

**OFFICIALS
OF THE
TOWN OF GLEN**

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2004

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Town Attorney
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CERTIFICATION

TOWN OF GLEN

Office of the Clerk

I, **ROXANNE DOUGLASS**, Clerk of the Town of Glen, New York, hereby certify that the chapters contained in this volume are based upon the original legislation of a general and permanent nature of the Town Board of the Town of Glen, and that said legislation, as revised and codified, renumbered as to sections and rearranged into chapters, constitute the Code of the Town of Glen, County of Montgomery, State of New York, as adopted by local law of the Town Board on November 8, 2004.

Given under my hand and the Seal of the Town of Glen, County of Montgomery, State of New York, this 12th day of November 2004, at the municipal offices of the Town of Glen.

s/ROXANNE DOUGLASS

Town Clerk

PREFACE

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

Contents of Code

The various chapters of the Code contain all currently effective legislation of a general and permanent nature enacted by the Town Board of the Town of Glen, including revisions or amendments to existing legislation deemed necessary by the Town Board in the course of the codification.

Division of Code

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

Histories

At the end of the Scheme (list of section titles) in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the enactment number (e.g., ordinance number, local law number, bylaw number, resolution number, etc.), if pertinent, and the date of adoption. In the case of chapters containing parts or articles derived from more than one item of legislation, the source of each part or article is indicated in the text, under its title.

GLEN CODE

Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

General References; Editor's Notes

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

Appendix

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

Disposition List

The Disposition List is a chronological listing of legislation, indicating its inclusion in the publication or the reason for its exclusion. The Disposition List will be updated with each supplement to the Code to include the legislation reviewed with said supplement.

Index

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

Instructions for Amending the Code

All changes to the Code, whether they are amendments, deletions or additions, should be adopted as amendments to the Code. In doing so, existing material that is not being substantively altered should not be renumbered.

Adding new sections. Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between §§ 65-5 and 65-6 should be designated § 65-5.1).

PREFACE

Adding new chapters. New chapters should be added in the proper alphabetical sequence in the appropriate division or part (e.g., Part I, Administrative Legislation, or Part II, General Legislation), utilizing the reserved chapter numbers. New chapter titles should begin with the key word for the alphabetical listing (e.g., new legislation on abandoned vehicles should be titled "Vehicles, Abandoned" under "V" in the Table of Contents, and a new enactment on coin-operated amusement devices should be "Amusement Devices" or "Amusement Devices, Coin-Operated" under "A" in the Table of Contents). Where a reserved number is not available, an "A" chapter should be used (e.g., a new chapter to be included between Chapters 166 and 167 should be designated Chapter 166A).

Adding new articles. New articles may be inserted between existing articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" articles (e.g., a new article to be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends with § 166-30 and Article XVII begins with § 166-31, Article XVIA should contain §§ 166-30.1 through 166-30.6).

Supplementation

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

Acknowledgment

The assistance of the Town officials is gratefully acknowledged by the editor. The codification of the legislation of the Town of Glen reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity and range in importance from everyday details to crucial areas of civic planning. It is the profound conviction of General Code Publishers Corp. that this publication will contribute significantly to the efficient administration of local government. As Samuel Johnson observed, "The law is the last result of human wisdom acting upon human experience for the benefit of the public."

TABLE OF CONTENTS

Tools for Finding Information – In addition to the municipality’s legislation, this publication contains tools to help locate information: table of contents, index, chapter outlines (schemes), and a disposition list.

Chapters – Chapters are generally discrete pieces of legislation, but can also be made up of several individual pieces on a related topic. In that case, the individual pieces are arranged into articles or parts within the chapter. The article or part titles can be found in the chapter scheme or by subject in the index. If you are familiar with a former number or title, look for it chronologically in the disposition list.

Reserved Chapters – In the numbering of chapters, space has been provided for the convenient insertion, alphabetically, of later enactments. Help in selecting an appropriate number for a new chapter is available from the editor. See also the “Instructions for Amending the Code” in the Preface.

Section Numbering – A chapter-related section-numbering system is employed. Each section of every item of legislation is assigned a number, which indicates both the number of the chapter in which the item of legislation is located and the location of the section within that chapter. Thus, the fourth section of Chapter 6 is § 6-4.

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

Page Numbers – A unique page-numbering system has been used in which each chapter forms an autonomous unit. The first page of each chapter is the number of that chapter followed by a colon and the numeral “1.” Thus, Chapter 6 begins on page 6:1. By the use of this system, it is possible to add or to change pages in any chapter, or add new chapters, without affecting the sequence of subsequent pages.

GLEN CODE

PART I: ADMINISTRATIVE LEGISLATION

General Provisions 1:1
Assessment..... 5:1
Investment Policy..... 19:1
Procurement Policy..... 26:1

PART II: GENERAL LEGISLATION

Adult Bookstores 38:1
Animals 45:1
Building Construction and Fire Prevention 52:1
Buildings, Numbering of 56:1
Burning, Outdoor 61:1
Flood Damage Prevention..... 74:1
Games of Chance 78:1
Junk and Junkyards 85:1
Land Management 87:1
Mobile Homes..... 92:1
Notification of Defects..... 96:1
Septage Waste, Land Application of 105:1
Sewers and Water 109:1
Site Plan Review 113:1
Solid Waste 120:1
Subdivision of Land..... 124:1
Taxation 129:1

APPENDIX

Water District Regulations.....A145:1

DISPOSITION LIST

INDEX

PART I

**ADMINISTRATIVE
LEGISLATION**

Chapter 1

GENERAL PROVISIONS

ARTICLE I Adoption of Code

- | | |
|---|---|
| <p>§ 1-1. Legislative intent.</p> <p>§ 1-2. Continuation of existing provisions.</p> <p>§ 1-3. Repeal of enactments not included in Code.</p> <p>§ 1-4. Enactments saved from repeal; matters not affected.</p> <p>§ 1-5. Severability.</p> <p>§ 1-6. Copy of Code on file.</p> | <p>§ 1-7. Amendments to Code.</p> <p>§ 1-8. Code Book to be kept up-to-date.</p> <p>§ 1-9. Sale of Code Book; supplementation.</p> <p>§ 1-10. Penalties for tampering with Code.</p> <p>§ 1-11. Changes in previously adopted legislation; new provisions.</p> <p>§ 1-12. Incorporation of provisions into Code.</p> <p>§ 1-13. When effective.</p> |
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[HISTORY: Adopted by the Town Board of the Town of Glen as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Adoption of Code [Adopted 11-8-2004 by L.L. No. 1-2004]

§ 1-1. Legislative intent.

In accordance with Subdivision 3 of § 20 of the Municipal Home Rule, the local laws, ordinances and certain resolutions of the Town of Glen, as codified by General Code Publishers Corp., and consisting of Chapters 1 through A145, together with an Appendix, shall be known collectively as the "Code of the Town of Glen," hereinafter termed the "Code." Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Town of Glen" 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 of 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 Glen, 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 in the Town of Glen 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 Glen 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 Glen 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 Glen.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Glen.
- E. Any local law or ordinance of the Town of Glen providing for the layout, 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 Glen or any portion thereof.
- F. Any local law or ordinance of the Town of Glen appropriating money or transferring funds, promising or guaranteeing payment of money or authorizing the issuance and delivery of any bond of the Town of Glen or other instruments or evidence of the Town's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property or any lawful contract or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The annexation or dedication of property.
- J. Any legislation relating to salaries.

- K. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees.

§ 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 Glen 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 Glen by impressing thereon the Seal of the Town of Glen, and such certified copy shall remain on file in the office of said Town of Glen to be made available to persons desiring to examine the same during all times while said Code is on 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 Glen" or any new local laws 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 Glen required to be filed in the Town Clerk's office for use by the public. All changes in said Code and all local laws and resolutions adopted by the Town Board subsequent to the enactment of this local law in such form as to indicate the intention of the 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 or resolution until such changes, local laws or resolutions are printed as supplements to said Code book, at which time such supplements shall be inserted therein.

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

Copies of the Code may be purchased from the Town Clerk of the Town of Glen 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 of the Town Clerk, changes or amends, by additions or deletions, any part or portion of the Code of the Town of Glen or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Town of Glen 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 Glen, no changes in the meaning or intent of such local law, ordinance and resolutions have been made. In addition, certain grammatical changes and other minor non-substantive 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.

§ 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 Glen, 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 effective immediately upon the filing with the Secretary of State of the State of New York.

Chapter 5
ASSESSMENT

ARTICLE I
Assessors

ARTICLE II
Board of Assessment Review

§ 5-1. Office of Assessor to remain elective.

§ 5-3. Membership; terms.

§ 5-2. Approval by electors at special election.

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

GENERAL REFERENCES

Taxation — See Ch. 129.

ARTICLE I
Assessors
[Adopted 4-13-1971 by L.L. No. 1-1971]

§ 5-1. Office of Assessor to remain elective.

Pursuant to the provisions of § 1556 of the Real Property Tax Law,¹ the three offices of Assessor of the Town of Glen shall continue and shall be elective as provided by the law in effect immediately prior to the effective date of said § 1556.

§ 5-2. Approval by electors at special election.

This article shall be submitted for the approval of the electors of the Town of Glen at a special election to be held in accordance with the provisions of the Municipal Home Rule Law, except that such special election shall be held not later than July 1, 1971.²

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- 1. Editor's Note: Real Property Tax Law § 1556 was repealed by L. 1984, c. 472, effective July 20, 1984.**
 - 2. Editor's Note: Local Law No. 1-1971 was approved by the electors 6-15-1971.**

ARTICLE II
Board of Assessment Review
[Adopted 5-10-1993]

§ 5-3. Membership; terms.

The Board of Assessment Review shall consist of three members, each serving a term of five years.

Chapter 19

Investment Policy

§ 19-1. Objectives.

§ 19-2. Authorized investments.

§ 19-3. Investments to be sufficiently collateralized.

§ 19-4. Effect of provisions.

[HISTORY: Adopted by the Town Board of the Town of Glen 9-14-1989. Amendments noted where applicable.]

§ 19-1. Objectives.

The objectives of the Investment Policy for the Town of Glen are to minimize risk, to insure maturity of investments as required for cash flow purposes in financing every day operations and to insure competitive rates of return.

§ 19-2. Authorized investments.

A. In accordance with this Policy, the Chief Fiscal Officer of the Town is hereby authorized to invest all funds, including proceeds of obligations and reserve funds, in:

- (1) Certificates of deposit issued by a bank or trust company authorized to do business in New York State.
- (2) Time deposit accounts in a bank or trust company authorized to do business in New York State.
- (3) Obligations of New York State.
- (4) Obligations of United States Government.
- (5) In repurchase agreements involving the purchase and sale of direct obligations of the United States.

