolishing or removing the building(s) at issue. Such compensation shall be assessed against the owner, person or corporation responsible for the structure.





§ 72-13

§ 72-14

**§ 72-14. Assessment of costs and expenses incurred by Town.**

All costs and expenses incurred by the Town in connection with the proceedings to remove or secure, including the cost of actually removing said buildings or structures, shall be assessed against the land on which said buildings or structures are located and collected in the same manner as Town taxes.



**§ 72-15. Emergency work; notice.**

- A. In case there shall be, in the opinion of the Code Enforcement Officer, actual and immediate danger of the falling of a building or structure so as to endanger public safety, life or property or actual or immediate menace to health or public welfare as a result of the conditions present in or about a building or structure, he may cause the necessary work to be done to render such building or structure temporarily safe, whether the procedure described in this chapter for unsafe or dangerous buildings or structures has been instituted or not.
- B. When emergency work is to be performed under this section, the Code Enforcement Officer shall cause the owner thereof to be served personally or by certified mail, return receipt requested, and, if served by certified mail, shall post on the premises a notice to comply containing a description of the premises, a statement of the facts in which the structure is unsafe or dangerous and orders and directions to correct said conditions which constitute an emergency within a specified period not to exceed three days from actual or constructive receipt of the notice.
- C. In the event that the emergency does not permit any delay in correction, the notice shall state that the Town may correct or has corrected the emergency condition.
- D. In both cases, the notice shall state that the corrective costs of the emergency will be assessed against the owner, and levied against the premises pursuant to the provisions of this chapter.
- E. In any case where the Code Enforcement Officer finds a building or conditions within a building wherein there is an imminent hazard to life safety, the Code Enforcement Officer shall immediately close the building or dwelling and order the occupants to vacate the building until the conditions are corrected and inspected for compliance with all applicable codes, rules and regulations. Signs reading "No Admittance" shall be posted at all entrances to such building. Only persons permitted by the Code Enforcement Officer to enter the building shall be allowed in the building and only to secure the building or perform necessary corrections. As soon as practically possible, the Code Enforcement Officer shall notify the Supervisor and Town Board, in writing, of the action that was taken under this subsection and the reasons therefor.
- F. Upon correction of the hazards and upon inspection and verification by the Code Enforcement Officer, the Code Enforcement Officer shall permit the signs to be removed and the building to be occupied. The Code Enforcement Officer shall then notify the Supervisor and Town Board of the correction of the conditions of the building.



§ 72-15

§ 72-16

**§ 72-16. Repair or removal by Town; statement of expenses.**

Upon notification that the owner of the unsafe building or structure has failed or refused to repair the unsafe building or structure within the time specified in any order of the Town Board and/or Supreme Court, the Town Board may thereupon direct that the Town shall cause the repair or removal of the unsafe building. After such work has been completed, the Code Enforcement Officer shall file with the Town Board a verified statement of all expenses incurred in the removal or repair of the unsafe or dangerous building or structure, which will be assessed and levied against the premises and collected in the same manner as Town taxes in order to reimburse the Town for its expenses.



§ 72-16

§ 72-17

**§ 72-17. Costs and charges to become lien; interest.**

Upon receipt of the verified statement by the Code Enforcement Officer regarding the costs of the proceedings to repair or remove, the Town Board shall direct that the amount thereof, including the charges added thereto, shall constitute a lien against said premises and direct that the same shall be added to the next assessment roll of general Town taxes and shall be collected and enforced in the same manner, by the same proceedings, at the same time and under the same penalties as the general Town tax and as a part thereof. In addition thereto, interest shall run thereon from the date of filing the verified statement to the date of actual payment at 9% per annum.





§ 72-17

§ 72-18

**§ 72-18. Suit for expenses; right to collect costs.**

Notwithstanding any provision herein to the contrary, the Town may, at its election, institute suit against the owner of said premises for all expenses incurred in the work and which will be assessed against the land as compensation to the Town for said work performed and enter a judgment thereon against the owner personally for the aforesaid amount. The imposition and collection of any fine or penalty hereinafter prescribed shall not bar the right of the Town to collect the costs of the removal or repair of any unsafe building or structure as herein prescribed.



§ 72-18

§ 72-19

**§ 72-19. Failure of owner to complete work.**

The failure of the owner to complete the repairs or to remove the unsafe building or structure as specified in the final notice of the Code Enforcement Officer shall subject the owner to all of the obligations and penalties set forth in this chapter.



**§ 72-20. Penalties for offenses.**

- A. Any person or corporation who allows or causes an unsafe building or structure to exist within the Town shall be guilty of a violation punishable by a fine not exceeding \$250 per day, imprisonment for a term not to exceed 15 days, or both. Each day that the violation continues shall constitute a separate offense.
- B. Violation of an order. Any person who shall fail to comply with an order of the Town of Eaton Code Enforcement Officer within the time fixed for compliance therewith, and any owner, builder, architect, tenant, contractor, subcontractor or his agent or any other person taking part or assisting in the use or construction of any building who shall violate any order, notice or directive of the Town of Eaton Code Enforcement Officer shall be punishable by a fine not exceeding \$250 per day, imprisonment for a term not to exceed 15 days, or both. Each day in violation continuing beyond the date fixed in the order of the Code Enforcement Officer shall be deemed a separate offense.



**Chapter 75**  
**CANNABIS**





§ 72-20

§ 75-1

**[HISTORY: Adopted by the Town Board of the Town of Eaton 10-12-2021 by L.L. No. 3-2021.**

**Amendments noted where applicable.]**

**§ 75-1. Legislative intent.**

It is the intent of this chapter to opt the Town of Eaton out of hosting on-site cannabis consumption establishments within its boundaries.



§ 75-1

§ 75-2

**§ 75-2. Authority.**

This chapter is adopted pursuant to Cannabis Law § 131, which expressly authorizes towns to opt-out of allowing on-site cannabis consumption establishments to locate and operate within their boundaries.



§ 75-2

§ 75-3

**§ 75-3. Local on-site cannabis consumption opt-out.**

The Town Board of the Town of Eaton, County of Madison, hereby opts-out of licensing and establishing on-site cannabis consumption establishments within its boundaries.



**§ 75-4. Severability.**

If a court determines that any clause, sentence, paragraph, subdivision, or part of this chapter or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this chapter, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this chapter or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.





§ 75-4

§ 75-5

**§ 75-5. Effective date.**

This chapter shall take effect immediately upon filing with the Secretary of State. Pursuant to Cannabis Law § 131, this chapter is subject to a permissive referendum and thus may not be filed with the Secretary of State until the applicable time period has elapsed to file a petition or a referendum has been conducted approving this chapter.



**Chapter 81**

**DEVELOPMENT AND PROJECTS FEES**



**[HISTORY: Adopted by the Town Board of the Town of Eaton 3-8-2022 by L.L. No. 1-2022. Amendments noted where applicable.]**

**§ 81-1. Legislative findings, intent and purpose.**

- A. The Town of Eaton hereby finds and determines that in order to protect and safeguard the Town of Eaton, its residents and their property with respect to certain land developments and projects within the Town, all buildings and related improvements, highways, drainage facilities, utilities and parks within developments and projects should be designed and constructed in a competent and worker-like manner and in conformity with all applicable governmental laws, codes, rules and regulations and should be dedicated and conveyed to the Town, when appropriate, in a legally sufficient manner. To assure the forgoing, it is essential for the Town to have and to retain competent engineers and other professional consultants to review and approve plans and designs, make recommendations to the Town Board, Planning Board and Zoning Board of Appeals, inspect the construction of highways, drainage facilities, utilities and parks to be dedicated to the Town and to recommend their acceptance by the Town and for the Town to have and retain competent attorneys to assist in the application review process, to negotiate and draft appropriate agreements with developers, to obtain, review and approve necessary securities, insurance and other legal documents, to review proposed deeds and easements to assure that the Town is obtaining good and proper title, to render legal opinions and to generally represent the Town with respect to any legal disputes and issues which may arise regarding such developments and projects. The cost of retaining such competent engineers, attorneys and other professional consultants should ultimately be paid by those who seek to benefit from such developments and projects, including variances, subdivision, site plan approvals, zone changes and/or amendments, district formations and/or extensions, special use permits or uses rather than by general Town funds which are raised by assessments and/or general taxes paid by taxpayers of the Town.
- B. This chapter is enacted by local law under the authority of Municipal Home Rule Law § 10, Subdivision 1(ii)(a)(12) and (d)(3), and the Municipal Home Rule Law § 22. To the extent that Town Law §§ 261-A, 261-B, 261-C, 267, 267-A, 267-B, 271, 274-A, 274-B, 276 and 277 do not authorize the Town Board, Town Planning Board and/or the Town Zoning Board of Appeals to require reimbursement to the Town of legal, engineering and other professional consulting fees, expenses and costs incurred by the Town in connection with the review and consideration of applications for subdivision approval, and for the approval, amendment and/or extension of planned districts, for the approval and/or amendment of zone changes, for the approval, formation, amendment and/or extension of a district and for the review and consideration of applications for variances, site plans and special permit uses under Chapter 120 (Land Use) of the Code of the Town of Eaton it is the expressed intent of the Town Board to change and supersede such statutes. More particularly, to the extent that such statutes do not authorize the deferral or withholding of such consideration, review, acceptance or approvals in the event that such fees, expenses and costs are not paid to the Town, it is the expressed intent of the Town Board to change and supersede Town Law §§ 261-A, 261-B, 261-C, 267, 267-A, 267-B, 271, 274-A, 274-B, 276 and 277 to empower the Town to require such payment as a condition to such consideration, review, acceptance or approvals.



**§ 81-2. Definitions.**

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

**APPLICANT** — Any person, firm, partnership, association, corporation, company or organization of any kind who or which requests the Town of Eaton Planning Board, Zoning Board of Appeals or Town Board to approve a subdivision, development and/or to grant an application for a variance, subdivision, site plan approval, special use permit, zone change, zoning amendment and/or other land use approval.

**DEVELOPER** — Any person, firm, partnership, association, corporation, company or organization of any kind who or which (1) constructs or proposes to construct one or more highways, drainage facilities, utilities or parks within or in conjunction with a development with the intent to convey or dedicate the same to the Town, or (2) requests the Town to create a district, or (3) requests the Town to approve an application for a variance, subdivision, site plan approval, special use permit, zone change, zoning amendment and/or other land use approval.

**DEVELOPMENT** — Includes, but is not limited to, land use development, a project, subdivision or a district.

**DISTRICT** — Any special district under the Town Law of the State of New York, as applicable.

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

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

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

**PLANNING BOARD** — The Planning Board of the Town of Eaton.

**SITE PLAN** — Any site plan review pursuant to Chapter 120, Land Use, of the Code of the Town of Eaton.

**SPECIAL USE PERMIT** — A use which because of its unique characteristics requires individual consideration through a procedure of review by the Town of Eaton Zoning Board of Appeals, in order to determine whether a use should be allowed, conditionally allowed or denied pursuant to Chapter 120, Land Use, of the Code of the Town of Eaton.

**SUBDIVISION** — A subdivision of land as defined in the Town of Eaton subdivision regulations and Town Code.

**SUPERVISOR** — Supervisor of the Town of Eaton.

**TOWN** — The Town of Eaton.

**TOWN BOARD** — The Town Board of the Town of Eaton.

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

**VARIANCE** — Any area or use variance as those terms are defined in Chapter 120, Land Use, of the Code of the Town of Eaton or the New York State Town Law.

**ZONING BOARD OF APPEALS** — The Zoning Board of Appeals of the Town of Eaton.





**§ 81-3. Reimbursement of fees and expenses.**

A. Subdivisions.

- (1) An applicant for approval of a subdivision in the Town shall reimburse the Town for all reasonable and necessary legal, engineering, and other professional consulting fees, expenses and costs incurred by the Town in connection with the review and consideration of such subdivision.
- (2) A developer who constructs or proposes to construct one or more highways, drainage facilities, utilities or parks within or in conjunction with an approved subdivision in the Town shall reimburse the Town for all reasonable and necessary legal, engineering and other professional consulting fees, expenses and costs incurred by the Town in connection with the inspection and acceptance by the Town of such highways, drainage facilities, utilities and parks and the dedication of the same to the Town.

B. Districts.

- (1) An applicant for approval, amendment or extension of a district in the Town, shall reimburse the Town for all reasonable and necessary legal, engineering, and other professional consulting fees, expenses and costs incurred by the Town in connection with the review and consideration of said application.
- (2) A developer who constructs or proposes to construct one or more buildings, highways, drainage facilities, utilities or parks within or in conjunction with a district in the Town shall reimburse the Town for all reasonable and necessary legal, engineering, and other professional consulting fees and expenses incurred by the Town in connection with the granting of any building permit and in connection with the inspection and acceptance by the Town of such highways, drainage facilities, utilities and parks and the dedication of the same to the Town.

- C. Variances, subdivisions, site plan approvals, special use permits, district formations and/or extensions, zone changes, zoning amendments and other land use approvals. An applicant or developer making application for the approval of a variance, site plan, special use permit, district formations and/or extensions, zone change, zoning amendments and/or other land use approval shall reimburse the Town for all reasonable and necessary legal, engineering and other professional consulting fees, expenses and costs incurred by the Town in connection with the review and consideration of such application.



**§ 81-4. Deposit of funds; payment of fees.**

- A. Simultaneously with the filing of an application for approval of a development or the filing of an application for approval of a zone change, zoning amendment, variance, subdivision, site plan approval, special use permit or other land use approval, the applicant or developer, as the case may be, shall deposit with the Town Clerk a sum of money, as determined in accordance with the schedule of deposits fixed by the Town Board pursuant to this chapter, which sum shall be used to pay the reasonable and necessary fees, expenses and costs incurred by the Town for legal, engineering and other professional consulting services as described by this chapter.
- B. Upon receipt of such sums, the Town Clerk shall cause such monies to be placed in a separate noninterest-bearing account in the name of the Town and shall keep or cause to be kept a separate record of all such monies so deposited and the name of the applicant or developer and the application and development for which such sums were deposited.
- C. Upon receipt and approval by the Town Board of itemized vouchers from an attorney, engineer and/or other professional consultant for services rendered on behalf of the Town pertaining to the development or the application for a variance, subdivision, site plan approval, special use permit district formations and/or extensions, zone changes, zoning amendments and/or other land use approval, the Town Board shall cause such vouchers to be paid out of the monies so deposited and shall debit the separate record of such account accordingly. The Town Clerk shall furnish copies of such vouchers to the applicant or developer immediately after such vouchers are submitted to the Town.
- D. The Town Board, shall review and audit all such vouchers and shall approve payment of only such legal, engineering, and/or other professional consulting fees, expenses and costs as are reasonable in amount and necessarily incurred by the Town in connection with the review, consideration and approval of developments, the inspection and acceptance of highways, drainage facilities, utilities and parks within or in conjunction with such developments, and the review, consideration and approval of applications for variances, subdivisions, site plan approvals, special use permits, district formations and/or extensions, zone changes, zoning amendments and/or other land use approvals. For purposes of the foregoing, a fee or part thereof is reasonable in amount if it bears a reasonable relationship to the average charge by engineers or attorneys to the Town for services performed in connection with approval or construction of a similar development of project, and in this regard the Town may take into consideration the size, type, value and number of buildings to be constructed, the amount of time to complete the development or project, the topography of the land on which such development is located, soil conditions, surface water, drainage conditions, the nature and extent of highways, drainage facilities, utilities and parks to be constructed and any special conditions or considerations the Town may deem relevant. For purposes of the foregoing, a fee, expense or cost, or part thereof is necessarily incurred if it was charged by the engineer, attorney or other professional consultant for a service which was rendered in order to protect or promote the health, safety or other vital interests of the residents of the Town, protect public or private property from damage from uncontrolled surface water runoff and other factors, to assure the proper and timely construction of highways, drainage facilities, utilities and parks and otherwise to protect the legal interests of the Town, including receipt by the Town of good and proper title to dedicated highways and other facilities and the avoidance of claims and liability and such other interests as the Town may deem relevant or to assure the proper and timely review and consideration of an application for a variance, subdivision, site plan approval, special use permit or other land use approval.
- E. If at any time during or after the processing of such application or the construction, inspection or acceptance of buildings, highways, drainage facilities, utilities or parks or during or after the processing of an application for a variance, subdivision, site plan approval, special use permit, district formations and/or extensions, zone change, zoning amendments and/or other land use approval there shall be insufficient monies on hand to the credit of such applicant or developer to pay the approved vouchers in full, or if it shall reasonably appear to the Town Board that such monies will be insufficient to meet vouchers yet to be submitted, the Town Board shall cause the applicant or developer to deposit additional sums as the Town Board deems reasonably necessary or advisable in order to meet such fees, expenses and costs or anticipated fees, expenses and costs.

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- F. In the event that the applicant or developer fails to deposit such funds or such additional funds, the Supervisor shall notify the Town Board and, as applicable, the Chair of the Planning Board, the Chair of the Zoning Appeals Board, and the Town's Codes Enforcement Officer of such failure, and any review, approval, building permit or certificates of occupancy shall be withheld by the appropriate board, officer or employee of the Town until such monies are deposited.
- G. After final approval, acceptance and/or the issuance of a certificate of occupancy relating to any specific development, or any requested variance, subdivision, site plan approval, special use permit, district formations and/or extensions, zone change, zoning amendments and/or other land use approval and after payment of all approved vouchers submitted regarding such development or application, any sums remaining on account to the credit of such applicant or developer shall be returned to such applicant or developer, along with a statement of the vouchers so paid.

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**§ 81-5. Deposit amounts.**

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



**§ 81-6. Application fees.**

The deposits required by this chapter shall be in addition to any application fees as may be required by other laws, rules, regulations or ordinances of the Town, the County of Madison, the State of New York or of any other body having jurisdiction with respect to a development, drainage facility, highway, utility or park or to an application for a variance, subdivision, site plan approval, special use permit, district formations and/or extensions, zone change, zoning amendments and/or other land use approval and shall not be used to defray either the Town's general expenses for legal, engineering or other professional consulting fees, expenses or costs for the several boards of the Town or its general administration expenses.





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**§ 81-7. Severability.**

If any clause, sentence, paragraph, subdivision, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair or invalidate the remainder thereof but shall be limited in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the proceeding in which such judgment is rendered.



**Chapter 88**

**FENCES AND SCREENING DEVICES**



§ 81-7

§ 81-7

**[HISTORY: Adopted by the Town Board of the Town of Eaton 8-14-2006 by L.L. No. 4-2006. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Land use — See Ch. 120.**



**§ 88-1. Permit required; fee.**

No fence, wall or other screening device, except natural vegetation plantings, shall be installed without a building permit. Under no circumstances shall a fence, wall or other screening device be allowed within a public right-of-way. The Codes Enforcement Officer may issue a building permit in accordance with §§ 88-2 through 88-8 below. The fee for the permit shall be \$10.





**§ 88-2. Height and location.**

- A. Front yard. Screening devices permitted within required front yards may not exceed six feet in height and shall be of an open see-through design. Substantially opaque fences are prohibited within a required front yard. Where a screening device is permitted within a front yard, it shall be located at least two feet inside the front lot line or at least two feet inside any sidewalk which may overlap the front lot line.
- B. Side and rear yards. No fence or wall shall exceed six feet in height within required side and/or rear yards. Height exceptions may be granted by the Planning Board in nonresidential districts where need for a higher fence is demonstrated for security and public protection.
- C. Lake yard. No screening device which shall exceed three feet in height shall be permitted within 30 feet of the lake line, and screening devices shall be of an open see-through design. Substantially opaque fences are prohibited. The lake line is defined as the location of any property bordering Bradley Brook, Hatch Lake, Leland Pond, Woodmans Pond, and the part of Eaton Brook located in the Town of Eaton upon which a retaining wall or a seawall is used to prevent erosion, or which is adjacent to a beach area. A beach area is a sandy area adjacent to the lake or where stones, rocks, boulders, or similar materials are utilized to prevent erosion, or where the effects of erosion are no longer evident.



**§ 88-3. General regulations.**

- A. Each side of a fence and wall shall be substantially identical in appearance when viewed from each side, with fence posts located on the applicant's lot side. If not substantially identical in appearance, a fence or wall may be installed only as directed by the Planning Board prior to issuance of a permit.
- B. Any permitted fence erected in a side or rear yard shall be at least two feet from any adjoining landowner and/or with a waiver from the neighbor regarding center property line.
- C. Chain-link fences shall have a continuous top rail.



**§ 88-4. Plantings.**

- A. Plantings, except trees, shall not exceed three feet in height if placed within 10 feet of the street line or 30 feet from the lake line.
- B. There shall be a height limit of six feet for plantings located along the side or rear lot lines if more than 10 feet from the street line or 30 feet from the lake line.
- C. No plantings or trees within a required front yard or lake yard shall be arranged in such a manner as to give the effect of a hedge or wall to obstruct view.



§ 88-4

§ 88-5

**§ 88-5. Placement and maintenance.**

- A. The location of any plantings on any lot which may reasonably be expected to extend into or overhang an adjoining lot shall be determined by and between the adjoining lot owners.
- B. All screening devices and plantings shall be maintained in a sound and safe condition at all times. All fences shall be maintained upright within three feet of the fence center line.





§ 88-5

§ 88-6

**§ 88-6. Accessibility.**

All portions of lot enclosed by a screening device shall be made accessible for fire-fighting purposes. Pedestrian gates not less than three feet in width shall be installed at locations providing direct access to all enclosed yard area.



**§ 88-7. Nonconforming screening devices.**

Where a lawful screening device exists at the effective date of adoption or amendment of these regulations that could not be constructed under the terms contained herein by reasons of restriction in height, visibility, characteristics, location or any other requirement concerning said screening device, such screening device shall be brought into compliance within two years if requested by a neighbor.

- A. No such screening device may be enlarged or altered in any way which increases its nonconformity.
- B. Where a nonconforming screening device is to be replaced or relocated, the replacement shall comply with these regulations.



§ 88-7

§ 88-8

**§ 88-8. Exemptions.**

- A. Barbed-wire fences, electrified fences and other fences generally used for agriculture purposes shall be exempt from this chapter when the same are utilized for enclosing livestock.
- B. Seasonal snow fences, when reasonably necessary to prevent drifting of snow, shall be exempt from this chapter.



§ 88-8

§ 88-9

**§ 88-9. Penalties for offenses.**

A violation of any provision of this chapter is a violation and shall be punishable by a fine not exceeding \$250 or imprisonment of not more than 15 days, or both.





**Chapter 90**

**FIRE PREVENTION AND BUILDING CODE**



**[HISTORY: Adopted by the Town Board of the Town of Eaton 12-13-2022 by L.L. No. 2-2022.<sup>10</sup>**

**Amendments noted where applicable.]**

**§ 90-1. Definitions.**

In this chapter, the following terms shall have the meanings shown in this section:

**ASSEMBLY AREA** — An area in any building, or in any portion of a building, that is primarily used or intended to be used for gathering 50 or more persons for uses including, but not limited to, amusement, athletic, entertainment, social, or other recreational functions; patriotic, political, civic, educational, or religious functions; food or drink consumption; awaiting transportation; or similar purposes.

**BUILDING PERMIT** — A building permit, construction permit, demolition permit, or other permit that authorizes the performance of work. The term "building permit" shall also include a building permit which is renewed, amended, or extended pursuant to any provision of this chapter.

**CERTIFICATE OF COMPLIANCE** — A document issued by the Town of Eaton stating that work was done in compliance with approved construction documents and the Codes.

**CERTIFICATE OF OCCUPANCY** — A document issued by the Town of Eaton certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and approved by the Town of Eaton and indicating that the building or structure, or portion thereof, is in a condition suitable for occupancy.

**CODE ENFORCEMENT OFFICER** — The Code Enforcement Officer appointed pursuant to § 90-2B of this chapter.

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

**CODES** — The Uniform Code and Energy Code.

**ENERGY CODE** — The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law.

**FCNYS** — The 2020 Fire Code of New York State as currently incorporated by reference in 19 NYCRR Part 1225.

**FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTION** — An inspection performed to determine compliance with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference.

**HAZARDOUS PRODUCTION MATERIALS** — A solid, liquid, or gas associated with semiconductor manufacturing that has a degree-of-hazard rating in health, flammability, or instability of Class 3 or 4, as ranked by NFPA 704 (Standard Systems for Identification of the Hazards of Materials for Emergency Response), and which is used directly in research, laboratory, or production processes which have, as their end product, materials that are not hazardous.

**INSPECTOR** — An inspector appointed pursuant to § 90-2D of this chapter.

**MOBILE FOOD PREPARATION VEHICLES** — Vehicles that contain cooking equipment that produces smoke or grease-laden vapors for the purpose of preparing and serving food to the public. Vehicles intended for private recreation shall not be considered mobile food preparation vehicles.

**OPERATING PERMIT** — A permit issued pursuant to § 90-9 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.

**ORDER TO REMEDY** — An order issued by the Code Enforcement Officer pursuant to of § 90-16A of this chapter.

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

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**10. Editor's Note: This local law repealed former Ch. 90, Fire Prevention and Building Construction, adopted 7-15-1996 by L.L. No. 2-1996.**

§ 90-1  
PERSON — Includes an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description. § 90-1

PMCNYS — The 2020 Property Maintenance Code of New York State as currently incorporated by reference in 19 NYCRR Part 1226.

RCNYS — The 2020 Residential Code of New York State as currently incorporated by reference in 19 NYCRR Part 1220.

REPAIR — The reconstruction, replacement, or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

STOP WORK ORDER — An order issued pursuant to § 90-5 of this chapter.

SUGARHOUSE — A building used, in whole or in part, for the collection, storage, or processing of maple sap into maple syrup and/or maple sugar.

TEMPORARY CERTIFICATE OF OCCUPANCY — A certificate issued pursuant to of § 90-6D of this chapter.

TOWN — The Town of Eaton.

UNIFORM CODE — The New York State Uniform Fire Prevention and Building Code, Subchapter A of Chapter XXXIII of Title 19 of the NYCRR, adopted pursuant to Article 18 of the Executive Law.

**§ 90-2. Code Enforcement Officers and Inspectors.**

- A. The Office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code, and this chapter. The Code Enforcement Officer shall have the following powers and duties:
- (1) To receive, review, and approve or disapprove applications for building permits, certificates of occupancy, certificates of compliance, temporary certificates of occupancy, 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 of occupancy, and operating permits, and to include in terms and conditions as the Code Enforcement Officer may determine to be appropriate building permits, certificates of occupancy, certificates of compliance, temporary certificates of occupancy, and operating permits;
  - (3) To conduct construction inspections; inspections to be made prior to the issuance of certificates of occupancy, certificates of compliance, temporary certificates of occupancy, and operating permits; fire safety and property maintenance inspections; inspections incidental to the investigation of complaints; and all other inspections required or permitted under any provision of this chapter;
  - (4) To issue stop work orders;
  - (5) To review and investigate complaints;
  - (6) To issue orders pursuant to § 90-16A, Violations, 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
  - (11) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this chapter.
- B. The Code Enforcement Officer shall be appointed by the Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.
- C. In the event that the Code Enforcement Officer is unable to serve as such for any reason, another individual shall be appointed by Town Board to serve as acting Code Enforcement Officer. The acting Code Enforcement Officer shall, during the term of their appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this chapter.
- D. One or more Inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this chapter. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel, and each Inspector

§ 90-2 shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder. § 90-2

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

§ 90-2

**§ 90-3. 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 must conform to the Uniform Code and/or 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 Town.
- B. Exemptions. No building permit shall be required for work in any of the following categories:
- (1) Construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses), which are used for tool and storage sheds, playhouses, or similar uses, provided the gross floor area does not exceed 144 square feet;
  - (2) Construction of temporary sets and scenery associated with motion picture, television, and theater uses;
  - (3) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
  - (4) Installation of partitions or movable cases less than five feet, nine inches in height;
  - (5) Painting, wallpapering, tiling, carpeting, or other similar finish work;
  - (6) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
  - (7) 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
  - (8) Repairs, provided that the work does not have an impact on fire and life safety, such as (i) any part of the structural system; (ii) the required means of egress; or (iii) the fire protection system or the removal from service of any part of the fire protection system for any period of time.
- C. Exemption not deemed authorization to perform noncompliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in Subsection B of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.
- D. Applications for building permits. Applications for a building permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:
- (1) A description of the location, nature, extent, and scope of the proposed work;
  - (2) The tax map number and the street address of any affected building or structure;
  - (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 (i) describe the location, nature, extent, and scope of the proposed work; (ii) show that the proposed work will conform

## § 90-3

§ 90-3

to the applicable provisions of the Codes; (iii) show the location, construction, size, and character of all portions of the means of egress; (iv) show a representation of the building thermal envelope; (v) show structural information including but not limited to braced wall designs, the size, section, and relative locations of structural members, design loads, and other pertinent structural information; (vi) show the proposed structural, electrical, plumbing, mechanical, fire-protection, and other service systems of the building; (vii) include a written statement indicating compliance with the Energy Code; (viii) include a site plan, drawn to scale and drawn in accordance with an accurate boundary survey, showing the size and location of new construction and existing structures and appurtenances on the site, distances from lot lines, the established street grades and the proposed finished grades, and, as applicable, flood hazard areas, floodways, and design flood elevations; and (ix) evidence that the documents were prepared by a licensed and registered architect in accordance with Article 147 of the New York State Education Law or a licensed and registered professional engineer in accordance with Article 145 of the New York State Education Law and practice guidelines, including but not limited to the design professional's seal which clearly and legibly shows both the design professional's name and license number and is signed by the design professional whose name appears on the seal in such a manner that neither the name nor the number is obscured in any way, the design professional's registration expiration date, the design professional's firm name (if not a sole practitioner), and, if the documents are submitted by a professional engineering firm and not a sole practitioner professional engineer, the firm's certificate of authorization number.

- 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, or in the case of electronic media, an electronic marking. 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 12 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



§ 90-3 permit was issued in error because of incorrect, inaccurate, or incomplete information, or that the work for which a building permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the building permit or suspend the building permit until such time as the permit holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code. § 90-3

K. Fee. The fee specified in or determined in accordance with the provisions set forth in § 90-17, Fees, of this chapter must be paid at the time of submission of an application for a building permit, for an amended building permit, or for renewal of a building permit.



**§ 90-4. 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) Structural, electrical, plumbing, mechanical, fire-protection, and other similar service systems of the building;
  - (6) Fire-resistant construction;
  - (7) Fire-resistant penetrations;
  - (8) Solid-fuel-burning heating appliances, chimneys, flues, or gas vents;
  - (9) Inspections required to demonstrate Energy Code compliance, including but not limited to insulation, fenestration, air leakage, system controls, mechanical equipment size, and, where required, minimum fan efficiencies, programmable thermostats, energy recovery, whole-house ventilation, plumbing heat traps, and high-performance lighting and controls;
  - (10) Installation, connection, and assembly of factory manufactured buildings and manufactured homes; and
  - (11) A final inspection after all work authorized by the building permit has been completed.
- C. Remote inspections. At the discretion of the Code Enforcement Officer or Inspector authorized to perform construction inspections, a remote inspection may be performed in lieu of an in-person inspection when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or by such authorized Inspector that the elements of the construction process conform with the applicable requirements of the Uniform Code and Energy Code. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.
- D. 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 the manner in which the work fails to comply with the Uniform Code or Energy Code, including a citation to the specific code provision or provisions that have not been met. 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.
- E. Fee. The fee specified in or determined in accordance with the provisions set forth in § 90-17, Fees, of this chapter must be paid prior to or at the time of each inspection performed pursuant to this section.



**§ 90-5. Stop work orders.**

- A. Authority to issue. The Code Enforcement Officer is authorized to issue stop work orders pursuant to this section. The Code Enforcement Officer shall issue a stop work order to halt:
- (1) Any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
  - (2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
  - (3) Any work for which a building permit is required which is being performed without the required building permit, or under a building permit that has become invalid, has expired, or has been suspended or revoked.
- B. Content of stop work orders. Stop work orders shall (1) be in writing, (2) be dated and signed by the Code Enforcement Officer, (3) state the reason or reasons for issuance, and (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.
- C. Service of stop work orders. The Code Enforcement Officer shall cause the stop work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by certified mail. 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, other than work expressly authorized by the Code Enforcement Officer to correct the reason for issuing 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 § 90-16, Violations, 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.



**§ 90-6. Certificates of occupancy and certificates of compliance.**

- A. Certificates of occupancy and certificates of compliance required. A certificate of occupancy or certificate of compliance shall be required for any work which is the subject of a building permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued shall be granted only by issuance of a certificate of occupancy or certificate of compliance.
- B. Issuance of certificates of occupancy and certificates of compliance. The Code Enforcement Officer shall issue a certificate of occupancy or certificate of compliance if the work which was the subject of the building permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure, or work prior to the issuance of a certificate of occupancy or certificate of compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the certificate of occupancy or certificate of compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the certificate of occupancy or certificate of compliance:
- (1) A written statement of structural observations and/or a final report of special inspections;
  - (2) Flood hazard certifications;
  - (3) A written statement of the results of tests performed to show compliance with the Energy Code; and
  - (4) Where applicable, the affixation of the appropriate seals, insignias, and manufacturer's data plates as required for factory manufactured buildings and/or manufactured homes.
- C. Contents of certificates of occupancy and certificates of compliance. A certificate of occupancy or certificate of compliance shall contain the following information:
- (1) The building permit number, if any;
  - (2) The date of issuance of the building permit, if any;
  - (3) The name (if any), address and tax map number of the property;
  - (4) If the certificate of occupancy or certificate of compliance is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy or certificate of compliance is issued;
  - (5) The use and occupancy classification of the structure;
  - (6) The type of construction of the structure;
  - (7) The occupant load of the assembly areas in the structure, if any;
  - (8) If the automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
  - (9) Any special conditions imposed in connection with the issuance of the building permit; and
  - (10) The signature of the Code Enforcement Officer issuing the certificate of occupancy or certificate of compliance and the date of issuance.
- D. Temporary certificate of occupancy. The Code Enforcement Officer shall be permitted to issue a temporary

§ 90-6 certificate of occupancy allowing the temporary occupancy of a building or structure, or a portion thereof, § 90-6 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 of occupancy unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the temporary certificate of occupancy, may be occupied safely, (2) that any required fire and life safety components, such as fire protection equipment and fire, smoke, carbon monoxide, and heat detectors and alarms are installed and operational, and (3) that all required means of egress from the structure have been provided. The Code Enforcement Officer may include in a temporary certificate of occupancy such terms and conditions as he or she deems necessary or appropriate to ensure the health and safety of the persons occupying and using the building or structure and/or performing further construction work in the building or structure. A temporary certificate of occupancy 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 of occupancy. During the specified period of effectiveness of the temporary certificate of occupancy, 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, certification of compliance, or a temporary certificate of occupancy was issued in error or on the basis of incorrect 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 § 90-17, Fees, of this chapter must be paid at the time of submission of an application for a certificate of occupancy, certificate of compliance, or for temporary certificate of occupancy.



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**§ 90-7. Notification regarding fire and explosion.**

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



**§ 90-8. Unsafe buildings, structures, and equipment and conditions of imminent danger.**

Unsafe buildings, structures, and equipment and conditions of imminent danger in this Town shall be identified and addressed in accordance with the following procedures:

- A. Definitions. The following words and phrases, as used in this section, shall have the meanings hereinafter ascribed to them. All other words and phrases shall have the meanings normally ascribed to them.

BOARD — The duly elected and constated Town Board of the Town of Eaton, or also "Town Board."

BUILDING — Any house, shed, fence, or other man-made structure, or part of any such house, shed, fence, or structure.

DANGEROUS or UNSAFE — Includes conditions of structures or buildings such as but not limited to the following:

- (1) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (2) Those which, exclusive of foundation, show 33% or more of damage or deterioration of the supporting member or members or 50% of damage or deterioration of the nonsupporting enclosing or outside walls or covering.
- (3) Those which have improperly distributed loads upon the floors or roofs in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- (4) Those which have been damaged by fire, wind, or other causes, so as to have become dangerous to life, safety or the general health and welfare of the occupants or the people of this Town.
- (5) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of those living therein.
- (6) Those having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
- (7) Those having inadequate facilities for egress in cases of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.

ENFORCEMENT OFFICER — The Code Enforcement Officer, or their agent(s), appointed by the Board.

TOWN — The town of Eaton, New York.

- B. Criteria for declaration of unsafe buildings. For the purpose of this section, an unsafe and dangerous building is declared to be:

- (1) Any building which is dangerous to the public health, safety and general welfare because of its condition and which may cause or aid in the spread of disease or injury to the health, safety or general welfare of the occupants of it or the neighboring buildings;
- (2) Any building which, because of lack of proper repair, construction or supervision, constitutes or creates a fire hazard;
- (3) Any building which because of its condition or because of a lack of proper windows or doors is available to and frequented by malefactors or disorderly persons; or
- (4) Any building which is a danger to life and safety as a result of a fire or explosion.

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- C. Inspection and report. Any enforcement officer shall inspect or cause to be inspected any building reported as being a dangerous building. The enforcement officer shall then make a written report of such inspection to the Board of their findings and recommendations as to the removal or repair of such building.
- D. Notice to repair or demolish.
- (1) Whenever the Code Enforcement Officer finds any building or structure or portion thereof to be an unsafe building, as defined by this section, they shall serve written notice by certified mail, return receipt, or by personal service on the owner of said building or structure or on one of the owner's executors, legal representatives, agents, lessees or other person having a vested or contingent interest in the same, which said notice shall contain:
    - (a) A description of the premises.
    - (b) A statement of the particulars in which said building is unsafe.
    - (c) An order requiring the same to be made safe and secure by repair or otherwise or to be demolished and removed within 60 days and that said work shall be commenced within 15 days after service of notice.
    - (d) Notice of the time and place for a hearing on the matter before the Board.
    - (e) A statement that, in the event that said building is determined by the Board to be unsafe, said building shall be made safe and secure by such repairs or other measures which may reasonably be necessary or shall be demolished and removed by the Town, and that all costs and expenses incurred by the Town shall be charged against the owner of said building or assessed against the land on which the building is located.
  - (2) A copy of said notice shall be filed in the Madison County Clerk's office in accordance with applicable provisions of law.
- E. Hearing.
- (1) Notice of hearing. Such notice shall further provide that, in case the owner and such persons having an interest in the property or structure as herein prescribed wish to contest the order, a hearing will be held before the Board at a time and place specified and that, in the event that such owner or persons having an interest shall fail to contest such order and fail to comply with the same, the Board will order the repair or removal of such building by the Town and that the Town will assess all costs and expenses incurred by the Town in the removal or repair of such building against the land on which such building is located.
  - (2) Hearing before the Board. At the time and date specified in the notice to repair or demolish, the Board shall conduct the public hearing. It may adjourn from time to time until the hearing is completed and until all interested parties are heard. At the conclusion of the hearing, the Board shall determine whether to revoke the order to repair or remove or to continue said order and direct the owner and other persons to complete the work within a specified time, which shall be reasonable as to the time needed to perform the work and the necessity to protect the general public.
- F. Failure to comply with order; assessment of costs. In the event that the owner and persons in interest shall fail to comply with the final order of the Board to make such building safe and secure or to be removed, the Board shall order such building to be made safe and secure or to be removed and shall assess all costs and expense, including the cost of actually removing such building or structure, against the land on which such building or structure is located.
- G. Continuation as dangerous building prohibited. Any owner or other persons having an interest in the building or in custody of real property located within the Town who allows or permits a building to continue as a

§ 90-8 dangerous building after due notice as provided in Subsections D through F of this section shall be guilty of a violation of this section and shall be punished as provided in Subsection 1 of this section. § 90-8

- H. Trespassing prohibited; penalty. In addition to serving a notice on the owner as provided in Subsections D through F above, the Board may, if it determines that the purposes of this section will be further effectuated, order that no person other than the owner or his agent shall enter upon the property and shall post on such property signs indicating "no trespassing." When such a determination is made, notice of such fact shall be included in the notice to the owner referred to in Subsections D through F above. Anyone found trespassing in violation of this subsection shall be liable for a fine not to exceed \$50 for each offense.
- I. Emergency cases. Notwithstanding the foregoing provisions of this chapter, in case there is an immediate danger to the life and safety of any person or property unless a dangerous building or structure is immediately repaired, vacated or demolished and the owner or other responsible person in charge fails to take immediate action or cannot be located with due diligence, the enforcement officer shall report such facts immediately to the Board, and the Board, if it confirms the findings of the enforcement officer, shall cause the immediate repair, vacation or demolition of such unsafe building. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in Subsections D through F, above, or as hereinafter provided.
- J. Effect of transfer of title. The transfer of title by the owner of premises upon which a dangerous building is located shall be no defense to any proceedings under this section.
- K. Liability for costs. Notwithstanding any provision herein to the contrary, the Board may, at its election, institute suit against the owner of said premises for the direct costs, together with a charge of 50% in addition thereto as compensation to the Town for administering, supervising and handling said work and enter judgment thereon against the owner personally for the aforesaid amount. The imposition and collection of any fine or penalty hereinafter prescribed shall not bar the right of the Town to collect the costs of the removal or repair of any dangerous building as herein prescribed.
- L. Penalties for offenses. Except as provided in Subsection H above, any person found guilty of violating this section shall be punishable by a fine not exceeding \$250 or by imprisonment not exceeding 15 days, or both. Each week that such violation shall continue shall constitute a separate violation.



**§ 90-9. Operating permits.**

- A. Operation permits required. Operating permits shall be required for conducting any process or activity or for operating any type of building, structure, or facility listed below:
- (1) Manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in the applicable Maximum Allowable Quantity tables found in Chapter 50 of the FCNYS;
  - (2) Buildings, structures, facilities, processes, and/or activities that are within the scope and/or permit requirements of the chapter or section title of the FCNYS as follows:
    - (a) Chapter 22, "Combustible Dust-Producing Operations." Facilities where the operation produces combustible dust;
    - (b) Chapter 24, "Flammable Finishes." Operations utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24 of the FCNYS;
    - (c) Chapter 25, "Fruit and Crop Ripening." Operating a fruit- or crop-ripening facility or conducting a fruit-ripening process using ethylene gas;
    - (d) Chapter 26, "Fumigation and Insecticidal Fogging." Conducting fumigation or insecticidal fogging operations in buildings, structures, and spaces, except for fumigation or insecticidal fogging performed by the occupant of a detached one-family dwelling;
    - (e) Chapter 31, "Tents, temporary Special Event Structures, and Other Membrane Structures." Operating an air-supported temporary membrane structure, a temporary special event structure, or a tent where approval is required pursuant to Chapter 31 of the FCNYS;
    - (f) Chapter 32, "High-Piled Combustible Storage." High-piled combustible storage facilities with more than 500 square feet (including aisles) of high-piled storage;
    - (g) Chapter 34, "Tire Rebuilding and Tire Storage." Operating a facility that stores in excess of 2,500 cubic feet of scrap tires or tire byproducts or operating a tire rebuilding plant;
    - (h) Chapter 35, "Welding and Other Hot Work." Performing public exhibitions and demonstrations where hot work is conducted, use of hot work, welding, or cutting equipment, inside or on a structure, except an operating permit is not required where work is conducted under the authorization of a building permit or where performed by the occupant of a detached one- or two-family dwelling;
    - (i) Chapter 40, "Sugarhouse Alternative Activity Provisions." Conducting an alternative activity at a sugarhouse;
    - (j) Chapter 56, "Explosives and Fireworks." Possessing, manufacturing, storing, handling, selling, or using, explosives, fireworks, or other pyrotechnic special effects materials except the outdoor use of sparkling devices as defined by Penal Law section 270;
    - (k) Section 307, "Open Burning, Recreational Fires and Portable Outdoor Fireplaces." Conducting open burning, not including recreational fires and portable outdoor fireplaces;
    - (l) Section 308, "Open Flames." Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies; and
    - (m) Section 319, "Mobile Food Preparation Vehicles." Operating a mobile food preparation vehicle in accordance with the permitting requirements which are established by local law, as now in effect or as hereafter amended from time to time.

- § 90-9 (3) Energy storage systems, where the system exceeds the values shown in Table 1206.1 of the FCNYS or exceeds the permitted aggregate ratings in section R327.5 of the RCNYS. § 90-9
- (4) Buildings containing one or more assembly areas;
- (5) Outdoor events where the planned attendance exceeds 1,000 persons;
- (6) Facilities that store, handle or use hazardous production materials;
- (7) Parking garages as defined in Subsection A of § 90-12 of this chapter;
- (8) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by Town Board of this Town; and
- (9) Other processes or activities or for operating any type of building, structure, or facility as determined by resolution adopted by the Town Board of this Town.
- (10) 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. Such inspections shall be performed either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or Inspector authorized by the Code Enforcement Officer that the premises conform with the applicable requirements of the Uniform Code and the code enforcement program. Should a remote inspection not afford the Town sufficient information to make a determination, an in-person inspection shall be performed. After inspection, the premises shall be noted as satisfactory and the operating permit shall be issued, or the operating permit holder shall be notified as to the manner in which the premises fail to comply with either or both of the Uniform Code and the code enforcement program, including a citation to the specific provision or provisions that have not been met.
- 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 their discretion, issue a single operating permit to apply to all such activities.
- E. Duration of operating permits. Operating permits shall be issued for a specified period of time consistent with local conditions, but in no event to exceed as follows:
- (1) 180 days for tents, special event structures, and other membrane structures;
- (2) Sixty days for alternative activities at a sugarhouse;
- (3) Three years for the activities, structures, and operations determined per Subsection A(9) of this section; and



§ 90-9 (4) One year for all other activities, structures, and operations identified in Subsection A of this section. § 90-9

(a) 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 § 90-17, Fees, of this chapter must be paid at the time submission of an application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit.



**§ 90-10. Fire safety and property maintenance inspections.**

- A. Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:
- (1) At least once every 12 months for buildings which contain an assembly area;
  - (2) At least once every 12 months for public and private schools and colleges, including any buildings of such schools or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining, or recreational facilities; and
  - (3) At least once every 36 months for multiple dwellings and all nonresidential occupancies.
- B. Remote inspections. At the discretion of the Code Enforcement Officer or Inspector authorized to perform fire safety and property maintenance inspections, a remote inspection may be performed in lieu of in-person inspections when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or such authorized Inspector that the premises conform with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.
- C. Inspections permitted. In addition to the inspections required by Subsection A of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector authorized to perform fire safety and property maintenance inspections at any time upon:
- (1) The request of the owner of the property to be inspected or an authorized agent of such owner;
  - (2) Receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
  - (3) Receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist;
  - (4) Provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.
- D. 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 or other authorized entity under Executive Law section 156-e and Education Law section 807-b. Notwithstanding any other provision of this section to the contrary, the Code Enforcement Officer may accept an inspection performed by the Office of Fire Prevention and Control or other authorized entity pursuant to sections 807-a and 807-b of the Education Law and/or section 156-e of the Executive Law, in lieu of a fire safety and property maintenance inspection performed by the Code Enforcement Officer or by an Inspector, provided that:
- (1) The Code Enforcement Officer is satisfied that the individual performing such inspection satisfies the requirements set forth in 19 NYCRR section 1203.2(e);
  - (2) The Code Enforcement Officer is satisfied that such inspection covers all elements required to be covered by a fire safety and property maintenance inspection;

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- (3) Such inspections are performed no less frequently than once a year;
  - (4) A true and complete copy of the report of each such inspection is provided to the Code Enforcement Officer; and
  - (5) Upon receipt of each such report, the Code Enforcement Officer takes the appropriate action prescribed by § 90-16, Violations, of this chapter.
- E. Fee. The fee specified in or determined in accordance with the provisions set forth in § 90-17, Fees, of this chapter must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

**§ 90-11. Complaints.**

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this chapter, or any other local law, 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 § 90-16, Violations, 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. Definitions. For the purposes of this section:

**CONDITION ASSESSMENT** — An on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure;

**DETERIORATION** — The weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component;

**PARKING GARAGE** — Any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:

- (1) Buildings in which the only level used for parking or storage of motor vehicles is on grade;
- (2) An attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and
- (3) A townhouse unit with attached parking exclusively for such unit.

**PROFESSIONAL ENGINEER** — An individual who is licensed or otherwise authorized under Article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations;

**RESPONSIBLE PROFESSIONAL ENGINEER** — The professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report. The use of the term "responsible professional engineer" shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment;

**UNSAFE CONDITION** — Includes the conditions identified as "unsafe" in section 304.1.1, section 305.1.1, and section 306.1.1 of the PMCNYS; and

**UNSAFE STRUCTURE** — A structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.

B. Condition assessments - general requirements. The owner operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in Subsection C of this section, periodic condition assessments as described in Subsection D of this section, and such additional condition assessments as may be required under Subsection E of this section. Each condition assessment shall be conducted by or under the direct supervision of a professional engineer. A written report of each condition assessment shall be prepared, and provided to the Town, in accordance with the requirements of Subsection F of this section. Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.

C. Initial condition assessment. Each parking garage shall undergo an initial condition assessment as follows:

- (1) Parking garages constructed on or after August 29, 2018, shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure.
- (2) Parking garages constructed prior to August 29, 2018, shall undergo an initial condition assessment as follows:
  - (a) If originally constructed prior to January 1, 1984, then prior to October 1, 2019;

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- (b) If originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and
  - (c) If originally constructed between January 1, 2003 and August 28, 2018, then prior to October 1, 2021.
- (3) Any parking garage constructed prior to the effective date of the local law enacting this provision that has not undergone an initial condition assessment prior to that effective date shall undergo an initial condition assessment prior to June 30, 2023.
- D. Periodic condition assessments. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed three years.
- E. Additional condition assessments:
- (1) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under Subsection D of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.
  - (2) If the Town becomes aware of any new or increased deterioration which, in the judgment of the Town, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under Subsection D of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the Town to be appropriate.
- F. Condition assessment reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the Town within 60 days. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:
- (1) An evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;
  - (2) An evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;
  - (3) An evaluation and description of the unsafe conditions;
  - (4) An evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;
  - (5) An evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;
  - (6) An evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;
  - (7) The responsible professional engineer's recommendation regarding preventative maintenance;
  - (8) Except in the case of the report of the initial condition assessment, the responsible professional



- § 90-12 engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and § 90-12
- (9) The responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in their professional judgment.
- G. Review condition assessment reports. The Town shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the Town shall, by order to remedy or such other means of enforcement as Town may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to Subsection F(2) and (3). All repairs and remedies shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the Town to take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.
- H. The Town shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the Town with a written statement attesting to the fact that he or she has been so engaged, the Town shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The Town shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.
- I. This section shall not limit or impair the right or the obligation of the Town:
- (1) To perform such construction inspections as are required by § 90-4, Construction inspections, of this chapter;
  - (2) To perform such periodic fire safety and property maintenance inspections as are required by § 90-10, Fire safety and property maintenance inspections, of this chapter; and/or
  - (3) To take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the Town by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.



**§ 90-13. Climatic and geographic design criteria.**

- A. The Code Enforcement Officer shall determine the climatic and geographic design criteria for buildings and structures constructed within this Town as required by the Uniform Code. Such determinations shall be made in the manner specified in the Uniform Code using, where applicable, the maps, charts, and other information provided in the Uniform Code. The criteria to be so determined shall include but shall not necessarily be limited to, the following:
- (1) Design criteria to include ground snow load; wind design loads; seismic category; potential damage from weathering, frost, and termite; winter design temperature; whether ice barrier underlayment is required; the air freezing index; and the mean annual temperature;
  - (2) Heating and cooling equipment design criteria for structures within the scope of the RCNYS. The design criteria shall include the data identified in the Design Criteria Table found in Chapter 3 of the RCNYS; and
  - (3) Flood hazard areas, flood hazard maps, and supporting data. The flood hazard map shall include, at a minimum, special flood hazard areas as identified by the Federal Emergency Management Agency in the Flood Insurance Study for the community, as amended or revised with:
    - (a) The accompanying Flood Insurance Rate Map (FIRM);
    - (b) Flood Boundary and Floodway Map (FBFM); and
    - (c) Related supporting data along with any revisions thereto.
- B. The Code Enforcement Officer shall prepare a written record of the climatic and geographic design criteria determined pursuant to Subsection A of this section, shall maintain such record within the office of the Code Enforcement Officer, and shall make such record readily available to the public.



**§ 90-14. Record keeping.**

- A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:
- (1) All applications received, reviewed and approved or denied;
  - (2) All plans, specifications and construction documents approved;
  - (3) All building permits, certificates of occupancy, certificates of compliance, temporary certificates, stop work orders, and operating permits issued;
  - (4) All inspections and tests performed;
  - (5) All statements and reports issued;
  - (6) All complaints received;
  - (7) All investigations conducted;
  - (8) All condition assessment reports received;
  - (9) All fees charged and collected; and
  - (10) All other features and activities specified in or contemplated by §§ 90-3 through 90-13 inclusive, of this chapter.
- 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.



**§ 90-15. Program review and reporting.**

- A. The Code Enforcement Officer shall annually submit to the 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 § 90-14, Record keeping, 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, true and complete copies of the records and related materials this Town is required to maintain; true and complete copies of such portion of such records and related materials as may be requested by the Department of State; and/or such excerpts, summaries, tabulations, statistics, and other information and accounts of its activities in connection with administration and enforcement of the Uniform Code and/or Energy Code as may be requested by the Department of State.





- A. Orders to remedy. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this chapter. An order to remedy shall be in writing; shall be dated and signed by the Code Enforcement Officer; shall specify the condition or activity that violates the Uniform Code, the Energy Code, or this chapter; shall 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; and shall include a statement substantially similar to the following:

"The person or entity served with this order to remedy must completely remedy each violation described in this order to remedy by [specify date], which is 30 days after the date of this order to remedy."

- (1) The order to remedy may include provisions ordering the person or entity served with such order to remedy (1) to begin to remedy the violations described in the order to remedy immediately, or within some other specified period of time which may be less than 30 days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within 30 days of the date of such order to remedy; and/or (2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this chapter or by any other applicable statute, regulation, rule, local law or ordinance, and which the Code Enforcement Officer may deem appropriate, during the period while such violations are being remedied. The Code Enforcement Officer shall cause the order to remedy, or a copy thereof, to be served on the owner of the affected property personally or certified mail within five days after the date of the order to remedy. The Code Enforcement Officer shall be permitted, but not required, to cause the order to remedy, 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 within five days after the date of the order to remedy; 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. Penalties. In addition to such other penalties as may be prescribed by State law:
- (1) Any person who violates any provision of this chapter or any term, condition, or provision 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 punishable by a fine of not more than \$200 per day of violation or imprisonment for a period not to exceed six months, or both fine and imprisonment; and
- (2) 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 pay 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 paragraph 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, order to remedy, 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,

§ 90-16 order to remedy or other order obtained under the Uniform Code, the Energy Code or this chapter, an action or proceeding may be commenced in the name of this Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Town Board of this Town. § 90-16

E. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in § 90-5, Stop work orders, of this chapter, in any other section of this chapter, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in § 90-5, Stop work orders, of this chapter, in any other section of this chapter, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 382 of the Executive Law.

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**§ 90-17. Fees.**

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, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this chapter.



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**§ 90-18. Municipal agreements.**

The Town Board of this Town may, by resolution, authorize the 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 92**  
**OPEN BURNING**





**[HISTORY: Adopted by the Town Board of the Town of Eaton 5-8-2000 by L.L. No. 1-2000. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Junkyards — See Ch. 110.**



**§ 92-1. Findings.**

It is hereby declared and found that under certain conditions, the burning of rubbish, garbage and/or refuse or any other combustible material in an open fire constitutes a health and fire hazard and causes contamination of air with resultant harmful effects upon persons, including those suffering from respiratory ailments.



**§ 92-2. Definitions.**

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

**OPEN FIRE** — Any outdoor fire lighted and maintained other than a fire in a furnace or incinerator designed and constructed for the burning of material. The term "open fire" shall not include the burning of charcoal, firewood, propane gas or dry, nontoxic materials in barbecue pits, camp fires, celebratory fires by educational, civic or religious groups, outdoor fireplaces and grills designed and used for the purpose of cooking food for home or on site consumption. The term "open fire" shall include a "burn barrel."

**RECYCLABLE** — Any material or item defined and accepted as recyclable by the County of Madison.



**§ 92-3. Restrictions on open fires.**

- A. No person shall maintain an open fire such as to cause or allow emissions of air contaminants to the outdoor atmosphere of such quantity, characteristic or duration which are injurious to human, plant or animal life or to property. Notwithstanding the existence of specific air quality standards or emission limits, this prohibition applies, but is not limited to, any particulate, fume, gas, mist, odor, smoke, vapor, pollen, toxic or deleterious emission, either along or in combination with others.
- B. No person shall burn food stuffs, plastics, tires, recyclables (other than paper products), non-wood building materials, insulation, styrofoam, chemicals, paints, grease, sludge, oils and other petroleum products, pressure-treated wood or toxic materials. Outside the Village of Morrisville, dry yard wastes and cuttings and/or dry household waste materials may be done in an open fire by individual households upon the household premises only under the following conditions:
- (1) In daylight when visibility is at least one mile between sunrise and sunset;
  - (2) When wind speed and direction will not blow smoke and/or odors into the property or residence, business premises or place of assembly of another, or across public roads;
  - (3) If it is on a site safely distant from any structure or combustible material, but in no event any closer than 25 feet to any structure or combustible material;
  - (4) If it is suitably contained and under the control of a responsible person at all times who is equipped to extinguish the fire as necessary; and
  - (5) If a large controlled burn is planned, the prior approval of the local Fire Chief must be obtained.





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**§ 92-4. Penalties for offenses.**

Any persons violating any provision of this chapter shall be subject to a fine not to exceed \$250 or imprisonment not to exceed 15 days, or both such fine and imprisonment.



**Chapter 95**

**FLOOD DAMAGE PREVENTION**



**[HISTORY: Adopted by the Town Board of the Town of Eaton 3-30-1987 by L.L. No. 1-1987. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Land use — See Ch. 120.**

**Mobile homes — See Ch. 130.**



**§ 95-1. Findings.**

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





**§ 95-2. 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.
- F. Qualify and maintain for participation in the National Flood Insurance Program.



**§ 95-3. Objectives.**

The objectives of this chapter are to:

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



**§ 95-4. Definitions.**

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.

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

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

**AREA OF SPECIAL FLOOD HAZARD** — 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 Zones A, AE, AH, AO, A1 - A99, V, VO, VE or V1 through V30. It is also commonly referred to as the base floodplain or one-hundred-year floodplain

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

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

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

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

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

**COASTAL HIGH HAZARD AREA** — The area subject to high velocity waters, including but not limited to hurricane wave wash. The area is designated on a FIRM as Zone V1 - V30, VE, VO or V.

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard.

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

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

**FLOOD HAZARD BOUNDARY MAP (FHBM)** — An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

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

**FLOOD INSURANCE STUDY** — The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood.

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

- A. The overflow of inland or tidal waters.
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

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**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."

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

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

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

**LOWEST FLOOR** — Lowest level, including basement or cellar of the lowest enclosed area. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement 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 also includes park trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

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

**MOBILE HOME** — The same meaning as "manufactured home."

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

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

**ONE-HUNDRED-YEAR FLOOD** — 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.

**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 § 95-12B of this chapter.

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

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

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

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**SUBSTANTIAL IMPROVEMENT** — Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

- A. Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- B. Any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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





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**§ 95-5. Applicability.**

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



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**§ 95-6. Basis for establishing areas of special flood hazard.**

The areas of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHBM), or Flood Insurance Rate Map (FIRM) Nos. 01 through 12, dated September 10, 1984, are hereby adopted and declared to be a part of this chapter. The FHBM or FIRM is on file at Town of Eaton Office Building, Morrisville, New York.



**§ 95-7. Interpretation; conflict with other provisions.**

- A. This chapter is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986, and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.
- B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive, or that imposing the higher standards, shall govern.



**§ 95-8. Penalties for offenses.**

No structure shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Eaton from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under §§ 95-16 and 95-17 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.





**§ 95-9. Warning and disclaimer of liability.**

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



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**§ 95-10. Designation of local administrator.**

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



**§ 95-11. Establishment of development permit.**

A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in § 95-6. Application for a development permit shall be made on forms furnished by the local administrator and may include but not be limited to plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.

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

- (1) Elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures.
- (2) Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed.
- (3) When required a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 95-13C(1).
- (4) Certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 95-14.
- (5) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

B. Construction stage. Upon placement of the lowest floor, or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the local administrator a certificate of the elevation of the lowest floor, or floodproofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by the same. 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.



**§ 95-12. Duties and responsibilities of local administrator.**

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

A. Permit application review.

- (1) Review all development permit applications to determine that the requirements of this chapter have been satisfied.
- (2) Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this chapter, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.
  - (a) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this chapter.
  - (b) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (4) Review all development permits for compliance with the provisions of § 95-13E, Encroachments.

B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 95-6, Basis for establishing the areas of special flood hazard, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 95-13D(4) in order to administer § 95-14, Specific standards, and § 95-15, Floodways.

C. Information to be obtained and maintained.

- (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar, of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
- (2) For all new or substantially improved floodproofed structures:
  - (a) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed.
  - (b) Maintain the floodproofing certifications required in §§ 95-13 and 95-14.
- (3) Maintain for public inspection all records pertaining to the provisions of this chapter, including variances when granted and certificates of compliance.

D. Alteration of watercourses.

- (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.
- (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

E. Interpretation of FIRM boundaries.

- (1) The local administrator shall have the authority to make interpretations when there appears to be a

§ 95-12 conflict between the limits of the federally identified area of special flood hazard and actual field conditions. § 95-12

- (2) Base flood elevation data established pursuant to § 95-6 and/or § 95-12B, when available, shall be used to accurately delineate the area of special flood hazards.
- (3) The local administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

F. Stop-work orders.

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 95-8 of this chapter.
- (2) All floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 95-8 of this chapter.

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

H. Certificate of compliance.

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
- (2) All other development occurring within the designated flood hazard area will have upon completion a certificate of compliance issued by the local administrator.
- (3) All certifications shall be based upon the inspections conducted subject to Subsection G and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.



**§ 95-13. General standards.**

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

**A. Anchoring.**

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- (2) All manufactured homes shall be installed using methods and practices which minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or two feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

**B. Construction materials and methods.**

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

**C. Utilities.**

- (1) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architect's certification is required.
- (2) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**D. Subdivision proposals.**

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or five acres.

**E. Encroachments.**

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the area of special flood hazards set forth in § 95-12A(3), Permit review. This may require the submission of additional

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technical data to assist in the determination.

- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to § 95-12B or § 95-13D(4) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to § 95-12B the requirements of § 95-15, Floodways, shall apply.

**§ 95-14. Specific standards.**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in § 95-6, Basis for establishing the areas of special flood hazards, and § 95-12B, Use of other base flood data, the following standards are required:

- A. Residential construction. New construction and substantial improvements of any resident structure shall:
- (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.
  - (2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
    - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
    - (b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
    - (c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- B. Nonresidential construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either have the lowest floor, including basement or cellar, elevated to or above the base flood elevation, or be floodproofed 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.
- (1) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
    - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
    - (b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
    - (c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
  - (2) If the structure is to be floodproofed:
    - (a) A licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
    - (b) A licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.

§ 95-14 (3) The local administrator shall maintain on record a copy of all such certificates noted in this section. § 95-14

C. Construction standards for areas of special flood hazards without base flood elevations. New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the base flood elevation as may be determined in § 95-12B or two feet above the highest adjacent grade where no elevation data is available.

- (1) New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor (including basement) elevated at least two feet above the highest adjacent grade next to the proposed foundation of the structure.
- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
  - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
  - (b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
  - (c) Openings may be equipped with louvers, valves, screens or other coverings or openings, provided that they permit the automatic entry and exit of floodwaters.

§ 95-14

§ 95-15

**§ 95-15. Floodways.**

Located within areas of special flood hazard are areas designated as floodways (see definition, § 95-4). The floodway is an extremely hazardous area due to high velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by § 95-6 and § 95-12B, all encroachments, including fill, new construction, substantial improvements and other development are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.



**§ 95-16. Appeals Board.**

- A. The Board of Appeals, as established by L.L. No. 2-1990, shall hear and decide appeals and requests for variances from the requirements of this chapter. **[Amended 8-13-1990 by L.L. No. 3-1990]**
- 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. **[Amended 8-13-1990 by L.L. No. 3-1990]**
- 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. **[Amended 8-13-1990 by L.L. No. 3-1990]**
- D. In passing on such applications, the Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and: **[Amended 8-13-1990 by L.L. No. 3-1990]**
- (1) The danger that materials may be swept onto other lands to the injury of others.
  - (2) The danger to life and property due to flooding or erosion damage.
  - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - (4) The importance of the services provided by the proposed facility to the community.
  - (5) The necessity to the facility of a waterfront location, where applicable.
  - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
  - (7) The compatibility of the proposed use with existing and anticipated development.
  - (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area.
  - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
  - (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.
  - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
  - (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.
- E. Upon consideration of the factors of Subsection D and the purposes of this chapter, the Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. **[Amended 8-13-1990 by L.L. No. 3-1990]**
- 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.





**§ 95-17. Conditions for variances.**

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided that § 95-16D(1) through (12) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.
- 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.
- F. Variances shall only be issued upon receiving written justification of:
  - (1) A showing of good and sufficient cause.
  - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant.
  - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- G. Any applicant to whom a variance is granted or a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.



**Chapter 100**

**GAMES OF CHANCE**



§ 95-17

§ 95-17

**[HISTORY: Adopted by the Town Board of the Town of Eaton 4-6-1978. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Bingo — See Ch. 60.**



**§ 100-1. License required.**

It shall be lawful for any authorized organization, upon obtaining the required license therefor to conduct games of chance within the Town of Eaton, subject to the provisions of this chapter, the provisions of Article 9-A of the General Municipal Law of the State of New York, as amended from time to time, the rules and regulations set forth by the New York State Racing and Wagering Board, and such rules and regulations as may be imposed by the Town Board of the Town of Eaton from time to time.





§ 100-1

§ 100-2

**§ 100-2. Definitions.**

The terms "authorized organization" and "games of chance" shall have the meanings stated in § 186 of the General Municipal Law, as amended.



§ 100-2

**§ 100-3. Penalties for offenses.**

§ 100-3

The unauthorized conduct of a game of chance shall constitute and be punishable as a misdemeanor.



§ 100-3

§ 100-4

**§ 100-4. Applications.**

Applications for licenses to conduct games of chance shall be made to the Town Clerk of the Town of Eaton, subject to the provisions of the General Municipal Law, and the rules and regulations of the New York State Racing and Wagering Board.



§ 100-4

§ 100-5

**§ 100-5. Sunday games.**

Games of chance may be conducted on Sundays if so provided in the license issued hereunder, except on Easter Sunday, Christmas Day and New Year's Eve.





§ 100-5

§ 100-6

**§ 100-6. Referendum.**

This chapter shall not become operative or effective until it shall have been posted and published once in an official newspaper of the Town of Eaton and unless and until it shall have been approved by a majority of the electors of the Town of Eaton voting on a proposition submitted at a special election held within said town who are qualified to vote for officers of said town.<sup>11</sup>

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11. Editor's Note: This chapter was duly passed at referendum 5-2-1978.



**Chapter 110**  
**JUNKYARDS**



§ 100-6

§ 110-1

**[HISTORY: Adopted by the Town Board of the Town of Eaton 6-12-1995. Amendments noted where applicable.]**

**§ 110-1. Copies of statute.**

Copies of § 136 of the General Municipal Law ("the statute") shall be maintained in the office of the Town Clerk, along with application forms for distribution to applicants and potential applicants for a license to operate a junkyard and business and a certificate of approval for the location of a junkyard as described in the statute.



§ 110-1

§ 110-2

**§ 110-2. Application fees.**<sup>12</sup>

The application and renewal fee for a junkyard license shall be as set by resolution of the Town Board from time to time.

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





§ 110-2

§ 110-3

**§ 110-3. Review and hearing; determination.**

- A. Upon receipt of a completed application for a junkyard license containing all the information called for and all the required attachments, along with the required application fee, the Town Clerk shall refer a copy of the application to the Board of Appeals for its review and certificate required of said body under Subdivision 4 of the statute, place the matter on the next Town Board agenda for a public hearing, and publish and mail notice of said public hearing in accordance with Subdivision 5 of the statute.
- B. Upon receipt of the required certificate from the Board of Appeals and upon the conclusion of the public hearing, the Town Board shall thereafter deliberate, and make its determination on the application in accordance with requirements of the statute.



§ 110-3

§ 110-4

**§ 110-4. Existing junkyards.**

Owners of established junkyards existing as the date of this chapter shall be mailed a notice by the Town Clerk advising of the need to obtain a license in accordance with Subdivision 13 of the statute and advising that application for such license is to be made within 60 days.



§ 110-4

§ 110-5

**§ 110-5. Renewing licenses.**

All junkyard licenses shall be renewable annually on April 1, in accordance with Subdivisions 9 and 13 of the statute.



**Chapter 120**

**LAND USE**





**[HISTORY: Adopted by the Town Board of the Town of Eaton 5-19-1997 by L.L. No. 3-1997. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Flood damage prevention — See Ch. 95.**

**Mobile homes — See Ch. 130.**

**Junkyards — See Ch. 110.**

**Subdivision of land — See Ch. 165.**



ARTICLE I  
**Enactment and Application**

**§ 120-1. Title.**

This chapter shall be known and may be cited as the "Town of Eaton Land Use Law."

**§ 120-2. Enactment; authority.**

The Town Board of the Town of Eaton in the County of Madison under the authority of Article 16 of the Town Law and § 10 of the Municipal Home Rule Law of New York State hereby ordains, enacts and publishes the following law.

**§ 120-3. Purpose.**

The purposes of this chapter and the land use districts and regulations herein are to preserve the character of and provide for the orderly growth of the Town and its hamlets; to encourage the most appropriate use of land; to protect and conserve the value of property; to prevent the overcrowding of land; and to promote the health, safety and general welfare of the public.

**§ 120-4. Application of regulations.**

Except for existing uses and other facilities as herein provided:

- A. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, extended or put in place unless in conformity with the regulations herein specified for the district in which it is located.
- B. No building shall hereafter be erected, altered or put in place to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area or to have narrower or smaller bordering yards than specified for the district in which such building is located (see Table I.<sup>13</sup>).
- C. No part of a yard or other open space around any building required in conformity with the provisions of this chapter shall be included as part of a yard or other open space similarly required for another building.

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13. Editor's Note: Table I is located at the end of this chapter.



**ARTICLE II**  
**Terminology**

**§ 120-5. Word usage.**

Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular. The word "lot" includes the word "plot;" the word "building" includes the word "structure;" and the word "shall" is intended to be mandatory. "Occupies" or "used" shall be considered as though followed by words "or intended, arranged or designed to be used or occupied."

**§ 120-6. Definitions.**

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

**ACCESSORY STRUCTURE OR BUILDING** — Any detached structure or building which is subordinate to and whose use is incidental to the use of the principal structure or building on the same lot or on an adjoining lot under the same ownership. All accessory structures and buildings must conform to setback and yard requirements of the district in which they are located.

**ANIMAL HOSPITAL** — Any structure under veterinary supervision for the treatment of sick or injured animals.

**BUILDING AREA** — The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between the exterior faces of walls.

**BUILDING, FARM** — Any building used for the housing of agricultural equipment, produce, livestock or poultry or customary processing of farm products, and provided that such building is located on, operated in conjunction with and is necessary to the operation of the farm.

**BUILDING HEIGHT** — The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

**BUILDING LINE** — The line of that face of the building nearest the front line of the lot. This face includes sun parlors, covered porches whether enclosed or unenclosed (but does not include steps) and any overhang. In the case of a cantilevered building, the building line shall coincide with the most protected surface.

**BUILDING OR STRUCTURE** — Anything constructed, erected or installed either on or in the ground or which is attached to something on or in the ground which encloses or covers space, including, but not necessarily limited to, silos, livestock slurry storage tanks, platforms, towers, tents, sheds and storage bins, garden houses and gazebos and excluding only boundary walls and fences.

**BUILDING OR STRUCTURE, PRINCIPAL OR MAIN** — A building or structure in which is conducted the principal use of the lot on which it is located.

**BUSINESS OR COMMERCIAL** — See "commercial or business."

**CAMP, DAY** — Any land including any building thereon used for any assembly of persons for what is commonly known as "day camp" purposes, whether or not conducted for profit and whether or not occupied by adults or by children, either as individuals, families or groups.

**CAMPGROUND** — A parcel of land used or intended to be used, let or rented for occupancy by persons utilizing trailers, tents, campers or other such forms of recreational dwellings.

**CAMP, SEASONAL** — Land on which is located one cabin, camping trailer, shelter or other accommodation suitable for seasonal or temporary living purposes, exclusive of mobile dwellings, primarily for the use of the owner.

**CERTIFICATE OF COMPLIANCE** — A certificate issued by the proper officer of the Town certifying that the

§ 120-6 building, structure, system or land alteration and proposed use thereof complies with the provisions of this chapter as of the date of issuance. § 120-6

**CLUB, MEMBERSHIP** — An organization catering exclusively to members and their guests, including premises and buildings for recreational or athletic purposes which are not conducted primarily for gain, provided that they are not operating any vending machines or merchandising or commercial activities except required generally for the membership and purposes of such club.

**CLUSTER DEVELOPMENT** — A development of residential lots, each containing less area than the minimum lot area required for the zone within which such development occurs, but maintaining the density limitation imposed by said minimum lot area through the provision of an open space as part of the subdivision plan.

**CODE ENFORCEMENT OFFICER** — The Town of Eaton Code Enforcement Officer, or such other person as may be designated or appointed by the Eaton Town Board to administer and/or enforce the provisions of this chapter.

**COMMERCIAL OR BUSINESS** — Of or pertaining to a purchase, sale or transaction involving the disposition of any article, substance, commodity or service; the maintenance or conduct of offices, professions or recreational or amusement enterprises conducted for profit; and also the renting of rooms, business offices and sales display rooms and premises.

**COVERAGE** — That percentage of the plot or lot area covered by the building area.

**DOMESTIC PETS** — Animals that by custom have been adapted or tamed to live in intimate association with people and which normally live in the same dwelling unit as their owner. Domestic pets include, but are not necessarily limited to, dogs, cats, guinea pigs, hamsters, gerbils, rabbits and certain fish, turtles and birds. For the purposes of this chapter, horses and other equine animals, as well as all breeds of swine, animals customarily existing in a wild environment, any other animal customarily relied upon by people as a food source, and all animals kept for a commercial use or purpose are not considered to be a domestic pets.

**DUMP** — A lot of land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

**DWELLING, MULTIFAMILY** — A building or portion thereof containing three or more dwelling units and used for occupancy by three or more families living independently of each other.

**DWELLING, ONE-FAMILY** — A detached building containing one dwelling unit only and intended for the use of a single-family.

**DWELLING, SEASONAL** — A building such as a cabin, shelter or other accommodation suitable only for seasonal living quarters, exclusive of a mobile dwelling.

**DWELLING, TWO-FAMILY** — A detached building containing two dwelling units.

**DWELLING, UNIT** — A building or a portion of a building designed or used as the permanent living quarters for one or more families. The term "dwelling" shall not be deemed to include automobile courts, rooming houses, tourist homes, motels, hotels or temporary camps.

**FAMILY** — One or more persons who live together in one dwelling unit and maintain a common household. A family may consist of a single person or of two or more persons, whether or not related by blood, marriage or adoption, and may also include domestic servants and occasional guests.

**FARM** — Any parcel containing five or more acres of land which is normally used for gain in the raising of agricultural products, including crops, livestock, poultry, dairy products, orchards, horticultural nurseries and tree plantations, maple sugar and stabled animals. It includes necessary farm buildings and structures within the prescribed limits and the storage of equipment used.

**GARAGE, PRIVATE** — An accessory building used in conjunction with a principal building which provides for the storage of motor vehicles and in which no occupation, business or services for profit are carried on.

§ 120-6 GARAGE, PUBLIC — Any garage other than a private garage, available to the public, operated for gain and which is used for storage, repair, rental, servicing or equipping of automobiles or other motor vehicles. § 120-6

HOME BUSINESS — Any use customarily carried on in a dwelling unit or in an accessory structure by a member of the family living in the dwelling unit and not more than four other nonfamily employees, which use is secondary to the residential purpose of the dwelling and produces no offensive noises, vibration, smoke, dust, odors, heat or glare or outside storage of equipment and/or materials used in the home business.

HOSPITAL — Unless otherwise specified, the term "hospital" shall be deemed to include, without limitation, sanitariums, sanatoriums, preventoriums, clinics, rest homes, convalescent homes, nursing homes and any other place for the diagnosis, treatment or other care of ailments, and shall be deemed to be limited to places for the diagnosis, treatment or other care of human ailments.

HOTEL, MOTEL, TOURIST HOME — A building or buildings in which overnight accommodations are provided for transient guests for compensation.

INDUSTRY OR INDUSTRIAL — Includes storage, manufacture, preparation, process or repair of any article, substance or commodity and the conduct of the industrial trade, but shall not mean such preparation, processing or repair as are customarily applied to articles, substances or commodities in retail businesses or trade for on-the-premises transactions.

INSTITUTION — A building occupied by a nonprofit establishment for public use.

JUNKYARD — Land used for the collecting, storage and sale of waste paper, rags, scrap metal or discarded material or for the collecting, dismantling, storage and salvaging of two or more motor vehicles, either unlicensed or not in operating condition. Motor vehicles registered on a seasonal basis are exempt from this definition.

KENNEL — Any premises on which four or more dogs over four months of age are kept for commercial care.

LANDSCAPED AREA — Any non-built-upon area of grass, agricultural fields, pasture, woodlot, forest, standing or flowing water maintained in healthy condition.

LOT — A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by this chapter. No area shall be counted as accessory to more than one main building or use, and no area necessary for compliance with the open space requirements for one main building or use shall be included or counted in the calculation of the open space accessory to any other main building or use.

LOT AREA — An area of land which is determined by the limits of the lot lines bounding that area and expressed in terms of square feet or acres. Any portion of a lot included in a public road right-of-way shall not be included in calculating lot area.

LOT DEPTH — The mean distance between the front and rear lot lines, measured in the general direction of the side lines of the lot.

LOT LINES — The property lines bounding the lot.

LOT, THROUGH — An interior lot having frontage on two parallel or approximately parallel roads.

LOT, WIDTH — The mean width of a lot measured at right angles to its depth.

MOBILE DWELLING (MOBILE HOME) — A structure, which is transportable in one or more sections, built on a permanent chassis and designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities, and including the plumbing, heating, air-conditioning and electrical systems contained therein. A prefabricated dwelling not built on a permanent chassis or sectional dwelling not built on a permanent chassis and all travel trailers, truck campers and motor dwellings shall not be considered mobile dwellings. Mobile dwellings used for nondwelling purposes are included in this definition.

MOBILE DWELLING PARK (TRAILER PARK OR MOBILE DWELLING PARK) — A parcel of land under single ownership or management which has been planned and improved for the placement of at least two mobile dwellings, except that farmers who maintain no more than two mobile dwellings for hired help or family members

## § 120-6

whose employment is principally related to the farm are not classified as a "mobile dwelling park."

## § 120-6

**NONCONFORMING BUILDING** — Any building which contains a use permitted in the district in which it is located, but which does not conform to the district regulations for front, side or rear yards; maximum height; lot coverage; minimum habitable area per dwelling unit; off-street parking or loading; or landscaping, screening or fencing requirements.

**NONCONFORMING LOT** — A lot of record existing at the date of the passage of this chapter which does not conform to the minimum lot area, width, depth or frontage standards of the district in which it is situated.