B. All funds except reserve funds may be invested in:

- (1) Obligations of agencies of the federal government if principal and interest is guaranteed by the United States.
- (2) With the approval of the State Comptroller, in revenue anticipation notes or tax anticipation notes of other local governments.

C. Only reserve funds may be invested in obligations of the local government.

§ 19-3. Investments to be sufficiently collateralized.

Therefore, it is the responsibility of the Chief Fiscal Officer or Deputy Chief Fiscal Officer to insure that all investments authorized pursuant to this investment policy shall be sufficiently

collateralized with each banking institution (previously authorized by the Town Board of Glen) with whom he or she is doing business and have a written contract where necessary.

§ 19-4. Effect of provisions.

The provision of these investment guidelines and any amendments hereto shall take effect prospectively, and shall not invalidate the prior selection of any custodial bank or investment.

Chapter 26

PROCUREMENT POLICY

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| § 26-1. Purpose. | § 26-6. Inability to obtain proposals; documentation. |
| § 26-2. Evaluation of purchase. | § 26-7. Exceptions. |
| § 26-3. Formal bids required. | § 26-8. Input from officers. |
| § 26-4. Methods of purchase. | § 26-9. Annual review. |
| § 26-5. Awards to other than lowest offeror. | § 26-10. Unintentional failure to comply. |

[HISTORY: Adopted by the Town Board of the Town of Glen 6-8-1992. Amendments noted where applicable.]

§ 26-1. Purpose.

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

§ 26-2. Evaluation of purchase.

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

§ 26-3. Formal bids required.

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

§ 26-4. Methods of purchase.

- A. All estimated purchases of:

- (1) Less than \$10,000 but greater than \$3,000 require a written request for a proposal (RFP) and written/tax quotes from three vendors.
 - (2) Less than \$3,000 but greater than \$1,000 require an oral request for the goods and oral/fax quotes from two vendors.
 - (3) Less than \$1,000 but greater than \$250 are left to discretion of the Purchaser.
- B. All estimated public works contracts of:
- (1) Less than \$20,000 but greater than \$10,000 require a written RFP and fax/proposals from three contractors.
 - (2) Less than \$10,000 but greater than \$3,000 require a written RFP and fax/proposals from two contractors.
 - (3) Less than \$3,000 but greater than \$500 are left to the discretion of the Purchaser.
- C. Any written RFP shall describe the desired goods, quantity and the particulars of delivery. The Purchaser shall compile a list of all vendors from whom written/fax/oral quotes have been requested and the written/fax/oral quotes offered.
- D. All information gathered in complying with the procedures of this guideline shall be preserved and filed with the documentation supporting the subsequent purchase of public works contract.

§ 26-5. Awards to other than lowest offeror.

The lowest responsible proposal or quote shall be awarded the purchase or public works contract unless the Purchaser prepares a written justification providing reasons why it is in the best interest of the Town of Glen 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.

§ 26-6. Inability to obtain proposals; documentation.

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

§ 26-7. 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 purchased from agencies for the blind or severely handicapped.
- E. Goods purchased from correctional facilities.
- F. Goods purchased from another governmental agency, which include those made under state and county contracts.
- G. Goods purchased at auction.
- H. Goods purchased for less than \$250.
- I. Public works contracts for less than \$500.

§ 26-8. Input from officers.

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

§ 26-9. Annual review.

The governing board shall annually review these policies and procedures. The Supervisor shall be responsible for conducting an annual review of the procurement policy and for an evaluation of the internal control structure established to ensure compliance with the procurement policy.

§ 26-10. Unintentional failure to comply.

The unintentional failure to fully comply with the provisions of General Municipal Law § 104-b shall not be grounds to void action taken or give rise to a cause of action against the Supervisor or any other officer or employee thereof.

PART II

**GENERAL
LEGISLATION**

Chapter 38
ADULT BOOKSTORES

ARTICLE I
Location of Establishments

- § 38-1. Findings; purpose.
- § 38-2. Definitions.
- § 38-3. Proximity to residential dwellings or other adult bookstores.
- § 38-4. Proximity to school and school bus stops.
- § 38-5. Proximity to libraries, parks and places of worship.
- § 38-6. Penalties for offenses.

ARTICLE II
Promotion of Obscene Materials

- § 38-7. Unlawful to promote.
- § 38-8. Presumptive evidence.
- § 38-9. Definitions.
- § 38-10. Presumptions.
- § 38-11. Penalties for offenses.

ARTICLE III
Actions Involving Minors

- § 38-12. Definitions.
- § 38-13. Unlawful acts.
- § 38-14. Exceptions.
- § 38-15. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Glen 9-7-1989 by L.L. No. 3-1989. Amendments noted where applicable.]

ARTICLE I
Location of Establishments

§ 38-1. Findings; purpose.

In the development and execution of this chapter, it is recognized that adult bookstores, because of their very nature, are recognized as having serious, objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances, thereby having a deleterious effect upon the adjacent area. Special regulation of such uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood or pose a threat to the welfare and safety of the public.

§ 38-2. Definitions.

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

ADULT BOOKSTORE — An establishment having, as a substantial or significant portion of its stock-in-trade books, magazines and other periodicals which are distinguished or

characterized by their emphasis on matter depicting or relating to specified sexual activity or specific anatomical areas, as defined below, for observation by patrons therein.

SPECIFIED ANATOMICAL AREAS —

- A. Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola.
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES —

- A. Human genitals in a state of sexual stimulation or arousal.
- B. Acts of human masturbation, sexual intercourse or sodomy.
- C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

§ 38-3. Proximity to residential dwellings or other adult bookstores.

It shall be unlawful to hereafter establish any adult bookstore within 500 feet of any building containing a residential dwelling or rooming unit or to establish any adult bookstore within 500 feet of any other adult bookstore.

§ 38-4. Proximity to school and school bus stops.

It shall be unlawful to hereafter establish any adult bookstore within 500 feet of the real property line of any public, private or parochial school or within 150 feet of a bus stop for the picking up and dropping off of school children.

§ 38-5. Proximity to libraries, parks and places of worship.

It shall be unlawful to hereafter establish any adult bookstore within 1,000 feet of the nearest property line of any public or private library, park or playground and at least 500 feet from the nearest property line of any church, convent, monastery, synagogue or other place of worship.

§ 38-6. Penalties for offenses.

Any person who violates any of the provisions of this article shall be guilty of a violation and subject to a fine not to exceed \$250. Each day during any portion of which any violation of this chapter is committed, permitted or continued shall constitute a separate offense.

ARTICLE II
Promotion of Obscene Materials

§ 38-7. Unlawful to promote.

It shall be unlawful and a misdemeanor, punishable as authorized by state law, for any person to promote or possess with intent to promote any obscene material when knowing of its content and character. Each day that said violation continues may be treated as a separate offense.

§ 38-8. Presumptive evidence.

A person who promotes obscene material or possesses the same with intent to promote it, in the course of his business, is presumed to do so with knowledge of its content and character.

§ 38-9. Definitions.

For the purposes of this chapter, the following terms shall have the meanings indicated:

MATERIAL — Anything tangible, capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound or in any other manner.

OBSCENE — Any material or performance is "obscene" if the average person, applying contemporary community standards, would find that, considered as a whole, its predominant appeal is to the prurient interest in sex and depicts or describes, in a patently offensive manner, actual or simulated sexual intercourse, sodomy, sexual bestiality, masturbation, sadism, masochism, excretion or lewd exhibition of the genitals and, as considered as a whole, it lacks serious literary, artistic, political and scientific value. Predominant appeal shall be judged with reference to ordinary adults, unless it appears from the character of the material or the circumstances of its dissemination to be designed for children or other specially susceptible audiences.

PROMOTE — To manufacture, issue, sell, give, provide, lend, mail, deliver, transmute, publish, distribute, circulate, disseminate, present, exhibit or advertise or to offer or agree to do the same.

§ 38-10. Presumptions.

- A. A person who promotes or wholesale promotes obscene material or possesses the same with intent to promote or wholesale promote it, in the course of his business, is presumed to do so with knowledge of its content and character.
- B. A person who possesses six or more identical or similar obscene articles is presumed to possess them with intent to promote the same.

§ 38-11. Penalties for offenses.

Any person who violates any of the provisions of this article shall be guilty of a violation and subject to a fine not to exceed \$250. Each day during any portion of which any violation of this chapter is committed, permitted or continued shall constitute a separate offense.

**ARTICLE III
Actions Involving Minors****§ 38-12. Definitions.**

HARMFUL TO MINORS — That quality of any description or representation, in whatever form, or nudity, sexual conduct, sexual excitement or sadomasochist abuse when it:

- A. Predominantly appeals to the prurient, shameful or morbid interest of minors.
- B. Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors.
- C. Is, when taken as a whole, lacking in serious literary, artistic, political or scientific value for minors.

KNOWINGLY — Having a general knowledge of, or reason to know, or a belief or grounds for belief which warrants further inspection or inquiry, or both:

- A. The character and content of any material described herein which is reasonably susceptible to examination by the defendant; and
- B. The age of the minor; provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable, bona fide attempt to ascertain the true age of such minor.

MINOR — A person less than 17 years of age.

SADOMASOCHISTIC ABUSE — Actual or explicitly simulated flagellation or torture by or upon a person who is nude or clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed.

SEXUAL CONDUCT — Actual or explicitly simulated acts of masturbation, homosexuality, sexual intercourse or physical contact in an act of apparent sexual stimulation or gratification with a person's clothed or unclothed genitals, pubic area, buttocks, or if such be female, breast.

SEXUAL EXCITEMENT — The condition of human male or female genitals when in a state of sexual stimulation or arousal.

SEXUALLY EXPLICIT NUDITY — A state of undress so as to expose the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the

top of the nipple, or the depiction of covered or uncovered male genitals in a discernibly turgid state.

§ 38-13. Unlawful acts.