**NONCONFORMING USE** — Any use of any building, structure or land existing at the time of enactment of this chapter which does not conform to the use regulations of the district in which it is situated.

**PARKING SPACE OR PARKING SPACE UNIT** — An off-street space available for the parking of one motor vehicle and having an area of not less than 200 square feet exclusive of passageways or driveways, and having direct access to a road, highway or alley.

**PLAT** — A map, plan or layout of a city, town, section or subdivision indicating the location and boundaries of individual properties.

**PUBLIC WATER/PUBLIC SEWER** — A water or sewage system which is owned and operated by a government authority or by a utility company or a sewer district adequately controlled by a government authority.

**RESTAURANT** — Any establishment, however designated, at which food is regularly sold for consumption on the premises to patrons seated within an enclosed building or elsewhere on the premises. However, a snack bar or refreshment stand at a public, semipublic or community pool, playground, playfield or park operated by the agency or group of an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

**RIGHT-OF-WAY** — The line determining the road or highway public limit of ownership. Also, an easement established for passage across land.

**SIGN** — Any device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public; each display surface shall be considered to be a sign.

**SIGN, ON-PREMISES** — Any sign related to a business or profession conducted or to a commodity or service sold or offered upon the premises where such sign is located.

**SITE PLAN** — Maps and detailed descriptive text required for any proposed development so designated by the Planning Board (see § 120-33).

**SPECIAL FLOOD HAZARD AREA** — That area along a waterway designated and mapped by the Federal Emergency Management Agency under the Flood Disaster Protection Act of 1973, as subject to flooding that could damage buildings, structures and accessory installations in that area.

**SPECIAL PERMIT** — A permit allowing one of a number of specifically listed land uses, issued following a Planning Board review of the suitability of such a use, at a particular location, with regard to various explicit standards and subject to compliance with an approved site plan and such further conditions as the Planning Board may set.

**STABLE, PRIVATE** — An accessory building in which horses are kept for private use and not for hire, remuneration or sale.

**STABLE, PUBLIC** — A building in which any horses are kept for remuneration, hire or sale.

**STREET LINE** — The outer boundary lines of a right-of-way used for vehicular traffic, whether public or private.

**SWAMPS, WETLANDS** — Areas with permanent or seasonal standing water or those so designated by the United States Army Corps of Engineers or New York State Department of Environmental Conservation.

**USE, ACCESSORY** — A use customarily incidental and subordinate to the principal use of a building and located on the same lot with such principal use of a building.



§ 120-6 USE, PRINCIPAL — The specific purpose for which land or a building is designated, arranged, intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use. § 120-6

UTILITIES, COMMUNITY — Community facilities for water supply and distribution, sewage collection and disposal, storm drainage, owned and operated by a private owner, semipublic agency or a public agency, for three or more dwellings or establishments.

UTILITIES, PUBLIC AND/OR SEMIPUBLIC — Distribution points, transmission lines and stations, substations, storage yards, garages and other central buildings and/or related uses for the operation and provision of public and semipublic power, fuel, water and communications service licensed by the Public Service Commission.

VARIANCE, AREA — A legally permitted modification of this chapter to allow for different dimensions in the area coverage of a specific parcel of land.

VARIANCE, USE — A legally permitted modification of this chapter to allow a different use of a specific parcel of land or of a specific structure.

YARD, FRONT — An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the edge of the highway right-of-way and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the nearest point of the front line of the building and the road right-of-way. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard. The front yard must be free of any man-made building or structure. The only exception is some types of permitted roadside stands.

YARD, REAR — An open unoccupied space on the same lot with a main building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. The depth of the rear yard shall be measured between the rear line of the lot, or the road right-of-way if there is a roadway, and the nearest point of the rear line of the main building. Accessory buildings may be built on the rear yard, unless the lot is a through lot.

YARD, SIDE — An open unoccupied space on the same lot with the principal building situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a "side line."



ARTICLE III  
**Districts and Boundaries**

**§ 120-7. Establishment of districts.**

The Town of Eaton has three existing districts:

<b>Code</b>	<b>Full Name</b>
ARC	Agricultural/ Residential/ Commercial District
ARC2	Agricultural/ Residential/ Commercial District No. 2 (with mobile home exclusion)
RD-2	Residential District No. 2

**§ 120-8. Land Use Map.**

The land use districts are shown, defined and bounded on the map entitled "Town of Eaton Land Use Map," which, with all explanatory matter thereon, is hereby made a part of this chapter. The map shall be on file in the Town Clerk's office.

**§ 120-9. Land Use Schedule.**

The Land Use Schedule shows, for all districts, the permitted minimum requirements for lot sizes, road frontage, yard setbacks and maximum building heights.<sup>14</sup>

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14. Editor's Note: Table I, Land Use Schedule, is located at the end of this chapter.



ARTICLE IV  
Land Use Districts

**§ 120-10. Agricultural/Residential/Commercial District (ARC).**

The purpose of this district is to preserve farm lands and adjoining settlements as long as possible, to provide for separate residences of all kinds and to invite all other uses, under certain controls, in order to assure the livelihood and enjoyment of those who live there.

A. Principal uses permitted.

- (1) Single-family dwellings built on a foundation, excluding mobile dwellings.
- (2) Two-family dwellings built on a foundation, excluding mobile dwellings.
- (3) Farm and farm buildings for related agricultural activities.
- (4) On a farm, either two one-family dwellings; one-family dwelling and one mobile dwelling; or two mobile dwellings for close relatives or hired hands (mobile dwellings on a farm are subject to site plan review under § 120-33 of this chapter).

B. Accessory uses permitted.

- (1) Private garages with floor space not to exceed 1,500 square feet. **[Amended 7-14-2020 by L.L. No. 1-2020]**
- (2) Off-street parking.
- (3) Customary accessory structures (storage sheds, playhouses, greenhouses, etc.) with floor space not to exceed 1,500 square feet. **[Amended 7-14-2020 by L.L. No. 1-2020]**
- (4) Accessory buildings necessary to the principal use and which do not include any activity commonly conducted as a separate business and which do not exceed 1,500 square feet in floor area. **[Amended 7-14-2020 by L.L. No. 1-2020]**
- (5) Customary farm buildings located on the same parcel as the principal use.
- (6) Animal shelters for domestic pets properly maintained and stables for equine animals.
- (7) Other structures such as private swimming pools and fireplaces.
- (8) Customary home businesses or professional offices conducted by the residents.
- (9) Roadside stands for the sale of seasonal farm produce or homemade items. Such stands shall be set back at least five feet from the edge of the road right-of-way, provide safe off-street parking for at least three motor vehicles and include a driveway that permits vehicles to enter the road without backing onto it.
- (10) The keeping of animals for 4-H and similarly organized youth groups (approval is conditional upon a letter from the project supervisor certifying participation in the 4-H or other organizations' program).
- (11) Wildlife conservation and harvesting.
- (12) Noncommercial fishing and hunting preserves.
- (13) Nonintensive, noncommercial, outdoor recreation.

C. Uses requiring a special permit.

- (1) Multifamily housing.

- § 120-10 (2) Mobile dwellings, which are to be considered individually by the Planning Board. Under any circumstances, the same lot size and dimensional requirements as are set forth on Table I for single-family units will apply.<sup>15</sup> § 120-11
- (3) Mobile dwelling parks.
  - (4) Garages and all accessory buildings larger than 1,500 square feet in planar area. **[Amended 7-14-2020 by L.L. No. 1-2020]**
  - (5) Churches and other similar places of worship, parish houses, convents and similar facilities of religious groups.
  - (6) Business, commercial and professional establishments.
  - (7) Day camps, campgrounds, bed-and-breakfast operations, guest or vacation homes for pay and private clubs.
  - (8) Commercial outdoor recreation, such as ski runs, snowmobile parks, miniature and full-size golf courses, driving ranges, race tracks, parks, playgrounds, play fields or similar facilities.
  - (9) Development within one-hundred-year floodplains as designated by the federal government; or within wetlands as defined by the United States Army Corps of Engineers.
  - (10) Development of steep slopes, defined as areas with slopes exceeding 15%, as shown on the maps incorporated in the Land Use and Natural Resources Inventory of the Town of Eaton, as prepared by the Madison County Planning Department in 1988.
  - (11) Public recreation areas, including parks, playgrounds and playfields.
  - (12) Public buildings, libraries, museums and public and nonprofit private schools accredited by the State Education Department.
  - (13) Hospitals, nursing homes and other health care facilities.
  - (14) Colleges and private schools, including nursery schools and day-care centers.
  - (15) Public utility uses.
  - (16) Industrial and manufacturing enterprises.
  - (17) Keeping animals other than domestic pets on a property which is less than five acres in size. Permit is renewable annually without fee and without a public hearing if no complaints have been received for that location.
  - (18) Temporary installation of one separate dwelling unit for the care of disabled or elderly family members related by blood or marriage.

**§ 120-11. Agricultural/Residential/Commercial District No. 2 (ARC2).**

The purpose of this district is to preserve the value of property and residences, similar to the ARC District, except for the exclusion of mobile dwellings. All dwellings constructed in the district shall comply with the New York State Uniform Code requirements for site-constructed buildings.

A. Principal uses permitted.

- (1) Single-family dwellings, which shall be built on-site on a foundation of cast-in-place concrete or

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15. Editor's Note: Table I, Land Use Schedule, is located at the end of this chapter.

§ 120-11 masonry block, or other foundation design approved under the New York State Uniform Code, or on a poured concrete slab, and shall be constructed in the place of the intended use of the building. New dwellings shall have a total living space floor area of no less than 900 square feet (not including basement space).

- (2) Two-family dwellings, which shall be built on-site on a foundation of cast-in-place concrete or masonry block, or other foundation design approved under the New York State Uniform Code, or on a poured concrete slab, and shall be constructed in the place of the intended use of the building. New dwellings shall have a total living space floor area of no less than 1,800 square feet (not including basement space).
- (3) Farm and farm buildings for related agricultural activities.
- (4) On a farm, two single-family dwellings conforming to the requirements contained in Subsection A(1).

B. Accessory uses permitted.

- (1) Private garages.
- (2) Customary accessory structures not to exceed 1,500 square feet. **[Amended 7-14-2020 by L.L. No. 1-2020]**
- (3) Animal shelters for domestic pets properly maintained and stables for equine animals.
- (4) Other structures such as private swimming pools, fireplaces and decks.
- (5) Customary farm buildings located on the same parcel as the principal use.
- (6) Off-street parking.
- (7) Roadside stands for the sale of seasonal farm produce or homemade items. Such stands shall be set back at least five feet from the road right-of-way, provide safe off-street parking for at least three motor vehicles and include a driveway that permits vehicles to enter the road without backing into it.
- (8) Customary home businesses or professional offices conducted by the residents.
- (9) Wildlife conservation and harvesting.
- (10) Fishing and hunting preserves.
- (11) Nonintensive, noncommercial outdoor recreation.
- (12) Accessory buildings necessary to the principal use and which do not include any activity commonly conducted as a separate business.
- (13) The keeping of animals for 4-H and similarly organized youth groups (approval is conditional upon a letter from the project supervisor certifying participation in the 4-H or other organization's program).

C. Uses requiring a special permit.

- (1) Multifamily housing.
- (2) Churches and other similar places of worship, parish houses, convents and other similar facilities or religious groups.
- (3) Business, commercial and professional establishments.
- (4) Day camps, guest or vacation homes for pay and private clubs.
- (5) Commercial outdoor recreation such as ski runs, campgrounds, driving ranges or any such facility.

- § 120-11
- (6) Development in special flood hazard areas designated by the Federal Government, swamps, wetlands, streams, lakes, steep slopes (greater than 15%) and in agricultural districts certified by the New York State Department of Agriculture and Markets. § 120-12
- (7) Public recreation areas, including parks, playgrounds and playfields.
- (8) Public utility uses.
- (9) Keeping animals other than domestic pets on a property which is less than five acres in size. The permit is renewable annually without fee and without an additional public hearing if no complaints have been received on that location.

**§ 120-12. Residential District No. 2 (RD-2). [Amended 1-10-2005 by L.L. No. 1-2005]**

The purpose of this district is to provide for summer and year-round housing in and around waterfront property, with a minimum of nuisance caused by different land uses.

A. Principal uses permitted.

- (1) One-family dwellings built on a foundation.
- (2) Two-family dwellings built on a foundation.
- (3) Farms and farm buildings for related agricultural activities.

B. Accessory uses permitted. **[Amended 7-14-2020 by L.L. No. 1-2020]**

- (1) Private garages (except not permitted in the rear yard of a lakefront lot).
- (2) Customary accessory structures not to exceed 1,500 square feet (except not permitted in the rear yard of a lakefront lot).
- (3) Animal shelters for domestic pets properly maintained.
- (4) Private swimming pools and fireplaces.
- (5) Off-street parking (except not permitted in the rear yard of a lakefront lot).
- (6) Customary farm structures related to the principal agricultural use (except not permitted in the rear yard of a lakefront lot).

C. Uses requiring a special permit.

- (1) Home businesses, provided that they are carried on by residents of the premises entirely within the principal residence structure on the premises in conjunction with the residential use of the premises, and with no exterior evidence of the business, except one sign.
- (2) Accessory structures over 1,500 square feet. **[Amended 7-14-2020 by L.L. No. 1-2020]**
- (3) Public utility uses.
- (4) Development within one-hundred-year floodplains as designated by the federal government; or within wetlands as defined by the United States Army Corps of Engineers.
- (5) Development of steep slopes, defined as areas with slopes exceeding 15%, as shown on the maps incorporated in the Land Use and Natural Resources Inventory of the Town of Eaton, as prepared by the Madison County Planning Department in 1988.
- (6) Expansion of any existing nonconforming use, such as rental of cottages and other commercial



§ 120-12 activities.

§ 120-12



ARTICLE V  
**Supplementary Regulations**

**§ 120-13. Additional regulations for all lots.**

This article provides for the safety of the occupants of buildings and of those who use the roads. Those who build, buy, use, repair or remodel any buildings shall observe the standards published by New York State under the Model Housing Code, the Uniform Fire Prevention and Building Code, the State Code for Construction and Installation of Mobile Homes and all other applicable codes.

**§ 120-14. Obstruction of vision.**

On a corner lot, there shall be no obstruction of vision creating a safety hazard for anyone using the intersecting roads. The determination of an appropriate "clear zone" shall be made by the Code Enforcement Officer and County or Town Highway Superintendent.

**§ 120-15. On-premises parking space for vehicles.**

The following minimum parking spaces shall be provided on the premises:

- A. One- and two-family dwelling units: two per dwelling unit.
- B. Multifamily dwelling unit: two per dwelling unit plus one extra for service and guests for each three dwelling units.
- C. Hotels, motels, tourist homes and boardinghouses: one per guest room, plus one per staff based on maximum staffing expected, plus one for service.
- D. Other businesses: one per 100 square feet of customer floor space, or as required by conditions of the special permit.
- E. Public assembly, government buildings and outdoor recreation: as required by conditions of the special permit.

**§ 120-16. Performance standards.**

In all districts, any use that endangers the health, safety or welfare of any person is prohibited. The Planning Board, through the special permit process, shall decide whether proposed uses meet reasonable standards for such purposes. Such standards may apply to noise, odor, dust, dirt, smoke, noxious gases, building vibrations, excessive outside lighting, dangerous glare or other impairment of vision, contamination of soil and open water systems and other physical conditions.

**§ 120-17. Storage of flammable liquids, chemicals and explosives.**

The design, construction, maintenance and operation of storage facilities for flammable liquids, chemicals and explosives shall comply with all applicable state and federal laws, codes and regulations.

**§ 120-18. Junkyards.**

- A. Commercial junkyards. Operation of a junkyard for commercial use requires a special permit, as well as a junkyard license.
- B. Screening. New and existing junkyards visible from an adjacent public road shall be screened on all sides by a fence and/or evergreen trees to provide a visual barrier not less than six feet high. Any man-made barrier, including a fence, shall not be closer to the lot line than specified for other business or commercial structures in the Land Use Schedule.

**§ 120-19. Extraction of topsoil, sand, gravel or stone.**

Operation of a mine for other than personal, noncommercial use constitutes a business and requires a special permit. All land owners shall comply with the New York State Mined Land Reclamation Law (Chapters 1043 and 1044)<sup>16</sup> which requires that operators who mine more than 1,000 tons of minerals from the earth within 12 successive calendar months must obtain a permit for such operations from the New York State Department of Environmental Conservation.

**§ 120-20. Conservation of steep slopes.**

The construction of new buildings, roads and other facilities on slopes of 15% or more grade (15% equals a 11/2 foot rise in 10 feet horizontal distance) shall require a special permit, and a performance bond or other security may be required. Logging on such areas shall comply with New York State Department of Environmental Conservation regulations.

**§ 120-21. Public utilities and services.**

All new construction and erection of public utilities and services, except hookups to single customers from existing facilities, require the granting of a special permit. This applies to, but is not limited to, those utilities that furnish power, fuel, water, communications and such public services as fire, police, solid waste disposal and premises for government agencies.

**§ 120-22. Buildings and sites of historic or natural value.**

All buildings and sites that are now or hereafter designated by the Town Board as sites of historic or natural value shall require a special permit before alteration or destruction.

**§ 120-23. Nonconformities.**

For purposes of this section, a nonconformity is defined as any structure, lot or use, which does not conform to the regulations as set forth in this chapter for the district in which it is situated, but which lawfully existed prior to the enactment of this chapter or any revision or amendment thereto, and which is maintained after the effective date thereof, although it does not conform to the use or area regulations of the district in which it is located.

- A. Policy. It is the intent of this section to permit nonconformities to continue, but not encourage their survival, where such nonconformities do not endanger the public health, safety and welfare.
- B. Nonconforming uses. All lawful uses existing at the time of the enactment or amendment of this chapter may be continued even if such uses do not conform with the provision of this chapter, provided that:
  - (1) No nonconforming use shall be extended, expanded or enlarged into any building or lot, or portions thereof, not used for such purposes at the effective date of adoption or amendment of this chapter without a special permit. However, a nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of the enactment or amendment of this chapter.
  - (2) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this chapter without a special permit.
  - (3) If any such nonconforming use ceases for any reason for a period of one year or more, such use shall not be reestablished without a special permit. Intent to reestablish or resume a nonconforming use shall not confer the right to do so. In case of a nonconforming business or commercial use, if the structure remains

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16. Editor's Note: See Environmental Conservation Law § 23-2703 et seq.

- § 120-23 closed for business for a period of one year or more, the nonconforming use shall be regarded as ceased. § 120-23  
Any previously issued special permit in conjunction with this section shall also cease.
- (4) No such nonconforming use shall be restored or structurally altered in any way that will increase its degree of nonconformance without a special permit. A nonconforming use may be structurally altered or renovated so as to decrease its degree of nonconformance.
  - (5) Any nonconforming building or use, if changed to conform to the requirements of this chapter, shall not thereafter be changed back to a nonconforming building or use.
- C. Nonconforming buildings. A nonconforming building may be continued, repaired, structurally altered, moved, reconstructed or enlarged, provided that action does not increase the degree of or create any new nonconformity. A building which contains a use allowed in its district by special permit may be repaired, structurally altered, moved, reconstructed or enlarged after review and issuance of a new special permit, provided that the action does not increase the degree of or create any new nonconformity.
- D. Nonconforming lots. Any lot which was duly approved prior to this chapter and which has an area less than required by this chapter may be used for any permitted purpose if:
- (1) The owner, on the effective date of this chapter, has no adjoining land which would permit the owner to make the lot conforming, and if all other zoning and planning requirements are satisfied; or
  - (2) The owner obtains a variance pursuant to the provisions of Article VII for any setback, frontage, lot coverage or other requirement of this chapter (other than lot size) which can not be met. Such a variance may only be granted if the applicant demonstrates that all requirements of New York State law relating to residential lots (such as percolation, sewage disposal and water supply) can be satisfied.
- E. Creation of nonconforming lots by reduction of lot area. No nonconforming lot shall be created where no nonconforming lot existed prior to the passage of this chapter. No lot shall be so reduced in area that the total area, yard setbacks, lot width, frontage, coverage or other requirements of this chapter shall be less than herein prescribed for each land use district without a variance. The provisions of this section shall not apply when part of a lot is taken for a public purpose.



ARTICLE VA  
**Telecommunications Towers**  
**[Added 10-13-2011 by L.L. No. 1-2011]**

**§ 120-23.1. Title.**

The provisions of this article shall be referred to as the "Telecommunications Tower Regulations of the Town of Eaton."

**§ 120-23.2. Purpose.**

The purpose of these supplemental regulations is to promote the health, safety and general welfare of the residents of the Town, to provide standards for the safe provision of telecommunications services consistent with applicable federal and state regulations, and to protect the natural features and aesthetic character of the Town of Eaton. The provisions of these regulations do not apply to amateur radio service equipment and facilities intended and used solely for personal, noncommercial purposes. Nor are these regulations intended to prohibit or have the effect of prohibiting the provision of personal wireless services, nor shall they be used to discriminate among providers of functionally equivalent services consistent with current federal regulations.

**§ 120-23.3. Definitions.**

As used in this article, the following terms shall be defined as follows:

**ACCESSORY FACILITY** — An accessory facility serves the principal use, is subordinate in area, extent and purpose to the principal use, and is located on the same lot as the principal use. Examples of such facilities include transmission equipment, electrical generators and storage sheds.

**ANTENNAE** — A system of electrical conductors that transmit or receive radio frequency waves. Such waves shall include, but not be limited to, radio navigation, radio, television, wireless and microwave communications. The frequency of these waves generally ranges from 10 hertz to 300,000 megahertz.

**TELECOMMUNICATIONS TOWER or TOWER** — A structure on which transmitting and/or receiving antenna(e) used in connection with a commercial enterprise are located.

**§ 120-23.4. Application of special use regulations.**

- A. No telecommunications tower shall hereafter be used, erected, moved, reconstructed, changed or altered except after approval of a special use permit and in conformity with these regulations. No existing structure shall be modified to serve as a telecommunications tower unless in conformity with these regulations.
- B. The applicant shall demonstrate with a reasonable degree of certainty that the proposed location and height for the telecommunications tower is necessary to meet the frequency reuse and spacing needs of the system, and to provide adequate service coverage in the Town.
- C. Exceptions to these regulations are limited to:
  - (1) New uses which are accessory to residential uses and;
  - (2) Lawful or approved uses existing prior to the effective date of these regulations.
- D. Where these regulations conflict with other laws and regulations of the Town of Eaton, the more restrictive shall apply, except for telecommunications tower height restrictions, which are governed by the following special use permit standards.

**§ 120-23.5. Special use permit standards.**

§ 120-23.5  
A. Site plan.

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- (1) An applicant shall be required to submit a site plan showing all existing and proposed structures and improvements, including access roads and driveways, and shall include grading plans for new facilities and access roads and driveways. The site plan shall also include documentation on the intent and capacity of the proposed use, as well as a justification for the height of any tower or antennae, and justification for any land or vegetation clearing required.
- (2) Additionally, the Planning Board shall require that the site plan include a completed SEQR visual environmental assessment form addendum (visual EAF) and a landscaping plan addressing other standards listed within this article with particular attention to visibility from key viewpoints within and outside of the Town as identified in the visual EAF. The Planning Board may require submission of a more detailed visual analysis based on the results of the visual EAF.

## B. Shared use.

- (1) At all times, shared use of existing towers shall be preferred to the construction of new towers. Additionally, where such shared use is unavailable, location of antenna on preexisting structures other than towers shall generally be preferred over the construction of new towers. An applicant shall be required to present a competent report inventorying existing towers and other structures within a practical distance of the proposed site and outlining opportunities for shared use of existing facilities and use of other preexisting structures as an alternative to a new construction.
- (2) An applicant intending to share use of an existing tower shall be required to document consent from the existing tower owner to shared use. The applicant shall substantiate that all potential issues created by the shared use, including but not necessarily limited to structural reinforcement, preventing transmission or receiver interference, additional site screening, and other changes, including real property acquisition or lease required to accommodate shared use, have been adequately addressed.
- (3) In the case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from owners of existing towers and other facilities, as well as documenting capacity for future shared use of the proposed tower. Written requests and responses for shared use shall be provided.

## C. Setbacks. Towers and antennae shall be erected only to such height as is technically necessary to accomplish the purpose they are to serve. Front, rear, and side setback requirements from property lines and any structures shall be the height of the tower plus 10%, or the front, side, and rear yards otherwise required in the district, whichever is greater. Additional setbacks may be required by the Planning Board to contain on-site ice fall or debris from tower failure and/or to preserve privacy of adjoining residential and public property. Setbacks shall apply to all tower parts, including guy wire anchors, and all accessory facilities.

## D. Visibility.

- (1) All towers and accessory facilities shall be sited to have the least adverse visual effect on the environment.
- (2) Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray above the surrounding tree line and painted gray, green, black or similar colors designed to blend into the natural surroundings below the surrounding tree line unless other standards are required by the FAA. In all cases, structures offering slender silhouettes (i.e., monopoles or guyed towers) shall be preferable, except where alternate structures offer greater capacity for future shared use. Towers shall be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.
- (3) Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.



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- E. Existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible. Clear-cutting of trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.
- F. Screening. Deciduous or evergreen tree plantings may be required to screen portions of the tower from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least 10 feet in height within two years of planting shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.
- G. Access and parking. An access road and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards may be waived by the Planning Board in meeting the objectives of this subsection.
- H. Signs. Signs shall not be permitted on towers, antennae, or related accessory facilities, except for signs displaying owner contact information and/or safety instructions. There shall be a maximum of two such signs, and shall not exceed five square feet in area per sign.
- I. Utility connections to towers and accessory facilities shall be underground.
- J. Towers and related facilities shall be maintained in good working condition and repair. Towers shall be inspected annually by a professional engineer, licensed in the State of New York, for structural integrity and continued compliance with these regulations. A copy of the inspection report, including findings and conclusions, shall be submitted to the Town's Code Enforcement Officer no later than December 31 of each year.
- K. Abandonment. A telecommunications tower that is not used for 36 successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any permit shall constitute grounds for the revocation of the approval by the Town. In addition, failure to remove an obsolete or unused tower in accordance with this section shall be a violation of this section and subject to fine and/or imprisonment or both. Any and all structures, guy cables and/or enclosures accessory to such telecommunications tower shall also be removed. The site shall be restored to as natural a condition as possible.
- L. Authority to impose conditions.
- (1) The Planning Board shall have the authority to impose such reasonable conditions and restrictions upon the special use permit and/or site plan approval as may be directly related to the achievement of the purposes envisioned by this article with respect to the proposed telecommunications tower and facilities.
  - (2) Such conditions shall include provisions for dismantling and removal of towers and accessory facilities upon abandonment of use, including posting of a financial bond of security.



ARTICLE VB  
**Residential Wind Energy Facilities**  
**[Added 10-13-2011 by L.L. No. 1-2011]**

**§ 120-23.6. Title.**

The provisions of this article shall be referred to as the "Residential Wind Energy Facilities Regulations of the Town of Eaton."

**§ 120-23.7. Purpose.**

The purpose of this article is to provide standards for residential wind energy conversion systems with maximum generating capacity of 100 kilowatts or less designed for on-site home and/or farm use and that are primarily used to reduce on-site consumption of utility power (hereinafter "RWECS"). The intent of this article is to encourage the development of RWECS and to protect the public health, safety, and community welfare.

**§ 120-23.8. Special permit requirement.**

No person, firm, or corporation being the owner or occupant of any land or premises within the Town of Eaton shall use or permit the use of said land or premises for the construction of a RWECS without obtaining a special permit and site plan approval therefor as hereinafter provided.

**§ 120-23.9. Applications to Planning Board.**

All applications for a special permit and site plan approval for the construction of a RWECS to be used to generate electrical energy shall be determined by the Planning Board. Each application for a special permit and site plan approval shall be accompanied by:

- A. A complete plan, drawn to scale, showing the design and location of the facility on the site;
- B. The location of all structures, power lines or other utility lines within a radius equal to 150% of the proposed structure height from ground to tip of any rotating blades;
- C. Dimensions and sizes of the various structural components of the support tower's construction;
- D. Manufacturer's data sheets and such other information as may be necessary to fully describe the make, model, features, generating capacity of the proposed facilities and the manufacturer's installation specifications and recommendations.
- E. Certification by a registered professional engineer or manufacturer's certification that the tower was designed to withstand wind load requirements for structures as set forth in the New York State Building Code.
- F. No experimental, home-built, or prototype wind turbines shall be allowed without documentation by the applicant of their maximum probable blade throw distance in the event of failure, and a determination by the Planning Board of appropriate setback distances on the basis of that documentation.

**§ 120-23.10. Regulations.**

The following restrictions and standards apply to all residential wind energy facilities:

- A. Placement of facilities on site.
  - (1) Maximum height shall be determined on a case-by-case basis as hereafter specified.
  - (2) Facilities may be placed in rear or side yards but shall not be placed in front yards.

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- (3) Property line setback requirements include guy wires or cables.
  - (4) No individual tower facility shall be installed in any location that would substantially detract from or block the view of a portion of a recognized scenic viewshed, as viewed from any public road right-of-way, publicly owned land within the Town of Eaton, privately owned land within the Town of Eaton or that extends beyond the border of the Town of Eaton.
- B. Setbacks. All portions of the facility, including support and accessory facilities, shall be set back a distance from all residential structures and property lines equal to 150% of the maximum height of the proposed facilities, including the maximum height of any rotating blades.
- C. A maximum of one RWECS facility shall be permitted per parcel, except wind energy conversion systems for farms. Each parcel upon which a RWECS is located must include a principal used residential structure. A maximum of three RWECS facilities shall be allowed to support the agricultural purposes on any farm actively used for agricultural production.
- D. Access control to facilities.
- (1) Windmills may be designed as either a monopole or lattice structure.
  - (2) A monopole shall have a lockable door.
  - (3) Windmills will have an anti-climbing device within a minimum height of 12 feet from the ground surface.
- E. Signage. The type and placement of warning signs shall be determined on an individual basis as safety needs dictate. No advertising signs will be permitted.
- F. Safety.
- (1) All power lines connecting the RWECS facilities to public utility interconnection equipment shall be located underground and installed by certified professionals and must meet all applicable national, state and local electrical codes.
  - (2) All turbines shall have an overspeed control device built in by the manufacturer.
  - (3) All turbines shall be shielded at the alternator and the cables shall be armored to prevent any electromagnetic interference with radio, cell phone, and other electromagnetic signal transmissions.
  - (4) All guy wires and cables shall be marked with high-visibility orange or yellow sleeves from the ground to a point 10 feet above the ground.
- G. Color. Towers and rotating blades shall be painted white or gray or another nonreflective, unobtrusive color. No advertising or commercial logos or insignias may be visible on the structure(s).
- H. Height. The RWECS shall not exceed the total minimum height established by the New York State Energy Research and Development Authority ("NYSERDA") for grant funding at a wind speed of 10 miles per hour.
- I. Noise. The level of noise produced during operation of a windmill shall not exceed 50 dba, as measured at the property lines owned by anyone other than the site owner, as those boundaries exist at the time of the special permit application. The applicant will be required to submit technical data proving such performance standard to the satisfaction of the Planning Board as to this requirement.
- J. Lighting. No RWECS shall be artificially lighted, unless so required by the FAA.
- K. Removal of vegetation. The construction of a RWECS shall only remove the natural vegetation necessary for the construction, operation, and maintenance of the system.

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L. Abandonment. A RWECS, or any portion thereof, that is not used for 12 successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any permit for the facility shall constitute grounds for the revocation of all permit approvals by the Town. In addition, failure to remove an obsolete or unused facility in accordance with this section shall be a violation of this section. If said abandoned facility is not dismantled and removed within six months of abandonment, the Town may dismantle and remove said facility, and the cost of removing the facility shall be a lien of the property, and, if unpaid by the owner, said expense shall be added to the property owner's tax bill. Any and all structures, guy wires, cables and/or enclosures accessory to such facility shall also be removed. The site shall be restored to as natural a condition as possible.

**§ 120-23.11. Imposition of conditions by Planning Board.**

In granting approval, the Planning Board may impose other conditions and restrictions deemed necessary for the maintenance and safety of such towers and/or necessary to minimize any adverse effect or impact of the proposed use on neighboring properties.



ARTICLE VC  
**Commercial Wind Energy Facilities**  
**[Added 10-13-2011 by L.L. No. 1-2011]**

**§ 120-23.12. Title.**

The provisions of this article shall be referred to as the "Commercial Wind Energy Facilities Regulations of the Town of Eaton."

**§ 120-23.13. Purpose.**

The purpose of this article is to provide standards for commercial wind energy conversion systems with maximum generating capacity exceeding 100 kilowatts (hereinafter "CWECS"). The intent of this article is to encourage the development of commercial wind energy conversion systems and to protect the public health, safety, and community welfare.

**§ 120-23.14. Special permit requirements.**

No person, firm, or corporation being the owner or occupant of any land or premises within the Town of Eaton shall use or permit the use of said land or premises for the construction of a CWECS except in conformance with these regulations and only upon first obtaining a special permit and site plan approval therefor as herein provided.

**§ 120-23.15. Regulations.**

The following lot size, dimension and construction standards apply to all CWECS facilities:

- A. Minimum lot size shall be five acres.
- B. Minimum road frontage shall be 450 feet.
- C. Minimum lot depth shall be 450 feet.
- D. Maximum structure height shall be as determined by the Planning Board in the course of its special permit review.
- E. Setbacks.
  - (1) The minimum setback distance between each production line commercial wind power electricity generation unit (wind turbine tower) and all surrounding street and property lines, overhead utility lines, any dwellings, and any other generation units, aboveground transmission facilities, and separate meteorological facilities, shall be equal to no less than 1.5 times the proposed structure height plus the rotor radius. The property line setback requirement may be reduced by the Planning Board as an incident of special permit review when the Planning Board finds that the following circumstances apply:
    - (a) The property line in question:
      - [1] Separates two properties that are both part of a commercial wind-powered electricity generation facility; and
      - [2] Either:
        - [a] Both properties on each side of the boundary line in question will have electricity generation or transmission facilities constructed on them as part of the project under review; or
        - [b] The owner of the property for which the reduced setback is sought executes and presents

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for recording a development easement satisfactory to the Town in which the reduced setback is consented to, and construction within, and use of, the easement area is appropriately restricted.

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- (2) No experimental, home-built, or prototype wind turbines shall be allowed without documentation by the applicant of their maximum probable blade throw distance in the event of failure, and a determination by the Planning Board of appropriate setback distances on the basis of that documentation.
- F. No individual tower facility shall be installed in any location along the major axis of an existing microwave communications link where its operation is likely to produce electromagnetic interference in the link's operation.
- G. No individual tower facility shall be installed in any location where its proximity with existing fixed broadcast, retransmission, or reception antenna (including residential reception antenna) for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception.
- H. Use of nighttime, and overcast daytime condition, stroboscopic lighting to satisfy tower facility lighting requirements for the Federal Aviation Administration shall be subject to on-site field testing before the Planning Board as a prerequisite to that Board's approval as it applies to existing residential uses within 2,000 feet of each tower for which such strobe lighting is proposed.
- I. No individual tower facility shall be installed in any location that would substantially detract from or block view of a portion of a recognized scenic viewshed, as viewed from any public road right-of-way or publicly owned land within the Town of Eaton, or that extends beyond the border of the Town of Eaton.
- J. Individual wind turbine towers shall be located with relation to property lines so that the level of noise produced during wind turbine operation shall not exceed 50 dbA, measured at the boundaries of all of the closest parcels that are owned by non-site owners and that abut either the site parcel(s) or any other parcels adjacent to the site parcel held in common by the owner of the site parcel as those boundaries exist at the time of special use permit application.
- K. No wind turbines shall be permitted that lack an automatic braking, governing, or feathering system to prevent uncontrolled rotation, overspeeding, and excessive pressure on the tower structure, rotor blades, and turbine components.
- L. The minimum distance between the ground and any part of the rotor blade system shall be 30 feet.
- M. All power transmission lines from the wind generation electricity generation facilities to on-site substations shall be underground.
- N. Procedures acceptable to the Planning Board for emergency shutdown of power generation units shall be established and posted prominently and permanently on at least one location on the road frontage of each individual unit site.
- O. Prior to issuance of a building permit, the applicant shall provide the Town proof, in the form of a duplicate insurance policy or a certificate issued by an insurance company, of liability insurance, of a level to be determined by the Town Board in consultation with the Town's insurer, to cover damage or injury which might result from the failure of a tower or towers or any other part(s) of the generation and transmission facility.

**§ 120-23.16. Additional application requirements.**

In addition to the site plan materials otherwise listed in this article, the following material shall be submitted to the Planning Board for the Board's special permit review of applications for commercial wind power electricity generation and/or transmission facilities:



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- A. Digital elevation model-based project visibility map showing the impact of topography upon visibility of the project from other locations, to a distance radius of three miles from the center of the project. Scale used shall depict three-mile radius as no smaller than 2.7 inches, and the base map used shall be a published topographic map showing cultural features.
- B. No fewer than four and no more than the number of proposed individual wind turbines plus three, color photos, no smaller than three inches by five inches taken from locations within a three-mile radius from it and to be selected by the Planning Board, and computer enhanced to simulate the appearance of the as-built aboveground site facilities as they would appear from these locations.
- C. Manufacturer's data sheets and such other information as may be necessary to fully describe the make, model, features, generating capacity of the proposed facilities and the manufacturer's installation specifications and recommendations.
- D. A civil engineer's report summarizing the local roads that will be used for access to the site both during and after construction of the facility, including an assessment of the likelihood of damage that may be caused to public roads as a result of the construction and operation of the facility. The Planning Board shall have authority to require the posting of financial security by the applicant to ensure the repair and/or reconstruction of any and all public roads, or portions thereof, damaged as a consequence of the construction and/or operation of the facility.

**§ 120-23.17. Abandonment.**

Any CWECS facility, or portion thereof, that is not used for 12 successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any permit(s) shall constitute grounds for the revocation of the permit(s) by the Town. In addition, failure to remove an obsolete or unused tower in accordance with this section shall be a violation of this section and subject to fine and/or imprisonment or both. Any and all structures, guy cables and/or enclosures accessory to such CWECS shall also be removed, and the site shall be restored to as natural a condition as possible.



ARTICLE VI  
**Existing Supplemental Regulations**

**§ 120-24. General.**

Ordinances, laws and other forms of regulations which deal with specific land uses in the Town of Eaton exist or may be enacted by the Town Board. In addition, ordinances, laws and other forms of regulations enacted by Madison County and New York State affect land use in the Town. This chapter shall be enforced in concert with these regulations. As of the date of enactment of this chapter, these regulations include the following (this is not necessarily to be considered an all-inclusive list):

- A. Subdivision regulations (Chapter 165, Subdivision of Land).
- B. Sanitary Local Law (Chapter 150, Sewers).
- C. Mobile Dwelling Park Law for the Township of Eaton (Chapter 130, Mobile Homes).
- D. Flood Damage Prevention Local Law (Chapter 95, Flood Damage Prevention).
- E. Administration and enforcement of the New York State Uniform Fire Prevention and Building Code Local Law (Chapter 90, Fire Prevention and Building Construction).
- F. Madison County solid waste laws and regulations.
- G. General Municipal Law § 136, Regulation of Automobile Junkyards (New York State statute enforced by the Town) (see Chapter 110, Junkyards).
- H. Town of Eaton Dog Control Law (Chapter 55, Article I, Dogs).



ARTICLE VII  
**Administration and Enforcement**

**§ 120-25. Enforcement.**

This chapter shall be enforced by the Code Enforcement Officer.

**§ 120-26. Fees.**

The Town Board of the Town of Eaton shall, by resolution set, and from time to time amend, the fees that shall be charged for Planning Board applications and Board of Appeals applications. The fee schedule shall be available for inspection at the Town Clerk's office.

**§ 120-27. Building permits.**

No building or structure shall be erected, put in place, or have structural modifications constructed until the Code Enforcement Officer has issued a building permit certifying that it meets all the requirements of this chapter. Building permit application procedures are set forth in Chapter 90, Fire Prevention and Building Construction.