- A. It shall be unlawful for any person knowingly to sell or loan for monetary consideration to a minor:
- (1) Any picture, photograph, drawing, sculpture, video cassette, motion-picture film or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors; or
 - (2) Any book, pamphlet, magazine, or printed matter, however reproduced, or sound recording which contains any manner enumerated in Subsection A(1) of this section or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.
- B. It shall be unlawful for any person knowingly to sell to a minor an admission ticket or pass or knowingly to admit a minor to any area of premises whereon there is exhibited a motion picture, show or other presentation which, in whole or in part, depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors or to exhibit any such motion picture at any such area of premises which is not designated to prevent viewing from any public way of such motion picture by minors not admitted to any such area of premises.
- C. It shall be unlawful for any minor falsely to represent to any person mentioned in Subsection A or B hereof, or to his agent, that such minor is 17 years of age or older, with the intent to procure any material set forth in Subsection A or with the intent to procure such minor's admission to any motion picture, show or other presentation, as set forth in Subsection B.
- D. It shall be unlawful for any person knowingly to make a false representation to any person mentioned in Subsection A or B hereof, or to his agent, that he is the parent or guardian of any minor or that any minor is 17 years of age or older with the intent to procure any material set forth in Subsection A or with the intent to procure such minor's admission to any motion picture, show or other presentation, as set forth in Subsection B.
- E. It shall be unlawful for any person knowingly to exhibit, expose or display in public, at newsstands or at any other area of a public or commercial establishment frequented by minors or where minors are or may be invited as part of the general public:
- (1) Any picture, photograph, drawing, sculpture, motion-picture film or similar visual representation or image of a person or portion of the human body which depicts sexually explicit nudity, sexual conduct or sadomasochistic abuse which is harmful to minors; or
 - (2) Any book, pamphlet, magazine or printed matter, however reproduced, or sound recording which contains any matter enumerated in Subsection E(1) of this section

or explicit or detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.

§ 38-14. Exceptions.

Nothing contained in this article shall be construed to apply to:

- A. The purchase, distribution, exhibition or loan of any work of art, book, magazine or other printed or manuscript material by any accredited museum, library, school or institution of higher learning.
- B. The exhibition or performance of any play, drama, tableau or motion picture by any theater, museum, school or institution of higher learning, either supported by public appropriation or which is an accredited institution supported by private funds.
- C. Persons who may possess or distribute obscene matter or participate in conduct otherwise prescribed by this chapter when such possession, participation, distribution or conduct occurs in the course of law enforcement activities or in the course of bona fide scientific, educational or comparable research or study or like circumstances of justification.

§ 38-15. Penalties for offenses.

Any person who violates any of the provisions of this article shall be guilty of a violation and subject to a fine not to exceed \$250. Each day during any portion in which any violation of this chapter is committed, permitted or continued shall constitute a separate offense.

Chapter 45

ANIMALS

ARTICLE I Dog License Fees

- § 45-1. Title.
- § 45-2. Purpose.
- § 45-3. Fees established.
- § 45-4. Use of funds.

ARTICLE II Delinquent Dog License Renewals

- § 45-5. Late fee established.

ARTICLE III Redemption Fee

- § 45-6. Fee established.

ARTICLE IV Dog Control

- § 45-7. Title.
- § 45-8. Purpose.
- § 45-9. Definitions.
- § 45-10. Prohibited acts.
- § 45-11. Enforcement.
- § 45-12. Complaint procedure.
- § 45-13. Appearance tickets.
- § 45-14. Penalties for offenses.

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

ARTICLE I Dog License Fees [Adopted 2-23-1998 by L.L. No. 2-1998]

§ 45-1. Title.

This article shall be known as the "Dog License Fee Law."

§ 45-2. Purpose.

The purpose of this article is to allow the Town of Glen to charge license fees in addition to the statutorily set minimum fee.

§ 45-3. Fees established.

In addition to those annual dog license fees required by § 110 of the Agriculture and Markets Law, owners of dogs in the Town of Glen shall pay:

- A. For each spayed or neutered dog: \$2.50.
- B. For each unspayed or unneutered dog: \$10.50.
- C. For each purebred license: \$25.

§ 45-4. Use of funds.

The additional fees as collected shall be the property of the Town of Glen and shall be used only for the control of dogs in the Town and used to enforce any regulation, rule or local law for the regulation of dogs. The fees may be used to subsidize the spaying or neutering of dogs and subsidize public humane education programs in responsible dog ownership.

**ARTICLE II
Delinquent Dog License Renewals
[Adopted 3-9-1998]**

§ 45-5. Late fee established.

Effective February 1, 1998, all thirty-day delinquent dog licenses will have an additional late fee of \$5.

**ARTICLE III
Redemption Fee
[Adopted 8-4-2000]**

§ 45-6. Fee established.

The Town Board hereby authorizes a payment of \$27.50 by dog owners or persons adopting a dog to the Town Clerk, Town of Glen, before redeeming any seized dogs from the Fultonville Animal Hospital.

**ARTICLE IV
Dog Control
[Adopted 4-9-2001 by L.L. No. 1-2001]**

§ 45-7. Title.

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

§ 45-8. Purpose.

The Town of Glen, New York, finds that the running at large and other uncontrolled behavior of dogs has caused physical harm to persons, damage to property and created nuisance within the Town. The purpose of this article is to protect the health, safety and well being of persons and property by imposing restrictions and regulations upon the keeping or running at large of dogs and the seizure thereof within the Town.

§ 45-9. Definitions.

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

AT LARGE — Any dog that is unleashed and on property open to the public or is on private property not owned or leased by the owner of the dog unless permission for such presence has been obtained. No dog shall be deemed to be “at large” if it is accompanied by and under the immediate supervision and control of the owner or other responsible person, a police work dog in the use for police work or a dog accompanied by its owner or other responsible person and actively engaged in hunting or training for hunting on unposted land with the permission of the owner of the land.

HARBOR — To provide food or shelter to any dog.

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

§ 45-10. Prohibited acts.

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

- A. Cause damage or destruction to property, or commit a nuisance upon the premises of a person, other than the property owner of such dog;
- B. Chase or otherwise harass any person in such manner as reasonably to cause intimidation or to put such person in reasonable apprehension of bodily harm or injury;
- C. Habitually chase pedestrians, bicycles or equestrians; or
- D. Run or remain at large.

§ 45-11. Enforcement.

This article shall be enforced by any Dog Control Officer, peace officer when acting pursuant to his special duties, police officer or such other person in the employ of or under contract to the Town of Glen to enforce this article.

§ 45-12. Complaint procedure.

Any person who observes a dog in violation of this article, any Dog Control Officer, peace officer, police officer or such other person in the employ or under contract with the Town of Glen to enforce this article may file a complaint under oath with a Justice of the Town of Glen, specifying the nature of the violation, the date thereof, a description of the dog and the name and residence, if known, of the owner of such dog. Such complaint may serve as the basis for enforcing the provisions of this article.

§ 45-13. Appearance tickets.

Any dog control officer, peace officer, when acting pursuant to his special duties, police officer or such other person in the employ or under contract to the Town of Glen, having reasonable cause to believe that a person has violated this article, shall issue and serve upon such person an appearance ticket for such violation.

§ 45-14. Penalties for offenses.

Any person convicted of a violation of this article shall be deemed to have committed a violation, shall be given a warning by the court for the first violation and shall be subject to a fine of \$25 for a second violation, a fine of \$75 for a third violation and a fine of \$200 for a fourth and subsequent violation. In addition to any fines, the Court may order that the dog be impounded for a fourth and subsequent violation.

Chapter 52

BUILDING CONSTRUCTION AND FIRE PREVENTION

- § 52-1. Applicability.
- § 52-2. Designation of enforcement officer.
- § 52-3. Acting Building Official.
- § 52-4. Restrictions on employees.
- § 52-5. Rules and regulations.
- § 52-6. Duties and powers of Code Enforcement Officer.
- § 52-7. Permits.
- § 52-8. Records and reports.
- § 52-9. Violations.
- § 52-10. Penalties for offenses.
- § 52-11. Removal of dangerous building or structure.
- § 52-12. Review Board.

[HISTORY: Adopted by the Town Board of the Town of Glen 9-12-1985 by L.L. No. 2-1985. Amendments noted where applicable.]

GENERAL REFERENCES

Numbering of buildings — See Ch. 56.
Flood damage prevention — See Ch. 74.

Mobile homes — See Ch. 92.

§ 52-1. Applicability.

This chapter shall provide for the basic method for administration and enforcement of the New York State Uniform Fire Prevention and Building Code in the Town of Glen and shall establish power, duties and responsibilities in connection therewith.

§ 52-2. Designation of enforcement officer.

There is hereby designated in the Town of Glen a public official to be known as the “Code Enforcement Officer” who shall be appointed by the Supervisor with the approval of the Town Board at compensation terms to be fixed by said Board. The Code Enforcement Officer shall administer and enforce the New York State Uniform Fire Prevention and Building Code within said Town.

§ 52-3. Acting Building Official.

In the absence of the Code Enforcement Officer or in the case of his inability to act for any reason, the Supervisor shall have the power, with the consent of the Town Board, to designate a person to act in behalf of the building official and to exercise all the powers conferred upon him by this chapter.

§ 52-4. Restrictions on employees.

The Code Enforcement Officer or his substitute shall not engage in any activity inconsistent with his or her duties nor shall he or she, during the term of his or her employment, be engaged directly or indirectly in any fire prevention or building business, in the furnishing of labor, materials, supplies or appliances for, or the supervision of, the construction, alteration, demolition or maintenance of a building or the preparation of plans or specifications thereof within the Town of Glen, excepting that this provision shall not prohibit the Code Enforcement Officer or his substitute from engaging in any such activities in connection with the construction of a building or structure owned by him or her for his or her own personal use and occupancy or for the use and occupancy of members of his or her immediate family, and not constructed for sale.

§ 52-5. Rules and regulations.

- A. The Code Enforcement Officer shall adopt rules and regulations for the administration and enforcement of the Uniform Fire Prevention and Building Code. Such rules and regulations shall not conflict with the New York State Uniform Fire Prevention and Building Code, this chapter, or any other provision of the law. The rules and regulations shall be subject to the approval of the Town Board.
- B. The Code Enforcement Officer shall publish a notice that the rules and regulations are available for inspection in the office of the Clerk of the Town of Glen during the regular hours of operation thereof; said notice shall be published in the official newspaper of the Town of Glen at least 10 days prior to the effective date of said rules and regulations.

§ 52-6. Duties and powers of Code Enforcement Officer.

- A. Except as otherwise specifically provided by law, ordinance, rule or regulation, or except as herein otherwise provided, the Code Enforcement Officer shall administer and enforce all of the provisions of laws, ordinances, rules and regulations applicable to the plans, specifications, or permits for the construction, alteration and repair of buildings and structures and the installation and use of materials and equipment therein, and the location, use and occupancy thereof.
- B. The Code Enforcement Officer shall receive applications, approve plans and specifications, and issue permits for the erection and alteration of buildings or structures or parts thereof and shall examine the premises for which such applications have been received, plans approved, or such permits have been issued for the purpose of insuring compliance with laws, ordinances, rules and regulations governing fire prevention and building construction.
- C. The Code Enforcement Officer shall issue in writing all appropriate notices or orders to remove illegal or unsafe conditions to require the necessary safeguards during construction and to insure compliance during the entire course of construction with the requirements of such laws, ordinances, rules and regulations and such notices or orders may be served upon the property owner or his agent personally, or by sending by certified mail a copy of such order to the owner or his agent at the address set forth in

the application for permission for the construction or alteration of such building, and by posting the same upon a conspicuous portion of the premises to which the notice applies. The Code Enforcement Officer shall make all inspections which are necessary or proper for the carrying out of his duties. If entrance to make an inspection is refused or cannot be obtained the Code Enforcement Officer may apply for a warrant to make an inspection to any court of competent jurisdiction.

- D. The Code Enforcement Officer shall issue a certificate of occupancy where appropriate for a building constructed or altered in accordance with the provisions of the Uniform Fire Prevention and Building Code, which such certificate shall certify that the building conforms to the requirements of the Fire Prevention and Building Code.

§ 52-7. Permits.

- A. Upon payment of a fee as prescribed in the schedule of fees adopted by the Town Board of the Town of Glen permits shall be issued by and bear the signature of the Codes Enforcement Officer and shall specify:
- (1) Activity or operations for which permit is issued.
 - (2) Address or location where activity or operation is to be conducted.
 - (3) Name and address of permittee.
 - (4) Permit number and date of issuance.
 - (5) Period of permit validity.
- B. Permits shall not be transferable and any change in activity, operation, location, ownership, or use shall require a new permit.
- C. Permits shall continue until revoked or for a period of time designated at the time of issuance. An extension of the permit time period may be granted provided a satisfactory reason can be shown for failure to start or complete the work or activity authorized within the required time period.
- D. Permits shall be obtained for the erection and alteration of buildings or structures or parts thereof and the installation and use of materials and equipment therein, insuring compliance with laws, ordinances, rules and regulations governing fire prevention and building construction.
- E. Consolidated permits. When more than one permit is required for the same property or premises, a single permit may be issued listing all materials or operations covered. Revocation of a portion or portions of such consolidated permit, for specific hazardous materials or operations, shall not invalidate the remainder.
- F. Location of permits. Permits shall be kept on property or premises covered by the permit or carried by the permit holder.
- G. Revocation of permits. Permits may be suspended or revoked when it is determined there is a violation of a condition under which the permit was issued, or there has been

misrepresentation or falsification of material facts in connection with the permit application or a condition of the permit.

§ 52-8. Records and reports.

- A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by him or her, including all applications received, plans approved, permits and certificates issued, fees charged and collected, inspection reports, all rules and regulations promulgated by him, with the consent of the Town Board of the Town of Glen, and notices and orders issued. All such records shall be public records open to public inspection at reasonable hours.
- B. The Code Enforcement Officer shall annually submit to the Town Board of the Town of Glen a written report and summary of all business conducted by him or her, including approvals, permits and certificates issued, fees collected, orders and notices promulgated, inspections and tests made and appeals or litigation pending or concluded.

§ 52-9. Violations.

- A. A person owning, operating or occupying or maintaining property or premises within the scope of the New York State Uniform Fire Prevention and Building Code or this chapter shall comply with the provisions of the Uniform Fire Prevention and Building Code, this chapter, and all orders, notices, rules, regulations or determinations issued in connection therewith.
- B. Whenever the Code Enforcement Officer finds that there has been a violation of the New York State Uniform Fire Prevention and Building Code, this chapter, or any rule or regulation adopted pursuant to this chapter, a violation order shall be issued to the person or persons responsible.
- C. Violation orders shall be in writing, shall identify the property or premises, shall specify the violation and remedial action to be taken, shall provide a reasonable time limit for compliance, and shall state the time within which an appeal may be taken.
- D. Violation orders may be served: by personal service; by mailing by registered or certified mail; or by posting a copy thereof in a conspicuous place on the premises and by mailing a copy thereof to the premises on the same day as posted, enclosed in a postpaid wrapper addressed to the person responsible.
- E. In case the owner, lessor, occupant or the agent of any of them shall fail, neglect or refuse to remove, eliminate or abate the violation within the time specified in the violation order, a request to take appropriate legal action shall be made to the Town Board of the Town of Glen.

§ 52-10. Penalties for offenses.

- A. Failure to comply with any provision of the New York State Uniform Prevention and Building Code, this chapter, rules or regulations adopted pursuant to this chapter, or a

violation order shall be deemed a violation and the violator shall be liable for a fine of not less than \$25 or imprisonment not to exceed five days, or both, and each day such violation continues shall constitute a separate violation.

- B. An action or proceeding in the name of the Town of Glen may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of the New York State Uniform Fire Prevention and Building Code, this chapter, rules or regulations adopted pursuant to this chapter, or a violation order or to vacate the occupancy or building in the case of imminent danger to life or property. Such remedy shall be in addition to penalties otherwise prescribed by law.

§ 52-11. Removal of dangerous building or structure.

- A. A building or structure or part thereof which is an imminent danger to life and safety of the public as a result of a fire, explosion, abandonment, neglect, or any other reason is hereby declared to be a public nuisance.
- B. Whenever the Code Enforcement Officer finds a building or structure, or part thereof, to be an imminent danger to life and safety of the public as a result of a fire, explosion, abandonment, neglect or any other reason, the Code Enforcement Officer may cause it to be demolished and removed or may cause work to be done in and about the building or structure as may be necessary to remove the danger.
- C. The Code Enforcement Officer may require the occupants of any such building or structure, or part thereof, to vacate the premises forthwith. No person shall use or occupy such building or structure, or part thereof, until it is made safe. Except for the owner, no person shall enter premises which have been ordered vacated unless authorized to perform inspections, repairs, or to demolish and remove such building or structure, or part thereof.
- D. All costs and expenses incurred by the Town of Glen in connection with any work done to remove the danger or in connection with the demolition and removal of any such building or structure shall be assessed against the land on which such building or structure is located, and a bill for such expenses shall be presented to the owner of the property or if the owner cannot be ascertained, then such bill shall be posted in a conspicuous place on the premises. Such assessment shall be and constitute a lien upon such land. If the owner shall fail to pay for such expenses within 10 days after the bill is presented or posted, a legal action may be brought to collect such assessment or to foreclose such lien. As an alternative to the maintenance of any such action, the Code Enforcement Officer may file a certificate of the actual expenses incurred as aforesaid, together with a statement identifying the property in connection with which the expenses were incurred, and the owner thereof, with the Assessor, who shall in the preparation of the next assessment roll assess such amount upon such property. Such amount shall be included in the levy against such property, shall constitute a lien and shall be collected and enforced in the same manner, by the same proceedings, at the same time, and under the same penalties, as is provided by law for the collection and enforcement of real property taxed in the Town of Glen.

§ 52-12. Review Board.

- A. A Board of Review is hereby established for the purpose of granting variances where enforcement of any provision or requirement of the New York State Uniform Fire Prevention and Building Code results in practical difficulties or unnecessary hardships. Any such variance shall be consistent with the spirit of the Code and shall not be inconsistent with Subdivision two of § 391 of the Executive Law.
- B. The Board of Review shall be composed of three persons to be appointed by the Town Board. The term of each member shall be for three years or until his or her successor shall be appointed and qualifies. The terms of the members of the Board shall be staggered and upon initial appointment, the Town Board shall designate the initial term of each member. Subsequent appointments shall be for a full term, except an appointment to fill a vacancy shall be for the remainder of the term of office. The Town Board shall appoint a chairman who shall preside at all meetings.
- C. The Board of Review may adopt regulations governing its procedures and appropriate forms for efficient administration.
- D. The Code Enforcement Officer shall obtain a copy of the Board of Review's decision for its records.

Chapter 56

BUILDINGS, NUMBERING OF

§ 56-1. Property numbering system adopted.

§ 56-2. Notification.

[HISTORY: Adopted by the Town Board of the Town of Glen 3-14-1969. Amendments noted where applicable.]

§ 56-1. Property numbering system adopted.

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.

§ 56-2. Notification.

The Town Clerk be and he hereby is directed to notify the following persons or agencies of the action herein taken and to furnish each with a copy of the numbering map of the Town as soon as possible after such map with road names can be prepared.

- A. Board of Assessors.
- B. Town Planning Board (if any).
- C. County Clerk.
- D. County Superintendent of Highways.
- E. Clerk of Board of Supervisors.
- F. Local U.S. Post Office.

Chapter 61

BURNING, OUTDOOR

§ 61-1. Burning on streets prohibited.

§ 61-4. Penalties for offenses.

§ 61-2. Enclosed containers required.

§ 61-5. Burning regulations.

§ 61-3. Burning permit.

[HISTORY: Adopted by the Town Board of the Town of Glen 4-14-1966. Amendments noted where applicable.]

§ 61-1. Burning on streets prohibited.

The burning of leaves, grass, rubbish or other combustible materials on the public streets and highways within the corporate limits of the Town of Glen is hereby prohibited.

§ 61-2. Enclosed containers required.

Within the corporate limits of the Town of Glen, no person shall burn leaves, grass, rubbish or other combustible materials except in an enclosed fireproof container, unless a burning permit therefor shall have been issued by the Town Board or its designated agent as set forth in § 61-3 of this chapter.

§ 61-3. Burning permit.

- A. The Town Board shall establish burning regulations under which leaves, grass, rubbish or other combustible materials may be burned in a manner other than in a fireproof container. Any person desiring to burn leaves, grass, rubbish or other combustible materials in a manner other than in an enclosed fireproof container shall file an application for a burning permit with the Town Board, which application shall specify the reasons for such application and shall indicate the manner in which the applicant proposes to comply with the burning regulations established by said Board. If the Town Board or its designated agent shall find that the applicant has complied with the regulations established by said Board, then the said Town Board may in its discretion issue such burning permit; but in no event shall said Board be required to issue said burning permit, if in its opinion the issuance of said burning permit will endanger the safety, health and general welfare of the inhabitants of the Town.
- B. The form of the burning permit shall be as follows: **[Added 6-26-2003]**

**Town of Glen
Burning Permit**

Only the following items may be burned: sticks, grass, brush, leaves, wood and paper.

The following items are NOT to be burned: plastics, rubber, hazardous materials, tires, asphalt, human or animal excrement, roofing materials, household refuse and items that produce black smoke.

The bearer of this permit agrees to the following conditions:

An adult must be with the fire until it is extinguished.

Permit is valid only on the date issued.

Issuance of a permit shall not relieve the person to whom such permit is granted from any responsibility for damages which such fire may cause or for any fire which may escape from the lands of the person to whom such permit is granted.

Issuance of any permit is not to be construed as an assumption by the Town of Glen for any responsibility or liability for damages or any cause of action which may arise from or as a result of any burning done by the person to whom such permit is granted.