**§ 120-28. Certificate of compliance procedure.**

- A. A certificate of compliance shall be applied for coincident with the application for a building permit. A certificate shall also be applied for prior to beginning a change of use of an existing building or structure or a vacant parcel on which new construction will occur.
- B. No real property and no building, structure or system hereafter erected, altered or extended shall be used or changed in use until a certificate of compliance shall have been issued by the Code Enforcement Officer stating that the real property, building, structure or system and/or proposed use thereof complies with the provisions of this chapter. Said certificate shall be issued within 10 days after the real property, use, erection and/or alteration shall have been inspected and found to comply with the provisions of this chapter.
- C. The Town Clerk shall maintain a record of all certificates, and copies shall be furnished upon request and upon payment of the requisite copying fee, to be set from time to time by resolution of the Town Board.

**§ 120-29. Driveways.**

The location of a new driveway for ingress and egress to Town, county and state roadways shall be cleared with the appropriate highway department for approval of the location, and their recommendations concerning appropriate stormwater management structures must be complied with.

**§ 120-30. Board of Appeals; variances.**

- A. Appointment of a Board of Appeals. The Town Board hereby affirms the existence of the Board of Appeals of the Town of Eaton, consisting of five members, and having all the authority conferred upon a Board of Appeals pursuant to Article 16 of the Town Law. Its purpose is not to make laws but to interpret the law and to provide flexibility where needed and justified in the application of this chapter.
- B. Powers and duties of the Board of Appeals.
  - (1) The Board of Appeals shall have the following powers and duties:
    - (a) Upon appeals of decisions by the Code Enforcement Officer, to decide questions involving interpretation of any provision of this chapter.
    - (b) To grant use variances upon application, if justified.

- (c) To grant area variances upon application, if justified.
- (2) Decisions of the Board of Appeals shall be made within 90 days from the time that the complete application has been filed with the Board. Decisions shall be by motion and vote of the Board, and shall contain a full statement of findings of fact in the minutes of the Board.
- C. Application procedure. An appeal for interpretation of a decision made by an officer of the Town on any part of this chapter or a request for a variance may be made to the Town Clerk or to the Code Enforcement Officer. In reply, the Town Clerk will furnish an application form and instructions, along with a statement of the standards to be followed and the procedure, including a public hearing, required by law. When the application form is filled in and returned to the Town Clerk, along with the prescribed fee, it will be given to the Board of Appeals within one week.
- D. Variances.
- (1) A variance is a legal permit for a modification of some part of this chapter to meet an individual hardship. "Hardship" does not refer to a personal hardship of the property owner/user. Rather, "hardship" refers to the inability of the property to be used for a permitted use or to the inability to meet the lot area and/or dimensional requirements.
- (2) If a use or construction authorized by a variance has not been started and continued within one year, the Board of Appeals may revoke the variance and require a new application.
- (3) When a variance is granted, the Board of Appeals may prescribe conditions to be observed in order to protect the health, safety or welfare of the public, to preserve the general character of the neighborhood and to minimize possible detrimental effects on nearby property.
- E. Granting of variances.
- (1) The Board of Appeals shall act in strict accordance with the procedure specified by state law and by this chapter. All applications made shall be in writing on forms prescribed by the Board. Every application shall refer to the specific provision of the law involved, the details of the variance being applied for and the grounds on which it is claimed that the variance should be granted.
- (2) Each application shall include a site plan of the proposed use or construction to enable the Board of Appeals to evaluate development constraints inherent in the property and the proposed use's or construction's compatibility with the existing uses in its vicinity and with the purpose of this chapter. Upon the granting of any variance, the submitted site plan, with any modifications required by the Board, shall become a part of the record on which future compliance with the terms of the variance shall be based.
- (3) Written notice setting forth the general nature of the variance application and the date of the public hearing shall be forwarded by first-class mail by the Town Clerk to owners of real property within the Town of Eaton at those addresses as appear on the Town tax roll in use at the time of mailing for owners of property located adjacent to and/or within 500 feet of the property parcel(s) which is the subject of the proposed variance.
- F. Standards for granting variances. No variance for modification of the strict application of any provision of this chapter shall be granted by the Board unless it finds the following:
- (1) Use variances.
- (a) For use variances, no use variance shall be granted by the Board of Appeals without a showing by the applicant that applicable regulations and restrictions contained in this and supplemental land use regulations have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under

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those regulations for the particular district where the property is located, that:

- [1] The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
  - [2] The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
  - [3] The requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - [4] The alleged hardship has not been self-created.
- (b) The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- (2) Area variances.
- (a) For area variances, in making its determination, on each application for an area variance, the Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider whether:
    - [1] An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
    - [2] The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
    - [3] The requested area variance is substantial;
    - [4] The proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district; and
    - [5] The alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
  - (b) The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- (3) Imposition of conditions. The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this chapter, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

### **§ 120-31. Planning Board.**

The Town Board hereby affirms the existence of the Town of Eaton Planning Board consisting of five members and having all the authority conferred pursuant to Article 16 of the Town Law. Specifically, the Planning Board shall have the following powers and duties:

- A. To issue or deny special permits required by this chapter.

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- B. To undertake planning activities allowed by Town Law or as requested by the Town Board.
- C. Subdivision review and approval.

### § 120-32. Special permits.

#### A. Generally.

- (1) A special permit gives some means of control of proposed new uses of land and buildings which are compatible with land uses permitted by right by this chapter as long as the conditions applicable to special permit uses are satisfied. Specifically, it gives the Planning Board the opportunity to determine whether such proposed new development (in the particular location, at the particular scale and of the particular site design contemplated) will create special problems which can be corrected or effectively minimized by specially devised conditions or which call for denial of permission.
- (2) When a special permit is granted, the Planning Board may prescribe conditions to be observed in order to ensure adherence to the standards specified in Subsection D and § 120-33B.
- (3) No special permit shall be granted with respect to any property or any use on or for which a violation currently exists. (Nonconforming uses as outlined in § 120-23 are not considered violations of this chapter.)
- (4) Unless extended by the Planning Board, if a use or construction authorized by a special permit has not been started within one year, the special permit will expire.

B. Application procedure. A request for a special permit may be made to the Town Clerk or to the Code Enforcement Officer. In reply, the Town Clerk will furnish an application form and instructions, along with a statement of the standards to be followed and the procedure, including a public hearing, required by law. When the application form is filled in and returned to the Town Clerk, along with the prescribed fee, it will be given to the Planning Board to be acted on at the next applicable meeting.

#### C. Granting of special permits.

- (1) An application to the Planning Board for a special permit shall be accompanied by one set of preliminary site plans and other descriptive matter to show clearly the intentions of the applicant. These documents shall become a part of the record to determine if the proposed special use meets the requirements of this chapter.
- (2) All special permits require formal site plan approval as set forth in § 120-33A, B and C.
- (3) Written notice setting forth the general nature of the special permit application and the date of the public hearing shall be forwarded, by first-class mail, by the Town Clerk to those addresses as appear on tax rolls in use at the time of mailing for owners of real property within the Town of Eaton at those addresses as appear on the Town tax roll in use at the time of mailing for owners of property located adjacent to and/or within 500 feet of the parcel(s) which is the subject of the proposed special permit.

D. Standards for granting special permits. The Planning Board shall review the special permit application to assure that it accords with the following:

- (1) Location, size and use of structure, nature and intensity of operations involved, size of site in relation to it, and the location of the site with respect to roads giving access to it are such that it will be in harmony with orderly development of the district.
- (2) Location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings or impair their value.
- (3) The special use shall not conflict with any master plan or part thereof.



- § 120-32 (4) Operations of any special use shall not be more objectionable to nearby properties than would be the operations of any permitted use. § 120-33
- (5) A special permit shall not be issued for a use on a property where there is an existing violation of this chapter.
  - (6) Off-street parking, loading facilities and vehicle ingress and egress to the special use shall be such as not to interfere with existing vehicular and pedestrian traffic patterns as they adjoin the property.
  - (7) The special use shall have no significant adverse effect on off-site stormwater runoff, erosion of soil, or sedimentation of watercourses and water bodies.
  - (8) The special use shall have no adverse effect on the quality of the Town's sources of groundwater or of the water of its lakes, ponds, wetlands or streams.
  - (9) Special permits may have an expiration date determined by the Planning Board. Renewal shall be contingent on findings of the Code Enforcement Officer that any conditions originally imposed by the Planning Board have been, and continue to be, complied with.
  - (10) The use shall not have an adverse effect on the agricultural industry of the area.
  - (11) The use shall be in strict compliance with the supplemental requirements of Article VI pertaining to flood damage prevention (see Chapter 95, Flood Damage Prevention) or any subsequent flood hazard control law adopted by the Town.
  - (12) The Planning Board may impose additional standards on the special use to provide adequate safeguards to protect the health, safety or general welfare of the public, to preserve the general character of the neighborhood in which such proposed special use is to be placed and to minimize possible detrimental effects of use on adjacent property.

### § 120-33. Site plan reviews.

The Planning Board, at a regularly scheduled or specially called public meeting of the Board, shall review and approve, disapprove or approve with modifications, all site plans for a special permit, and all site plans otherwise required to be reviewed.

- A. Submission of site plan and supporting data. A site plan and supporting data for a special permit approval shall be submitted to the Planning Board. The owner shall submit a site plan and supporting data as required and shall include all or a portion of the following information presented in drawn form and accompanied by a written text. The amount of information required will depend on the scope of the proposal and shall be determined by the Planning Board. Simple, small-scale and noncontroversial projects generally will require only minimal information. Large-scale, complex proposed projects may require the completion of special studies to provide the necessary information.
- (1) A survey of the property, showing existing features of the property, including contours, large trees, buildings, structures, streets, utility easements, rights-of-way, land use, land use district and ownership of surrounding property.
  - (2) A site plan showing proposed lots, blocks, building locations and land use areas.
  - (3) Traffic circulation, parking and loading spaces and pedestrian walks.
  - (4) Landscaping plans, including site grading, landscape design and open areas.
  - (5) Preliminary architectural drawings for buildings to be constructed, including floor plans, exterior elevations and sections.

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- (6) Preliminary engineering plans, including road improvements, storm drainage system, public utility extensions, water supply and sanitary sewer facilities. § 120-34
- (7) Engineering feasibility studies of any anticipated problems which might arise due to the proposed development, as required by the Planning Board.
- (8) Construction sequence and time schedule for completion of each phase for buildings, parking spaces and landscaped areas.
- (9) A description of the proposed uses, including hours of operation, number of employees, expected volume of business and type and volume of traffic expected to be generated.
- (10) As required under New York State Environmental Quality Review Act (SEQR), a full or short environmental assessment form (EAF) shall be submitted if the proposed action is a Type I or an unlisted action, respectively.
- B. Site plan approval.
- (1) The Planning Board shall review the site plan and supporting data before approval, rejection or approval with modifications and/or stated conditions to assure that any site plan approval accords with the following:
- (a) Harmonious relationship between proposed uses and existing adjacent uses.
- (b) Maximum safety of vehicular circulation between the site and road network.
- (c) Adequacy of interior circulation, parking and loading facilities, with particular attention to vehicular and pedestrian safety.
- (d) Adequacy of landscaping and setbacks in regard to achieving maximum compatibility and protection to adjacent residential districts.
- (2) Should changes or additional facilities be required by the Planning Board, final approval of the site plan shall be conditional upon the satisfactory compliance by the owner with the changes or additions.
- (3) Any owner wishing to make changes in an approved site plan shall submit a revised site plan to the Planning Board for review and approval.
- C. Performance bond as a condition of site plan approval. The Planning Board may require, as a condition of site plan approval, that the owner file a performance bond or other legal security in such amount as they determine to be in the public interest to ensure that the proposed development will be built in compliance with the accepted plans.

**§ 120-34. Changes and amendments.**

- A. Regulations, districts and boundaries established by this chapter may be amended or repealed after official notice has been given and a public hearing has been held by the Town Board as required by the Town Law and Madison County Planning Department review received in certain cases as mandated in Article 12-B, § 239-m, of the General Municipal Law.
- B. Each petition requesting a change of land use regulations or district boundaries shall be typewritten, signed by the owner and filed in triplicate with the Town Board or the Code Enforcement Officer and accompanied by the required fee.
- C. If a public hearing is scheduled at least 35 days before the date of the public hearing, the Town Board shall transmit to the Planning Board a copy of the proposed amendment or change, with supporting documents and notice of hearing. The Planning Board shall submit its recommendations within 35 days. The lack of a

§ 120-34 response within this period will be interpreted as a recommendation of approval from the Planning Board. § 120-36

- D. The Planning Board may require a site plan of the proposed development for which a change of land use district is sought to assist them in their understanding of the case.
- E. The Town Board shall hold a public hearing within 60 days of the submission date of any adequately completed petition as required by this section.

**§ 120-35. Referral to County Planning Agency.**

- A. Under §§ 239-l, 239-m and 239-n of Article 12B of the New York State General Municipal Law, all requests for variances and special permits shall be referred to the Madison County Planning Department for its recommendation if the property in question is within 500 feet of:
  - (1) The boundary of any city, village or town;
  - (2) The boundary of any existing or proposed county or state park or other recreation area;
  - (3) The right-of-way of any existing or proposed county or state road or highway;
  - (4) The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines;
  - (5) The existing or proposed boundary of any county- or state-owned land which a public building or institution is situated; or
  - (6) The boundary of a farm operation located in a state-certified agricultural district, as defined by Article 25AA of the Agriculture and Markets Law, except that this subsection shall not apply to the granting of area variances.
- B. Failure to refer those requests to the Madison County Planning Department before local action is complete may invalidate any local decision.

**§ 120-36. Penalties for offenses.**

- A. Any person may file a complaint about a violation of this chapter. Such complaints must be in writing, signed and filed with the Code Enforcement Officer, the Town Clerk or the Town Board. The Code Enforcement Officer shall investigate promptly and take the appropriate action to satisfy that complaint.
- B. Any violation of this chapter as determined by the Code Enforcement Officer must be reported to the offender by the Code Enforcement Officer or the Town Board, with the date by which the violation must be corrected.
- C. A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. Each weeks' continued violation shall constitute a separate additional violation.
- D. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained or any building, structure of land is used or any land is divided into lots, blocks or sites in violation of this article or of any ordinance or other regulation made under authority conferred thereby, the proper local authorities of the Town, in addition to other remedies, 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 such building, structure or land

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or to prevent any illegal act, conduct, business or use in or about such premises.

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**§ 120-37. Stop-work orders.**

- A. Whenever the Code Enforcement Officer has reasonable grounds to believe that work on any building or structure is proceeding without permit or is otherwise in violation of the provision of this chapter or is not in conformity with any of the provisions of the application, plans or specifications on the basis of which a permit was issued or is being conducted in an unsafe and dangerous matter, he shall notify either the owner of the property or the owner's agent or the person, firm or corporation performing the work to immediately suspend all work. In such instance, any and all persons shall immediately suspend all related activities until the stop-work order has been duly rescinded.
- B. Such stop-work order shall be in writing on a form prescribed by the Code Enforcement Officer and shall state the reasons for the stop-work order, together with the date of issuance. The stop-work order shall bear the signature of the Code Enforcement Officer or that of a duly authorized designee and shall be prominently posted at the work site.

**§ 120-38. Appearance tickets.**

Upon resolution of the Town Board of the Town of Eaton specifically so designating, the Code Enforcement Officer shall have authority, pursuant to Article 150 of the New York Criminal Procedure Law, to issue appearance tickets as defined therein for the purpose of enforcing the local law.

**§ 120-39. State Supreme Court Review.**

Pursuant to the Town Law of the State of New York §§ 267 and 274-a, any person or persons jointly or severally aggrieved by any decision of the Board of Appeals, the Planning Board or any officer of the Town may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding must be instituted by the aggrieved party within 30 days after the filing of that decision in the office of the Town Clerk.

**§ 120-40. Enforcement.**

The provisions of this chapter shall be strictly enforced by the Code Enforcement Officer.

**Chapter 130**  
**MOBILE HOMES**



**[HISTORY: Adopted by the Town Board of the Town of Eaton 5-13-1991 by L.L. No. 2-1991. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Flood damage prevention — See Ch. 95.**

**Subdivision of land — See Ch. 165.**

**Land use — See Ch. 120.**





ARTICLE I  
**Title; Purpose; Terminology**

**§ 130-1. Title.**

This chapter shall be known as the "Mobile Dwelling Park Law for the Township of Eaton."

**§ 130-2. Purpose.**

It is the purpose of this chapter to promote the health, safety, convenience, economy, amenity and general welfare of the inhabitants of the Township of Eaton by the more efficient regulation of mobile dwellings and mobile dwelling parks. These regulations include provisions for sewage disposal, water supply, garbage removal, traffic control and safety, inspection of facilities and other actions deemed necessary for said purpose.

**§ 130-3. Definitions.**

Except where specifically defined herein, all words used in this chapter shall have their customary meanings.

**ACCESSORY STRUCTURES/BUILDINGS** — Any structure or building, attached or detached, which is subordinate to and whose use is incidental to the use of the principal building on the same lot or an adjoining lot under the same ownership.

**CODE ENFORCEMENT OFFICER** — The town's Code Enforcement Officer or other person designated and appointed as Code Enforcement Officer by the Town Board to enforce the provisions of this chapter.

**HEALTH DEPARTMENT** — The New York State Health Department and/or the County Health Department. In the event that there is a conflict of regulations of Health Departments, the more stringent of regulations shall be enforced.

**MOBILE DWELLING** — A structure, which is transportable in one or more sections, built on a permanent chassis and designed to be used as a single-family dwelling, with or without a permanent foundation, when connected to the required utilities, and including the plumbing, heating, air-conditioning and electrical systems contained therein. A prefabricated dwelling not built on a permanent chassis or sectional dwelling not built on a permanent chassis and all travel trailers, truck campers and motor dwellings shall not be considered a mobile dwelling. Mobile dwellings used for nondwelling purposes are included in this definition, and must meet all provisions of this chapter, except Articles III, V and VI.

**MOBILE DWELLING LOT** — A designated site within a mobile dwelling park for the exclusive use of the occupants of a single mobile dwelling.

**MOBILE DWELLING PARK** — A parcel of land under single ownership or management which has been planned and improved for the placement of at least two mobile dwellings, except that farmers who maintain no more than two mobile dwellings for hired help or family members whose employment is principally related to the farm are not classified as a mobile dwelling park.

**MOBILE DWELLING PARK OPERATOR** — Any person or persons, firm, corporation, association or other organization that owns, occupies or operates a mobile dwelling park.

**MOBILE DWELLING STAND** — A part of mobile dwelling lot that has been reserved for the placement of the mobile dwelling.

**PLANNING BOARD** — The Town of Eaton Planning Board.

**STREET LINE** — The line of a right-of-way used for vehicular traffic, whether public or private.



ARTICLE II  
**Permits Required**

**§ 130-4. General.**

No one may commence operating a mobile dwelling park after the effective date of this chapter without applying for and obtaining a special permit, as hereinafter provided. No one may enlarge, alter, extend or reconstruct a mobile dwelling park legally existing prior to the effective date of this chapter, or a mobile dwelling park whose operation commenced after the effective date of this chapter without applying for and obtaining a special permit, as hereinafter provided. No one may operate a mobile dwelling park of any kind without applying for and obtaining an operating permit, as hereinafter provided. No permit shall be required of the owner of a mobile dwelling who maintains such mobile dwelling in a mobile dwelling park.

**§ 130-5. Special permits.**

Before any improvements are made to real property for the purpose of operating a mobile dwelling park, or for the purpose of enlarging, altering, extending or reconstructing a mobile dwelling park, the operator must apply for and obtain a special permit. Special permits shall be granted by the Planning Board, upon its determination that the proposed mobile dwelling park, or proposed enlargement, alteration, extension or reconstruction of a mobile dwelling park, fully complies with the standards of this chapter for such parks, and with the standards in § 120-32D of Chapter 120, Land Use. The procedures set forth in § 120-322 of Chapter 120, Land Use, shall be followed in an application for a special permit herein. The Planning Board may impose conditions on any special permit herein, if it determines that doing so is necessary to adequately protect the health, safety and welfare of the public, and it may deny an application for a special permit if it determines that it is not possible to adequately protect the health, safety and welfare of the public.

**§ 130-6. Applications for special permits.**

The following information must be provided in an application for any special permit herein:

- A. A legal description of property on which the proposed mobile dwelling park or the proposed enlargement, alteration, extension or reconstruction of a mobile dwelling park will be located.
- B. A sketch map must be enclosed with said application and must contain at least:
  - (1) A general sketch of proposed mobile dwelling park or any proposed enlargement, alteration, extension or reconstruction of a mobile dwelling park, including the number of lots, lot size, mobile dwelling stands, recreation areas, accessory buildings, service buildings, internal streets and rights-of-ways and landscaping plans;
  - (2) Abutting property owners and present use of this property;
  - (3) Present and/or proposed access roads;
  - (4) Present and/or proposed sewer, water and other utility lines; and
  - (5) A topographical map showing any unusual special land features such as streams, creeks, areas subject to flooding, and areas of steep slopes in excess of 15°.
- C. Such additional information may be required by the Planning Board, including the information specified by §§ 120-33A and B of Chapter 120, Land Use.

**§ 130-7. Special permit fees.**

The application fee for a special permit herein shall be the same as the fee prescribed for special permits pursuant to Chapter 120, Land Use.

**§ 130-8. Planning Board action.**

- A. Upon deposit of the required fee with the Town Clerk, that official shall forward the completed application and required supporting information to the Planning Board.
- B. The Planning Board will hold a public hearing on the application according to the special permit procedures in § 120-23B of Chapter 120, Land Use. The applicant, or representatives of the same, may be requested to attend Planning Board meetings for further clarification of the plot plan.
- C. The Planning Board may approve, approve on conditions, or deny an application. The Planning Board shall file with the Town Clerk the final plans for all approved special permits. Upon approval of an application by the Planning Board, the Town Clerk shall issue a special permit to the applicant.

**§ 130-9. Operating permit. [Amended 4-21-1997 by L.L. No. 2-1997]**

- A. No one may operate a mobile dwelling park without applying for and obtaining an operating permit. An operator of a mobile dwelling park which commences operation after the effective date of this chapter or of a mobile dwelling park for which a special permit for enlargement, alteration, extension or reconstruction has been sought shall apply for an operating permit after receiving a special permit as required herein, and before commencing operations. The Planning Board shall grant the initial operating permit to such an applicant, upon its determination that:
  - (1) All improvements required by the applicant's special permit final plans have been made;
  - (2) Any conditions on the applicant's special permit have been fulfilled;
  - (3) All other standards under this chapter have been met; and
  - (4) That the operating permit fee has been paid.
- B. An operator of a legally preexisting mobile dwelling park shall apply to the Town Clerk for an operating permit within 90 days of the effective date of this chapter. The Town Clerk shall issue an initial operating permit upon payment of the operating permit fee.
- C. All operating permits shall be for a twenty-four-month period. Prior to the expiration of the initial operating permit, the mobile dwelling park operator shall apply for a renewal of his/her operating permit. The Code Enforcement Officer shall issue renewal operating permits, upon his/her determination that:
  - (1) All improvements required by any special permit final plans for the mobile dwelling park have been maintained;
  - (2) Any conditions on any special permit continue to be fulfilled;
  - (3) All other standards under this chapter have been met;
  - (4) The standards of Article VIII for the improvement of a legally preexisting mobile dwelling park have been met; and
  - (5) The operating permit fee has been paid.

**§ 130-10. Operating permit fees.<sup>17</sup>**

The fee for an initial and for a renewal of an operating permit shall be as set by resolution of the Town Board from time to time.

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<sup>17</sup> Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 130-11

§ 130-14

**§ 130-11. Town inspection and enforcement. [Amended 4-21-1997 by L.L. No. 2-1997]**

- A. Each mobile dwelling park shall be inspected once every two years at the time of application for an operating permit renewal. The Code Enforcement Officer of the Township of Eaton shall enforce all of the provisions of this chapter and shall inspect such mobile dwelling park at reasonable time to verify the mobile dwelling park's continued compliance with this chapter. Mobile dwelling parks that are subject to the application of the State Code for Mobile Dwelling Parks (10 NYCRR Part 17) shall only be inspected by the Code Enforcement Officer as to the following:
- (1) That all improvements required by any special permit final plans for the mobile dwelling park have been maintained;
  - (2) That any conditions on any special permit continue to be fulfilled; and
  - (3) That the standards of Article VIII for the improvement of a legally preexisting mobile dwelling park have been met.
- B. The Code Enforcement Officer shall deem that all other standards under this chapter have been met by such mobile dwelling parks subject to said State Code upon presentation of satisfactory evidence that such mobile dwelling parks have a valid operating permit pursuant to said State Code.
- C. The Code Enforcement Officer shall submit a written review of his findings to the Town Planning Board and to the permit holder. The Code Enforcement Officer may obtain the assistance of the Health Department for such inspection.

**§ 130-12. Transfer of permit. [Amended 4-21-1997 by L.L. No. 2-1997]**

All permits are transferable upon written notification to and approval by the Planning Board.

**§ 130-13. Inspection of mobile dwelling park.**

A representative of the Town of Eaton's Code Enforcement Officer may inspect a mobile dwelling park at reasonable intervals and at reasonable times to determine compliance with this chapter.

**§ 130-14. Management and duties of permit holder. [Amended 4-21-1997 by L.L. No. 2-1997]**

The mobile dwelling park operator shall operate the park in compliance with this chapter and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean, sanitary condition. It shall be the obligation of every mobile dwelling park operator to ensure that the park and every mobile dwelling lot and stand and every other improvement within the park is at all times in compliance with the requirements of this chapter and any other applicable statute or regulation. Upon any breach of this obligation, the mobile dwelling park operator shall be subject to the enforcement provisions of this chapter.



ARTICLE III  
General Standards

**§ 130-15. Site, area, setback, parking and utility standards.**

All mobile dwelling parks which commence operations after the effective date of this chapter, and all enlargements, alterations, extensions and reconstructions of mobile dwelling parks, shall comply with the following standards:

- A. Location. The site shall not be exposed to excessive or objectionable smoke, dust, noise, odors or other adverse influences. No portion of the site shall be subject to predictable sudden flooding or erosion, nor shall it be used for any purpose which would expose persons or property to hazards.
- B. Drainage. All land used as a mobile dwelling park shall be well drained and not adjacent to breeding places for insects or rodents, such as swamps, landfills, etc.
- C. Mobile dwelling park size. A mobile dwelling park shall comprise an area of not less than 10 acres and have suitable accommodations for at least two mobile dwellings.
- D. Minimum mobile dwelling lot size. Ten thousand square feet for each dwelling shall be required with no more than four mobile dwellings allowed per acre, and the minimum lot frontage shall be 70 feet, and the minimum lot depth shall be 100 feet.
- E. Lot setbacks within the park. Each dwelling lot shall front on an internal road within the park; the front yard of each lot shall be measured from the edge of the mobile dwelling stand to the access road. Corner lots shall be considered to have two front along the internal road and two side yards. Every lot shall meet the following minimum requirements:
  - (1) Front yard: 30 feet.
  - (2) Side yard: 20 feet.
  - (3) Rear yard: 20 feet.
- F. Separation. No mobile dwelling shall be located closer than 40 feet from any permanent building in the mobile dwelling park, exclusive of the accessory building for each mobile dwelling park lot.
- G. Parking areas. At least two paved or graveled off-street parking spaces must be provided for each mobile dwelling park lot. Each parking space must have a minimum of 200 square feet.
- H. Utility installation. All utility lines, including water, sewer, electricity and telephone shall be installed in accordance with state and local regulations.

**§ 130-16. Screening at property line standards.**

- A. Along the property line of mobile dwelling parks, walls or vegetative screening shall be provided where needed to protect residents from undesirable views, lighting, noise or other off-site influences or to protect occupants and owners of adjacent properties from potentially adverse influences within the mobile dwelling park. In particular, extensive off-street parking areas and service roads for loading and unloading other than passenger vehicles and for storage and collection of trash and garbage shall be screened.
- B. The appropriate landscaping, fences, walls and/or vegetative screening shall be determined by the Town Planning Board.

**§ 130-17. Circulation plan.**

A mobile dwelling park shall have an internal street system adequate for access to each mobile dwelling lot with the following provisions:

§ 130-17

§ 130-19

- A. All mobile dwelling parks shall have access from two points along a public street, road or highway, or if bordering on two streets, roads or highways, or combination thereof, one point of access may be provided from each street. If the property of the proposed mobile dwelling park does not permit two accesses, then the Planning Board may grant it a special permit if it determines that in the circumstances public health, safety and welfare will not be endangered.
- B. Access points shall be separated by at least 150 feet.
- C. The entrance roads and the internal streets must be at least 20 feet wide with at least five-foot shoulders.
- D. All streets shall be surfaced with asphalt, concrete or gravel, and shall be kept in good repair.
- E. If culs-de-sac are contained in the plan, a turning diameter of at least 60 feet of roadway shall be provided.
- F. No on-street parking is allowed.

**§ 130-18. Health and safety standards.**

- A. Fire protection. There shall be clear numbering of mobile dwellings within the mobile dwelling park with a layout map provided to the County Fire Coordinator and Emergency Preparedness Director, to the local fire chief and to ambulance and police agencies. Water supplies should be adequate for fire protection as determined by the County Fire Coordinator.
- B. Garbage and refuse. Each mobile dwelling park operator shall provide sufficient rubbish, recycling, garbage or refuse storage and collection.
- C. Skirting. Each mobile dwelling shall have skirting to screen the space between the mobile dwelling and the ground. Skirting shall be of permanent fire-resistant material such as metal or other solid material as approved by the Code Enforcement Officer and shall be finished to conform to the mobile dwelling.
- D. Lighting. Adequate streetlighting shall be provided at all entrances and exits to the mobile dwelling park and on all internal streets, intersections, walkways and common areas.

**§ 130-19. Building standards and required accessory buildings.**

- A. All mobile dwellings installed in the Township of Eaton shall be constructed and installed in compliance with the applicable provisions of the New York State Uniform Fire Prevention and Building Code.
- B. No accessory structures to a mobile dwelling shall be constructed which increases the living floor space of that mobile dwelling without obtaining a building permit.
- C. One enclosed accessory building of at least 80 square feet shall be provided per mobile dwelling. It may not be larger than 200 square feet in size.



ARTICLE IV  
**Sanitary Facilities Standards**

**§ 130-20. Water; general requirements.**

An adequate supply of water shall be provided for mobile dwellings, service buildings and other accessory buildings as required by this chapter. Mobile dwelling parks that are not subject to the application of the State Code for Mobile Dwelling Parks (10 NYCRR Part 17) shall annually provide the Code Enforcement Officer with a written report, from a satisfactory testing laboratory, of a test of said park's water supply. Where a municipal water supply is available, connection to said supply shall be used exclusively, unless local authorities deem otherwise. If a nonmunicipal water supply system is to be developed, then the development of said system shall be subject to the approval of a health authority or other authorities having jurisdiction thereof. Any water supply system shall be a single system.

**§ 130-21. Sewers.**

- A. An adequate and approved system shall be provided in all parks for conveying and disposing of sewage from mobile dwellings, service buildings and other accessory facilities. Such systems must be designed, constructed and maintained in accordance with Department of Health standards and regulations.
- B. Sewage treatment and/or discharge. Where the sewer lines of the mobile dwelling park are not connected to public sewer, all proposed sewage disposal facilities shall be approved by the Department of Health prior to construction.

**§ 130-22. Garbage and refuse.**

Each mobile dwelling park shall make provision for sanitary equipment to prevent littering of the grounds and premises with rubbish, garbage and refuse. Each mobile dwelling shall have containers with tightly fitting covers. Regular disposal shall be provided for all rubbish trash, recyclables and garbage.



ARTICLE V  
**Electrical Systems and Standards**

**§ 130-23. General requirements.**

Every mobile dwelling park shall contain an electrical wiring system consisting of wiring fixtures, equipment and appurtenances which shall be installed and maintained in accordance with local electrical power company's specifications and regulations. All wiring fixtures and connections must have the New York Board of Fire Underwriters' approval, or other authority as designated by the municipality.

**§ 130-24. Specific regulations.**

- A. Each mobile dwelling lot shall be supplied with not less than a one-hundred-amp service. If the mobile dwelling is to be heated electrically, then a two-hundred-amp service is recommended for each unit.
- B. Electrical distribution lines shall be placed below ground in accordance with local electrical company requirements.
- C. All grounding wire must be retained.



ARTICLE VI  
**Fuel Supply and Storage Standards**

**§ 130-25. General requirements; fuel oil supply systems.**

All fuel supply systems provided for mobile dwellings, service buildings and other structures shall be installed and maintained in conformity with the rules and regulations of the authority having jurisdiction. All fuel oil tanks must be above ground.

**§ 130-26. Specific requirements.**

- A. All fuel oil tanks shall be placed no closer than five feet from any exit.
- B. It is recommended all fuel oil tanks be screened.
- C. Supports or standards for fuel storage tanks are to be of noncombustible material.

**§ 130-27. Natural gas supplies.**

- A. Natural gas piping systems installed in mobile dwelling parks shall be maintained in conformity with accepted engineering practices.
- B. Each mobile dwelling lot provided with piped natural gas shall have an approved shutoff valve cap to prevent accidental discharge of gas.
- C. Proper planning and early communication with utility companies is recommended to provide necessary easements by utility companies, i.e., gas, electricity and telephone.

**§ 130-28. Liquefied gas.**

- A. Such system shall be provided with safety devices to relieve excessive pressures and shall be arranged so that the discharge terminates at a safe location.
- B. Systems shall have at least one accessible means of shutting off gas. This means shall be located outside of individual mobile dwellings.
- C. Storage tanks shall not be less than 100 pounds and must be located behind the mobile dwelling and no closer than five feet from any exit.



ARTICLE VII  
**Recreational Areas and Open Spaces Standards**

**§ 130-29. Recreational areas and open spaces.**

- A. Every mobile dwelling park shall have a minimum of 5,000 square feet and no less than 200 square feet per mobile dwelling of recreational area for the public use of persons living in the mobile dwelling park furnished by the mobile dwelling park. This area must be one contiguous piece of property, excluding setbacks, roads, road right-of-way and parking area.
- B. The Planning Board, on a condition of approval, may establish such conditions on the ownership, use and maintenance of open spaces as it deems necessary to assure the preservation of such open spaces for their intended purposes.
- C. It is recommended that this recreation area be centrally located, but other areas may be better utilized for this purpose, depending on topography and location of mobile dwelling parks.
- D. It is recommended that additional paved or graveled parking areas be provided to accommodate additional vehicles owned by residents or visitors, i.e., two spaces for every five mobile dwellings.





ARTICLE VIII  
**Nonconforming Mobile Dwelling Parks Standards**

**§ 130-30. Legally preexisting mobile dwelling parks.**

- A. Any mobile dwelling park legally existing prior to the effective date of this chapter and not conforming to the requirements of this chapter shall be regarded as nonconforming.
- B. Any such nonconforming mobile dwelling park in existence on the effective date of this chapter may be continued, provided that such park has a valid operating permit as required by this chapter, and provided that it is not enlarged, altered, extended, reconstructed or replaced.
- C. Any enlargement, alteration, extension, reconstruction or replacement of the mobile dwelling park shall require a new special permit and shall follow the standards established in this chapter.
- D. All nonconforming mobile dwelling park's operating permits shall require yearly renewals as outlined in §§ 130-9 and 130-10 of this chapter.
- E. All nonconforming mobile dwelling parks and mobile dwellings within those parks shall meet the following regulations within the time period noted:
  - (1) Section 130-14: by first operating permit renewal.
  - (2) Section 130-16: by first operating permit renewal.
  - (3) Section 130-17: by second operating permit renewal.
  - (4) Section 130-18: by second operating permit renewal.
  - (5) Article IV: by first operating permit renewal.
  - (6) Article V: by first operating permit renewal.
  - (7) Article VI: by first operating permit renewal.



ARTICLE IX  
**Enforcement**

**§ 130-31. Penalties for offenses.**

- A. Any person may file a complaint about a violation of this chapter. Such complaints must be in writing, signed and filed with the Code Enforcement Officer, the Town Clerk or the Town Board. The Code Enforcement Officer shall investigate promptly and take the appropriate action to satisfy that complaint.
- B. Any violation of this chapter as determined by the Code Enforcement Officer must be reported to the offender by the Code Enforcement Officer or the Town Board, with the date by which the violation must be corrected.
- C. A violation of this chapter is hereby declared to be an offense, punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. Each weeks' continued violation shall constitute a separate additional violation. **[Added 10-14-1991 by L.L. No. 6-1991]**
- D. In case any mobile dwelling park or building or structure therein 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 this article or of any ordinance or other regulation made under authority conferred thereby, the proper local authorities of the town, in addition to other remedies, 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 such building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.

**§ 130-32. Stop-work orders.**

- A. Whenever the Code Enforcement Officer has reasonable grounds to believe that work on any building or structure is proceeding without permit or is otherwise in violation of the provision of this law or is not in conformity with any of the provisions of the application, plans or specifications on the basis of which a permit was issued, or is being conducted in an unsafe and dangerous matter, he shall notify either the owner of the property or the owner's agent or the person, firm or corporation performing the work to immediately suspend all work. In such instance, any and all persons shall immediately suspend all related activities until the stop-work order has been duly rescinded.
- B. Such stop-work order shall be in writing on a form prescribed by the Code Enforcement Officer and shall state the reasons for the stop-work order, together with the date of issuance. The stop-work order shall bear the signature of the Code Enforcement Officer or that of a duly authorized designee and shall be prominently posted at the work site.

**§ 130-33. Appearance tickets.**

Upon resolution of the Town Board of the Town of Eaton specifically so designating, the Code Enforcement Officer shall have authority, pursuant to Article 150 of the New York Criminal Procedure Law, to issue appearance tickets as defined therein for the purpose of enforcing this chapter.



**Chapter 140**

**NOISE**



**[HISTORY: Adopted by the Town Board of the Town of Eaton 3-11-2002 by L.L. No. 1-2002. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Dogs — See Ch. 55, Art. I.**

**Junkyards — See Ch. 110.**





**§ 140-1. Intent; findings.**

It is hereby declared to be the policy of the Town Board to prevent unreasonably disturbing and unnecessary noise. It is the intention of the Town Board to reduce the level of nuisance noise within the Town of Eaton so as to preserve, protect and promote the public health, safety and welfare and to foster convenience, peace and quiet of the Town by the inhabitants and transients within the Town of Eaton. The Town Board finds that every person is entitled to have maintained noise levels which are not detrimental to life, health and enjoyment of property, in that excessive and unnecessary noise within the Town of Eaton adversely affects property values and is a menace to the public health, safety and welfare and the comfort of the people of the Town of Eaton.



§ 140-1

§ 140-2

**§ 140-2. Unreasonable noise prohibited.**

In the Town of Eaton no person, including any person owning, occupying or having charge of any building or premises, or any part thereof, shall cause, suffer or allow any unreasonable noise, including any unreasonable noise in the operation or use of any radio, phonograph or other mechanical or electrical or reproducing device, instrument or machine, whether located inside or outside a building. No person shall operate any motor vehicle, snowmobile or all-terrain vehicle in such manner, or in such mechanical state, as to produce any unreasonable noise.



**§ 140-3. Definition of unreasonable noise.**

The term "unreasonable noise" shall include but not necessarily be limited to the following:

- A. Automobile engine or exhaust noise that exceeds the normal operating noise of the vehicle, as well as noise from the spinning or squealing of tires;
- B. Noise from a barking dog or other animal for such an extended period of time as to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of normal sensitivities;
- C. The creation of any loud, disturbing or unnecessary noise that annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensitivities, including, but not limited to, the playing of any radio, phonograph, sound-amplifying equipment, musical or other instrument or device in such manner and of such volume as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, residence, business or other building.