Bearer must call the Montgomery County Dispatch at 853-5500 prior to starting fire.

If wind increases to 10 miles per hour the fire must be extinguished.

Failure to control the fire will void the permit.

Any fire creating a nuisance and smoke that bothers the neighbors must be extinguished.

Fire must be extinguished 1/2 hour before sunset.

Failure to comply with these conditions will void the permit.

§ 61-4. Penalties for offenses. [Amended 6-26-2003]

Any person, persons, or corporation violating the provisions of this chapter, or any provision thereof, shall be liable for and forfeit and pay a penalty not exceeding \$100 for each offense. Any violation of this chapter, or any part thereof, shall constitute disorderly conduct, and the person violating the same shall be and hereby is declared a disorderly person.

§ 61-5. Burning regulations.

- A. Any applicant for a burning permit shall present detailed information as to material to be burned and the time and location where such material is to be burned.
- B. The applicant shall show what provisions are to be made for control of the fire, including names and ages of persons who will supervise such burning.
- C. No permit shall be granted unless the applicant shall be in constant attendance at such burning until all fire is completely extinguished.
- D. No permit shall be issued to minors.

- E. No permit shall be issued if the Town Board or its designated agent shall determine that weather conditions or the condition of the area in which such burning is proposed are such that such proposed burning will endanger the safety, health or general welfare of the inhabitants of the Town.
- F. Any permit shall be valid only for the time and place specified therein and shall not be transferred to any other person.
- G. Any permit when issued shall be subject to inspection upon demand of any authorized person.
- H. No blanket permits will be granted.
- I. Issuance of a permit shall not relieve the person to whom such permit is granted from any responsibility for damages which such fire may cause or for any fire which may escape from the lands of the person to whom such permit is granted.
- J. The issuance of any permit is not to be construed as an assumption by the Town of any responsibility or liability for damages or any cause of action which may arise from or as a result of any burning done by the person to whom such permit is granted.
- K. The Town Board may require any applicant to post an indemnity bond which will indemnify the Town and its inhabitants against damages which may result from any burning by the applicant before any permit will be issued, but in no event shall the filing of an indemnity bond require the Town Board or its designated agent to issue a burning permit.
- L. Any permit is subject to revocation without notice by the Town Board if in its opinion the use of such permit will endanger the safety, health or general welfare of the inhabitants of the Town.

Chapter 74

FLOOD DAMAGE PREVENTION

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| § 74-1. Findings. | § 74-10. Designation of local administrator. |
| § 74-2. Purpose. | § 74-11. Establishment of development permit. |
| § 74-3. Objectives. | § 74-12. Duties and responsibilities of local administrator. |
| § 74-4. Word usage and definitions. | § 74-13. General standards. |
| § 74-5. Applicability. | § 74-14. Specific standards. |
| § 74-6. Basis for establishing areas of special flood hazard. | § 74-15. Floodways. |
| § 74-7. Interpretation; conflict with other provisions. | § 74-16. Appeals Board. |
| § 74-8. Penalties for offenses. | § 74-17. Conditions for variances. |
| § 74-9. Warning and disclaimer of liability. | |

[HISTORY: Adopted by the Town Board of the Town of Glen 5-11-1989 by L.L. No. 1-1989. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 52.

§ 74-1. Findings.

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

§ 74-2. 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 for and maintain participation in the National Flood Insurance Program.

§ 74-3. Objectives.

The objectives of this chapter are to:

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

§ 74-4. Word usage and definitions.

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

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

AREA OF SHALLOW FLOODING — A designated AO 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 Zone A, AE, AH, AO, A1-99, V, VO, VE or V1-30. It is also commonly referred to as the “base floodplain” or “one-hundred-year floodplain.”

BASE FLOOD — The flood having a one-percent chance of being 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 V1-30, VE, VO or V.

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

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

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

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

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

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 § 74-12B 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 or physical alteration of the property and shall include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations; or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages or 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.

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:

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

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

§ 74-5. Applicability.

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Glen.

§ 74-6. Basis for establishing areas of special flood hazard.

The areas of special flood hazard are identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHBM), or Flood Insurance Rate Map (FIRM) No. H01-06 dated January 17, 1975, is hereby adopted and declared to be a part of this chapter. The FHBM or FIRM is on file at Town Clerk's office, 7 Erie Street, Fultonville, New York.

§ 74-7. 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 highest standards, shall govern.

§ 74-8. 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 Glen 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 §§ 74-16 and 74-17 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 74-9. 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 areas of special flood hazard 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 Glen, 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.

§ 74-10. Designation of local administrator.

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

§ 74-11. 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 § 74-6. 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 § 74-13C(1).
- (4) Certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 74-14.
- (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.

§ 74-12. Duties and responsibilities of local administrator.

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

- A. Permit application review. The local administrator shall:
- (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 § 74-13E, Encroachments.
- B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 74-6, Basis for establishing areas of special flood hazard, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 74-13D(4), in order to administer § 74-14, Specific standards, and § 74-15, Floodways.
- C. Information to be obtained and maintained. The local administrator shall:
- (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 §§ 74-13 and 74-14.
 - (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. The local administrator shall:
- (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, New York 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 FHBM, FIRM or FBFM boundaries.

- (1) The local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.
- (2) Base flood elevation data established pursuant to § 74-6 and/or § 74-12B, when available, shall be used to accurately delineate the area of special flood hazard.
- (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 hazard 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 § 74-8 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 § 74-8 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 this chapter.

H. Certificate of compliance.

- (1) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of either the development permit or the approved variance.
- (2) All other development occurring within the area of special flood hazard will have upon completion a certificate of compliance issued by the local administrator.
- (3) All 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.

§ 74-13. General standards.

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

A. Anchoring.

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

B. Construction materials and methods.

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

C. Utilities.

- (1) Electrical, heating, ventilation, plumbing and 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 hazard set forth in § 74-12A(3), Permit review. This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to § 74-12B or 74-13D(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 special flood hazard where floodway data is provided or available pursuant to § 74-12B the requirements of § 74-15, Floodways, shall apply.

§ 74-14. Specific standards.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 74-6, Basis for establishing areas of special flood hazard, and § 74-12B, Use of other base flood and floodway data, the following standards are required:

- A. Residential construction. New construction and substantial improvements of any residential 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 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 shall be provided.
 - (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 shall be provided.
 - (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 and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the 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.
 - (3) The local administrator shall maintain on record a copy of all such certificates noted in this section.
- C. Construction standards for areas of special flood hazard without base flood elevations.
- (1) New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor (including basement) elevated to 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 shall be provided.
 - (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.

§ 74-15. Floodways.

Located within areas of special flood hazard are areas designated as floodways (see definition, § 74-4). 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 §§ 74-6 and 74-12B, 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.

§ 74-16. Appeals Board.

- A. The Flood Control Appeals Board as established by the Town of Glen shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Flood Control Appeals Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the Flood Control Appeals Board may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Flood Control Appeals Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:
 - (1) The danger that materials may be swept onto other lands to the injury of others.
 - (2) The danger to life and property due to flooding or erosion damage.

- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (4) The importance of the services provided by the proposed facility to the community.
 - (5) The necessity to the facility of a waterfront location, where applicable.
 - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - (7) The compatibility of the proposed use with existing and anticipated development.
 - (8) The relationship of the proposed use to the Comprehensive Plan and Floodplain Management Program of that area.
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.
 - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 - (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations and 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 Flood Control Appeals Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- F. The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

§ 74-17. 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 § 74-16D(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 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 or extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk.

Chapter 78
GAMES OF CHANCE

§ 78-1. Authority: title.

§ 78-2. Definitions.

**§ 78-3. Games of chance authorized;
restrictions.**

§ 78-4. Effective date.

[HISTORY: Adopted by the Town Board of the Town of Glen 11-8-1977. Amendments noted where applicable.]

§ 78-1. Authority: title.

This chapter is enacted pursuant to the authority of Article 9-A of the General Municipal Law of the State of New York, and shall be known as the "Games of Chance Law of the Town of Glen."

§ 78-2. Definitions. [Amended 8-7-1980]

The words and terms used in this chapter shall have the same meaning as such words and terms are used in Article 9-A of the General Municipal Law, unless otherwise provided herein or the context requires a different meaning; "Town" means the Town of Glen, "officer" means the Sheriff of Montgomery County, New York.

§ 78-3. Games of chance authorized; restrictions.

- A. Games of chance may be conducted in the Town by an authorized organization, after obtaining a license therefor, in accordance with the provisions, requirements and limitations of Article 9-A of the General Municipal Law, rules and regulations of the New York State Racing and Wagering Board and this chapter.
- B. The conduct of games of chance on Sundays is authorized, except as otherwise provided in Article 9-A of the General Municipal Law.

§ 78-4. Effective date.

This chapter shall take effect immediately after approval thereof by the voters of the Town voting thereon at the next succeeding biennial Town election held on November 8, 1977.

Chapter 85

JUNK AND JUNKYARDS

§ 85-1. Title.	§ 85-9. Operation and inspections.
§ 85-2. Purpose and intent.	§ 85-10. Enforcement and appeals procedures.
§ 85-3. Definitions.	§ 85-11. Revocation of permit.
§ 85-4. Junk storage regulations.	§ 85-12. Penalties for offenses.
§ 85-5. Junkyard regulations.	§ 85-13. Failure to comply.
§ 85-6. Junkyard permit.	
§ 85-7. Permit application process.	Junkyard Fence Required Specifications
§ 85-8. General considerations.	

[HISTORY: Adopted by the Town Board of the Town of Glen 6-12-1995 by L.L. No. 2-1995. Amendments noted where applicable.]

§ 85-1. Title.

This chapter shall be known as the "Town of Glen Junk Storage Law."

§ 85-2. Purpose and intent.

- A. By adoption of this chapter, the Town of Glen declares its intent to regulate and control the storage and keeping of junk, and to regulate junkyards whether operated for commercial profit or otherwise. The Town Board hereby declares that a clean, wholesome and attractive environment is of vital importance to the continued general welfare of its citizens.
- B. This chapter is enacted in recognition of the fact that junk and junk vehicles, as defined in § 85-3, can constitute both a public and private nuisance; can be highly inflammable and sometimes explosive; can constitute attractive nuisances to children; can pollute soil and water through leakage of gasoline, oil and battery acids; can constitute a blight on the landscape and destroy the aesthetic qualities of the Town; can be a breeding ground for insects, rodents, and similar creatures; can depreciate the value of property on which they are located and the value of surrounding properties.

§ 85-3. Definitions.

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

COMMERCIAL GARAGE — Any business engaged in repairing motor vehicles or any parts thereof, or holding a dealer's license issued by the New York State Department of Motor Vehicles for the sale of used or new automobiles, or both.

ENFORCEMENT COMMITTEE — Any group of persons appointed by the Town Board to represent the Town Board in particular matters pertaining to this chapter.

ENFORCEMENT OFFICER — Any person appointed by the Town Board to represent the Town Board in particular matters pertaining to this chapter.

JUNK — Shall include junk vehicles, junk appliances, junk trailers, junk farm and construction equipment, rubbish and debris as described herein.

JUNK APPLIANCE — Any stove, washing machine, dryer, freezer, refrigerator, or other household or lawn and garden device or equipment in inoperable condition or abandoned, junked, discarded, wholly or partially dismantled, no longer intended or in condition for ordinary use for the purpose for which it was designed originally.

JUNK FARM AND CONSTRUCTION EQUIPMENT — Any tractor, truck, self-propelled or drawn implement or stationary piece of equipment which cannot be used for its intended purpose and has been discarded or abandoned for use as a farm vehicle, farm implement or farm equipment or for any other purpose; any inoperable construction-related machinery and equipment, including but not limited to earth grading, excavating and paving equipment, steel tanks, containers, flatbed carriers and cranes, which is either abandoned, wrecked, stored, discarded.

JUNK TRAILER — Any house trailer, mobile home or unregistered camper which:

- A. Is uninhabited or uninhabitable.
- B. Is unfit for its intended use and cannot be put into operational condition, except at a cost in excess of its market value after repairs; or
- C. Has been discarded or abandoned for use as intended or for any other reason.

JUNK VEHICLE — Any motor vehicle whether automobile, bus, trailer, truck, motor home, motorcycle, minibicycle, boat or snowmobile, or any other device originally intended for travel on the public highways which meets any of the following conditions:

- A. It is unregistered for a period of more than six months. Upon demand of the enforcement officer, the owner of the unregistered vehicle must provide evidence of prior registration or title to establish when the vehicle was last registered. If no registration can be produced, the vehicle will be presumed to be unregistered for a period of more than six months.
- B. It is either abandoned, wrecked, stored, discarded, dismantled, or partly dismantled and allowed to remain unattended, uncovered, unused and or stored outside of any building for a period of more than six months.
- C. It is not capable of passing a New York State Motor Vehicle inspection.

JUNKYARD — Land or building used for the collecting, storage or sale of wastepaper, rags, scrap metal or discarded material or for the collecting, wrecking, dismantling, storage, salvaging, or sale of vehicles or machinery parts whether in connection with another business or not.

PERSON — Any person, firm, partnership, association, corporation, company or organization of any kind.

RUBBISH OR DEBRIS — Shall include, but not be limited to, ordinary household or store trash of flammable character, such as barrels, cartons, boxes, crates, furniture, rugs, clothing, rags, mattresses, blankets, rubber tires, lumber, brick, stone, and other building materials no longer intended or in condition for ordinary use; any and all tangible personal property no longer intended or in condition for ordinary and customary use.

§ 85-4. Junk storage regulations.

No person shall have or permit the existence or the accumulation of rubbish or debris, junk appliances, junk vehicles, junk trailers, junk farm equipment, or junk construction equipment out of doors on property owned by such person, except that:

- A. One junk vehicle may be stored out of doors.
- B. Other junk may be placed out of doors for no more than seven days to facilitate pickup and disposal.
- C. Junk does not include inoperable farm or construction vehicles, implements, equipment or machinery retained for the purpose of salvaging usable parts in connection with the ongoing operation of an on-site farm or construction business, provided that such items are stored within a consolidated area out of the public view.

§ 85-5. Junkyard regulations.

A. Location.

- (1) No junkyard shall be located within:
 - (a) Two hundred feet of any adjoining property line;
 - (b) Two hundred feet of any stream, pond, wetland or floodplain [as designated on maps prepared by the Federal Emergency Management Agency (FEMA) for the Town of Glen], other body of water; or
 - (c) Two hundred feet from the right-of-way of any public highway.
- (2) No site shall be approved for use as a junkyard if the topography of the surrounding property is such that land within 300 feet of the junkyard site has an elevation higher than any point on the junkyard site.

B. Screening.

- (1) Existing junkyards: Where a junkyard is visible from a public highway or from neighboring properties, a fence at least eight feet in height shall be erected of wood or other materials, as approved by the Town Board, sufficient to totally screen the junkyard from view. As an alternative, the Town Board may permit such screening by the planting of evergreen trees or shrubbery, or some combination of fencing and landscaping.

- (a) Inside, adjacent to, and contiguous with such fencing, a graded strip of land at least 15 feet in width shall be maintained and kept free of all dry vegetation or other combustible materials so as to provide a fire lane around the perimeter of the junkyard.
 - (b) Where the junkyard is not visible from a public highway or from neighboring properties, and where the topography, natural growth of vegetation or other considerations accomplish the purposes of this chapter in whole or in part, the fencing requirements hereunder may be reduced by a decision of the Town Board; provided, however, that such natural barrier accomplishes and is consistent with the purposes and objectives of this chapter.
- (2) New junkyards: Before use, a new junkyard shall be completely surrounded with a fence at least eight feet in height which totally screens the junkyard from public view, and shall have a suitable gate which shall be closed and locked except during the working hours of such junkyard or when the applicant or his agent shall be within.
- (a) Inside, adjacent to, and contiguous with such fencing, a graded strip of land at least 15 feet in width shall be maintained and kept free of all dry vegetation or other combustible materials so as to provide a fire lane around the perimeter of the junkyard.
 - (b) Where the junkyard is not visible from a public highway or from neighboring properties, and where the topography, natural growth of vegetation or other considerations accomplish the purposes of this chapter in whole or in part, the fencing requirements hereunder may be reduced by a decision of the Town Board; provided, however, that such natural barrier accomplishes and is consistent with the purposes and objectives of this chapter.
- C. Burning. No materials shall be burned on a junkyard site except in compliance with the New York State Outdoor Burning Law (see 6 NYCRR 215).
- D. Burying. No junkyard items shall be buried.
- E. Approved junkyard items. No junkyard items shall be stored other than those items specified on a junkyard permit approved by the Town Board pursuant to this chapter.

§ 85-6. Junkyard permit.

- A. Permit required. No person shall establish or maintain a junkyard, as defined herein, without first obtaining a junkyard permit from the Town of Glen. All permits shall be issued for a period of one year, after which time renewal shall be required.
- B. Existing junkyards, temporary permit.
 - (1) Any person presently maintaining a junkyard, as defined herein, on real property within the Town of Glen must apply for a permit within 60 days of the adoption of this chapter. If the place where such activity is conducted does not meet the requirements of § 85-5 herein, a temporary permit may be granted for a period not

to exceed one year, during which time the premises shall be brought into compliance with said requirements. If, at the end of such period, the premises are not brought into compliance, such person shall cease and desist from maintaining a junkyard and all junk shall be removed by the landowner within 60 days. If after 60 days the junk is not removed, the Town reserves the right to have the junk removed and disposed of and all costs of such removal and disposal shall be borne by the landowner, that in addition, such person may be subject to the penalties set forth in § 85-12.

- (2) If the existing junkyard cannot meet the requirements of § 85-5 herein because of preexisting site limitations, the Town Board may modify the requirements after a mitigation plan has been presented to the Town Board by the applicant. A mitigation plan must be filed with the Town Board within 30 days of the Board's initial rejection of the permit application. If a mitigation plan is not filed within 30 days or is rejected by the Town Board, such person operating the junkyard shall cease and desist from maintaining the junkyard and all junk shall be removed by the land owner within 60 days. If after 60 days the junk is not removed, the Town reserves the right to have the junk removed and disposed of and all cost of such removal and disposal shall be borne by the land owner. That in addition, such persons may be subject to the penalties set forth in § 85-12.

§ 85-7. Permit application process.

- A. **Application form.** The applicant for a junkyard permit or permit renewal shall obtain application forms from the Town Clerk. The completed forms, along with one copy of the proposed or existing site plan and the appropriate fees, shall be returned to the Town Clerk. The Town Clerk shall submit the application materials to the Town Board for the Town Board's review. Applications must be submitted to the Town Clerk no later than 10 days prior to a regularly scheduled meeting of the Town Board in order to be considered at that meeting.
- B. **Environmental assessment.** An Environmental Assessment Form (EAF) shall be completed and submitted with all applications for new or existing junkyards, pursuant to the provisions of the State Environmental Quality Review Act (6 NYCRR 617). The application shall not be considered complete until the environmental review has been conducted and the Town Board has made a determination that the proposed junkyard will not have significant environmental consequences. No EAF will be required for permit renewal unless the renewal increases the size or changes the character of the junkyard.
- C. **Application fee.** A nonrefundable application fee of \$50 shall accompany all applications for initial permits or renewals affect the size or character of the junkyard. Routine annual renewal applications shall be accompanied by a \$10 nonrefundable fee.
- D. **Public hearing.** The Town Board shall hold a public hearing with 45 days of the date a complete application is received by the Town Board. Notice of the hearing shall be made in the official newspaper at least five days prior to the date thereof. At the hearing, the Town Board shall hear the applicant and all other persons wishing to be heard on the junkyard application. A permit shall be renewable annually without a public hearing

upon payment of the annual fee and inspection and approval of the Town enforcement officer, unless the renewal increases the size or changes the character of the junkyard.

E. Approval or disapproval.

- (1) Within 45 days of said hearing, the Town Board shall render a decision to approve, approve with conditions, or to disapprove the application for a junkyard permit. The forty-five-day period may be extended by mutual consent of the applicant and the Town Board.
- (2) If the application is approved by the Town Board, a junkyard permit shall be issued by the Town Clerk. Approval shall be personal to the applicant and not assignable.
- (3) If the application is approved with conditions by the Town Board, the Town Clerk shall issue a junkyard permit upon notification by the Enforcement Officer that said conditions have been complied with.
- (4) If the application is disapproved, the reasons for such disapproval shall be entered into the Town Board minutes. The applicant shall be notified of the decision and the reasons for such decision by certified mail within five days of the decision of the Town Board.

§ 85-8. General considerations.

In reviewing, granting or denying a permit, the Town Board shall take the following aesthetic and locational factors into consideration:

A. Aesthetic considerations:

- (1) Type of road serving the junkyard or from which the junkyard can be seen.
- (2) Natural or artificial barriers protecting the junkyard from view.