§ 140-3

§ 140-4

**§ 140-4. Signaling devices; exceptions.**

- A. No person shall sound any horn, siren or other noise-making signal except to signal danger, nor shall he or she repeat such sounding for any longer than necessary for the purpose of giving warning.
- B. The provisions of Subsection A of this section do not apply to police cars, fire engines, ambulances or emergency vehicles.





§ 140-4

§ 140-5

**§ 140-5. Mufflers required.**

No person shall operate a motor vehicle, lawn mower, leaf blower, chainsaw or other landscaping equipment or any internal combustion engine without a muffler properly functioning and maintained in accordance with the original design and manufacturing specifications of the motor vehicle or equipment such as to reduce noise to a reasonable minimum.



§ 140-5

§ 140-6

**§ 140-6. Exception for agricultural activities.**

The provisions and restrictions of this chapter shall not apply to the conduct of sound agricultural practices as defined and construed under § 308 of the Agriculture and Markets Law.



§ 140-6

§ 140-7

**§ 140-7. Exception for community events.**

The provisions and restrictions of this chapter shall not apply to any parade, picnic, field days or other similar type of event conducted and/or sponsored by any governmental body or any volunteer fire company or other civic or charitable organization.



§ 140-7

§ 140-8

**§ 140-8. Permit for special events.**

Any person or organization not eligible for the exemption provided by § 140-7 of this chapter may obtain a special event permit for a special event or activity lasting not more than 48 consecutive hours, which permit will exempt the specified event or activity from the provisions and restrictions of this chapter during the period of time specified in the permit. Such permit may be obtained by submitting an application specifying the nature, location and duration of the event, along with the names and mailing addresses of all adjoining property owners and an application fee of \$10 to the Town Clerk. Upon issuance of the permit, the Town Clerk shall mail a copy of the permit to all adjoining property owners. No more than two such special event permits may be issued for the same premises within a single calendar year.





§ 140-8

§ 140-9

**§ 140-9. Penalties for offenses.**

Any persons violating any provision of this chapter shall be subject to a fine not to exceed \$250 or imprisonment not to exceed 15 days, or both such fine and imprisonment.



§ 140-9

§ 140-10

**§ 140-10. Severability.**

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



**Chapter 142**

**PEACE AND GOOD ORDER**



§ 140-10

§ 140-10

**[HISTORY: Adopted by the Town Board of the Town of Eaton 8-12-2013 by L.L. No. 1-2013. Amendments noted where applicable.]**





ARTICLE I  
**Legislative Intent and Applicability**

**§ 142-1. Legislative intent; applicability.**

- A. It is hereby declared to be the policy of the Town of Eaton to provide for the safety and comfort of its residents and to therefore prohibit activities and acts of individuals that present a threat to the public health, safety and welfare.
- B. The provisions of this chapter shall apply to all lands within the Town of Eaton outside the corporate limits of the Village of Morrisville.



ARTICLE II  
**Disorderly Conduct**

**§ 142-2. Disorderly conduct prohibited.**

No person shall commit the offense of disorderly conduct within the Town of Eaton. A person is guilty of disorderly conduct when he or she:

- A. Engages in fighting or in violent, tumultuous or threatening behavior; or
- B. In a public place, uses abusive or obscene language or makes an obscene gesture; or
- C. Without lawful authority, disturbs any lawful assembly or meeting of persons; or
- D. Without lawful authority, obstructs vehicular or pedestrian traffic; or
- E. Congregates with other persons in a public place and refuses to comply with a lawful order of the police to disburse; or
- F. Creates a hazardous or physically offensive condition by any act which serves no legitimate purpose.



ARTICLE III  
**Alcoholic Beverages**

**§ 142-3. Regulation and prohibition.**

- A. No person shall carry an open container of any alcoholic beverage (as defined in the New York Alcoholic Beverage Control Law) or drink any alcoholic beverage (as defined in the New York Alcoholic Beverage Control Law) while such person is on any public highway, public street, public sidewalk, public parking area, public park or similar public place, or on private property without invitation or permission of the owner of such property not licensed to serve or disperse said alcoholic beverages by the State Liquor Authority pursuant to the Alcoholic Beverage Control Law of the State of New York.
- B. Except as hereinafter provided, no person under the age of 21 years shall possess any alcoholic beverage (as defined in the New York Alcoholic Beverage Control Law) with the intent to consume such beverage within the Town of Eaton. The provisions of this Subsection B shall not apply to a person who is a student in a curriculum licensed or registered by the New York State Education Department, which student is required to taste or imbibe alcoholic beverages in courses which are part of the required curriculum, provided that such alcoholic beverages are used only for instructional purposes during class conducted pursuant to such curriculum.



ARTICLE IV  
**Penalties for Violations**

**§ 142-4. Penalties for offenses.**

Any person convicted of a violation of any provision of this chapter shall be guilty of an offense punishable by a fine not to exceed \$100 or a sentence to a maximum term of imprisonment not to exceed a period of five days, or both such fine or imprisonment.





**Chapter 143**

**PEDDLING AND SOLICITING**



**[HISTORY: Adopted by the Town Board of the Town of Eaton 12-29-2011 by L.L. No. 1-2012.**

**Amendments noted where applicable.]**

**§ 143-1. Definitions.**

As used in this chapter, the following terms shall have the meanings respectively ascribed to them in this section:

**ESTABLISHED PLACE OF BUSINESS** — A building affixed to a parcel of land within the Town of Eaton in which, or from where, a person lawfully transacts business involving the sale or purchase of goods, services and/or interests in real property at or from that location.

**INTEREST IN REAL PROPERTY** — An estate, interest or title in land and all rights and benefits arising from such estate, interest or title, including but not limited to any type of fee title, easements, licenses, mineral rights, timber rights, water rights, surface rights and any other correlative rights associated with any estate, interest or title in land.

**MERCHANDISE** — Goods, wares and personal property of any type, including, but not limited to, foods, beverages, books, periodicals, household appliances and home improvement items.

**PEDDLER** — Any person who does not have an established place of business who, from a vehicle or by traveling by foot, vehicle or any other means from house to house or from place to place upon any street, or upon any public or private property without the prior invitation of the owner or occupant(s) of the house or premises, offers to sell, purchase or barter any merchandise, whether or not any such actual merchandise is displayed.

**PERSON** — Any individual, business, company, entity, firm, partnership, corporation, association or organization, and any principal, employee, and/or agent thereof.

**SERVICES** — Any activity offering, intended to result in, or resulting in an agreement by one or more persons to perform, render, furnish, or supply work, labor, duties, and/or actions or benefits of any kind on behalf of one or more other persons, whether or not the purchase or sale of merchandise may also be a part of such agreement.

**SOLICITOR** — Any person who does not have an established place of business who travels by any means from house to house or from place to place upon private property without the prior invitation of the owner or occupant(s) of the house or premises, for the purpose, and/or with the intent, to sell or purchase services and/or interests in real property, or offering to take orders or promises for services to be performed in the future, or for interests in real property to be conveyed or exercised in the future.

**TOWN** — The Town of Eaton.

**VEHICLE** — A vehicle as defined by the New York State Vehicle and Traffic Law.



**§ 143-2. Applicability; exemptions.**

A. Nothing in this chapter shall apply:

- (1) To any sales conducted by any duly authorized officer or employee of any federal, state or local governmental entity, or to any activities conducted pursuant to statute or by order of any court with jurisdiction over the Town.
- (2) To any person selling merchandise at wholesale solely to dealers in such goods.
- (3) To businesses having an established place of business as defined in this chapter, or to farmers and truck gardeners who, themselves or through their family members and/or employees, sell products of their own farms and gardens located within the Town.
- (4) To any honorably discharged member of the Armed Forces of the United States who has procured a license as provided by § 32 of the General Business Law of the State of New York.
- (5) To any farmers market or any other public or collective market authorized by the Town Board under such rules and regulations as it may provide for the operation and control of said market.
- (6) Under any circumstances so as to unlawfully interfere with interstate commerce.
- (7) To any activities sponsored by, and held for the benefit of, any bona fide nonprofit museum, fraternal, charitable, educational, or religious organization, including any not-for-profit corporation, local improvement committee or other bona fide civic organization, nor shall the provisions of this chapter apply to any vendors, including peddlers and solicitors as defined herein, assembled or brought together for a scheduled event sponsored or conducted by any such organization, such as a block party, trade or product show, where such scheduled event has been authorized by the Town Board.

B. The burden of proving entitlement to exemption from the requirements of this chapter shall be upon the person claiming such exemption.



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**§ 143-3. License required.**

Except as otherwise provided herein, it shall be unlawful for any person, within the corporate limits of the Town, to act as a peddler or solicitor without first having in force and effect a peddlers and solicitors license issued by the Town Clerk as herein provided. Such license shall be effective for the period of time requested by the applicant, but in no event shall the effective period of any such license exceed one year from the date of issuance of the license. In addition to compliance with the requirements of this chapter, all licensees and persons associated with such licensees shall be in compliance with all other federal, state and local laws at all times while engaged in peddling or soliciting in the Town.





**§ 143-4. Application.**

Any person desiring to procure a license required by the provisions of this chapter shall file with the Town Clerk a written application upon a form prepared and furnished by the Town Clerk, and shall pay the prescribed application fees. Such application form shall provide not less than the following information:

- A. The location(s) from which the applicant desires to operate and the number and description of all vehicle(s) to be used by the applicant, including Department of Motor Vehicles registration information;
- B. A complete description of the good(s), service(s) and/or interest(s) in real property to be offered for sale, purchase or barter;
- C. The method of delivery or distribution of the goods, services and/or interests in real property to be sold;
- D. The name, address, age and photographs, and a listing of all prior criminal convictions, of the applicant and of all employees, agents and representatives that will engage in peddling and/or soliciting pursuant to the license requested;
- E. The period of time for which the applicant desires the license;
- F. Whether the applicant and/or any person associated with the applicant has had any prior license issued to him or her under this chapter or by any other governmental jurisdiction revoked or suspended and, if so, a description of the license, the identity of the issuing governmental jurisdiction, and the period(s) during which such license(s) were in effect, and the circumstances of each revocation and suspension;
- G. A copy of the applicant's Health Department permit(s) and New York State sales tax certificate, if applicable to the applicant's activities; and
- H. Such other relevant information as may be required by the Town Clerk or as determined from time to time by resolution of the Town Board.



**§ 143-5. Issuance and fees.**

- A. All license applications shall be accompanied by an application fee as determined from time to time by resolution of the Town Board. Upon the filing of a complete application and payment of the applicable fees, the Town Clerk shall, upon the approval of such application, issue to the applicant a license.
- B. Upon the approval of a license to peddle or solicit, an identification card shall be provided by the Town Clerk to each authorized individual signifying his or her status as a licensed peddler or solicitor. It shall be unlawful for a peddler or solicitor not to visibly and conspicuously display such identification card on his or her person at all times while engaged in peddling and/or soliciting.



**§ 143-6. Denial and revocation of licenses; penalties for violations.**

- A. Any application for a license hereunder shall be denied, and any license issued under the provisions of this chapter may be revoked, by the Town upon determination by the Town Clerk that any one or more of the following conditions exists:
- (1) The applicant, or any person to be engaged in peddling or soliciting in association with the applicant, has been convicted of a felony within 10 years from the date of the application;
  - (2) The applicant has made any false or fraudulent statement in his or her application or any other document submitted to the Town in connection with the application or the applicant's peddling or soliciting activities;
  - (3) The applicant's Health Department permit or New York State sales tax certificate of authority has been suspended or revoked by the issuing authority;
  - (4) The Town's Code Enforcement Officer has determined that the applicant or any person engaged in peddling or soliciting pursuant to such license, is in violation of any provision of this chapter or any other relevant federal, state or local law, and not less than three business days have passed since prior notice of such violation(s) has been provided by the Code Enforcement Officer by regular United States mail addressed to the licensee at the licensee's address stated in the application;
  - (5) The applicant has failed to pay all required fees, or any instrument for payment of such fees is rejected by the issuing financial institution.
- B. In addition to constituting grounds for revocation of a license, any violation of any provision of this chapter shall be an offense punishable by a maximum fine of \$250 or by imprisonment for not more than 15 days, or both such fine and imprisonment. Each day of violation shall be deemed a separate offense and may be charged as such.



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**§ 143-7. Appeals.**

Any person aggrieved by the denial or revocation of a license shall have the right to appeal such denial or revocation to the Town Board. Such appeal shall be taken by filing a notice of appeal, setting forth fully the grounds for the appeal, with the Town Clerk within 10 days after the date notice of the action complained of was mailed to such person's address stated in the relevant application. The Town Board shall conduct a hearing on such appeal at the Board's next regularly scheduled meeting (as previously noticed to the public, which notice shall be available from the Town Clerk) following the Town Clerk's receipt of the notice of appeal. Notice of such hearing shall be given to the applicant by regular United States mail, but failure to receive such notice shall not require cancellation or postponement of the hearing, nor shall it affect the determination of the Town Board made at any such hearing. The decision of the Town Board on such appeal shall be final and conclusive.





**Chapter 145**

**PROPERTY MAINTENANCE**



§ 143-7

**[HISTORY: Adopted by the Town Board of the Town of Eaton 11-5-2009 by L.L. No. 2-2009. Amendments noted where applicable.]**

§ 143-7

**GENERAL REFERENCES**

**Unsafe buildings — See Ch. 72.**

**Fire prevention and building construction — See Ch. 90.**



ARTICLE I  
**Declaration of Policy; Definitions**

**§ 145-1. Legislative intent.**

- A. It is hereby declared to be the policy of the Town to provide for the proper use and maintenance of buildings and land to prevent unsafe, unhealthy, hazardous, or unsightly conditions due to the accumulation of rubbish, garbage, brush, grass, and weeds in order to protect the public health, safety and general welfare of the residents of this Town. Such materials may be considered flammable and sometimes explosive. Such materials may also contain acid or various poisons harmful and potentially harmful to humans and the environment. Such materials may also contain or consist of sharp metal or glass edges or points upon which a human could receive serious cuts and abrasions, and may also attract rats and other pests and vermin. Where such conditions exist, it shall constitute a hazard to property and persons and be a public nuisance.
- B. By the adoption of this chapter, the Town Board of the Town of Eaton declares its intent to be to address, in a manner consistent with the interests of the citizens of the Town of Eaton, the manner in which properties within the Town are maintained, including the unhealthy, hazardous, and/or unsightly conditions that result from the accumulation of garbage and rubbish, and the unchecked growth of brush, grass, and weeds near residential dwellings, in order to protect the public health, safety and general welfare of the residents of this Town. The Town Board is concerned about the appearance of property in the township and the maintenance required will be viewed towards promoting the health, welfare and sanitation of the township.
- C. The Town Board hereby declares that the owners and occupants of properties within the Town shall maintain the same in a neat and orderly fashion. The premises shall be clean and free of garbage, rubbish, filth, vermin, rodents and any thing or matter which can be considered dangerous to life or health. The Town seeks to remove such threats to health, life and property by requiring owners of land to take remedial action in the event such conditions are found to exist.
- D. It is the Town Board's intent that a tenant or other occupant of a property shall be liable in addition to the owner if a violation is caused by his act, assistance or neglect, or that of any member of his family or household or his guests.

**§ 145-2. Definitions.**

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

APPLIANCE — Any stove, washing machine, dryer, freezer, refrigerator or other household device or equipment.

BRUSH — Uncultivated woody shrubs and/or immature trees.

FULLY ENCLOSED STRUCTURE OR CONTAINER — A structure or container that provides complete protection from the weather and elements to items located inside that structure or container, including complete sides or walls, and a full roof or cover.

GARBAGE — Includes all waste food, papers, dead animals or parts thereof, ashes, offal, vegetables, dross, cinders, shells, straw, shavings and all waste materials which shall be flammable or capable of fermentation or decay.

GRASS — Herbaceous ornamental plants intended to be periodically cut close to the ground for the establishment of a lawn or ground covering. May also be used as ground covering for the establishment of drainage swales, flood routes or water detention basins.

OWNER — The person or persons listed as owner of real property on the most recent Town of Eaton final assessment roll, or such person or persons who have given actual written notice to the Town of Eaton of his, her, its or their ownership of real property notwithstanding the information contained on such assessment roll.

PERSON — Includes an individual, society, club, firm, partnership, corporation or association of persons, the

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singular form shall also include the plural.

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RUBBISH — Includes all of the following materials when left out of doors outside of a fully enclosed structure or container:

- A. Garbage, junk, debris, or any combustible or deleterious materials.
- B. Any unused objects or equipment, such as, but not limited to, automobile parts, furniture, stoves, refrigerators, freezers, appliances, cans, containers or vehicle tires.
- C. Waste metal, tin cans, ashes, cinders, glass, pottery, fabric, paper, cartons, boxes, crates, pallets (other than pallets intended to be used for business or heating purposes upon the premises, furniture (other than lawn furniture or other furniture specifically constructed for outdoor use), rugs, clothing, rags, mattresses, blankets, tires, discarded and/or dismantled building materials, remains of destroyed or dismantled, or partially destroyed and dismantled buildings or other structures, vehicle and equipment parts.
- D. Any unsanitary matter or materials.

TENANT — One who temporarily holds or occupies land, a building or other property owned by another.

WEEDS — Wild and uncultivated plants growing at the whim of nature in locations not specifically intended.

ARTICLE II  
**Property Maintenance**

**§ 145-3. Regulation and prohibition.**

- A. This chapter shall apply to all lands within the Town of Eaton.
- B. No owner, tenant or person occupying premises shall permit the placement, accumulation or keeping of garbage or rubbish on any premises except in an enclosed structure or container which protects such material from the natural elements and completely precludes sight of such material from any public or private right-of-way or from any other public or private property.
- C. No owner, tenant or person occupying premises shall permit or maintain within 50 feet of any residential dwelling, whether occupied or unoccupied, any growth of brush, grass, or weeds, higher than 10 inches on the average.
- D. Notwithstanding anything stated or interpreted to the contrary in this chapter, no provision of this chapter shall be deemed to prohibit the carrying on of normal and proper agricultural procedures and/or the storing and maintaining of agricultural equipment, supplies and products.

**§ 145-4. Notice of failure to comply.**

- A. If any of the provisions of this chapter are not complied with, the Code Enforcement Officer is hereby authorized to serve written notice and an order to remedy such violation personally upon the owner, tenant or other person occupying the property, or, as an alternative to personal service, may send such notice by certified mail, return receipt requested, and by regular mail addressed to the last known address of such person, and post such notice in a conspicuous place on the property.
- B. Service of such notice by such means shall suffice for the purposes of this chapter. Service of such notice shall not, however, be a required prerequisite to the prosecution of any violation of this chapter in any court of competent jurisdiction as provided in § 145-5 of this article.

**§ 145-5. Prosecution for violations.**

- A. The Code Enforcement Officer, or such other title as may be given by the Town Board, is empowered to enforce the provisions of this chapter. The Code Enforcement Officer is authorized to issue and serve appearance tickets and such other process as may be required and/or authorized by these regulations or the Criminal Procedure Law in the course of such enforcement proceedings. Any enforcement action or proceeding may be commenced upon the personal knowledge of the Code Enforcement Officer and/or upon the sworn statement of another individual(s).
- B. Each violation of this chapter shall be punishable by a fine not to exceed \$250, imprisonment up to 15 days, or both. Each day's violation shall be considered a new and separate offense subject to a separate penalty.

**§ 145-6. Work done by Town; costs to become lien.**

If the owner of real property has been prosecuted and found guilty (whether by plea or conviction by the court) of one or more violations pursuant to § 145-5 of this article, and such owner fails, neglects or refuses to remedy such violation(s) within 30 days after the date of such conviction, the Town may cause such violation(s) to be remedied, and all such expenses incurred in such work shall be certified by the Town officer or employee overseeing the work to the Town Clerk and shall thereupon become and be a lien upon the property on which such work was performed and shall be added to and become part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rates as taxes and shall be collected and enforced by the same officer and in the same manner as Town taxes. This remedy is available to the Town in addition to such penalties and enforcement proceedings as are otherwise authorized under § 145-5 of this article, and shall not be deemed to be in lieu of such

§ 145-6  
other penalties and enforcement proceedings.

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**Chapter 147**  
**PURCHASING**



§ 145-6

§ 145-6

**[HISTORY: Adopted by the Town Board of the Town of Eaton 4-12-2016 by L.L. No. 1-2016. Amendments noted where applicable.]**

**GENERAL REFERENCES**

**Investment Policy — See Ch. 15.**

**Procurement Policy — See Ch. 30.**



**§ 147-1. Declaration of intent.**

General Municipal Law § 103 generally requires competitive bidding for purchase contracts and public works contracts and has historically required that such bids be awarded to the lowest responsible bidder whose bid meets the requirements of the specifications for the project, but also provides that by enacting a local law so providing, municipalities may award purchase contracts which would otherwise be subject to the "lowest bidder" rule on the basis of "best value," as defined in State Finance Law § 163, to a responsive and responsible bidder or offeror. The Town Board of the Town of Eaton hereby determines that it is in the best interest of the Town of Eaton and its residents for those Town of Eaton officials and employees making purchase decisions (hereafter referred to as "Purchasing Agent") to have the authority to award purchase contracts on the basis of best value. Factors that may be used to enact the best value option to optimize quality, cost and efficiency and thereby award a contract for the procurement of good(s) or service(s) to other than the lowest bidder are:

- A. Lowest cost of maintenance for good(s) or service(s);
- B. Durability of good(s) or service(s);
- C. Higher quality of good(s) or service(s);
- D. Longer product life of good(s) or service(s);
- E. The cost of delivery and/or transportation of the good(s) to their needed location;
- F. Availability of the good(s) or service(s) and the length of time between order and delivery.



**§ 147-2. Authority to award; procedures.**

On and after the effective date of this chapter, the Purchasing Agent may award purchase contracts, including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to Labor Law Article 8, on the basis of best value, as defined in State Finance Law § 163, to a responsive and responsible bidder or offeror.

- A. Where the basis for award is the best value offer, the Purchasing Agent shall document, in the procurement record and in advance of the initial receipt of offers, the determination of the evaluation criteria, which, whenever possible, shall be quantifiable, and the process to be used in the determination of best value and the manner in which the evaluation process and selection shall be conducted.
- B. Where appropriate, the solicitation shall identify the relative importance and/or weight of cost and the overall technical criterion to be considered by the Purchasing Agent in their determination of best value.
- C. The election to award any such contract on the basis of best value shall be made by the Purchasing Agent in consultation with the relevant department head, and also the Town Board in such instances where Town Board approval of the purchase contract is otherwise required. In the event that no such election is made, purchase contracts will continue to be awarded to the lowest responsible bidder furnishing any required security in accordance with otherwise applicable law and policy.





**Chapter 150**

**SEWERS**



§ 147-2

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**[HISTORY: Adopted by the Town Board of the Town of Eaton 10-9-1995 by L.L. No. 3-1995. Amendments noted where applicable.]**



ARTICLE I  
**General Provisions**

**§ 150-1. Adoption.**

The Town Board of the Town of Eaton has adopted at a regular meeting on October 9, 1995, the following chapter for the purpose of protecting the public health, safety, well-being and general welfare.

**§ 150-2. Definitions.**

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

DESIGN PROFESSIONAL — A licensed engineer or architect or land surveyor with a New York State Education Department exemption.

NYCRR — New York Code of Rules and Regulations.

SANITARY INSPECTOR — The Town of Eaton official responsible for enforcing this chapter, which shall be the Town of Eaton Code Enforcement Officer unless otherwise designated by resolution of the Town Board. **[Amended 10-9-2018 by L.L. No. 3-2018; 4-9-2019 by L.L. No. 2-2019]**

**§ 150-3. Sewage disposal systems.****A. Individual household system.**

- (1) Before any private or public sewage disposal facility is installed or altered, it must receive approval by the Sanitary Inspector appointed by the town. Any residential sewage disposal installation altered or constructed after the effective date of this chapter shall be designed and built according to the requirements of this chapter and the requirements, as they may be from time to time amended, of the New York State Department of Health (NYSDOH) standards for sewage disposal for individual household systems. Those design requirements are found in Appendix 75-A of Part 75 of Title 10 of the New York Code of Rules and Regulations (10 NYCRR).
- (2) Existing sewage disposal systems installations in the town must function properly. Upon failure of the system, it shall be rebuilt to conform to the minimum requirements of this chapter. Upon failure of a single component (house sewer, septic tanks, connecting piping, dosing systems or distribution boxes) of an existing sewage disposal system, such component may be replaced, and this chapter shall not be deemed to require the construction of an entirely new sewage disposal system as long as, in the opinion of the Sanitary Inspector, the replacement of such single component of an existing sewage disposal system will allow the existing system to function properly. Replacement of a component of an existing sewage disposal system shall, where site conditions permit, be in accordance with the provisions of this chapter and the standards contained in Appendix 75-A for such component. Where site conditions and/or restraints render replacement of an existing component in accordance with the standards set forth herein unfeasible, the Town Sanitary Inspector and the Madison County Department of Health shall be consulted for recommendations on minimizing potential adverse effects from sewage flows from the system to be upgraded.

- B. Intermediate-sized sewerage facilities.** Intermediate-sized sewerage facilities include treatment works for institutional and commercial establishments, as well as cluster housing or other multi-home developments. Before any private or public intermediate sized sewage disposal facility is installed or altered, it must receive approval by the Sanitary Inspector appointed by the town. Any such sewage disposal installation altered or constructed after the effective date of this chapter shall be designed and built according to the requirements of this chapter and the requirements, as they may be from time to time amended, of the New York State Department of Conservation (NYSDEC) Standards for sewage disposal for intermediate-sized sewerage facilities. Those design requirements are found in New York State Department of Environmental

§ 150-3 Conservation manual "Design Standards for Wastewater Treatment Works: Intermediate Sized Sewerage Facilities." § 150-4

**§ 150-4. Drinking water supply systems.**

- A. New installations of private drinking water supply systems shall be reviewed and approved by the Town Sanitary Inspector. New installations for private systems shall conform to the New York State Department of Health Standards for rural water supply.
- B. New installations of a public system, as defined by Subpart 5-1 of the New York State Sanitary Code, must meet NYSDOH regulations.

ARTICLE II  
**Administration**

**§ 150-5. Sanitary permit.**

It shall be unlawful for any person to install a water supply system or to construct, alter, replace a component of an existing sewage disposal system, or extend a sewage disposal system unless he has a valid sanitary permit issued by the town. Maintenance and routine repairs (for example, pumping out a septic system, replacing a baffle, replacing a cover, repairing a cracked pipe, or replacing a water pump) on either system do not require a permit. Where replacement of any component of an existing sewage disposal system in accordance with the standards of this chapter and Appendix 75-A is unfeasible because of site conditions and/or restraints, application shall also be made to the Madison County Department of Health for a specific waiver approving any requested deviation from such standards.

**§ 150-6. Application for a sanitary permit.**

An application for a sanitary permit shall be filed in the office of the Town Clerk. The applicant shall furnish all information required to complete the application. The application shall include the proposed design. No construction shall begin prior to approval of the proposed design and issuance of a sanitary permit by the Sanitary Inspector.

**§ 150-7. Fees.**

The Town Board of the Town of Eaton, by resolution, shall set and from time to time amend the fees that shall be charged for permits, inspections and tests.

**§ 150-8. Site and soil appraisal.**

A site and soil appraisal consisting of a minimum of two percolation tests and one deep hole test shall be performed at the site of each sewage disposal area. Additional tests may be required where the soil structure varies, where large disposal areas are proposed or where either natural or man-made conditions so require. The site and soil appraisal shall be conducted by a design professional in a manner outlined in Appendix 75-A of Part 75 of Title 10 of the New York Code of Rules and Regulations (10 NYCRR). A written report of said test, bearing the licensed stamp of the design professional issuing the report, shall be provided to the Sanitary Inspector.

**§ 150-9. Septic system design.**

All new sewage disposal facilities and all alterations and extensions of existing sewage disposal facilities shall be designed by a design professional in a manner approved by the New York State Sanitary Code, after a site and soil appraisal required by § 150-8 is performed.

**§ 150-10. Inspection.**

Completed installation of the approved sanitary system shall be inspected and approved by the design professional prior to covering or backfilling of the installation.

**§ 150-11. Certification.**

A letter of certification certifying the installation is in conformance with the approved design and bearing the licensed stamp of the design professional shall be provided to the Town Sanitary Inspector.

**§ 150-12. Review and approval by New York State Department of Health.**

In addition to the approval of the town, a review and approval by the New York State Department of Health or

§ 150-12 the New York State Department of Environmental Conservation, if appropriate, shall be required for the following conditions: § 150-13

- A. Any realty subdivision as defined by Article 11, Title II of the New York State Public Health Law or Article 17, Title 15 of New York State Environmental Conservation Law.
- B. Any alternative system as defined by 75-A.
- C. Any facility required to be permitted by the New York State Department of Health.
- D. Any commercial sewage disposal system or system with effluent in excess of 1,000 gallons per day.

**§ 150-13. Inspection of existing facilities. [Amended 10-9-2018 by L.L. No. 3-2018; 4-9-2019 by L.L. No. 2-2019]**

- A. The Sanitary Inspector, or his/her designee, shall have the authority to inspect existing sewage disposal facilities in accordance with Subsection C below to determine that they function properly.
- B. Property owners shall have the opportunity to use a design professional of their choice to perform the inspection using the Town of Eaton and New York State guidelines. Inspections shall be performed according to the provisions of this chapter.
- C. Occasions which require a mandatory inspection are as follows:
  - (1) Change in or expansion of use. The owner of the property shall arrange for such inspection before any change or expansion of use of the property which may increase the load on an existing on-site system. The owner of the property shall arrange for such inspection before the change or expansion of use is undertaken. Applications for a variance or special permit shall be reviewed by the Sanitary Inspector to determine whether the change represents an increased load prior to the applicant being granted approval by the Planning Board or the Zoning Board of Appeals as applicable.
  - (2) Complaint of system deficiency. The Sanitary Inspector shall conduct an inspection upon receipt of a formal complaint or upon indication from reasonable evidence that the system is deficient (e.g., observed failure to groundwater or surface water, or otherwise creates a public nuisance).
  - (3) Property transfer within the RD-2 Zoning District. Prior to any property sale or conveyance (transfer of title) of any developed property within the RD-2 (Residential District No. 2) zoning district, any existing on-site wastewater systems shall be inspected by an individual meeting the qualifications set forth in Appendix B appended to the end of this chapter, and a report of findings shall be provided to the Sanitary Inspector.
    - (a) The report shall consist of the OTN System Inspection Information Request and System inspection Findings Worksheet as set forth in Appendix A appended to the end of this chapter. For purposes of this provision, this report shall remain valid for three years from the date of inspection. Aerobic Tank ETV must be checked each year and a report sent to the Town of Eaton Codes Officer annually.
    - (b) In the event that weather conditions reasonably prevent an inspection and the submission of said report prior to sale or conveyance (transfer of title) of the property, the new owner must provide the report to the Sanitary Inspector within six months of transfer of title, and in that event, the new owner shall be responsible for any upgrades necessary to obtain an approved wastewater system.
    - (c) Within seven days of any such sale or conveyance (transfer of title), the buyer/transferee of any such property shall send written notice to the Sanitary Inspector advising of the closing date of such sale or conveyance.



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- (d) These requirements of this Subsection C shall not apply to:
- [1] A property transfer of vacant land; or
  - [2] A property transfer of a parcel(s) which has had a new on-site wastewater system installed within 36 months prior to the date of transfer.
- (e) If, based upon the inspection report, the existing wastewater system is determined to be failing or does not otherwise meet the requirements of this chapter, a written notice of violation shall be issued to the property owner, and an approved wastewater treatment system permit must be obtained within six months of any transfer of title, property sale/conveyance for consideration. Properly functioning systems not otherwise in compliance with the requirements of this chapter may be permitted upon approval of a variance by the Zoning Board of Appeals.
- (4) If a lending institution requires a property owner to obtain a wastewater treatment system inspection and pumping of septic tank for a refinancing of a mortgage loan affecting the property, such report(s) shall be filed with the Sanitary Inspector and must be on the report format referenced in Subsection C(3)(a) above.
- (5) Any noncompliance with the provisions of this § 150-13 shall constitute an offense which shall be deemed a violation. Each day of continuing violation shall constitute a separate and distinct offense and violation punishable by a fine not to exceed \$250 or 15 days imprisonment, or both such fine and imprisonment, for each day of violation.

#### **§ 150-14. Deficiencies and corrections.**

- A. Where an existing sewage disposal facility has been found to be deficient, the inspector shall notify the owner in writing of such deficiency. A copy of the notice shall be simultaneously filed with the Town Clerk and the Madison County Department of Health. Upon receipt of such notice, it shall be the duty of the owner to make application to the Town Clerk for a permit to reconstruct or alter such disposal system and to complete such reconstruction or alteration within 30 calendar days unless such period is extended in writing by the Town Sanitary Inspector.
- B. The fee for a reconstruction or alteration permit shall be the same as that for a new installation, and such work will be inspected and approved in the manner for new installations. Correction shall be approved in accordance with guidelines contained in New York State Public Health Law, Appendix 75-A.
- C. Emergency repairs, meaning repairs designed to prevent or abate an existing or imminent threat to public health, safety or welfare caused or to be caused by on-site wastewater treatment system, may be performed without first obtaining a permit. If the repair would have otherwise required the issuance of a permit under the provisions of this chapter, the Sanitary Inspector shall be notified as soon as practicable after the repair has been completed, and a permit shall then be obtained. In no event shall an emergency repair include enlarging an absorption area or replacing or disconnecting a septic tank. **[Added 10-9-2018 by L.L. No. 3-2018; amended 4-9-2019 by L.L. No. 2-2019]**

#### **§ 150-15. Maintenance and protection.**

All existing and new sanitary facilities shall be maintained in good working order at all times. There shall be no activities or conditions permitted which would interfere with the proper operation of sewage disposal facilities. It is specifically prohibited to construct or place buildings, install paving, plant trees or shrubs, regrade or place fill, allow crossing by vehicles, install aboveground pools or install driveways or parking areas over sanitary disposal fields. Owners or persons in control of sanitary disposal fields where such conditions exist shall be required to remove the same.

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**§ 150-16. Detriments to general welfare.**

Proposals for sewage disposal which have an adverse effect, or contribute to an adverse effect on the public health, safety and general welfare shall not receive favorable consideration even though meeting other requirements of this chapter.

**§ 150-17. Certificate of occupancy.**

No certificate of occupancy shall be issued and no persons shall occupy any building within the Town of Eaton unless the well and septic system have been approved in accordance with the provisions of this chapter.

**§ 150-18. Penalties for offenses.**

Any person who violates any provision of this chapter shall be punished by a fine not to exceed the sum of \$250 or by imprisonment of not more than seven days or both. Each week such violation continues after notification to the person in violation shall constitute separate violation. Such notification may be served by certified mail, return receipt requested or by personal service.

ARTICLE III  
**Inspections and Dye Testing Procedures**

**§ 150-19. General.**

The purpose of this section is to provide procedures for on-site investigation of septic and other systems that dispose of sewage. Testing and investigation methods may include observation, excavation, probing, electronic and dye testing. A visual inspection will be used to determine the need for more extensive testing. These on-site investigations are designed to accomplish the following goals:

- A. Complete inspections required by § 150-13 of this chapter.
- B. Conduct investigations of complaints.
- C. Discover obvious failures resulting in unsanitary conditions.
- D. Verify the type of system in place.
- E. Evaluate system design and construction.
- F. Determine requirements for system upgrades.

**§ 150-20. Owner responsibility.**

- A. Owners and residents of properties requiring inspection under specific sections of this chapter are required to have either the town do the inspection or to contract, at the owner's expense, for a qualified design professional to perform the inspection.
- B. If the property owner chooses to have the town do the inspection, the property owner and the resident are required to allow the Town Sanitary Inspector to enter their property and structures located thereon in order that a thorough, competent inspection can be conducted. Owners or residents may determine a time for visit(s) convenient to the Sanitary Inspector during his/her normal work day.
- C. Reasonable, safe and complete access shall be granted to the Sanitary Inspector to all rooms and spaces in homes and other structures so that the Inspector may verify the existence or nonexistence and condition of all sewage systems and any components thereof. The Inspector shall be accompanied by the owner or designated adult representative of the owner. Failure or unwillingness to provide the Town Sanitary Inspector reasonable access shall be grounds for immediate denial of permit approval, revocation of certificate of occupancy, and activation of penalties contained in § 150-18 of this chapter.

**§ 150-21. Visual inspection procedures.**

The Town Sanitary Inspector and/or the design professional will perform a visual inspection of all systems requiring inspection or testing under the provisions of this regulation:

- A. Visually observe all living areas and other spaces within homes and other buildings on the property noting the layout and location of all water-using fixtures and plumbing, including, but not limited to, faucets, sinks, toilets, drains, overflows, laundry equipment, floor drains and related systems.
- B. Visually inspect all basements, crawl spaces, mechanical spaces, and other enclosed areas to observe routing of plumbing and drains in an attempt to verify the existence and likely location of septic/sewage disposal structures external to or under structures.
- C. Verify connection of all drains to an appropriate disposal system.
- D. Physically inspect and observe outside areas to include nearby lawns, slopes, hillsides, ditches, watercourses, swales and the shoreline of ponds, lakes and wetlands to note the quantity and general quality of surface water

§ 150-21 where it occurs. Special effort should be given to identifying evidence of likely failures/malfunction of existing systems. § 150-23

**§ 150-22. Dye testing.**

- A. Where the visual inspection indicates that a system may be failing or discharging to the ground surface or a surface water, dye testing may be done. Dye testing involves introducing a brightly colored dye in tablet form into the disposal system in an effort to trace the system to surface failure or discharge. Dye testing should be performed on systems that have experienced normal usage for 60 days or after as much usage as possible.
- B. Under normal circumstances, poorly designed, poorly constructed, improperly maintained or malfunctioning systems that are experiencing surface failure will be exposed by the introduction of dye and a moderate amount of water. Systems with these conditions will be identified by the surfacing of the dye within a few hours or at most a few days. Failure of a dye test is considered evidence of a malfunctioning system requiring repair, upgrade or replacement.
- C. Even properly functioning systems can appear to be experiencing failure if they are subjected to the introduction of excessive water at excessive rates. Therefore, the following procedures will be used:
  - (1) Only tablet forms of dye will be used.
  - (2) Tablets will be wrapped in toilet paper or tissue, dropped in a toilet and immediately flushed down the drain. The toilet will be flushed three or four times to ensure that the tablets have moved into the drain system.
  - (3) Water will be introduced by repeated toilet flushing or introduction of tap water at a point upstream of the toilet drain at a rate of at least three gallons per minute. The total amount of water introduced will be at least 50 gallons per bedroom. As an alternative, a flow of at least three gallons per minute will be run for at least 15 minutes. The total flow will still be 50 gallons per bedroom, and the remaining amount (after the three gallons per minute for 15 minutes) will be introduced at a rate of at least 0.5 gallons per minute with the total period of the water flow not to exceed four hours. Any test over 60 minutes will require a higher fee.
  - (4) The inspector will make multiple physical inspections of the outside area of the property between three hours and one week after the introduction of the dye.
  - (5) In cases where multiple systems exist on the same site or systems are being tested on adjacent properties, different color dye tablets should be used in each system to help differentiate the source of failure.

**§ 150-23. Results of inspection.**

- A. The Town Sanitary Inspector will develop an appropriate form to document inspections. Location, address, name of owner, representative present, dates of testing/inspection, procedures used, starting and ending times, observations and sketches showing fixture, drain and system layout will be recorded to adequately document the inspection/test. Required corrective action and recommended system improvements will be noted on the inspection form.
- B. Owners (or their designated representative) will be informed of the results and probable requirements for corrective action when noted. In cases where there is suspected or observed failures, the owner/resident will be informed of the results and necessary corrective action and deadline for same by registered, return receipt mail. A copy of reports documenting failure will be filed with the Madison County Health Department within 24 hours. A report of satisfactory test/inspection results will be provided to the owner/representative by regular mail. A copy of all reports will be filed with the Town Clerk.