B. Locational considerations:

- (1) The nature and development of surrounding property, such as the proximity of agricultural lands, churches, residential settlements, public buildings, or places of public gathering.
- (2) Whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy noise, odors or smoke, or of other causes.
- (3) The proximity of streams, wetlands, floodplains, groundwater supplies and public water systems.
- (4) Local drainage patterns.
- (5) Long range comprehensive plans for the Town, if such exist.
- (6) Availability of other suitable sites for the junkyard.

§ 85-9. Operation and inspections.**A. Requirements for operation:**

- (1) The permittee must personally own the land or be responsible for the management of the activity or business for which the permit is granted. In the event the permittee does not personally own the land, the land owner must join in the application and will be held responsible for any violations.
- (2) Such permit shall be displayed conspicuously at all times at the permittee's place of activity or business for which it is issued.
- (3) The permittee must assure the proper and safe conduct of such activity or business, to minimize the fire hazard therefrom and to prevent trespass thereon. All junkyard operations shall be accomplished within the junk storage area.

B. Enforcement Officer:

- (1) The enforcement officer, or the Town Board, or any of its representatives, shall be granted access to the area of business of the applicant at all reasonable hours to inspect the same for compliance herewith.
- (2) The enforcement officer shall make inspections of the premises of any junkyard for which application for permit has been made and shall inspect, at least annually, any other existing junkyard within the Town, and shall report to the Town Board on the conditions of such junkyard.
- (3) The enforcement officer shall make periodic inspections of the Town to ensure that all existing junkyards have permits and that the requirements of this chapter are met.
- (4) The enforcement officer shall not enter the premises of any private property without the consent of the owner. It shall be the responsibility of the applicant to arrange for all required inspections of the premises prior to permit issuance or renewal. The refusal of the owner or permit holder to allow access to the property by the enforcement officer may subject the permit holder to the penalties set forth in §§ 85-12 and 85-13 of this chapter.

§ 85-10. Enforcement and appeals procedures.

- A. The enforcement officer shall give written notice by personal service or by registered or certified mail on the owner, tenant and or permit holder of the property in violation of these regulations. Such notice shall direct the person so served to terminate the open storage of such junk or the junkyard violation within 14 days of personal service or within 17 days from mailing where service is by registered or certified mail.
- B. At the expiration of 14 days after the personal service of the notice or after the expiration of 17 days from the expiration of the mailing of notice by registered or certified mail, the enforcement officer shall lodge a complaint with the Town Justice of the Town of Glen, charging any person in violation of this chapter with an offense against this chapter.

§ 85-11. Revocation of permit.

- A. The Town Board may revoke a junkyard permit upon reasonable cause should the permit holder fail to comply with any provision of this chapter. Should the Town Board decide to revoke the permit, the reasons for such revocation shall be stated in the Town Board's minutes. The permit holder shall be notified of the revocation by certified mail. Before a permit may be revoked, the Town Board must conduct a public hearing at which time all interested parties must be heard. Notice of the hearing shall be made in the official newspaper at least five days prior to the date thereof.
- B. Upon revocation, all operations shall stop and the owner will have 60 days to remove all junk. If the junk is not removed, the Town reserves the right to have the junk removed and disposed of and all costs of such removal shall be borne by the permit holder and may be assessed on the real property from which said materials were removed and shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied.

§ 85-12. Penalties for offenses.

Any person who shall violate any of the provisions of this chapter shall be guilty of an offense and subject to a fine of not more than \$250 or to imprisonment for a period not to exceed 15 days, or by both imprisonment and fine. Every such person shall be deemed guilty of a separate offense for each week such violation, disobedience, omission, neglect or refusal to comply shall continue.

§ 85-13. Failure to comply.

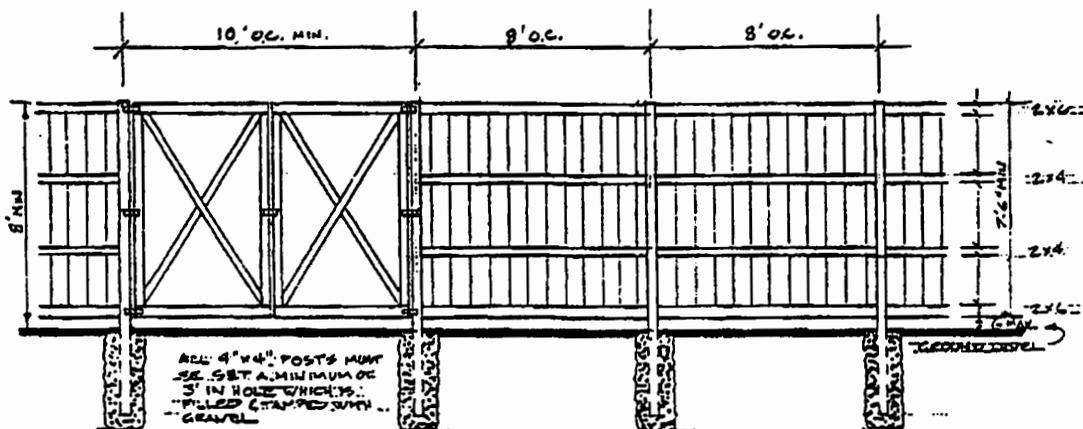
In addition to the above provided penalties, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any section of the chapter.

JUNK AND JUNKYARDS

85 Attachment 1

Junk Yard Fence Required Specifications

- All posts and structure are to be pressure treated.
- Vertical siding fastened to the fence structure may be of three types:
 1. Vertical boards tightly butt-joined.
 2. Flat metal roofing sheets with baked-on white finish and minimal corrugation fastened vertically to 2X structure.
 3. Stockade type or other Board approved panelized fencing.
- Where required fencing is installed on a slope each 8' panel will step evenly along incline.
- All gates must be rigidly braced as indicated in article histories. shown with a 1/4" exterior plywood sheathing beneath the siding and designed to be secured and to swing inward from inside the yard.
- Periodically, at the discretion of the Board, wood siding may be required to be stained to ensure an attractive appearance.
- All hardware and fasteners must be of rust resistant metals (ex. all steel hardware must be galvanized).



Chapter 87

LAND USE MANAGEMENT

ARTICLE I

Authority, Title, Purpose, Scope and Separability

- § 87-1. Authority.
- § 87-2. Title.
- § 87-3. Purpose.
- § 87-4. Scope.
- § 87-5. Severability.

ARTICLE II

Definitions

- § 87-6. Word usage.
- § 87-7. Terms defined.

ARTICLE III

Districts and Boundaries

- § 87-8. Establishment of districts.
- § 87-9. Interpretation of district boundaries.

ARTICLE IV

Use Regulations

- § 87-10. Interpretation.
- § 87-11. Rural Residential District (RR).
- § 87-12. Hamlet District (H).
- § 87-13. Commercial District (C).
- § 87-14. Industrial District (IBP).

ARTICLE V

Area and Height Regulations; Lots, Yards and Buildings

- § 87-15. Regulations.
- § 87-16. Area regulations.

- § 87-17. Height regulations.

ARTICLE VI

Site Plan Approval and Special Permits

- § 87-18. Purpose and authorization.
- § 87-19. Developments requiring site plan review.
- § 87-20. Procedure.
- § 87-21. Enforcement.
- § 87-22. Submission requirements.
- § 87-23. Standards for review.
- § 87-24. Consultant review; payment of fees.
- § 87-25. Additional requirements.
- § 87-26. Appeals.
- § 87-27. Special permits.
- § 87-28. (Reserved)

ARTICLE VII

Supplementary Regulations

- § 87-29. Access to improved streets or state highways.
- § 87-30. Lots in two districts.
- § 87-31. Drive-in food services.
- § 87-32. Accessory buildings.
- § 87-33. Quarrying; soil mining.
- § 87-34. Junkyards.
- § 87-35. Signs.
- § 87-36. Permanent building foundations.
- § 87-37. Sight distance at intersections.
- § 87-38. Landscaping requirements.
- § 87-39. Corner and through lots.
- § 87-40. Flag lots.

GLEN CODE

- § 87-41. Environmental quality review.
- § 87-42. Exterior lighting.
- § 87-43. Mobile homes.
- § 87-44. Public utility facilities.
- § 87-45. Swimming pools.
- § 87-46. Adult-oriented businesses overlay.
- § 87-47. Off-street loading facilities.
- § 87-48. Windmills.
- § 87-49. Historical district.
- § 87-50. Waste management.
- § 87-51. (Reserved)
- § 87-52. (Reserved)
- § 87-53. (Reserved)
- § 87-54. (Reserved)
- § 87-55. (Reserved)
- § 87-56. (Reserved)
- § 87-57. Nonconforming uses.

ARTICLE VIII
Administration

- § 87-58. Enforcement officer.
- § 87-59. Building permits.
- § 87-60. Certificates of occupancy.
- § 87-61. Penalties for offenses.

ARTICLE IX
Zoning Board of Appeals

- § 87-62. Creation, appointment and organization.
- § 87-63. Powers and duties.

ARTICLE X
Amendments

- § 87-64. Initiation; time frame for Town Board action.
- § 87-65. Referral of amendments to Planning Board.
- § 87-66. Hearing on proposed amendment.
- § 87-67. Adoption of amendment.
- § 87-68. Protest petition.
- § 87-69. (Reserved)

ARTICLE XI
Miscellaneous

- § 87-70. Periodic review of chapter.
- § 87-71. Validity.
- § 87-72. Interpretation.

Tables of Use and Bulk
Regulations

[HISTORY: Adopted by the Town Board of the Town of Glen 6-12-2006 by L.L. No. 1-2006. Amendments noted where applicable.]

GENERAL REFERENCES

Adult bookstores — See Ch. 38.
 Flood damage prevention — See Ch. 74.
 Junk and junkyards — See Ch. 85.
 Mobile homes — See Ch. 92.

Site plan review — See Ch. 113.
 Waste management facilities — See Ch. 120, Art. III.
 Subdivision of land — See Ch. 124.

ARTICLE I
Authority, Title, Purpose, Scope and Separability

§ 87-1. Authority.

Pursuant to the authority conferred by Article 16 of the Town Law of the State of New York and the Municipal Home Rule Law of the State of New York, the Town Board of the Town of Glen, New York, hereafter referred to as the "Town Board," hereby adopts and enacts the following.

§ 87-2. Title.

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

§ 87-3. Purpose.

The provisions of this chapter shall be held to be the minimum requirements adopted to promote the health, safety and general welfare of the Town of Glen. These regulations are adopted and intended to achieve the following goals:

- A. Promote the health, safety and general welfare of the community consistent with the objectives of Article 16 of the Town Law;
- B. Preserve and enhance the Town's farming operations and agricultural lands;
- C. Preserve the Town's natural environment;
- D. Employ viable Town initiatives to foster economic development;
- E. Enhance and encourage preservation of the Town's historic character;
- F. Promote local and regional tourism;
- G. Preserve the Town's rural character and open spaces;
- H. Maintain and enhance the aesthetics of the Town;
- I. Enhance the recreational and cultural opportunities in the Town;
- J. Cooperate with the Town's adjacent municipalities and Montgomery County.