**Chapter 160**

**STREETS AND SIDEWALKS**



§ 150-23

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

§ 150-23





ARTICLE I  
Notification of Defects

**[Adopted 2-8-1993 by L.L. No. 1-1993; amended in its entirety 4-20-1998 by L.L. No. 1-1998]**

**§ 160-1. Prior notification required.**

No civil action shall be maintained against the Town of Eaton or the Town of Eaton 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 a failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

**§ 160-2. Responsibilities of owner or occupant.**

The owner or occupant of lands fronting on, abutting or transacted by any street, highway, traveled road, public lane, alley or square shall make, maintain and repair the sidewalk(s) adjoining, abutting or transacting his lands and shall keep such sidewalk(s) free and clear of and from snow, ice and all other obstructions. Such owner or occupant and each of them shall be liable for any injury or damage by reason of omission, failure or negligence to make, maintain or repair such sidewalk.

**§ 160-3. Transmittal of notice.**

The Town Superintendent of Highways shall transmit, in writing, to the Town Clerk within five days after the receipt thereof all written notices received pursuant to this section.

**§ 160-4. Indexed record.**

The Town Clerk of the Town of Eaton shall keep an indexed record, in a separate book, of all written notices which the Town Clerk receives of the existence of a defective, unsafe, dangerous or obstructed condition in or upon or of an accumulation of ice or snow upon any town highway, bridge, street, sidewalk, crosswalk or culvert, which record shall state the date of receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. All such written notices shall be indexed according to the location of the alleged defective, unsafe, dangerous or obstructed condition or the location of accumulated snow or ice. The record of each notice shall be preserved for a period of five years after the date it is received.

**§ 160-5. Supersession of state law.**

- A. It is the intent of this article, pursuant to Municipal Home Rule Law § 10, Subdivision 1(ii)d(3), to supersede so much of Town Law § 65a, Subdivision 1, that provides that "... or, in the absence of such notice, unless such defective, unsafe, dangerous or obstructed condition existed for so long a period that the same should have been discovered and remedied in the exercise of reasonable care and diligence; but. ..." It is the intent of this supersession by this article to make the requirement contained in said Town Law § 65-a, Subdivision 1, of written notice of any defective, out of repair, unsafe, dangerous or obstructed highway, bridge or culvert absolute and qualified.
- B. It is the further intent of this article, pursuant to Municipal Home Rule Law § 10, Subdivision 1(ii)d(3), to

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supersede so much of Town Law § 65-a, Subdivision 1, that requires the Town Superintendent of Highways  
to transmit to the Town Clerk all written notices received, within 10 days after the receipt thereof. § 160-5

**Chapter 165**

**SUBDIVISION OF LAND**



§ 160-5

**[HISTORY: Adopted by the Town Board of the Town of Eaton 6-14-1993. Amendments noted where applicable.]**

§ 160-5

**GENERAL REFERENCES**

**Flood damage prevention — See Ch. 95.**

**Land use — See Ch. 120.**



ARTICLE I  
**General Provisions**

**§ 165-1. Purpose.**

- A. The purpose of this chapter is to provide for orderly, efficient and economical growth within the community and to ensure the provision of adequate facilities for the transportation, housing, comfort, convenience, safety, health and welfare of its population.
- B. It is the duty of the Town of Eaton Planning Board to ensure that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace; that proper provision shall be made for drainage, water supply, sewage disposal and other needed improvements; that all proposed lots shall be so laid out and of such size as to be generally in harmony with the development pattern of neighboring properties; that the proposed streets shall compose a convenient system conforming to Chapter 120, Land Use, and any Master Plan, should it exist, and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and to provide access of fire-fighting equipment to buildings; and that proper provision shall be made for open spaces for parks, recreation and playgrounds.

**§ 165-2. Enactment and authorization.**

By authority of the resolution of the Town Board of the Town of Eaton pursuant to the provisions of Article 16, § 271 of the Town Law of the State of New York, the Eaton Town Planning Board is authorized and empowered:

- A. To approve, conditionally approve or disapprove plats showing lots, blocks or sites, with or without roads or highways.
- B. To conditionally approve preliminary plats.
- C. To approve the development of entirely or partially undeveloped plats already filed in the office of the County Clerk.

**§ 165-3. Title.**

This chapter shall be known as the "Subdivision Regulations of the Town of Eaton."

**§ 165-4. Effective dates.**

This chapter, after public hearing and adoption by the Planning Board and subsequent approval by the Eaton Town Board, will become effective July 1, 1993.

**§ 165-5. Administration.**

This chapter shall be administered by the Planning Board and the Code Enforcement Officer.

**§ 165-6. Amendment.**

The Planning Board, on its motion and after public hearing, may amend, supplement or change this chapter, subject to the approval of the Town Board.

**§ 165-7. Waiver.**

When, in the opinion of the Planning Board, undue individual hardship may result from strict compliance with this chapter, it may modify this chapter so that substantial justice may be done and the public interest secured, provided that such modification will not have the effect of nullifying the intent and purpose of this chapter.

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**§ 165-8. Fees.**

- A. Minor and major subdivisions. All applications for plat approval for minor and major subdivisions shall be accompanied by the appropriate fee (base application fee plus a per-lot fee) as determined by resolution of the Town Board.
- B. Other fees. If the Planning Board decides it is necessary to hire an outside consultant to assist in the review of the subdivision proposal, the Planning Board will charge an additional fee to the applicant in order to cover the actual costs of such a review. The applicant will be notified of this action, and fee must be paid prior to the Board's actually contracting with the consultant(s).



ARTICLE II  
Terminology

**§ 165-9. Definitions.**

For the purpose of this chapter, words and terms used herein are defined as follows:

**AGRICULTURE** — The use of land and water resources for the production of food and fiber. Forestry and aquaculture activities are included within this definition. Processing operations, such as lumber mills or food processing plants, and nonproduction animal-based activities, such as riding stables, are considered commercial uses, not agriculture.

**CLUSTER DEVELOPMENT** — A development approach in which building lots may be reduced in size and buildings sited closer together, usually in groups or clusters, provided that the total development density does not exceed that which could be constructed on the site under Chapter 120, Land Use.

**CODE ENFORCEMENT OFFICER** — Any person appointed, designated or otherwise retained by the Town Board to carry out the functions assigned to such person according to this chapter.

**FINAL PLAT** — A drawing, in final form, showing a proposed subdivision containing all information or detail required by law and by this chapter to be presented to the Planning Board for approval and which, if approved, shall be duly filed or recorded by the applicant in the office of the County Clerk and the Town Clerk.

**GENERAL PLAN** — A Comprehensive or Master Plan for the development of the town prepared by the Planning Board pursuant to § 272-a of the Town Law.

**LAND USE REGULATIONS** — The Town of Eaton Land Use Regulations (Chapter 120, Land Use).

**OFFICIAL SUBMISSION DATE** — The date on which an application for plat approval, complete and accompanied by all required information, endorsements and fees, has been filed with the Planning Board. An application shall not be considered complete until either a SEQR negative declaration has been filed, or a draft environmental impact statement has been accepted by the SEQR lead agency as satisfactory with respect to scope, content and adequacy.

**PARCEL** — Land under one tax map number (SBL) as recorded by the Madison County Assessment Department.

**PLANNING BOARD** — The Town of Eaton Planning Board.

**PRELIMINARY PLAT** — A drawing or drawings clearly marked "preliminary plat," showing the layout of a proposed subdivision, submitted to the Planning Board for approval prior to submission of the plat in final form, and of sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

**SKETCH PLAN** — A sketch of a proposed subdivision to enable the subdivider to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of this chapter.

**SUBDIVIDER** — Any person, firm, corporation, partnership, association, estate, trust or another group or combination acting in concert, undertaking the dividing of land so as to constitute a subdivision as defined herein for the purpose of sale or development, either by the subdivider or others.

**SUBDIVISION** — Division of any parcel of land into two or more lots, blocks or sites for the purpose of conveyance, transfer of ownership, improvement, building development or sale. "Subdivision" shall include any sale transfer or conveyance of any fee interest in a parcel or tract of land which comprises less than the entire contiguous premises owned by the grantor of that interest, regardless of whether a plat establishing separate lot boundaries within the premises of the grantor has been filed in the office of the Madison County Clerk prior to the effective date of this chapter.

**SUBDIVISION, MAJOR** — A subdivision containing five or more lots; any subdivision requiring a new road or roads or the reclassification of any road presently in seasonal use; any subdivision with one or more lots not fronting on an existing public road; or the simultaneous or cumulative division of any individual parcel or multi-parcel tract of land held under single, joint, common or corporate ownership and shown on a filed plat, as of the

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effective date of this chapter, into five or more lots, none of which has already received plat approval.

SUBDIVISION, MINOR — The simultaneous or cumulative division of any individual parcel or multi-parcel tract of land held under single, joint, common or corporate ownership and shown on a filed plat, as of the effective date of this chapter, into two to four lots fronting on an existing public road.

ARTICLE III  
**Review and Approval Procedure**

**§ 165-10. General.**

## A. Processing stages for minor subdivisions:

- (1) Sketch plan conference.
- (2) Public hearing.
- (3) Final plat approval.

## B. Processing stages for major subdivisions:

- (1) Sketch plan conference.
- (2) Public hearing.
- (3) Preliminary plat approval.
- (4) Optional public hearing.
- (5) Final plat approval.

**§ 165-11. Preapplication procedures.**

Prior to the preparation of and the submission of a plat for approval, the subdivider should proceed to gather the necessary information and data on the existing conditions at the site. The subdivider should study the site suitability and opportunities for development; presumably he will discuss financing, planning and marketing with the lending institutions. The subdivider should develop a preliminary layout in sketch form which should be submitted to the Planning Board for advice and assistance. The sketch plan submission should include a preliminary environmental assessment form (SEQR Short EAF, Appendix A). The sketch plan should include the information identified in Articles IV and V herein. It is recommended that this sketch plan be prepared in consultation with a licensed land surveyor.

**§ 165-12. Sketch plan conference.**

A. The subdivider should request an appointment with the Planning Board for the purpose of reviewing the sketch plan. The Planning Board Secretary will notify the subdivider of the time, date and the place that the Planning Board will meet to consider and review such sketch plan and the subdividers' intentions as they relate to the general plan for the Town of Eaton (should it exist), design standards and improvement requirements. This meeting is intended to assist the subdivider in the planning and preparation of the preliminary or final plat to save both time and money in preparing maps and plans.

B. The subdivider, or authorized agent, must attend this meeting. It is preferred that the same person attend all subsequent meetings. This step does not require formal application, fee or filing with the Planning Board.

- (1) Subdivision classification. The plan will be classified as an agricultural waiver, two-lot waiver, minor or major subdivision by the Planning Board as defined by this chapter. Subdivisions qualifying for a two-lot or agricultural waiver (see § 165-13) will require no further approvals as per this chapter. Subdivisions classified as minor or major may proceed according to the processing stages listed in § 165-10 herein.
- (2) Adverse natural features review. The Planning Board shall review the location of the proposed subdivision for the presence of any adverse natural considerations limiting development on the site as indicated by the maps of physical limitations to development contained in the Town of Eaton's Land

§ 165-12 Use and Natural Resources Inventory (prepared by the Madison County Planning Department, September 1988). If the site falls into areas on the soils map denoted as having "moderate" or "severe" limitation, within flood hazard areas, or areas of unique hydrologic or natural habitat areas (including wetlands), the Planning Board may require the subdivider to consult with the appropriate technical review or assistance agencies (such as, but not limited to the County Soil and Water Conservation District, the County Health Department, United States Army Corps of Engineers and the New York State Department of Environmental Conservation) to determine appropriate measures to mitigate or eliminate such problems or conflicts. The findings or recommendations of such agencies shall not be binding on the Planning Board or subdivider. § 165-15

C. The Planning Board may require that design techniques be used to avoid development in these critical resource areas, and shall not approve a sketch plan which has failed to adequately address these critical resources concerns (soils, flood hazards and hydrologic and natural habitat resources). Building or fill work in a floodplain must be reviewed and approved by the town's Code Enforcement Officer, who serves as the local administrator of Eaton's Flood Damage Prevention Law (see Chapter 95, Flood Damage Prevention).

**§ 165-12.1. Boundary line changes. [Added 10-10-2017 by L.L. No. 1-2018; 4-9-2019 by L.L. No. 1-2019]**

A. If, at the sketch plan conference, the Planning Board determines that the subdivision involves only the relocation of a boundary line between two existing lots, or the combining of two existing lots into a single, larger lot, then, upon the making of the hereafter stated findings, the Planning Board may waive the application of these regulations and allow the applicant to prepare and present a final plat showing the redefined boundary line to the Planning Board for approval:

- (1) That the lot or lots to be created are all in conformance with the zoning ordinance and subdivision requirements in regard to lot size and dimensions and road access;
- (2) That no environmental or other factors are present which could restrict development on the reconfigured lot(s), or otherwise create a risk to the public health, safety or welfare.

B. Upon the making of such findings, a public hearing shall not be required, and the Planning Board may waive any requirement to provide a survey of the entire affected lands as long as the survey presented adequately defines the new boundary line and the applicant has provided sufficient information (tax maps, etc.) to allow the Board to make the above-stated findings.

**§ 165-13. Agricultural subdivision waiver.**

If, at the sketch plan conference, the Planning Board determines that the subdivision is for agricultural purposes only, does not involve the creation of new building lots, does not involve the creation of a new road or highway and does not include more than one lot of less than five acres in area, the Planning Board may waive the subdivision review procedures and waive the subdivision from this chapter. This waiver will not impact regulatory control of future resubdivision of these properties. The Board's written waiver must state that the proposed subdivision would result in all new lots being in conformity with Chapter 120, Land Use.

**§ 165-14. Two-lot subdivision waiver.**

If, at the sketch plan conference, the Planning Board determines that the subdivision is a two-lot subdivision that does not create a new road, request a reclassification for a road currently in seasonal use or create a resubdivision of a lot previously subdivided since the effective date of this chapter, the Planning Board may waive the subdivision from these subdivision review regulations. Each newly created lot needs to have an acceptable perk test before a waiver can be given. The written waiver must state that the proposed subdivision would result in both new lots being in conformity with Chapter 120, Land Use, and that the Planning Board finds it meets the conditions stated above.

**§ 165-15. Madison County Department of Health.**

The Madison County Department of Health approval may be required for any subdivision containing five or more lots. Early contact by the subdivider with this Department is advised. If jurisdiction is declared, the signature and/or seal of an authorized representative of the County Health Department must be affixed to the final plat before the Town Planning Board's final approval and authorization to file the plat with the County Clerk.

**§ 165-16. Preliminary plat.**

All major subdivisions shall be subject to the preliminary plat requirements, as specified herein. The subdivider shall file an application for approval of the preliminary plat on forms available at the Town Office accompanied by all documents specified in Article IV herein. Three copies of the preliminary plat must be submitted to facilitate the review process.

- A. Review of subdivision. Following the review of the preliminary plat and supplementary material submitted for conformity to this chapter, and following discussions with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, the Planning Board shall hold a public hearing. This hearing shall be held within 62 days of the official submission date of the plat. The subdivider or the subdividers representative is expected to attend the hearing. This hearing may also fulfill the hearing requirements for the State Environmental Quality Review Act. Within 62 days from the public hearing, the Planning Board shall approve, approve with modifications or disapprove the preliminary plat and state its reasons for disapproval.
- B. Notice of public hearing. The hearing shall be advertised at least once in the town's designated official newspaper at least five days before the hearing. Notice of the hearing shall be mailed to the owners of all adjoining properties within 500 feet of the subdivided property at least five days before the hearing. The Clerk of the Planning Board will be responsible for said mailings.
- C. State Environmental Quality Review (SEQR). If the subdivision meets or exceeds any Type 1 thresholds listed in Section 617.12 or any of the criteria considered indicators of significant effect on the environment as listed in Section 617.11 of the SEQR regulations, lead agency for the SEQR process shall be determined according to procedures outlined respectively in Section 617.6 of the SEQR regulations and the subdivider must complete a full environmental assessment form. Upon review of the full EAF, determination of no significant environmental impact (negative declaration) or a draft environmental impact statement (DEIS) is required by the designated lead agency before the subdivision review process can continue (in accordance with Sections 617.8 and 617.14 of the SEQR rules). As noted in § 165-16A above, the public hearing shall be used to solicit comments on the draft EIS under SEQR.
- D. Coordination with agricultural districts program.
  - (1) Any application for subdivision approval that would occur on property within an agricultural district (as per Article 25AA of Agriculture and Markets Law) containing a farm operation or on property with boundaries within 500 feet of a farm operation located in an agricultural district shall include an Agricultural Data Statement. The Agricultural Data Statement shall include the following information:
    - (a) Name and address of the applicant.
    - (b) Description of the proposed project and its location.
    - (c) Name and address of any owner of land within the agricultural district which land contains farm operations and is located within 500 feet of the boundary of the property upon which the project is proposed.
    - (d) Tax map or other map showing the site of the proposed project relative to the location of farm operations identified in Subsection D(1)(c).

§ 165-16 (2) The Planning Board Clerk shall mail written notice of the public hearing on the subdivision application to the owners of land as identified by the applicant in the Agricultural Data Statement at least five days before the hearing. § 165-17

- E. Notice of decision. The action of the Planning Board shall be noted on three copies of the preliminary plat and reference shall be made to any modifications determined. One copy shall be returned to the subdivider and the other two copies retained by the Planning Board (one copy to be filed in the office of the Planning Board Clerk). If granted preliminary approval, the Clerk of the Planning Board shall certify such within five days of the approval and mail a certified copy of the preliminary plat to the owner.
- F. Effect of approval. Approval of a preliminary plat shall not constitute approval of the final plat. The preliminary plat shall be a guide to the preparation of the final plat. Before submission of the final plat or any portion thereof for formal approval, the subdivider must comply with this chapter and all requirements set forth by the Planning Board in its review of the preliminary plat, and any other State/County Health Department requirements.

**§ 165-17. Final plat.**

- A. All subdivisions shall require final plat approval by the Planning Board, except those receiving waivers.
- B. The subdivider shall file an application for final plat approval on forms available at the town offices, and the application shall be accompanied by documentation, as specified in Article IV and V herein, to the Planning Board. Such application shall be submitted at least 10 days prior to the meeting at which it is to be considered by the Planning Board, and no later than six months after the date of the preliminary plat approval.
  - (1) Optional public hearing.
    - (a) A public hearing may be held by the Planning Board after a complete application is filed and prior to rendering a decision. This hearing shall be held within 62 days of the official submission date of the final plat. The subdivider or the subdivider's representative is expected to attend the hearing. The Planning Board shall approve, conditionally approve, or disapprove the final plat within 62 days of the public hearing.
    - (b) If disapproved, the grounds for disapproval shall be stated in the record of the Planning Board, including reference to the regulation violated by the plat. Failure of the Planning Board to render a decision within the stated sixty-two-day period shall be deemed final approval of the plat.
  - (2) Notice of public hearing. The hearing shall be advertised at least once in the town's designated official newspaper at least five days before the hearing. Notice of the hearing shall be mailed to the owners of all adjoining properties within 500 feet of the subdivided property at least five days before the hearing. The Planning Board Clerk will be responsible for said mailings.
  - (3) Waiver of public hearing. If the final plat is in substantial agreement with the preliminary plat, the Planning Board may waive the public hearing requirement. If no hearing is held, the Planning Board shall approve, conditionally approve or disapprove the plat within 62 days of the official submission date.
  - (4) State Environmental Quality Review (SEQR). The Planning Board's action on the subdivision plat shall include either a negative declaration or the final environmental impact statement and a statement of findings on the subdivision as required under § 8-0109, Subdivision 8, of the Environmental Conservation Law (and 6 NYCRR 617.9 or SEQR).
  - (5) Notice of decision. The subdivider shall be notified of the final action of the Planning Board and the subdivider shall file or record the final plat, or section thereof, in the office of the Clerk of Madison County, New York within 62 days after the date of approval. Any plat not so filed or recorded shall be

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considered null and void and must again be submitted to the Planning Board for approval before recording in the Office of the Clerk of Madison County, New York. § 165-17

- (6) Conditional approval. Upon conditional approval of such final plat, the Planning Board shall empower a duly authorized officer to sign the plat subject to completion of such requirements as may be stated in the resolution. Within five days of such resolution, the plat shall be certified by the Planning Board Clerk as conditionally approved and a copy filed in such Clerk's office, along with a certified statement of such requirements that must accompany such plat which, when completed, will authorize the signing of the conditionally approved final plat. A copy of the resolution, including the noted requirements, shall be mailed to the owner. Conditional approval of a plat shall expire six months after the date of the resolution granting such approval. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if in its opinion such extension is warranted by circumstances, for up to two additional periods of 90 days each.





ARTICLE IV  
**Minor Subdivision**

**§ 165-18. Information required for minor subdivisions.**

The following shall be submitted with applications for approval of a final plat for a minor subdivision:

- A. Name and address of the subdivider and professional advisers, including license numbers and seals.
- B. Two copies of the minor subdivision plat, one each to be submitted to the County Clerk and the Town Clerk, drawn with ink on cloth, plus two paper copies. The plat map (drawn by a licensed surveyor at a scale of one inch to 100 feet, unless otherwise specified by the Planning Board) shall contain the following information:
  - (1) Subdivision name, scale, North arrow and date.
  - (2) Subdivision boundaries.
  - (3) Contiguous properties and names of owners.
  - (4) Total acreage of the subdivision and number of lots proposed.
  - (5) Existing roads, utilities and structures.
  - (6) Watercourses (including all FEMA Federal Flood Insurance Hazard Areas), marshes (including DEC-designated wetlands), wooded areas and other significant physical features on or near the site.
  - (7) Proposed pattern of lots, including lot widths and depths, road layout, open space, drainage, sewerage and water supply.
  - (8) Land contours at twenty-foot intervals or less, as required by the Planning Board.
  - (9) Reference to all existing and/or proposed restrictions on the land (also see Subsection D below).
  - (10) The location of each perc test hole and deep hole test on each lot with identification numbers and a corresponding table containing the test data (the table can be attached to the map on a separate sheet of paper).
  - (11) Any other conditions requested by the Planning Board.
- C. One copy of the appropriate Tax Parcel Map(s) to enable the entire tract to be shown on one sheet and to show the proposed subdivision's location in relation to surrounding parcels and the nearest street intersection.
- D. Complete text of all existing and/or intended restrictions on the use of land including easements, covenants and zoning.
- E. Building types and approximate size and cost, if known.
- F. SEQR Environmental Assessment Form (EAF); full or short form, as required by the Planning Board.
- G. On-site sanitation and water supply facilities shall be designed to meet the specifications of the State Department of Health, and a statement to this effect shall be made on the application.
- H. A statement of all lands owned by applicant within 2,000 feet of the property under consideration and a brief description of future development plans for any of these lands, if known.
- I. For all proposed lots fronting on state or county highways or town roads, written confirmation from either the New York State Department of Transportation, Madison County Highway Department or Town Highway Superintendent, as appropriate, that the frontage of all such proposed lots in the subdivision would allow location of a driveway providing safe highway access.

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J. Additional information as deemed necessary by the Planning Board.

K. Any required fees.

**§ 165-19. Waiver of submission requirements.**

When an application concerns a minor subdivision of uncomplicated nature, such as a small subdivision along an existing road that requires no installation of public facilities, the Planning Board may waive certain submission requirements.

ARTICLE V  
**Major Subdivision**

**§ 165-20. Preliminary plat.**

The following shall be submitted with all applications for approval of a preliminary plat for a major subdivision:

- A. Name and address of the subdivider and professional advisers, including license numbers and seals.
- B. Three copies of the preliminary plat map, drawn to scale. The map scale shall be one inch to 100 feet, unless otherwise specified by the Planning Board, including:
  - (1) Subdivision name, scale, North arrow and date.
  - (2) Subdivision boundaries.
  - (3) Contiguous properties and names of owners.
  - (4) Total acreage of the subdivision and number of lots proposed.
  - (5) Existing and proposed roads, utilities and structures.
  - (6) Watercourses (including all FEMA Federal Flood Insurance Hazard Areas), marshes (including DEC-designated wetlands), wooded areas and other significant physical features on or near the site.
  - (7) The proposed pattern of lots, including lot widths, depths and areas, with lot identification numbers.
  - (8) Proposed road layout, open space, drainage, sewerage and water supply.
  - (9) Land contours at twenty-foot intervals or less, as required by the Planning Board.
  - (10) All parcels of land proposed to be dedicated to public use and the conditions of such use (if desired, conditions can be referenced on map and detailed as an addendum on a separate sheet of paper).
  - (11) Reference to all existing and/or proposed restrictions on the land (also see Subsection D below).
  - (12) The location of each perc test hole and deep hole test on each lot with identification numbers and a corresponding table containing the test data (the table can be attached to the map on a separate sheet of paper).
  - (13) Any other conditions requested by the Planning Board.
- C. Copy of the appropriate Tax Parcel Map(s).
- D. Complete text of all existing and/or proposed restrictions on the use of land, including easements, covenants and zoning.
- E. Building types and the approximate size and cost (if determined).
- F. Grading and landscaping plans.
- G. The width and location of any roads or public ways and the width, location, grades and road profiles of all roads or public ways proposed by the developer.
- H. The approximate location and size of all proposed waterlines, hydrants and sewer lines showing connection to existing lines.
- I. Drainage plans indicating profiles of lines or ditches and drainage easements on adjoining properties.

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- J. Preliminary plans, drawn to scale and including cross sections, showing sidewalks, road lighting, roadside trees, curbs, water mains, sanitary sewers, storm drains, the character, width and depth of pavements and subbase, and the location of any underground cables or other utilities. § 165-21
- K. Preliminary designs for any bridges or culverts.
- L. An actual field survey of the boundary lines of the tract, giving a complete description of bearings and distances, made and certified by a licensed surveyor. The corners of the tract shall also be marked by monuments of such size and type as approved by the Planning Board, shown on the plat.
- M. An Environmental Assessment Form (SEQR Full Form, Appendix A) and a draft environmental impact statement, if required.
- N. Where the preliminary layout submitted covers only a part of the subdivider's entire holding, a sketch of the prospective future road and drainage system of the unsubdivided part shall be submitted for study to the Planning Board.
- O. Other properties owned by the applicant within 2,000 feet of the property proposed for subdivision.
- P. For all proposed lots fronting on state or county highways or town roads, written confirmation from either the New York State Department of Transportation, Madison County Highway Department or Town Highway Superintendent, as appropriate, that the frontage of all such proposed lots in the subdivision would allow location of a driveway providing safe highway access.
- Q. Additional information as deemed necessary by the Planning Board.
- R. Any required fees.

**§ 165-21. Final plat.**

The following shall be submitted with all applications for approval of a final plat for a major subdivision:

- A. Two copies of the minor subdivision plat, one each to be submitted to the County Clerk and the Town Clerk, drawn with ink on cloth, plus two paper copies. The map scale shall be one inch to 100 feet, unless otherwise specified by the Planning Board. The following items need to be shown on the plat:
- (1) The proposed subdivision name and the name of the town and county in which the subdivision is located.
  - (2) Name and address of the owner of record and subdivider.
  - (3) Name, address, license number and seal of the surveyor and/or engineer.
  - (4) The boundaries of the property, locations, graphic scale and true North point.
  - (5) Road lines, pedestrian ways, lots, easements and areas to be dedicated to public use.
  - (6) Sufficient data (lengths, bearings, radii, central angles of curves, etc.) acceptable to the Planning Board to determine readily the location, bearing and length of every road line, lot line and boundary line. Such data shall be sufficient to allow for the reproduction of such lines on the ground.
  - (7) Locations of permanent reference monuments.
  - (8) Reference to any deed restrictions or proposed easements and any land maintenance covenants.
  - (9) Approval of the State/County Health Department of water supply systems and sewage disposal systems proposed or installed.
- B. All offers of cession and any covenants governing the maintenance of unceded open space shall bear the

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certificate of approval of the Town Attorney as to their legal sufficiency.

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- C. An approved environmental impact statement, if required.
- D. Construction drawings, drawn to scale by a licensed engineer, including plans, profiles and typical cross sections, as required, showing the proposed location, size, type and name of roads, sidewalks, road lighting standards, roadside trees, curbs, water mains, sanitary sewer or septic systems, storm drains or ditches, pavements and subbase and other facilities.
- E. Evidence of legal ownership of the property.
- F. Deed restrictions, existing and proposed, in form for recording.
- G. A certificate by the Code Enforcement Officer certifying that all infrastructure and improvements have been installed by the developer in accordance with requirements of this chapter and with the action of the Planning Board giving approval of the preliminary plat or, alternatively, a written security agreement with the town, approved by the Town Board and approved by the Town Attorney as to the form, sufficiency and manner of execution, as detailed in Article VII herein.
- H. Any other data such as certificates, affidavits, endorsements or other agreements as may be required by the Planning Board in enforcement of this chapter.

**§ 165-22. Waiver of submission requirements.**

When an application concerns a subdivision of uncomplicated nature, such as a small subdivision along an existing road that requires no installation of public facilities, the Planning Board may waive certain submission requirements.



ARTICLE VI  
**Design, Standards and Required Improvements**

**§ 165-23. General.**

All improvements specified in the subdivision plan or required by the Planning Board in accordance with this article shall be constructed at the expense of the subdivider without reimbursement by the town or any district therein.

**§ 165-24. Road design and construction standards.**

- A. Conform with town standards. The arrangement, width, location and extent of roads within the subdivision should conform and be in harmony with local highway standards adopted by the Town Board. The Town Highway Superintendent shall be consulted by the Planning Board for an advisory opinion before the approval of any new road.
- B. Traveled road area.
- (1) The roadway should be a minimum of 18 feet in width. The base should be constructed of a suitable gravel approved by the Town Highway Superintendent; the subbase shall be at least 12 inches of ROB (run-of-bank) gravel. The gravel base should be constructed with not more than a six-inch lift using at least a ten-ton roller.
  - (2) At a minimum, the pavement shall be a double surface consisting of two layers of No. 1 stone using a minimum of one gallon of emulsion per square yard of road surface.
  - (3) All roads will be constructed to connect to main roads. If a dead-end condition is necessary, provision will be made to accommodate the need for emergency equipment to turn around. The Town Highway Superintendent shall have the option to choose a cul-de-sac or a hammerhead type turnaround. Dead-end streets shall be designed with either a circular turnaround (cul-de-sac) having a minimum right-of-way radius of 100 feet and pavement radius of 60 feet or a T-type street-end (hammerhead) having a minimum arm length of 60 feet each.
  - (4) Roadway grades shall not exceed 12%. The roadway crown shall be constructed with a slope of at least 1/4 inch per foot. The shoulder slope from the paved area shall be constructed at 3/4 inch per foot. The road grade at intersections should not exceed 3% for a distance of 100 feet in any direction.
  - (5) All vertical and horizontal curves shall meet minimum AASHTO standards for rural roads. Sight distances for all road and driveway intersections shall meet the minimum AASHTO standards for rural roads. In general, all streets should join each other so that for a distance of at least 100 feet the street is approximately at right angles to the street it joins.
  - (6) Prior to the commencement of roadway excavation or fill, stripping shall be conducted to remove all topsoil, trees, roots, organic matter, rubbish, muck, quicksand, rock or any other material objectionable in the judgment of the Town Highway Superintendent for the full width of the pavement and shoulders. All trees and stumps shall be removed from the right-of-way.
  - (7) Plans shall be submitted prior to construction. They shall indicate original ground elevations, finished grades, center-line profiles, typical cross sections and proposed drainage facilities. The drainage pattern should clearly indicate direction of flow of all surface water and size and type of drainage structures with their respective locations.
  - (8) If deemed necessary, the developer shall provide funds for the Town of Eaton to choose its own engineer to review the drawings, plans and specifications submitted.
  - (9) The developer shall be responsible for all road signs that are needed according to the Highway

§ 165-24 Superintendent's specifications. All signs shall meet MUTCD (Manual of Uniform Traffic Control § 165-26 Devices) standards.

- C. Shoulders. The shoulders shall be a minimum of five feet in width. They are to be constructed at a minimum of 12 inches in depth. The material is to be a machine crushed gravel approved by the Town Highway Superintendent. Compaction should be performed with at least a ten-ton roller with not more than six-inch lifts.
- D. Drainage. All drainage, ditching and banks are to be constructed in conformity with § 165-29 herein and to the satisfaction of the Town Highway Superintendent. Rip-rap or bank stabilization, storm sewers and catch basins shall be constructed if deemed necessary by the Town Highway Superintendent. All materials shall meet previous minimum specifications. Drainage design shall meet the minimum requirement for a twenty-year storm.
- E. Culverts. The minimum culvert size shall be 15 inches in diameter. The pipe shall be corrugated steel meeting NYSDOT specifications with a minimum of 16-gauge. Culverts shall be installed where necessary as determined by the Town Highway Superintendent. They shall be a minimum of 20 feet in length at all driveways using a minimum twelve-inch corrugated steel. Culverts beneath the roadway shall be lengths determined by the Town Highway Superintendent.
- F. Road names. All street names must be approved by the Planning Board. In general, streets shall have names and not numbers or letters. The subdivider shall confer with the County Fire Coordinator/Emergency Preparedness Director to assure that proposed street names are substantially different and are not confused in sound or spelling with present names in this or adjacent municipalities, except that streets that join or are in alignment with streets of an abutting or neighboring property shall bear the same name.
- G. Dedication. The acceptable right-of-way (ROW) shall be a minimum of 50 feet. Wherever possible, the roadway should be centered within the ROW. The town shall be provided with a survey map and legal description prepared by a New York State licensed land surveyor. The highway boundaries shall be clearly marked by permanent survey markers. The town shall receive a title-insured warranty deed by properly executed conveyance. Roads will be accepted only if they are free and clear of all liens, encumbrances, easements and/or rights-of-way. A written statement of acceptance must be filed by the Town Highway Superintendent and the Town Attorney before any road shall be accepted by the Town Board. The Town Board is not obligated to accept an offer of dedication, even if all requirements are met.

#### § 165-25. Sidewalks.

Sidewalks are not required in every subdivision; when sidewalks are required, they shall be installed as follows:

- A. Sidewalks shall be installed at the expense of the subdivider at such locations as the Planning Board may deem necessary.
- B. Sidewalks must be constructed to comply with the detailed specifications of the Planning Board.
- C. Sidewalks shall be concrete or other approved material, and have a minimum width of four feet in residential areas and five feet in commercial and industrial areas.

#### § 165-26. Utilities.

Public utility improvements may be required and shall be installed as follows:

- A. Fire protection. Hydrants shall be of size, type and location specified by the Insurance Services Organization.
- B. Streetlighting. Poles, brackets and lights shall be of size, type and location approved by the local power company. Energy-conserving lighting is recommended. Lights might be required at new proposed intersections of existing public roads and proposed new subdivision roads.



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- C. Electricity. Power lines, especially for larger subdivisions with lots not fronting on existing roads, shall be required to be placed underground, where practical, and shall be approved by the local power company.
- D. Utility services. Utility services, where practical, shall be located from six to eight feet from the edge of the roadway or between the sidewalk and curblin.

**§ 165-27. Water supply.**

- A. Individual wells shall be installed at the expense of the subdivider to the approval of the Planning Board.
- B. If, in the opinion of the Planning Board, it is feasible and desirable to require a public water supply system, such system shall be installed at the expense of the subdivider to the approval of the Planning Board.
- C. All individual wells shall meet the requirements of the State/County Department of Health to the satisfaction of the Planning Board.

**§ 165-28. Sewage disposal.**

- A. A perc test and deep hole test shall be required on each lot within the boundary of each required leach field at the expense of the subdivider to the approval of the Planning Board.
- B. If, in the opinion of the Planning Board, it is feasible and desirable to require a sanitary sewer system or an alternative community sewerage system, such system shall be installed at the expense of the subdivider to the approval of the Planning Board.
- C. All sanitary sewage disposal systems shall meet the requirements of the State/County Department of Health to the satisfaction of the Planning Board.

**§ 165-29. Drainage improvements.**

- A. Removal of springwater and surface water. The subdivider may be required by the Planning Board to carry away by pipe or open ditch any springwater or surface water that may exist either previous to, or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width. On-site stormwater management measures, such as retention or detention ponds, are preferable to designs that immediately remove runoff from the site property.
- B. Drainage structure to accommodate potential development upstream. A culvert or other drainage facility shall, in each case, be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Town Highway Superintendent shall approve the design and size of facility based on anticipated runoff from a ten-year storm under conditions of total potential development permitted by Chapter 120, Land Use, in the watershed.
- C. Responsibility for drainage downstream. The subdivider's engineer shall also study the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision; this study shall be reviewed by the Town Highway Superintendent. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility during a ten-year storm, the Planning Board shall notify the Town Board of such potential condition. In such case, the Planning Board shall not approve the subdivision until provisions have been made for the improvement of said condition.
- D. Land disturbance management during construction. The subdivider shall install and maintain appropriate temporary soil erosion and sedimentation control measures to protect the soil and water resources and stormwater management facilities during road and drainage system construction and wherever significant land disturbance activities occur.

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**§ 165-30. Lots.**

- A. Location. All lots shall have suitable access to public roads.
- B. Dimensions. The lot size, width, depth, shape and area shall comply with Chapter 120, Land Use. In addition, lot depth may be no greater than four times the lot width as measured at the edge of the road right-of-way.
- C. Double frontage lots. Fronting on two roads other than corner lots shall be discouraged.
- D. Pedestrian easements. In order to facilitate pedestrian access from roads to schools, parks, play areas or nearby roads, perpetual unobstructed easements at least 20 feet wide may be required by the Planning Board. In heavy traffic areas, sidewalks may be required.
- E. Setback. The provisions of Chapter 120, Land Use, shall apply regarding setback lines.
- F. Lot lines. Side lot lines shall be approximately at right angles to the road or radial to curved roads. On large size lots, except when indicated by topography, lot lines shall be straight.
- G. Corner lots. Corner lots for residential use shall have extra width to permit appropriate building setbacks from and orientation to both roads (i.e., front setbacks are required from each road).
- H. Unusual lots. Unusually shaped lots (i.e., lots not meeting requirements of Subsection B) may be approved by the Planning Board, if deemed appropriate and justifiable.
- I. Flag lots. In order to allow the efficient use of otherwise landlocked areas, while maintaining rural character, keeping development costs down and limiting the creation of additional streets, the creation of flag lots may be approved subject to the following conditions:
  - (1) Minimum front, side and rear yard requirements in the district where located must be met exclusive of the driveway property strip or right-of-way connecting the flag lot with the public road.
  - (2) The driveway property strip or right-of-way must have a width no less than 25 feet.
  - (3) No more than one flag lot may be approved for each driveway, property strip or combination of the two.
  - (4) Driveway property strips or rights-of-way must be at least as far away from each other as the minimum lot width for the district where located, measured at the public road frontage.
  - (5) The maximum length of the driveway property strip or right-of-way, measured from the edge of the public road's right-of-way, may be no greater than 500 feet.
  - (6) To ensure the flag lot is not further subdivided in the future, the lot area should be less than twice the minimum lot area for the zoning district or the deed of ownership shall be modified formally to state that the lot is forever restricted from further subdivision.

**§ 165-31. Unique and natural features.**

Unique physical features, such as historic landmarks and sites, rock outcrops, hilltop lookouts, desirable natural contours and similar features, shall be preserved where possible. Streams, lakes, ponds and wetlands also shall be left unaltered and protected by easements. All surfaces must be graded and restored within six months of completion of subdivision so that no unnatural mounds or depressions are left. Original topsoil moved during construction shall be returned and stabilized by approved methods. Damage to existing trees should be avoided. Appropriate soil erosion and sedimentation control measures shall be used during land disturbance activities.

**§ 165-32. Public parks, open spaces and other recreational sites.**

- A. Basic requirements.

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- (1) To meet the recreational demands of the future residents of the proposed subdivision development, the Planning Board shall require that the plat shows sites of a character, extent and location suitable for the development of a park, playground or other recreation purpose. The Planning Board may require that the subdivider satisfactorily grade any such recreation areas shown on the plat.
  - (2) The Planning Board shall require that not less than five acres of recreation space be provided per 100 dwelling units shown on the plat. However, in no case shall the amount required be more than 10% of the total area of the subdivision.
- B. Availability dedication. The park, open space and recreation land to be allocated for community purposes shall be made available for use by one of the following methods:
- (1) Dedication to the town; or
  - (2) Reservation of land for the use of property owners by deed or covenant.
- C. Waiver of plat designation of area for parks; open space and recreation.
- (1) If the Planning Board determines that suitable parks or recreation land of adequate size cannot be properly located in the plat or is otherwise not practical due to the size, topography or location of the subdivision, the Board may waive the requirement that the plat show land for such purposes.
  - (2) If the Board does waive this requirement, it shall then require, as a condition to approval of the plat, a payment to the Town of Eaton of a compensatory sum. The sum will be determined by the Town Board and shall be held in a special Town Recreation Trust Fund to be used by the town exclusively for neighborhood park, playground, open space or other recreational purposes, including the acquisition and/or improvement of property.
  - (3) The sum shall be calculated by multiplying the number of acres deemed necessary times the average per-acre value of all the land in the subdivision (in its unimproved, predevelopment state).

**§ 165-33. Other reservation of land area.**

The Planning Board may require the reservation of such other areas or sites of a character, extent and location suitable to the future needs of the town such as water plants, sewage treatment plant and other community purposes.



ARTICLE VII  
**Bond for Installation of Improvements**

**§ 165-34. General.**

- A. In order that the town has the assurance that the construction and installation of such improvements as storm sewers, public water supplies, road signs, sidewalks and road surfacing will be constructed, the subdivider shall either construct all improvements directly affecting the subdivision as required by this chapter and by the Planning Board, prior to final approval of the plat or enter into one of the following types of security agreements with the town:
- (1) A performance bond issued by a bonding or surety company;
  - (2) The deposit of funds in or a certificate of deposit issued by a bank;
  - (3) An irrevocable letter of credit from a bank located and authorized to do business in New York State;
  - (4) Obligations of the United States of America; or
  - (5) Any obligations fully guaranteed as to interest and principal by the United States of America, having a market value at least equal to the full cost of such improvements.
- B. If not delivered to the town, such security shall be held in a town account at a bank or trust company.

**§ 165-35. Conditions.**

- A. Before the final plat is approved, the subdivider shall have executed a subdivider contract with the town, and a performance bond shall have been deposited or a security agreement approved covering the estimated cost of the required improvements that have been designated by the Planning Board.
- B. The performance bond or vehicle from the security agreement shall be to the town and shall provide that the subdivider, his heirs, successors and assigns, their agent or servants, will comply with all the applicable terms, conditions, provisions and requirements of this chapter and will faithfully perform and complete the work of constructing and installing such facilities or improvements in accordance with such laws and regulations.
- C. Any such bond or security agreement shall require the approval of the Town Board and the Town Attorney as to form, sufficiency, manner of execution and surety.
- D. Wherever a certified check is made, the same shall be made payable to the Town of Eaton.

**§ 165-36. Extension of time.**

The construction or installation of any improvements or facilities, other than roads, for which guarantee has been made by the subdivider in the form of a performance bond or other security agreement shall be completed within one year from the date of approval of the final plat. Road improvements shall be completed within two years from the date of approval of the final plat. The subdivider may request an extension of time, provided that the subdivider can show reasonable cause for inability to perform said improvements within the required time. The extension should not exceed 12 months, at the end of which time the town may use as much of the bond or check deposit to construct the improvements as necessary. More than one twelve-month extension may be granted at the discretion of the Planning Board. The same shall apply whenever construction of improvements is not performed in accordance with applicable standards and specifications.

**§ 165-37. Agreement for schedule of improvements.**

Regardless of the form of security agreement chosen, the town and subdivider shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or

§ 165-37 installation, provided that each cost as listed may be repaid to the subdivider upon completion and approval after inspection of such improvement or installation. However, 10% of the check deposit, performance bond or other security shall not be repaid to the subdivider until one year following the completion, inspection and acceptance by the town of all construction and installation covered by the check deposit or performance bond as outlined in the subdivider's contract. § 165-39

**§ 165-38. Inspections.**

Periodic inspections during the installation of improvements shall be made by the Code Enforcement Officer and/or Town Highway Superintendent, as appropriate, to ensure conformity with the approved plans and specifications as contained in the subdivider's contract and this chapter. The subdivider shall notify the Code Enforcement Officer when each phase of improvements is ready for inspection. At least five days prior to commencing construction of required improvements, the subdivider shall pay to the Planning Board Clerk any inspection fee required by the Town Board. Upon acceptable completion of installation and improvement, the Planning Board shall issue a letter to the subdivider or his representative, and such letter shall be sufficient evidence for the release by the Town of Eaton the portion of the performance bond or other security as designated in the subdivider's contract to cover cost of such completed work.

**§ 165-39. Acceptance of roads and facilities.**

When the Code Enforcement Officer and Highway Superintendent, following final inspection of the subdivision, certifies to the Planning Board and the Town Board that all installations and improvements have been completed in accordance with the subdivider's contract, the Town Board may, by resolution, proceed to accept the facilities for which the security agreement was made.

ARTICLE VIII  
Cluster Subdivisions

**§ 165-40. Authority.**

Pursuant to a resolution of the Town Board, the Town of Eaton Planning Board is empowered to modify the minimum width and minimum setback requirements, in accordance with the provisions of § 281 of Town Law, in order to enable and encourage flexibility of design and development of land in such a manner as to promote the most appropriate use of land, to facilitate the adequate and economic use of streets and utilities and to preserve the natural and scenic qualities of open lands and shorelines.

**§ 165-41. Initiation of cluster subdivision procedure.**

The cluster subdivision procedure may be initiated by either the subdivider or the Planning Board. Regardless of who initiates the cluster subdivision provision, the procedures of a major subdivision are followed.

- A. Planning Board initiation. The Planning Board, upon initial review of a sketch plan, may decide that a cluster subdivision is appropriate for the site. The Planning Board shall set forth the reasons for requiring a cluster subdivision design and request the subdivider to submit an alternative subdivision plan that utilizes the cluster development concept.
- B. Subdivider initiation. A subdivider may request the use of Town Law § 281 simultaneously with, or subsequent to, the submission of the sketch plan, as described in Article III. Any submission subsequent thereto shall require a resubmission of the sketch plan.

**§ 165-42. Standards.**

The following shall be standards and procedures:

- A. The minimum acreage to which this section may be applicable to shall be 10 acres, except that where municipal sewer and/or water are available, the Planning Board may modify the minimum size.
- B. No subdivision shall be approved by the Planning Board pursuant to this section which shall not reasonably safeguard the appropriate use of adjoining land.
- C. When the use of this section results in a plat showing lands available for open space, park, recreation or other municipal purposes, such conditions on the ownership, use and maintenance of such lands as is deemed necessary to assure the preservation of such lands for their intended purposes must be delineated, in writing. The Planning Board, in the case of lands to be retained in open space, may further require that such lands be restricted by deed restriction, restrictive covenant, conveyance of a scenic easement or other appropriate means against any development or land use inconsistent with their retention on open space.
- D. The provisions of this section shall not be deemed to authorize a change in the permissible use of such lands as provided in Chapter 120, Land Use.
- E. Dwelling units permitted may be, at the discretion of the Planning Board, detached, semidetached, attached or multifamily residential structures. Multifamily residences will still need a special permit as per Chapter 120, Land Use.

**§ 165-43. Procedures.**

- A. Sketch plan. A subdivider shall present for the Planning Board's consideration, along with a proposal utilizing the provisions of Town Law § 281, a conventional sketch plan, with lots meeting the minimum lot area, minimum lot width and other requirements of Chapter 120, Land Use. Using the conventional sketch plan and the minimum lot size regulations as its guide, the Planning Board observes the maximum number of dwelling

- § 165-43 units that could be placed on the land being subdivided, taking into consideration roads, wetlands, steep areas and other topographic restrictions to development. The number so determined is the maximum number of dwelling units that may be allowed in the cluster development. Where the plat falls within two or more zoning districts with differing density requirements, the Planning Board may approve in any one such district a cluster development representing the cumulative density as derived from the summing of all units allowed in all such districts. § 165-43
- B. Plat submission. Upon determination by the Planning Board that the sketch plan utilizing the provisions of this section is suitable, the procedures attendant to and subsequent to the sketch plan submission, as set forth in Article III, shall be followed in regular order.
- C. Local filing for notation on Land Use Map. In addition to the filing requirements in Article IV and V hereof, any subdivision final plat approved, which involves modifications as provided for in this article, shall be filed by the subdivider with the Town Clerk, who shall make appropriate notation and reference thereto on the official Town Land Use Map.



**Chapter 170**

**TAXATION**



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

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ARTICLE I  
**Senior Citizen Exemption**  
[Adopted 12-15-1997 by L.L. No. 4-1997]

**§ 170-1. Exemption granted.**

A partial exemption from taxation to the extent of 50% of the assessed valuation of real property which is owned by certain persons with limited income who are 65 years of age or older meeting the requirements set forth in § 467 of the Real Property Tax Law is hereby granted.

**§ 170-2. Maximum income level.**

The maximum income level for the fifty-percent exemption is established at \$6,000.



ARTICLE II  
**Delinquent Notices**  
**[Adopted 11-14-1994]**

**§ 170-3. Imposition of fee. [Amended 12-15-1997 by L.L. No. 4-1997]**

The Town Board of the Town of Eaton has decided to impose a delinquent tax notice fee, as set by resolution of the Town Board from time to time, for each tax parcel that is delinquent at the time the notice are sent out by the Tax Collector.





ARTICLE III  
**Assessment Review Date**  
**[Adopted 5-12-2003 by L.L. No. 1-2003]**

**§ 170-4. Review date established.**

Pursuant to the authority conferred to the Town Board under § 512(1-a) of the New York Real Property Tax Law, the date on which the Town of Eaton Board of Assessment Review shall meet to hear complaints in relation to assessments shall be the first Tuesday after the fourth Tuesday of May.



ARTICLE IV  
**Alternative Veterans Tax Exemption**  
[Adopted 11-26-2007 by L.L. No. 1-2007<sup>18</sup>]

**§ 170-5. Repeal of opt-out provision.**

Pursuant to the authority contained in Subsection 4-a of § 458-a of the Real Property Tax Law of the State of New York, Town of Eaton Local Law No. 1 of the year 1985 is hereby repealed effective as of January 1, 2008, and for the preparation of the 2008 assessment roll and 2008 tax roll of the Town of Eaton.

**§ 170-6. Exemption limits.**

- A. Within the Town of Eaton, the exemption for qualifying residential real property, as defined in § 458-a of the New York Real Property Tax Law, shall not exceed \$12,000 for purposes of the exemption provided in Subdivision 2(a) of said § 458-a.
- B. Within the Town of Eaton, the exemption for qualifying residential real property, as defined in § 458-a of the New York Real Property Tax Law, shall not exceed \$8,000 for purposes of the exemption provided in Subdivision 2(b) of said § 458-a.
- C. Within the Town of Eaton, the exemption for qualifying residential real property, as defined in § 458-a of the New York Real Property Tax Law, shall not exceed \$40,000 for purposes of the exemption provided in Subdivision 2(c) of said § 458-a.

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**18. Editor's Note: This local law provided that it shall apply to the taxation of real property within and by the Town of Eaton on and after 1-1-2008.**



ARTICLE V  
**Cold War Veterans Tax Exemption**  
**[Adopted 10-14-2010 by L.L. No. 2-2010]**

**§ 170-7. Cold War veterans exemption granted.**

Pursuant to the authority contained in § 458-b of the Real Property Tax Law of the State of New York, the Cold War veterans exemption is hereby adopted, and shall be applicable to qualifying residential real property within the Town of Eaton, as defined in said § 458-b, as of January 1, 2011, and for the preparation of the 2011 assessment roll of the Town of Eaton.

**§ 170-8. Exemption limits.**

- A. For purposes of the exemption provided in Subdivision 2(a) of said § 458-b of the Real Property Tax Law of the State of New York, qualifying residential real property within the Town of Eaton, as defined in said § 458-b, shall be exempt from taxation to the extent of 10% of the assessed value of the qualifying residential real property; provided, however, that such exemption shall not exceed \$8,000 or the product of \$8,000 multiplied by the latest state equalization rate for the Town of Eaton.
- B. For purposes of the exemption provided in Subdivision 2(b) of said § 458-b of the Real Property Tax Law of the State of New York, the exemption for qualifying residential real property within the Town of Eaton, as defined in said § 458-b, shall not exceed \$40,000 or the product of \$40,000 multiplied by the latest state equalization rate for the Town of Eaton.



**Chapter 180**

**VEHICLES AND TRAFFIC**





§ 170-8

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

§ 170-8



ARTICLE I  
**Parking**  
[Adopted 5-10-1993 by L.L. No. 2-1993]

**§ 180-1. Purpose.**

This article is enacted for the purpose of regulating the parking of motor vehicles and other vehicles in specified areas and during specified times within the Town of Eaton in order to promote the well-being, safety and health of persons and property within the town. Except for the seasonal no parking zone specified in § 180-2 below, the provisions of this article shall apply to all public highways, including both the paved portions and the shoulders of such highways, within the Town of Eaton, except for New York State highways and public highways within the Village of Morrisville.

**§ 180-2. Seasonal no parking zone.**

No one shall be permitted to park a motor vehicle or a boat trailer, and no owner of a registered motor vehicle or registered boat trailer shall permit another to park his or her motor vehicle or boat trailer in the following zone during the following period of time:

- A. Prohibited zone: that part of Madison County Route No. 52, known as "Eaton Brook Road," that extends from the boundary line between the Towns of Eaton and Nelson to the intersection of the center line of said County Route No. 52 with the center line of Madison County Route No. 86, known as "Tuscarora Road," and including both the paved portion of said highway and the shoulders on both sides of said highway.
- B. Prohibited period of time: any time during the period commencing on May 1 and continuing until September 30.

**§ 180-3. Seasonal parking prohibited. [Amended 2-14-2017 by L.L. No. 1-2017]**

No one shall be permitted to park a motor vehicle, and no owner of a registered motor vehicle shall permit another to park his or her motor vehicle, on any public highway in the Town of Eaton at any time during the months of November, December, January, February, March and April.

**§ 180-4. Obstruction of emergency vehicles prohibited.**

No one shall be permitted to park a motor vehicle and no owner of a registered motor vehicle shall permit another to park his or her motor vehicle on any public highway in the Town of Eaton so as to obstruct the passage of emergency vehicles. Emergency vehicles shall include, but are not limited to, the following: snowplows, town highway equipment, fire trucks, ambulances, police vehicles and the vehicles and equipment of public utilities.

**§ 180-5. Removal of illegally parked vehicles.**

Any motor vehicle or boat trailer parked in violation of § 180-2, 180-3 or 180-4 above may be removed from the place where it is illegally parked by order of any of the following: the Town of Eaton Highway Superintendent, a New York State Trooper, a Madison County Sheriff or either a Fire Department or Volunteer Ambulance Corps official at the scene of an emergency. Such motor vehicle or boat trailer shall be stored until such time as the owner shall pay to the operator of the towing and storage business the amount set by resolution of the Town Board for such towing and storage. Such payments for towing and storage shall be in addition to the fine specified in § 180-6 below.

**§ 180-6. Penalties for offenses.<sup>19</sup>**

Any violation of this article shall be punishable as follows:

- A. For a first offense, by a fine of not more than \$100 or imprisonment for not more than 15 days, or both.
- B. For a second conviction within 18 months, by a fine of not more than \$200 or imprisonment for not more than 45 days, or both.
- C. For a third conviction within 18 months, by a fine of not more than \$300 or imprisonment for not more than 90 days, or both.

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

ARTICLE II  
**Handicapped Parking**  
**[Adopted 5-8-1989]**

**§ 180-7. Handicapped parking permits.**

The expiration date of all handicapped parking permits shall be limited to a maximum of two years, and then shall require the handicapped person to obtain a new authorization from the doctor.



**Disposition List**  
**Chapter DL**  
**DISPOSITION LIST**





§ 180-7

§ DL-1

The following is a chronological listing of legislation of the Town of Eaton adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Town Clerk. The last legislation reviewed for the original publication of the Code was L.L. No. 3-1997, adopted 5-19-1997. A complete listing, including disposition, of all legislation reviewed in conjunction with the original publication of the Code is on file in the office of the Town Clerk.

**§ DL-1. Disposition of legislation.**

L.L. No.	Adoption Date	Subject	Disposition
4-1997	12-15-1997	Adoption of Code	Ch. 1, Art. I
5-1997	12-15-1997	Registrar of Vital Statistics	Ch. 25, Art. IV
1-1998	4-20-1998	Notification of defects amendment	Ch. 160, Art. I
1-1999	1-18-1999	Residency requirements amendment	Temporary measure; not included, per town's request
1-2000	5-8-2000	Open burning	Ch. 92
1-2002	3-11-2002	Noise	Ch. 140
2-2002	10-14-2002	Personal watercraft amendment	Ch. 65
1-2003	5-12-2003	Assessment review date	Ch. 170, Art. III
1-2005	1-10-2005	Land use amendment	Ch. 120
1-2006	6-12-2006	Zoning Map amendment	NCM
2-2006	6-12-2006	Dogs amendment	Ch. 55, Art. I
3-2006	8-14-2006	Zoning Map amendment	NCM
4-2006	8-14-2006	Fences and screening devices	Ch. 92
1-2007	11-26-2007	Alternative veterans tax exemption	Ch. 170, Art. IV
1-2008	10-9-2008	Moratorium on adult business commercial uses	NCM
1-2009	11-5-2009	Unsafe buildings	Ch. 72
2-2009	11-5-2009	Property maintenance	Ch. 145
1-2010	2-11-2010	Zoning Map amendment	NCM
2-2010	10-14-2010	Cold War veterans tax exemption	Ch. 170, Art. V
3-2010	12-9-2010	Licensing and identification of dogs	Ch. 55, Art. II
1-2011	10-13-2011	Land use amendment	Ch. 120
1-2012	12-29-2011	Peddlers and solicitors	Ch. 143
1-2013	8-12-2013	Peace and good order	Ch. 142
2-2013	10-14-2013	Tax levy limit override	NCM
1-2015	10-12-2015	Tax levy limit override	NCM
1-2016	4-12-2016	Purchasing	Ch. 147
2-2016	11-7-2016	Tax levy limit override	NCM

§ DL-1

§ DL-1

<b>L.L. No.</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>
1-2017	2-14-2017	Vehicles and traffic: parking amendment	Ch. 180, Art. I
1-2018	10-10-2017	Subdivision of Land Amendment	Ch. 165
3-2018	10-9-2018	Sewers Amendment	Ch. 150

<b>Ord. No.</b>	<b>Adoption Date</b>	<b>Subject</b>	<b>Disposition</b>	<b>Supp. No.</b>
1-2019	4-9-2019	Subdivision of Land Amendment	Ch. 165	10
2-2019	4-9-2019	Sewers Amendment	Ch. 150	10
1-2020	7-14-2020	Land Use Amendment	Ch. 120	10
2-2020	9-8-2020	Zoning Map Amendment	NCM	10
3-2020	10-13-2020	Tax Levy Limit Override	NCM	10
1-2021	10-12-2021	Tax Levy Limit Override	NCM	10
2-2021	10-12-2021	Moratorium	NCM	10
3-2021	10-12-2021	Cannabis	Ch. 75	10
1-2022	3-8-2022	Development and Projects Fees	Ch. 81	10
2-2022	12-13-2022	Fire Prevention and Building Code	Ch. 90	10

**TOWN OF EATON  
TOWN BOARD RESOLUTION**

**December 12, 2023**

**TOWN OF EATON LOCAL LAW NO. 4 OF 2023**

("A Local Law Amending Chapter 120 of the Town of Eaton Code to Regulate Commercial  
Wind Energy Facilities within the Town of Eaton")

The following resolution was offered by [REDACTED], who moved its adoption, seconded by [REDACTED], to wit:

**WHEREAS**, pursuant to the provisions of the Municipal Home Rule Law, a proposed local law titled Local Law No. 4 of 2023 amending Chapter 120 of the Town of Eaton Code to regulate commercial wind energy facilities within the Town of Eaton, which will result in the repeal of existing regulations set forth in Article VC of Chapter 120 of the Town Code and the adoption of new regulations which are intended to preserve the health, safety and welfare of the Town while also facilitating the production of renewable energy, was presented and introduced at a regular meeting of the Town Board of the Town of Eaton held on November 14, 2023; and

**WHEREAS**, a public hearing was held on such proposed Local Law on the 12th day of December, 2023 by the Town Board of the Town of Eaton and proof of publication of notice of such public hearing, as required by law, having been submitted and filed, and all persons desiring to be heard in connection with said proposed Local Law having been heard, and said proposed Local Law having been in the possession of the members of the Town Board of the Town of Eaton in its final form in the manner required by Section 20 of the Municipal Home Rule of the State of New York; and

**WHEREAS**, at its November 14, 2023, meeting this Board determined that the enactment of Proposed Local Law No. 4 of 2023 is a Type I action that there are no other involved agencies,

that this Board will act as lead agency for this application and further, rendered a negative declaration for purposes of SEQR; and

**WHEREAS**, a General Municipal Law 239 Referral Notice was duly sent to the Madison County Planning Department (OCPB) and, by referral       dated \_\_\_\_\_, 2023, the Madison County Planning Department concluded that the referral will have no significant adverse inter-community or county-wide implications, and indicated a determination on the proposed Local Law could be made by the Town of Eaton Town Board on a local basis; and

**WHEREAS**, it is in the public interest to enact said Proposed Local Law No. 4 of 2023.

**NOW, THEREFORE**, it is

**RESOLVED AND DETERMINED**, that proposed Local Law No. 4 of 2023 is hereby enacted as Local Law No. 4 of 2023, as follows:

**“TOWN OF EATON  
LOCAL LAW NO. 4 of 2023**

**A LOCAL LAW AMENDING CHAPTER 120 OF THE TOWN OF EATON CODE TO  
REGULATE COMMERCIAL WIND ENERGY FACILITIES  
WITHIN THE TOWN OF EATON**

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

**SECTION 1. PURPOSE AND INTENT.**

The purpose of this Local Law is to amend the Town of Eaton Land Use Regulations to permit and regulate the construct of wind energy facilities in the Town of Eaton in a manner that preserves the health, safety and welfare of the Town while also facilitating the production of renewable energy.

**SECTION 2. AUTHORITY.**

The Town Board of the Town of Eaton hereby enacts this Local Law under the authority granted by: Article IX of the New York State Constitution, Section (2)(c) (6) and (10); New York Statute of Local Governments, Section 10(1) and (7); New York Municipal Home Rule Law, Section 10(1)(i) and (ii) and Section 10(1)(a)(6), (11), (12), and (14); New York

Town Law Section 130, Subsections(1) (Building Code), (3)(Electrical Code), (5)(Fire Prevention), (7) (Use of Streets and Highway), (7-a)(Location of Driveways), (11)(Peace, Good Order, and Safety), (15)(Promotion of Public Welfare), (15-a)(Excavated Lands), (16)(Unsafe Buildings), (19)(Trespass), and (25) (Building Lines); New York Town Law Sections 64(7-a) (Protection of Aesthetic Interests) and 23 (General Powers); the State Environmental Quality Review Act (“SEQRA”); New York Agricultural and Markets Law; New York Real Property Tax Law; and New York Executive Law.

### **SECTION 3. REPEAL OF ARTICLE VC OF CHAPTER 120 OF THE TOWN OF EATON CODE**

Article VC of Chapter 120 of the Town of Eaton Land Use Law, titled “Commercial Wind Energy Facilities Regulations of the Town of Eaton,” is hereby repealed in its entirety and replaced with the following:

“Article VC Commercial Wind Energy Facilities

Section 120-23.12 Title.

The provisions of this Article shall be referred to as the “Commercial Wind Energy Facilities Regulations of the Town of Eaton.”

Section 120-23.12 Purpose and Intent.

The Town of Eaton recognizes that wind energy is a clean, perpetually available renewable energy source. Development of wind energy facilities offers an energy source that may reduce fossil fuel emissions. The Town of Eaton has determined that comprehensive regulations regarding the development of wind energy facilities are necessary to protect the interests of the Town, its residents, and businesses. This Article is intended to promote the effective and efficient use of wind energy facilities; establish provisions for the placement, design, construction, operation and removal of such facilities in order to uphold the public health, safety, and welfare, allow for the co-location of wind energy facilities within active farming and agricultural lands in a manner that preserves the rural character of the Town of Eaton; to ensure that such facilities will not have a significant adverse impact on the aesthetic qualities and maintain the rural character of the Town. The Town, when appropriate, shall promote the location of smaller wind energy facilities in multiple locations to further mitigate impacts from such larger projects. Further, the Town of Eaton wishes to enhance agricultural viability within the Town and preserve productive agricultural land resources, mitigate the impacts of wind energy facilities on environmental resources such as important agricultural lands, forests, wildlife, and other protected resources. The Town of Eaton through this Article recognizes that such uses in the Town may, in some instances, represent large disturbances of lands, the hosting of complex equipment and the need to assure that such projects and property are removed or disposed of at the time of the discontinuance, while minimizing impacts to local roads and nearby property values and avoiding financial burdens on taxpayers.

Section 120-23.12 Findings.

- A. The Town hereby finds wind energy is an abundant, renewable, and nonpolluting energy resource of the Town and its conversion to electricity may reduce dependence on nonrenewable energy sources and decrease the air and water pollution that result from the use of conventional energy sources.
- B. The generation of electricity from properly sited wind turbines supported by governmental subsidies, including small systems, can be cost effective, and in many cases existing power distribution systems can be used to transmit electricity from wind-generating stations to utilities or other users, or energy consumption at that location can be reduced.
- C. Regulation of the siting and installation of wind turbines is necessary for the purpose of protecting the health, safety, and welfare of neighboring property owners and the general public.
- D. Wind Energy Facilities may present significant potential aesthetic impacts because of their large size, lighting, and shadow flicker effects, if not properly sited.
- E. If not properly regulated, installation of Wind Energy Facilities may create drainage problems through erosion and lack of sediment control for facility and access road sites, and harm farmlands through improper construction methods.
- F. Wind Energy Facilities may present a risk to bird and bat populations if not properly sited.
- G. If not properly sited, Wind Energy Facilities may present risks to the property values of adjoining property owners.
- H. Wind Energy Facilities can be a significant source of noise, which, if not regulated, may negatively impact adjoining properties.
- I. Without proper planning, construction of Wind Energy Facilities may create traffic problems and damage local roads.
- J. If improperly sited, Wind Energy Facilities may interfere with various types of communications.
- K. The Town of Eaton is a rural community featuring significant quantities of open land with varying elevation and topography.
- L. The Town of Eaton is an agricultural community supporting varied agricultural, forestry and recreational uses. Town of Eaton residents and visitors enjoy outdoor activities, including hunting, fishing, trapping, hiking, cycling, horseback riding, snowmobiling, skiing, jogging, and other motorized and non-motorized recreational pursuits.
- M. The Town of Eaton has very few tall structures.

- N. The Town of Eaton is bound in all directions by towns which share similar agricultural, forested, and rural residential character, with similar topography.
- O. As a matter of public policy, Wind Energy Facilities must be removed and the sites remediated when the facilities are no longer used.

Section 120-23.13 Applicability.

This Article shall apply to all Wind Energy Facilities in the Town of Eaton which are installed or modified after the effective date of this Article, including any Wind Energy Conversion System or Small Wind Energy Conversion System, applied for but not yet approved prior to the date of this Section. All Wind Energy Facilities which are installed or modified after the effective date of this Section shall be in compliance with all of the provisions hereof. Any proposed Wind Energy Facility subject to review by the New York State Board on Electric Generation Siting and the Environment pursuant to Article 10 of the New York State Public Service Law, or the Office of Renewable Energy Siting pursuant to Article 94-c of the New York State Executive Law or any subsequent law, shall be subject to all substantive provisions of this Article 11 and any other applicable provisions of the Town of Eaton Land Use Regulations and applicable local laws.

Section 120-23.14 Definitions.

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

**APPLICANT** – The person or entity filing an application and seeking a special use permit or site plan approval or other approval required by the Town under this Article.

**A-WEIGHTED (dBA)** – The unit of measure for the human response to noise using an electronic filter as specified by ANSI approximating the frequency response of the human ear from 20 Hz to 20 kHz.

**BACKGROUND NOISE** – The noise level represented without the wind turbine(s) operating and when man-made and natural intrusive sounds are at a minimum. The intent of this definition is to exclude noise level contributions from intermittent noises such as traffic and emergency vehicles, and from seasonal natural sounds that are not present year-round.

**BLADE GLINT** – The intermittent reflection of the sun off the surface of the blades of a single or multiple wind turbines.

**BUILDING** – Any structure used or intended for supporting any use or occupancy.

**C-WEIGHTED (dBC)** – An electronic filter with a band-pass frequency response 20Hz to 20 kHz.

**DAYTIME** – Hours from 7:00 a.m. to 7:00 p.m., unless otherwise noted.

**DEBRIS HAZARD** – Hazard owing to the possibility that the parts of a Wind Turbine, or material (ice or other debris) accumulated on its rotating elements, could be dislodged and fall or be thrown some distance onto surrounding property.

**EXCESSIVE NOISE** - Any noise that causes a nuisance or disturbance or degrades health or well-being.

**FAA** – The Federal Aviation Administration.

**FREQUENCY** - The number of occurrences of a repeating event per unit time; in cycles per second, expressed in Hz (Hertz).

**HERTZ (Hz)** – A unit of frequency equal to one cycle per second.

**LDN** – The day/night level is the 24-hour average of continuous “A-weighted” sound energy having a 10-decibel penalty added to the nighttime hours of 10 p.m. to 7 a.m.

**LEQ** – The equivalent continuous sound level that has the same acoustic energy for a constant sound level as for a fluctuating or intermittent level in the same period of time.

**NIGHTTIME** - Hours from 7:00 p.m. to 7:00 a.m., unless otherwise noted.

**NOISE** - Unwanted or any sound that is not part of the natural environment.

**NOISE EMITTER** - Any man-made piece of WECS equipment that is audible beyond the property line of a Participant Landowner.

**NOISE LEVEL** - Energy-equivalent sound pressure level (Leq) over a minimum of a ten-minute interval.

**NON-PARTICIPANT** - Any and all Town of Eaton landowners having no contractual relationship with a wind developer.

**OCTAVE BAND** - A band of sound covering a range of frequencies such that the highest is twice the lowest, as defined in ANSI Standard S1.11.

**ONE-THIRD OCTAVE BAND** - A band of sound covering a range of frequencies such that the highest frequency is the cube root of two times the lowest, as defined in ANSI Standard S1.11.

**PARTICIPANT** - Any and all Town of Eaton landowners having a signed lease, or easement with a wind developer.

**PROJECT BOUNDARY** - A continuous line, which encompasses all Wind Turbines and related equipment to be used in association with a Wind Energy System.



**PROPERTY LINE** - Means the recognized and survey or tax mapped property parcel boundary line.

**PURE TONE** - Sinusoidal sound energy for a single frequency or pitch.

**QUALIFIED INDEPENDENT ACOUSTICAL CONSULTANT** - A person who is qualified by education and experience in acoustics and regularly engaged in community noise testing with demonstrated competence in the specialty of community noise testing who is contracted by the Town for purposes of noise measurement or evaluation of noise analysis or noise complaints. The Qualified Independent Acoustical Consultant can have no financial relationship with the Wind developer or related entity.

**RESIDENCE** - Any dwelling suitable for habitation existing in the Town of Eaton on the date an application is received. For purpose of this definition, “suitable for habitation” shall mean that its primary purpose is for private occupancy.

**SE $\square$ RA** - The New York State Environmental Quality Review Act, as codified in Article 8 of the New York State Environmental Conservation Law and its implementing regulations in Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York, Part 617 et seq. (6 NYCRR Section 617).

**SETBACKS** - A distance measured from the edge of a rural right-of-way, property lines, wetlands, or closest point of residence foundation to the base of the turbine or measurement tower.

**SHADOW FLICKER** - the visual effect of viewing the moving shadow of the Wind Energy Conversion System (WECS) rotor blades when they are in a position between the receptor (person viewing them) and the sun and/or the “strobe” lighting effect of this condition as perceived by the receptor whether directly or indirectly (as in a reflection off a light-colored wall).

**SOUND LEVEL** - The weighted sound pressure level obtained by a sound level meter and frequency weighting network, such as A, B, or C as specified in ANSI specifications for sound level meters (ANSI S1.4-1971, or the latest revision).

**SOUND POWER LEVEL** -  $L_w$ . Ten (10) times the logarithm to the base ten of the ratio of the sound power radiated by the source to a reference sound power, expressed in decibels (dB). The reference sound power is 1 picowatt (pW).

**SOUND PRESSURE LEVEL** -  $L_p$ . Twenty (20) times the logarithm to the base ten (10) of the ratio of a given sound pressure to a reference sound pressure of 20 microPascals (uPa), expressed in decibels (dB).

**TOTAL HEIGHT** - The height of the Tower from the finished ground elevation at the base of the Tower to the furthest vertical/extension of the Turbine Rotor Plane.

**TOWER HEIGHT** - The height of the tower from the finished ground elevation at the tower base to the center of the hub forming the attachment point for Turbine Blades.

**UN-WEIGHTED (dBL)** - A sound pressure level obtained without a weighting filter.

**USEFUL LIFE** - The period during which an individual Wind Turbine(s) will be presumed to be at the end of its economic life.

**WIND ENERGY CONVERSION SYSTEMS (WECS)** - An electricity generating facility, with a generating capacity of over 100 kilowatts, consisting of one or more wind turbines, including any substations, cables/wires, and other buildings accessory to such system. Sometimes referred to as a facility.

**WIND ENERGY CONVERSION SYSTEMS, SMALL (SWECS)** - An electricity generating facility, with a generating capacity of up to but not exceeding 100 kilowatts, consisting of one Wind Turbine, including any cables/wires, foundations and other buildings accessory to such system, and designed to produce power primarily for on-site use or consumption.

**WIND SHEAR** - The difference in atmospheric wind speed and direction occurring over relatively small increases in altitude (wind gradient).

**WIND TURBINE** - Any tower, pole, or other structure, whether attached to a building, guyed, or freestanding designed to be used for the support of a rotor that consists of blades and a hub, as well as nacelle and generator for producing electricity.

Section 120-23.15 Wind Energy Conversions Systems (WECS).

A. Permits Required; Transfer; Modifications.

- (1) Districts where allowed. Subject to the issuance of site plan approval and a special use permit and other requirements as set forth herein, WECS shall be a permitted use in all areas of the Town of Eaton except within the Residential District No. 2 (RD-2). WECS are a prohibited use in the Residential District No. 2.
- (2) No WECS shall be constructed, reconstructed, modified, or operated in the Town except in compliance with this Article. In the case of any conflict between this Article and any other Town of Eaton law, rule or regulation, this Article shall supersede any conflicting provision.
- (3) Permits required. No person, firm or corporation, or other entity being the owner, occupant, or lessee of any land or premises within the Town of Eaton shall use or permit the use of land or premises for the construction or installation of a WECS without obtaining a building permit, a special use

permit and site plan approval as hereinafter provided. The Planning Board is hereby authorized to review and either approve, approve with conditions, or disapprove applications special permits and site plan approvals for WECS.

- (4) No Wind Measurement Tower a/k/a Met Tower or LIDAR System shall be constructed, reconstructed, modified, or operated in the Town except pursuant to a special use permit pursuant to this Article.
- (5) Exemptions. No permit or other approval shall be required under this Section for mechanical, non-electrical WECS utilized solely for agricultural operations, commonly referred to as “windmills”.
- (6) Transfer. No transfer of any WECS or a special use permit granted pursuant to this Article, nor sale of the entity owning such WECS including the sale of more than 30% of the stock of such entity (not counting sales of shares on a public exchange), may occur unless the transferee provides to the Town Board written certification that such transferee assumes all obligations of the transferor under any permit issued pursuant to this Article and any other applicable law or ordinance. Notwithstanding the requirements of this Section, replacement in kind or modification of a WECS may occur without Town Board approval when (1) there will, be no increase in Total Height; (2) no change in the location of the WECS; (3) no additional lighting or change in facility color; and (4) no increase in the noise produced by the WECS.

B. Required Submissions for an Application.

- (1) All applications for WECS are required to provide reports and supporting information based on the studies, evaluations, and analyses set forth herein. All studies, evaluations and analysis shall be submitted to and meet the reasonable requirements of the Planning Board before any application shall be deemed complete.
- (2) An application for a special use permit and site plan approval shall include the following, presented in the following order, unless waived by the Planning Board:
  - (a) Name, address, and telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

- (b) Name, address, and telephone number of the owners of properties on which the WECS will be located. If the property owner is not the Applicant, the application shall include a letter or other written permission signed by the property owner (i) confirming that the property owner is familiar with the proposed application and (ii) authorizing the submission of the application.
- (c) Address, or other property identification, of each proposed WECS location, including Tax Map section, block, and lot number.
- (d) A description of the project, including the number and maximum rated capacity of each WECS.
- (e) A plot plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe the following:
  - i. Property lines and physical dimensions of the project site.
  - ii. Location, approximate dimensions, and types of major existing structures and uses on the project site, public roads, and adjoining properties within the setback distances specified in Section 120-23.15(G) of the boundaries of the proposed WECS Site.
  - iii. Location and elevation of each proposed WECS.
  - iv. Location of all above ground utility lines on the project site or within one radius of the Total Height of the WECS, transformers, power lines, interconnection point with transmission lines, and other ancillary facilities or structures.
  - v. Location and size of structures above 35 feet within the setback distances specified in Section 120-23.15(G) of the proposed WECS. For purposes of this requirement, electrical transmission and distribution lines, antennas and slender or open lattice towers are not considered structures.
  - vi. To demonstrate compliance with the setback requirements, circles drawn around each proposed tower location equal to the setback distances specified in this Article.
  - vii. Location of the nearest residential structure located off the proposed site, and the distance from the proposed WECS.

- viii. All proposed facilities, including access roads, electrical lines, substations, storage or maintenance units, and fencing.
- (f) Vertical drawing of the WECS showing Total Height, turbine dimensions, tower and turbine colors, ladders, distance between ground and lowest point of any blade, location of climbing pegs, and access doors. One drawing may be submitted for each WECS of the same type and Total Height.
- (g) Landscaping Plan depicting existing vegetation and describing any areas to be cleared and the specimens proposed to be added, identified by species and size of specimen at installation and their locations.
- (h) Lighting Plan showing any FAA-required lighting and other proposed lighting. The application should include a copy of the determination by the Federal Aviation Administration to establish required markings and/or lights for the structure, but if such determination is not available at the time of the application, no building permit for any lighted facility may be issued until such determination is submitted.
- (i) List of property owners, with their mailing addresses, within 500 feet of the boundaries of the proposed project site. The applicant may delay submitting this list until the Planning Board calls for a public hearing on the application.
- (j) Decommissioning Plan. The applicant shall submit a decommissioning plan, which shall include: 1) the anticipated life of the WECS; 2) the estimated decommissioning costs in current dollars; 3) how said estimate was determined; 4) the method of ensuring that funds will be available for decommissioning and restoration in compliance with these regulations; 5) the method, such as by annual re-estimate by a licensed engineer, that the decommissioning cost will be kept current; and 6) the manner in which the WECS will be decommissioned and the project site restored, which shall include removal of all structures and debris to a depth of three (3) feet, restoration of the soil, and restoration of vegetation (consistent and compatible with surrounding vegetation), less any fencing or residual minor improvements requested by the landowner.
- (k) Complaint Resolution. The application will include a complaint resolution process to address potential complaints from nearby residents. The process may use an independent mediator or arbitrator and shall

include a time limit for acting on a complaint. The applicant shall make every reasonable effort to resolve any complaint.

- (l) An application shall include information relating to the construction/installation of the WECS as follows:
  - i. A construction schedule describing expected commencement and completion dates; and
  - ii. A description of the anticipated routes to be used by construction and delivery vehicles and the gross weights and heights of those loaded vehicles.
- (m) Completed Part 1 of the Full Environmental Assessment Form.
- (n) Applications for Wind Measurement Towers under Section 120-23.16 may be jointly submitted with the WECS application.
- (o) For each proposed WECS, include make, model, picture, and manufacturers' specifications, including noise decibels data. Include Manufacturers' Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
- (p) The following studies shall be submitted with the application:
  - i. Shadow Flicker. The applicant shall conduct a study on potential shadow flicker. The study shall identify locations where shadow flicker may be caused by the WECSs and the expected durations of the flicker at these locations. The study shall identify areas where shadow flicker may interfere with residences and describe measures that shall be taken to eliminate or mitigate the problems.
  - ii. Visual Impact. Applications shall include a visual impact study of the proposed WECS as installed, which may include a computerized photographic simulation, demonstrating any visual impacts from strategic vantage points. Color photographs of the proposed project site from at least two locations accurately depicting the existing conditions shall be included. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

- iii. A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed project site.
- iv. Noise Analysis. A noise analysis shall be provided by a competent acoustical consultant documenting the noise levels associated with the proposed WECS. The study shall document noise levels at property lines and at the nearest residence not on the project site (if access to the nearest residence is not available, the Planning Board may modify this requirement). The noise analysis shall include low frequency noise.
- v. An assessment of potential electromagnetic interference with microwave, radio, television, personal communication systems, and other wireless communication.
- vi. A soil analysis shall be provided by an independent third-party professional.

(q) The applicant shall, prior to the receipt of a building permit, demonstrate that the proposed facility meets the system reliability requirements of the New York Independent System Operator, or provide proof that it has executed an Interconnection Agreement with the New York Independent System Operator and/or the applicable Transmission Owner.

(r) A statement, signed under penalties of perjury, that the information contained in the application is true and accurate.

C. Application Review Process.

- (1) Applicants may request a pre-application meeting with the Planning Board or with any consultants retained by the Planning Board for application review.
- (2) Six (6) copies of the application and a complete digital version shall be submitted to the Town Code Enforcement Officer. Payment of all application fees and other fees including engineering, legal and other professional fees shall be made at the time of application submission. In addition, the applicant shall provide the Planning Board with a reasonable number of additional copies necessary to coordinate review with involved agencies and interested parties, pursuant to SEQRA.
- (3) Upon submission of a complete application, the Town Code Enforcement Officer shall transmit the application to the Planning Board. The Planning Board shall hold at

least one public hearing on the application. Notice shall be provided by first-class mail to property owners within one (1) mile of a turbine, and published in the Town's official newspaper, no less than five (5) days before any hearing, but where any hearing is adjourned by the Planning Board to hear additional comments, no further publications or mailing shall be required. The applicant shall prepare and mail the Notice of Public Hearing prepared by the Planning Board and shall submit an affidavit of service. The assessment roll of the Town shall be used to determine mailing addresses.

- (4) Referral shall also be made, when applicable, to the Madison County Planning Department, pursuant to General Municipal Law Sections 239-l and 239-m.
- (5) SEQRA review. Applications for WECS shall be deemed Type 1 projects under SEQRA.
- (6) The Planning Board shall be responsible for the review of the proposed project under SEQRA, and shall where appropriate, act as lead agency under SEQRA, and shall coordinate its review with all other involved agencies having discretionary approval over any aspect of the proposed project.
- (7) The Planning Board shall require an escrow agreement for the engineering and legal review of the applications and any environmental impact statements before commencing its review.
- (8) Upon receipt of the recommendations of the Madison County Planning Department (where applicable), the holding of a public hearing, and the completion of the SEQRA process, the Planning Board may approve, approve with conditions, or deny the application, in accordance with the standards in this Article and applicable Town Laws.
- (9) If approved, the Town Planning Board will issue, to the applicant only, a special use permit/site plan approval for each WECS for the purpose of construction and continued operation based on satisfaction of all conditions for said Permit. This authorizes the Code Enforcement Officer to issue a permit for each WECS, upon compliance with any conditions of this Article or approval by the Planning Board.
- (10) If construction of any approved WECS is not substantially commenced within one year of issuance of the permit, the permit shall expire.

#### D. Standards for WECS.

In addition to all other applicable criteria, the following criteria are hereby established for purposes of granting a special use permit and site plan approval for a WECS:



- (1) All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable.
- (2) No television, radio or other communication antennas may be affixed or otherwise made part of any WECS, except pursuant to the Town Code. Applications may be jointly submitted for WECS and telecommunications facilities.
- (3) To minimize any visual impacts associated with WECS, no advertising signs are allowed on any part of the WECS, including fencing and support structures.
- (4) Lighting of tower. No tower shall be lit except to comply with FAA requirements.
- (5) Minimum downward directed security lighting for ground level facilities shall be allowed as approved on the site plan.
- (6) All applicants shall use measures to reduce the visual impact of WECS to the extent possible. WECS shall use tubular towers. All structures in a project shall be finished in a single, non-reflective matte finished white or gray in color. WECS within multiple WECS project shall be constructed using wind turbines whose appearance, with respect to one another, is similar within and throughout the project, to provide reasonable uniformity in overall size, geometry, and rotational speeds. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades.
- (7) The use of guy wires is permitted in connection with small WECS and wind measurement towers only.
- (8) All solid waste and hazardous waste and construction debris shall be removed from the project site and managed in a manner consistent with all appropriate rules and regulations.
- (9) Sign-off from First Responders/Emergency Medical Service providers shall be provided.
- (10) WECS shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided when feasible. The use of previously developed areas will be given priority wherever possible.
- (11) WECS shall be located in a manner that minimizes significant negative impacts on animal species in the vicinity, particularly bird and bat species, including those

that may be listed by the U.S. Fish & Wildlife Service as threatened or endangered and those listed as threatened, endangered, and species of concern by the NYS officials.

- (12) Wind energy conversion systems shall be located in a manner consistent with all applicable state and Federal wetlands laws and regulations. A plan for clearing and/or grading of the site and a stormwater pollution prevention plan (SWPPP) for the site. The SWPPP shall be filed and recorded in the Madison County Clerk's Office (indexed against the property) by the applicant following Planning Board approval (prior to commencement of construction) and shall provide for access to the Town of Eaton in the event of a default of the operator's obligations under the SWPPP. The SWPPP shall include a security amount approved by the Town's Consulting Engineer and shall remain in place until decommissioning is complete.
- (13) Storm-water run-off and erosion control shall be managed in a manner consistent with all applicable state and Federal laws and regulations.
- (14) The maximum Total Height of any WECS shall be 680 feet. However, in all instances, the applicant shall be required to demonstrate that the requested height of the WECS is necessary to achieve the project's objectives.
- (15) Any substation used in conjunction with a WECS shall be sited in a manner that will have the least intrusive impact upon adjacent residences and shall be sheltered and/or screened with a physical barrier and/or vegetation in a manner to eliminate its views from such residences. The Planning Board shall assess such siting in accordance with the requirements of this Section and the Town's Comprehensive Plan.
- (16) Construction of the WECS shall be limited to the hours of 7 AM to 7 PM, Monday through Friday.
- (17) In processing any application for a WECS or in reviewing such project under SEQRA, the Planning Board may consider any applicable policy or guidelines issued by the New York State DEC (i.e., visual impacts, noise impact).
- (18) Following construction/installation of the WECS, all disturbed areas where soil has been exposed shall be reseeded with grass and/or planted with low level vegetation capable of preventing soil erosion and airborne dust and demonstrating established growth. The applicant shall provide an Operations and Maintenance Plan which shall include provisions for reseeded and established growth.

- (19) Post-construction/installation certification. Following the construction/installation of the WECS, the applicant shall provide a post-construction/installation certification from a professional engineer registered in New York State that the project complies with any and all applicable codes and industry practices and has been constructed and operating according to the drawings and development plan(s) submitted to the Town.
- (20) Any WECS project shall meet and comply with the latest version of the National Electric Code for the life of the project. If it is determined that a WECS is causing stray voltage issues, the operator shall immediately take the necessary corrective action to eliminate these problems including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy stray voltage issues is grounds for revocation of the special use permit for the specific WECS causing the problems. Fines for non-compliance will be set by the Town Board and assessed accordingly.
- (21) To the greatest extent possible WECS, together with all above ground facilities, underground cables and wires, and all permanent access roads shall be positioned along existing fence lines, hedge rows or tree rows and/or as near the edge of any fields as possible to minimize the disruption to pastureland or tillable land unless, otherwise allowed by the property owner(s). Following construction, the site shall be graded and seeded and restored to its preconstruction condition or better unless, otherwise allowed by the property owner(s). During construction, the developer shall be required to act consistent with Agricultural Consistency Review under Agriculture and Markets Law, and best agricultural and forestry practices to ensure construction integrity of the site.

E. Required Safety Measures.

- (1) Each WECS shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade, so it does not exceed the design limits of the rotor.
- (2) Appropriate warning signs shall be posted. At least one sign shall be posted at least 100 feet from the base of the tower on the tower access road/route warning of electrical shock or high voltage. A sign shall be posted on the entry area fence around each tower or group of towers and any building (or on the tower or building if there is no fence), containing emergency contact information. The Planning Board may require additional signage based on safety needs.
- (3) No climbing pegs or tower ladders shall be located closer than 12 feet to the ground level at the base of the structure for freestanding single pole or guyed towers.
- (4) The minimum distance between the ground and any part of the rotor or blade system shall be 30 feet.

- (5) WECS shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked at all times.
- (6) Existing snowmobile and/or ATV trails shall be posted, where reasonably necessary, to warn of potential ice throw dangers from the WECS.

F. Traffic Routes.

- (1) Construction of WECS pose potential risks because of the large size construction vehicles, hauled materials along with their impact on traffic safety and their physical impact on local roads. Construction and delivery vehicles for WECS and for associated facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include:
  - (a) minimizing traffic impacts from construction and delivery vehicles, including impacts on local residential areas;
  - (b) minimizing WECS related traffic during times of school bus activity;
  - (c) minimizing wear and tear on local roads;
  - (d) minimizing impacts on local business operations; and
  - (e) Special use permit conditions may limit WECS-related traffic to specific routes and include a plan for disseminating traffic route information to the public.
- (2) The applicant is responsible for the repair of all damage to Town roads occurring during the construction or maintenance of a WECS to be addressed in a Road Use Agreement, which shall be a condition precedent to issuance of any WECS permit. A cash security (as determined by the Town Board) shall be posted prior to the issuance of any WECS permit in an amount determined by the Planning Board, sufficient to compensate the Town for any damage to local roads.

G. Setbacks and Noise Standards for WECS.

- (1) Setback Requirements. No WECS shall be allowed within the following setbacks. If more than one setback applies, the most restrictive setback shall prevail.
  - (a) From property lines. A minimum distance of 2.0 times the Total Height of turbine (including blades) from any non-participant's property line, excluding adjoining lot lines of the project participants.

- (b) From public road and highways. A minimum distance of 2.0 times the Total Height of turbine (including blades), from any public road and highway.
- (c) From public above-ground transmission lines. A minimum distance of 2.0 times the Total Height of turbine (including blades) from any above-ground transmission line greater than 12 kilovolts.
- (d) From another WECS turbine. A minimum distance of 2.0 times the Total Height of turbine (including blades) from any other turbine. All power transmission lines from the tower to any building or other structure shall be located underground.

(2) Noise Level Limits and Measurement.

- (a) The statistical sound pressure level generated by a WECS shall not exceed L10 - 50 dBA measured at the nearest residence located off the site. Sites can include more than one parcel of property and the requirement shall apply to the combined properties. If the ambient sound pressure level exceeds 50 dBA, the standard shall be ambient dBA plus five (5) dBA. Independent certification shall be provided before and after construction demonstrating compliance with this requirement.
- (b) In the event audible noise due to WECS operations contains a steady pure tone, such as a whine, screech, or hum, the standards for audible noise set forth herein shall be reduced by five (5) dBA. A Pure Tone is defined to exist if the 1/3 octave band sound pressure level in the band, including the tone, exceeds the arithmetic average of the sound pressure levels of the two (2) contiguous 1/3 octave bands by five (5) dBA for center frequencies of 500 Hz and above, by eight (8) dBA for center frequencies between 160 Hz and 400 Hz, or by 15 dBA for center frequencies less than or equal to 125 Hz.
- (c) In the event the ambient noise level (exclusive of the development in question) exceeds the applicable standard given above, the applicable standard shall be adjusted so as to equal the ambient noise level. The ambient noise level shall be expressed in terms of the highest whole number sound pressure level in dBA, which is exceeded for more than five minutes per hour. Ambient noise levels shall be measured at the exterior of potentially affected existing residences. Ambient noise level measurement techniques shall employ all practical means of reducing the effect of wind generated noise at the microphone. Ambient noise level measurements may be performed when wind velocities at the proposed project site are sufficient to allow wind turbine operation, provided that the wind velocity does not exceed 30 mph at the ambient noise measurement location.

(d) Any noise level falling between two (2) whole decibels shall be the lower of the two (2).

H. Issuance of Special Use Permit and Site Plan.

- (1) Upon completion of the review process, the Planning Board shall, upon consideration of the standards in this Article, the Town's Comprehensive Plan, and the record of the SEQRA review, issue a written decision with the reasons for approval, conditions of approval or disapproval fully stated.
- (2) If any approved WECS is not substantially commenced within one (1) year of issuance of the special use permit, the special use permit shall expire.

I. Decommissioning.

- (1) If any WECS remains non-functional or inoperative for a continuous period of one (1) year, the applicant agrees that, without any further action by the Town Board, it shall remove said system at its own expense as per paragraph (3) below. This provision shall not apply if the applicant demonstrates to the reasonable satisfaction of the Town Board that it has been making good faith efforts to restore the WECS to an operable condition. Nothing in this provision shall limit the Town Board's ability to order a remedial action plan.
- (2) Non-function or lack of operation may be proven by reports to the Public Service Commission, NYSERDA or by lack of income generation. The applicant shall make available to a designee (i.e., town engineer, project manager, etc.) appointed by the Town Board, all reports from the purchaser of energy from individual WECS, if requested to prove the WECS is functioning. This designee may also request periodic documentation reporting the power output generated by the WECS.
- (3) Decommissioning and Site Restoration Plan and Requirements. An application for a WECS permit shall include a decommissioning and site restoration plan containing the information and meeting the requirements in this Article.
  - (a) The plan shall provide for the removal from the Project Parcels, and lawful disposal or disposition of all Wind Turbines and other structures, hazardous materials, electrical facilities, and all foundations to a depth of not less than 36 inches below grade. The plan shall provide for the removal of all access roads that the owner of the Project Parcels wants removed. The plan shall provide for the restoration of the Project Parcels to farmland or forest land of similar condition to that which existed before construction of the WECS.

- (b) The plan shall provide for the decommissioning of the site upon the expiration or revocation of the WECS permit, or upon the abandonment of the WECS. The WECS shall be deemed abandoned if its operation is ceased for 12 consecutive months. The operator of the facility shall provide a report no later than the 31<sup>st</sup> day of January each year providing a summary report of the operation of the facility during the prior calendar year and its operational status as the immediately preceding 31<sup>st</sup> day of December.
- (c) The Plan shall include: (a) the estimated decommissioning cost in current dollars (such amount being subject to the approval of the Town Board); (b) how said estimate was determined; (c) the method of ensuring that funds will be available for decommissioning and restoration; (d) the method that will be used to keep the decommissioning costs current. The Town Board shall make arrangements to ensure the fund amount is adjusted annually based on a suitable index such as the “Engineering News Report Construction Costs Index” unless the wind developer supplies evidence to the reasonable satisfaction of the Town Board that market conditions have changed.
- (d) The plan shall include provisions for financial security to secure completion of decommissioning (removal of non-functional towers and appurtenant facilities) and site restoration. The applicant, or successors, shall continuously maintain a fund payable to the Town of Eaton, in a form approved by the Town Attorney, and in an amount to be determined by the Town Board for the period of the life of the facility. This fund shall be no less than 150% of the cost of full decommissioning (including salvage value) and restoration in the form of cash on deposit with the Town or cash held in escrow in a New York licensed-financial institution, pursuant to an agreement acceptable to the Town. All decommissioning funding requirements shall be met prior to commencement of construction.
- (e) The plan shall include written authorization from the WECS Permittee and all owners of all Project Parcels for the Town to access the Project Parcels and implement the decommissioning and site restoration plan, in the event the WECS Permittee fails to implement the plan. The written authorization shall be in a form approved by the Town.
- (f) Use of Decommissioning Fund
  - i. Any non-functional or inoperative WECS, or any WECS for which the Permit has been revoked, shall be removed from the site and the site restored in accordance with the approved decommissioning and site restoration plan within 120 days of the date on which the facility becomes non-functional or inoperative, as defined above, and weather permitting, or of the revocation of the permit.

- ii. If removal of the WECS is required and the applicant, permittee, or successor fails to remove the WECS and restore the site in accordance with the approved decommissioning and site restoration plan, the permittee, by accepting the permit, authorizes the Town Board to Contract for such removal and restoration and to pay for the removal and restoration from the posted decommissioning and site restoration fund.
- iii. If the fund is not sufficient, the Town shall charge the permit holder for the costs over and above the amount of the fund.

J. Insurance.

- (1) Insurance. The applicant, owner, lessee or assignee shall at all times during construction and operation maintain a current insurance policy which will cover installation and operation of the commercial solar project and shall be increased annually per industry standards. Said policy shall provide a minimum of \$5,000,000 property and personal liability coverage. Proof of such policy shall be provided to the Town on an annual basis. Notwithstanding any terms, conditions, or provisions in any other writing between the parties, the applicant shall agree to effectuate the naming of the Town as an additional insured on the applicant's insurance policies, with the exception of workers' compensation and NYS disability insurance. The policy naming the Town as an additional insured shall:
  - (a) Be an insurance policy from an A.M. Best rated "secured" or better insurer, authorized to conduct business in New York State. A New York State licensed insurer is preferred.
  - (b) State that the applicant's insurance coverage shall be primary and noncontributory coverage for the Town, its Board, employees, agents, and volunteers.
  - (c) Additional insured status shall be provided by standard or other endorsements that extend coverage to the Town for both on-going and completed operations. A completed copy of the endorsements shall be attached to the certificate of insurance.
  - (d) The applicant shall provide a copy of the declaration page of the liability policies with a list of endorsements and forms. If so requested, the applicant will provide a copy of the policy endorsements and forms.
  - (e) The certificate of insurance shall contain a provision that coverage afforded under the applicable policy shall not be cancelled or terminated until at least 30 days'



prior notice has been provided to the Town. In the event of a termination, cancellation, or lapse of the required insurance coverage, the special use permit to operate the solar energy system shall be immediately suspended and operation of the system shall cease. Upon restoration of the required insurance coverage, to the satisfaction of the Town, permission to operate the commercial solar project may be restored.

K. Limitations on Approvals.

- (1) Nothing in this Section shall be deemed a guarantee against any future construction or Town approvals of future construction that may in any way impact the wind flow to any Wind Energy Conversion System. It shall be the sole responsibility of the Facility operator, or owner, to acquire any necessary wind flow or turbulence easements, or right to remove vegetation.

L. Permit Revocation.

- (1) Testing fund. A permit shall contain a requirement that the applicant fund periodic noise testing by qualified independent third-party acoustical measurement consultant, which permittee shall include in the annual Operation Maintenance and Compliance report required by this Section. The scope of the noise testing shall be to demonstrate compliance with the terms and conditions of the Permit and this Section and shall include an evaluation of any complaints received by the Town. A non-compliant WECS shall be shut down immediately. The applicant shall have 90 days after written notice from the Code Enforcement Officer to cure any deficiency. An extension of the 90-day period may be considered by the Code Enforcement Officer, but the total period may not exceed 180 days.
- (2) Operation. A WECS shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational conditions include meeting all noise requirements and other permit conditions. Should a WECS become inoperable, or should any part of the WECS be damaged, or should a WECS violate a permit condition, it shall be shut down immediately. The owner or operator shall remedy the situation within 90 days after written notice from the Town Code Enforcement Officer. The applicant shall have 90 days after written notice from the Town Code Enforcement Officer to cure any deficiency. The Planning Board may extend the 90-day cure period for good cause shown.
- (3) Notwithstanding any other abatement provision under this Section, if the WECS is not repaired or made operational or brought into permit compliance after said notice, the Town may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, (1) order either remedial action within a particular timeframe, or (2) order revocation of the special

use permit for the WECS and require the removal of the WECS within 90 days. If the WECS is not removed, the Town Board shall have the right to use the security posted as part of the Decommissioning Plan to remove the WECS.

M. Miscellaneous.

- (1) WECS Escrow Account. The applicant shall pay to the Town a nonrefundable Application Fee as set by resolution of the Town Board, and shall further establish an Escrow Account. The Town Board and Planning Board reserve the right to obtain engineering, economic impact, environmental impact, or reasonable charges of other reasonable professional services to aid it in the review of any submitted WECS application. These costs are solely the responsibility of the applicant and (and other expenses incurred by the Town) are reimbursable only from the Escrow Account, not the Application Fee.
  - (a) The applicant shall reimburse the Town for all reasonable oversight expenses incurred relating to the WECS, from application through decommissioning.
  - (b) WECS-related reasonable oversight expenses include, but are not limited to, amounts required for Building Permits, Licensing, Re-Licensing, and Decommissioning, *e.g.*, administration, engineering, expert health and wildlife evaluations, handling complaints, legal, etc. “Legal” expenses include reasonable attorney fees for the Town if the Town has to pursue legal action against the applicant.
  - (c) An Escrow Account will be established at the time of the WECS Application. This Escrow Account will be maintained at a financial institution approved by the Town, solely in the name of the Town, to be managed by the Town Board (or designee). The applicant shall make an initial deposit of \$35,000.00. A WECS Application will not be processed until the deposit is complete. A WECS Application determination will not be made until all costs incurred by the Town to date have been reimbursed by the applicant.
  - (d) If the WECS Application is denied or withdrawn, all Escrow Account funds shall be returned to the applicant, less related expenses incurred by the Town. The funds shall be returned, along with a statement as of the costs incurred, within 30 days of the Application being formally denied, or receipt of a Letter of Withdrawal. Application and Permit Fees are non-refundable.
  - (e) The Escrow Account shall be funded during the life of the WECS by the Applicant/Owner/Operator. The Applicant/Owner/Operator shall replenish any Escrow funds used by the Town within 14 days of being sent written notification, with explanation, of authorized withdrawals. Failure to maintain the Escrow Account at \$35,000.00 within 30 days of notice shall be cause for revocation (or denial of renewal) of the WECS Permit.

(f) Once the Applicant/ Owner/ Operator believes that the decommissioning conditions, as set forth herein, have been satisfactorily complied with the decommissioning conditions, they shall send the Town written notification. The Town then has 90 days to verify that all of the decommissioning conditions have been satisfied. If there is material noncompliance, the Town shall notify the Applicant/ Owner/ Operator and the process will start over. Otherwise, the Town shall return all Escrow Account funds to the Applicant/ Owner/ Operator, less related expenses incurred by the Town, along with explanatory statements/invoices.

(2) Road remediation. The applicant shall be responsible for the remediation of any public roads or other public property damaged during the construction of and/or completion of the installation (or removal) of any WECS projects approved pursuant to this Article. The Code Enforcement Officer is hereby authorized and directed to ensure a public improvement (road repairs) bond, subject to the same bond ratings and financial surety requirements as the decommissioning bond, be posted prior to the issuance of any building permit in an amount sufficient to compensate the Town for any damage to local roads that is not corrected by the applicant. The Highway Superintendent or Town Engineer is authorized to consult with any necessary professional to determine or confirm the bond amount at the sole cost and expense of the applicant. The applicant shall, upon authorization by the Town Code Enforcement Officer, file and record the original performance bond in the Town Clerk's Office.

N. Application Fee, Professional Fees, PILOT and Host Community Benefit Agreement.

(1) Non-refundable Application Fees shall be established and amended by resolution of the Town Board.

(2) Special Use Permits and Site Plan. The review of permits for WECS require expertise and shall require the Town to engage the services of professional consultants such as attorneys and engineers, the expenses for which cannot be accurately established in advance. Therefore, in addition to the above, the applicant shall be responsible for all of the Town's reasonable expenses incurred in the permit review process including the review required by SEQRA, and the costs of decommissioning the WECS and such expenses may include, but are not limited to, all administrative costs, attorneys' fees and engineering fees, and the applicant shall be required to enter into an escrow agreement with the Town in advance of such review to provide for the payment of such costs and expenses of review as agreed by the parties.

(3) In every instance of a WECS application, the applicant shall be required to propose a Payment in Lieu of Tax ("PILOT") Agreement. The applicant shall also comply with the notice requirements of NYS Real Property Tax Law Section 487. The applicant shall contact the Town's legal counsel to negotiate the terms of said Agreement.

(4) In addition to a PILOT Agreement, the applicant shall propose to the Town, on WECS projects involving one (1) megawatt and above of rated energy output capacity, a Host Community Agreement benefit package for consideration by the Town Board as part of the approval process. Once the application package materials are deemed complete and while the Planning Board is completing its review, the project/application shall be referred to the Town Board to decide on the completion and terms of a Host Community Agreement. This Agreement shall be in addition to a PILOT Agreement.

O. Inspections.

- (1) WECS shall not begin operation until all approvals required under this Article have been obtained and all required certifications are provided.
- (2) Following the issuance of any approval required under this Article, the Planning Board or its designee shall have the right to enter onto the site upon which a WECS has been placed, at reasonable times to inspect such facility and its compliance with this Article and any approval and included conditions.
- (3) After undertaking such inspection, the Planning Board or its designated representative shall provide notice of any non-compliance with the terms of this Article or the conditions of approval of any permit issued hereunder, and shall provide the Applicant/ Owner/ Operator with a reasonable time frame to cure such violation, such timeframe to be determined based upon the seriousness of the violation, its impact upon public safety, and the impact of the violation upon residents of the Town.

P. Construction Related Damage.

The owner of every WECS constructed pursuant to this Article shall repair or replace all real or personal property, public or private, damaged during the construction of such facility attributable to the applicant or its designee, employee, or agent.

Q. Fiscal Responsibility.

No transfer of any WECS or permit, or sale of the entity owning such facility, including the sale of more than 30% of the stock of such entity (not counting the sale of shares on a public exchange) shall occur without written acceptance by such entity of the obligations of the permittee under this Section and the terms of the permit. Any such transfer shall not eliminate the liability of any entity for any act occurring during its ownership or status as permittee.

R. Certification.

Prior to the operation of any approved and constructed WECS, the applicant must provide a certification that the project complies with applicable codes, industry practices and conditions of approval, where applicable.

S. Made in America Requirements.

All WECS shall be required to use components and materials made and manufactured in the United States of America.

Section 120-23.16 Wind Measurement Towers.

A. Wind Site Assessments. As a wind site assessment is typically conducted to determine the wind speeds and the feasibility of using particular sites, installation of Wind Measurement Towers, also known as anemometer (“Met”) towers, shall be permitted in accordance with this Section and the provisions of Section 120-23.15, subject to approval by the Planning Board.

B. Applications for Wind Measurement Towers. An application for a Wind Measurement Tower shall include, unless waived by the Planning Board, the following:

(1) Name, address, and telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

(2) Name, address, and telephone number of the property owner.

(3) If the property owner is not the applicant, the application shall include written permission signed by the property owner confirming that the property owner is familiar with the proposed application and authorizing the submission of the application.

(4) Address of each proposed tower location, including Tax Map section, block, and lot number.

(5) Proposed Development Plan and Map.

(6) Decommissioning Plan, including cash security for removal and restoration.

C. Standards for Wind Measurement Towers.

(1) The distance between a Wind Measurement Tower and the property line shall be at least one point five (1.5) times the Total Height of the tower. Sites can include more than one

piece of property and the requirement shall apply to the combined properties. Exceptions for neighboring property are also allowed with the consent of those property owners.

- (2) Special use permits for Wind Measurement Towers may be issued for a period of up to two (2) years. Permits shall be renewable upon application to the Planning Board in accordance with the procedure of this Article.

#### Section 120-23.17 Small Wind Energy Conversion Systems.

- A. Purpose and Intent. The purpose of this Section is to provide standards for small wind energy conversion systems (hereinafter referred to as “SWECS”) designed to produce electrical power for home, farm, and small commercial use on the same parcel the SWECS is installed on, and that are primarily used to reduce consumption of utility power at that location. Such SWECS shall have a generated capacity of up to but not exceeding 100 kilowatts. The intent of this Section is to provide for the development of small wind energy systems while also protecting the public health, safety, and community welfare.
- B. Permits Required. No person, firm or corporation, or other entity being the owner or occupant of any land or premises within the Town of Eaton shall use or permit the use of land or premises for the construction of a SWECS without obtaining a special use permit issued by the Planning Board as hereinafter provided.
- C. Districts Where Allowed. Subject to the issuance of a special use permit and a building permit, SWECS are allowed in all zoning districts in the Town except within the Residential District No. 2 (RD-2).
- D. Applications. Applications for Small WECS Permits shall include, unless waived by the Planning Board, the following:
  - (1) Name, address, and telephone number of the applicant. If the applicant is represented by an agent, the name, address, and telephone number of the agent as well as an original signature of the applicant authorizing the agent to represent the applicant.
  - (2) Name, address, and telephone number of the property owner. If the property owner is not the applicant, the application shall include written permission signed by the property owner confirming that the property owner is familiar with the proposed applications and authorizing the submission of the application.
  - (3) A description of the project, including the address of each proposed tower location, including Tax Map section, block, and lot number, and the maximum rated capacity of each SWECS.
  - (4) Documentation from the manufacturer that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.

- (5) A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Building Code of the State of New York and sufficient information demonstrating that the system will be used primarily to reduce consumption of electricity at that location.
- (6) A site plan prepared by a licensed surveyor or engineer drawn in sufficient detail to clearly describe and depict the SWECS components relative to all other existing and proposed structures and property lines.
- (7) Written evidence that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not so plan and states such in the application, to connect the system to the electricity grid.
- (8) A visual analysis of the SWECS as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components, and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

E. Development Standards. All SWECS shall comply with the following standards. Additionally, such systems shall also comply with all the requirements established by other provisions of this Article that are not in conflict with the requirements contained in this Section.

- (1) Only one (1) small wind energy system tower per legal lot shall be allowed, unless there are multiple applicants, in which case their joint lots shall be treated as one lot for the purposes of this Section.
- (2) SWECS shall be used primarily to reduce the on-site consumption of electricity.
- (3) Tower heights may be allowed as follows:
  - (a) 65 feet or less on parcels between one (1) and five (5) acres,
  - (b) 80 feet or less on parcels of five (5) or more acres.
- (4) The maximum turbine power output is limited to 100 KW.
- (5) The system's tower and blades shall be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate nonreflective surfaces to minimize any visual disruption.

- (6) The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas.
- (7) Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.
- (8) All on-site electrical wires associated with the system shall be installed underground except for “tie-ins” to a public utility company and public utility company transmission poles, towers, and lines. This standard may be modified by the Planning Board if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
- (9) The system shall be operated such that no disruptive electromagnetic interference is caused.
- (10) If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.
- (11) At least one sign shall be posted on the tower at a height of five (5) feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising shall be placed or painted on the tower rotor, generator or tail vain where it would be visible from the ground, except that a system or motor’s manufacturer’s logo may be displayed on the system generator housing in an unobtrusive manner.
- (12) Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:
  - (a) Tower-climbing apparatus located no closer than 12 feet from the ground.
  - (b) A locked anti-climb device installed on the tower.
  - (c) A locked, protective fence at least six (6) feet in height that encloses the tower.
- (13) Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any above ground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six (6) feet high or sheathed in bright orange or yellow covering from three (3) to eight (8) feet above the ground.
- (14) Construction of on-site access roadways shall be minimized. Temporary access roads used for initial installation shall be re-graded and re-vegetated to the pre-existing natural condition after installation is complete.



- (15) To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade shall be at least 30 feet above the highest structure or tree within a 250-foot radius. Modification of this standard may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.
  - (16) All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Fire Prevention and Building Code.
  - (17) All small wind energy systems shall be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices shall be certified by the manufacturer. The applicant shall post an emergency telephone number so that the appropriate entities may be contacted should the SWECS need immediate repair or attention. This telephone number should be clearly visible on a permanent structure or post located outside of the fall zone of the tower. Location should be convenient and readily noticeable to someone likely to detect a problem.
  - (18) Ownership of the SWECS must be the same as the owner of the fee interest in the real property upon which it is situated. In the event of transfer of ownership of the premises, the ownership of the wind energy conversion system must also be transferred to the same owner, or the tower must be decommissioned.
  - (19) Setback requirements. A SWECS shall not be located closer to a property line, dwelling, or structure occupied by humans or animals, than one point five (1.5) times the Total Height of the facility.
  - (20) Noise. Except during short-term events including utility outages and severe windstorms, a SWECS shall be designed, installed, and operated so that noise generated by the system shall not exceed ambient noise levels (exclusive of the development proposed) by more than six (6) dBA at the nearest property line to any proposed SWECS. Sites can include more than one piece of property and the requirement shall apply to the combined properties. In the event the ambient sound pressure level exceeds 50 dBA, the standard shall be ambient dBA plus a maximum of five (5) dBA. Independent certification shall be provided before and after construction demonstrating compliance with this requirement.
- F. Inspections. The Code Enforcement Officer and/or Town Engineer shall have the right at any reasonable time to enter, in the company of the owner or their agent, the premises

on which a wind energy conversion system is being or is constructed, to inspect all parts of said wind energy conversion system installation and require that repairs or alterations be made if in their judgment, there exists a deficiency in the operation or the structural stability of the system. If necessary, the Code Enforcement Officer or Town Engineer may order the system secured or to otherwise cease operation. It shall not be required that the owner or agent be present in the event of an emergency situation involving danger to life, limb, or property.

G. Insurance. The applicant, owner, lessee or assignee shall maintain a current insurance policy which shall cover installation and operation of the on-site use wind energy conversion system at all times. Said policy shall provide a minimum of \$2,000,000.00 property and personal liability coverage.

H. Fees. Fees for applications and permits under this Section shall be established by resolution of the Town Board of the Town of Eaton. It shall be the applicant's responsibility to reimburse the Town for any and all reasonable and necessary legal, engineering and other professional fees incurred by the Town in reviewing and administering an application under this Section.

I. Abandonment of Use.

(1) A SWECS which is not used for 12 successive months shall be deemed abandoned and shall be dismantled and removed from the property at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any building permit shall constitute grounds for the revocation of the permit by the Planning Board. If not removed within 90 days from revocation, weather permitting, the Town shall have the right to remove the SWECS at the owner's expense. A decommissioning bond in a form acceptable to the Town shall be filed with the Town Clerk to cover the costs of the complete removal of the SWECS and shall not be allowed to lapse or terminate. Such bond shall be in place prior to the issuance of a building permit.

(2) All SWECS shall be maintained in good condition and in accordance with all requirements of this Section.

Section 120-23.18 Enforcement; Penalties and remedies for violations.

A. The Town Board, Town Code Enforcement Officer and such Town staff or outside consultants as appointed by the Town Board shall administer and enforce this Article.

- B. Any person owning, controlling or managing any building, structure or land who shall undertake a Wind Energy Facility in violation of this Article or in noncompliance with the terms and conditions of any permit issued pursuant to this Article, or any order of the Code Enforcement Officer, and any person who shall assist in so doing, shall be guilty of an offense and subject to a fine of not more than \$250.00. Every such person shall be deemed guilty of a separate offense for each day such violation shall continue. The Town may institute a civil proceeding to collect civil penalties in the amount of \$250.00 for each violation and each day said violation continues shall be deemed a separate violation.
- C. In case of any violation, or threatened violation, of any of the provisions of this Article, including the terms and conditions imposed by any permit issued pursuant to this Article, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, to prevent the illegal act.
- D. An Applicant/Owner/Operator not responding to the following condition in the manner specified shall be considered to be in violation of this Article.
- (1) Unsafe Operation/ Condition. If a Wind Turbine, or WECS/SWECS, presents an imminent physical threat of damage to life or significant threat to property, as determined by the Code Enforcement Officer, Town Board, or one of their designated agents, it shall be deemed unsafe and immediately shut down and repaired or otherwise made safe and certified so by a New York licensed Professional Engineer approved by the Town Board prior to resumption of operation. The Code Enforcement Officer, or their agent/designee, shall have the right to access the WECS/SWECS to verify conditions and/or progress of repair.
- (2) Serious Violations. The Applicant/Owner/Operator of the WECS/SWECS is responsible for mitigating any serious violations of standards within ten (10) business days upon receipt of written notification of determination of any cause attributed to operation of the WECS/SWECS. A serious violation is defined as any of the following:
- (a) Any measured Noise Level which exceeds the standard specified herein or an approval where the Wind Turbine(s) or ancillary facility is the dominant and controlling source.
- (b) The occurrence of Shadow Flicker, Tower Shadowing or Blade Glint exceeds the standards specified in this Article or an approval.

- (c) Degradation or contamination exceeding US Environmental Protection Agency standards of any surface or subsurface water resource. In the case of degradation or contamination of a well, the obligation for mitigation shall be deemed satisfied if the Applicant/Owner/Operator immediately provides the affected well owner with a potable emergency water supply and within 30 days commences implementation of corrective measures to the satisfaction of the well owner and subject to the approval of the Planning Board.
  - (d) Any hazardous substance spill.
  - (e) Communication/electromagnetic interference (other than emergency communication).
- (3) Emergency Communications. Interference with communications must be mitigated within 24 hours.
- (4) Other Violations. If the Code Enforcement Officer or Town Board determines that a violation of this Article has occurred, and the violation is determined neither to be unsafe, nor a serious violation, nor interferes with emergency communication, the Officer or Town Board shall provide written notice to the Applicant/ Owner/ Operator, and the Applicant/ Owner/Operator is responsible for mitigating the problem within 30 days.
- E. An Applicant/Owner/Operator not in compliance with any provision of this Article by failing to resolve a violation may be subject to:
- (1) Revocation of WECS/SWECS permits, shut down and removal of any Wind Turbines;
  - (2) Fines pursuant to this Section;
  - (3) Any other remedies the Town Board deems necessary to assure the safe operation of the WECS/SWECS and protection of residents; and
  - (4) Reimbursement to the Town for expenses incurred in obtaining relief, including, but not limited to, court costs and reasonable attorney fees.”

## **SECTION 5. SEVERABILITY**

If the provisions of any article, section, subsection, paragraph, subdivision, or clause of this Local Law 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 Local Law.

**SECTION 6. EFFECTIVE DATE.**

This Local Law shall be effective upon filing with the Office of the Secretary of State.”

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

<b>David Verne</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes/No</b>
<b>Jean Hilts</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes/No</b>
<b>Stephen Dickerson</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes/No</b>
<b>Jeff Golley</b>	<b>Councilor</b>	<b>Voted</b>	<b>Yes/No</b>
<b>Joseph Wicks</b>	<b>Supervisor</b>	<b>Voted</b>	<b>Yes/No</b>

The foregoing resolution was thereupon declared duly adopted.

**DATED: December 12, 2023**

**CERTIFICATE**

**STATE OF NEW YORK    )**  
**COUNTY OF MADISON    )**

I, the undersigned Clerk of the Town of Eaton, Madison County, New York, **DO HEREBY CERTIFY:**

That I have compared the foregoing Resolution with the original thereof on file in the Office of the Town Clerk of the Town of Eaton, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

**I FURTHER CERTIFY** that all members of said Board had due notice of said meeting and that, pursuant to Section 103 of the Public Officers Law, said meeting was open to the general public.

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed the seal of said Town on December 12<sup>th</sup>, 2023.

\_\_\_\_\_  
**DEAN CURTIS, Town Clerk**

**(SEAL)**