§ 87-4. Scope.

This chapter shall apply to the construction, installation or alteration of any building or structure and any lot, plot or parcel of land used, occupied or otherwise maintained as herein provided for in the Town of Glen, outside the corporate limits of the Village of Fultonville, unless specifically exempted elsewhere in this chapter.

§ 87-5. Severability.

Should any section or provision of this chapter, or as amended hereafter, be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so declared to be invalid.

**ARTICLE II
Definitions****§ 87-6. Word usage.**

For the purpose of this chapter, certain words or terms used herein shall be interpreted or defined as follows:

- A. Words used in the present tense shall include the future. The singular number includes the plural, and the plural the singular. The word "person" includes a corporation as well as an individual.
- B. The word "building" includes the word "plot" or "parcel." The word "used" or "occupied" as applied to any land or building shall be construed to include the words "built, arranged or designed to be used or occupied."

§ 87-7. Terms defined.

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

ACCESSORY BUILDING — A building subordinate to the main building on a lot and used for purposes customarily incidental to those of the main building.

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

ADULT-ORIENTED BUSINESS — Applies to the following types of establishments, and any others which exclude or restrict minors by reason of age:

- A. **ADULT BOOKSTORE OR VIDEO STORE** — An establishment having as a substantial or significant portion of its stock-in-trade books, magazines, other periodicals, films, slides or videotapes and which establishment excludes or restricts minors by reason of age.
- B. **ADULT ENTERTAINMENT CABARET** — A public or private nightclub, bar, restaurant, or similar establishment which presents topless or bottomless dancers, strippers, male or female impersonators, exotic dancers, or other similar entertainment, and which establishment excludes or restricts minors by reason of age.
- C. **ADULT MOTEL** — A motel which excludes or restricts minors by reason of age, and which makes available to its patrons in their rooms films, slide shows or videotapes, which if presented in a public movie theater would exclude or restrict minors by reason of age.

- D. **ADULT THEATER** — A theater that customarily presents motion pictures, films, videotapes or slide shows, and that excludes or restricts minors by reason of age.
- E. **MASSAGE ESTABLISHMENT** — Any establishment having a fixed place of business where massages are administered, including but not limited to massage parlors, sauna baths, and steam baths, and which excludes or restricts minors by reason of age. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or duly licensed physical therapist or massage therapist, licensed masseuse or masseur, or barbershops or beauty salons in which massages are administered only to the scalp, face, neck or shoulders. This definition shall also exclude health clubs which have facilities for physical exercise, such as tennis courts, racquetball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.
- F. **PEEP SHOW** — A theater which presents material in the form of live shows, films or videotapes, viewed from an individual enclosure, and excludes or restricts minors by reason of age.

ALLEY — A minor way which is used primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

ANIMAL HOSPITAL/VETERINARY CLINIC — A business that treats animals and regularly houses them on the premises overnight and for extended periods for treatment.

APPLICANT — The legal, real property contract vendee, or beneficial owner or owners of a lot or of any land included in the proposed development; also, the holder of an option or contract to purchase, or any other person having enforceable proprietary interest in such land.

AREA, BUILDING — The total ground area of a principal building and accessory buildings, exclusive of uncovered porches, parapets, steps and terraces.

BASEMENT — A space of full story height partly below grade and having at least half of its clear floor-to-ceiling height above the average grade, and which is not designed or used primarily for year-round living accommodations.

BED-AND-BREAKFAST — An establishment in a private dwelling that supplies temporary accommodations to overnight guests for a fee. Meals may or may not be provided. Tourist homes and inns are included herein.

BOARDING OR ROOMING HOUSE — Any dwelling in which more than three persons, either individually or as families, are housed or lodged, except those engaged in farm work, for hire with or without meals, and/or any dwelling with 10 or fewer sleeping rooms in which more than three persons, either individually or as families, are housed or lodged, except those engaged in farm work, for hire or otherwise, without separate kitchen facilities, with or without meals. If there are more than 10 sleeping rooms, such buildings shall be considered hotels.

BUFFER ZONE — Open spaces, landscaped areas, fences, walls, berms or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances.

BUILDING — Any roofed structure intended for the shelter, housing or enclosure of persons, animals or property. When a building is divided into separate parts extending from the ground up, each part so divided is deemed a separate building.

BUILDING LINE — A line established by law, usually parallel with a property line, beyond which a structure may not extend.

BUILDING FLOOR AREA — The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, including basement areas devoted to residential use and the area of bays, dormers, roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

CELLAR — That space of a building which has more than half of its height, measured from floor to ceiling, below the average grade.

COMMERCIAL COMPOSTING — Aerobic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material used for fertilizing and conditioning land.

COMMUNITY PARK OR PLAYGROUND — Land managed by the public and set aside for public use, which may or may not have developed recreational facilities, such as playgrounds, tennis courts, horse and bike trails, baseball fields, picnic areas, swimming pools and/or lavatories.

DRIVEWAYS AND PASSAGEWAYS — Private access routes which directly service a parking area; or parking spaces not directly serving more than two dwelling units, and not providing a route for through traffic. Minimum driveway widths shall be as follows:

Parking Angle	Driveway Width (feet)
No parking	18
Parallel	20
45° one-way	20
60° one-way	20
90° one-way	24

DWELLING, ONE-FAMILY — A detached building, other than a trailer or other temporary structure, designed for exclusive year-round occupancy by one family only.

DWELLING, TWO-FAMILY — A detached building, other than a trailer or other temporary structure, designed for exclusive year-round occupancy by two families living independently of each other.

DWELLING, MULTIPLE-FAMILY — A building or group of buildings designed for year-round occupancy by more than two families, including apartment houses and group houses, but excluding hotels and rooming houses.

DWELLING UNIT — One or more rooms with provision for living, sanitary, and sleeping facilities arranged for the use of one family.

FAMILY — Any number of persons or recognized relationships maintaining a common household, including domestic help.

FARM — A parcel or tract of land which is used for growing agricultural products, horticulture products, raising livestock, raising fruits and/or vegetables or agriculture production. An "agricultural operation" shall not include any farm having less than \$10,000 gross sales in the year preceding the date on which the owner applies for a building permit to erect a mobile home as an accessory use.

FARM PRODUCTS PLANT — Any operation which starts with a farm product, including but not limited to vegetables, fruits, milk, beef, pork, lamb, chicken, eggs, turkey, etc., and whose end product packages that product in a form suitable for retail market distribution. This definition includes but is not limited to dairies, cheese plants, vegetable/fruit canneries, slaughterhouses, etc.

FARM STAND — A structure used in the sale of agricultural products that are produced on the premises.

FRONT — That part of a parcel of land or building abutting or facing the principal street or road. In the case of corner lots on two intersecting streets or roads the parcel will be considered to have two front yards, one side yard and one rear yard at minimum.

GARAGE, PRIVATE — A roofed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises.

GARAGE, PUBLIC — A building or part thereof for the storage, hiring, selling, greasing, washing, servicing, or repair of motor-driven vehicles, operated for gain.

GASOLINE STATION — Any area of land, including structures thereon, that is used or designed to be used for the sale of gasoline or oil or other motor vehicle fuel and which may include facilities for lubricating, washing, cleaning, or otherwise servicing motor vehicles, not including the painting or major repair thereof. The term "gasoline station" shall be deemed to include "filling station" and "service station."

GREENSPACE — An area of land with vegetative cover.

HISTORIC BUILDING OR SITE — A building or area which has historic and special public value because of notable architectural or other features relating to the cultural, historic, or artistic heritage of the community.

HOME OCCUPATION —

A. An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; and is carried on by a member of the family residing in the dwelling unit; and is clearly incidental and secondary to the use of the dwelling unit for residential purposes; and which conforms to the following additional conditions:

(1) The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto.

(2) There shall be no exterior display, nor any exterior sign except a business sign, no exterior storage or materials and no other exterior indication of the home occupation or variation from the residential character of the principal building. The business sign shall comply with § 87-35 of this chapter.

(3) No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced.

B. A home occupation includes, but is not limited to, an art studio; dressmaking; barber shop or beauty parlor; professional office of physician; dentist, lawyer, engineer, architect, or accountant; or musical instruction limited to a single pupil at a time.

HOSPITAL — A building or structure for the diagnosis and medical or surgical care of human ailments.

HOTEL — A facility offering transient lodging accommodations to the general public and providing additional service such as restaurants, meeting rooms and recreational facilities. The word "hotel" includes the words "motel," "motel court," "inn," "tourist court," or similar names, excluding rooming houses and bed-and-breakfast establishments.

JUNKYARD — A lot, land or structure, or part thereof, used for the collection, storage and sale of wastepaper, rags, scrap metal or discarded material; or for the collection, dismantling, storage and salvaging of machinery or vehicles, and for the sale of the parts thereof; or for the storage or abandonment of two or more unlicensed or unregistered motor vehicles for 30 days or more.

KENNEL — A structure used for the harboring for hire of five or more dogs or cats, more than six months old.

LAUNDERETTE — A business premises serviced by municipal sewerage or a NYSDOH-approved system, equipped with individual clothes-washing or cleaning machines for use by retail customers, exclusive of laundry facilities provided in an apartment, fraternity, sorority, residential hotel or club.

LIGHT ASSEMBLY PLANT — A use engaged in the creation, predominately from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding basic industrial processing.

LIVING AREA — The sum of the gross horizontal area of the several floors of a building, including areas below grade devoted to residential use. All dimensions shall be measured between exterior faces of walls.

LOADING SPACE — A paved area designed for the parking, loading and unloading of delivery vehicles.

LOT — A parcel of land considered as a unit, occupied or capable of being occupied by a building or use and accessory buildings or uses, or by a group of buildings united by a common use or interest; and including such open spaces as are required by this chapter, and having its principal frontage on a public street or an officially approved place.

LOT AREA — The total horizontal area included within lot lines. No part of the area within a public right-of-way may be included in the computation of lot area.

LOT, CORNER — A lot located at the intersection of and fronting on two or more intersecting streets, and having an interior angle at the corner of intersection of less than 135°.

LOT, COVERAGE — That portion of the lot that is covered by buildings.

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

LOT, INTERIOR — A lot other than a corner lot.

LOT, THROUGH — A lot, other than a corner lot, having frontage on two approximately parallel or converging streets.

LOT WIDTH — The distance between side lot lines measured parallel to the front lot line at a distance from the front lot line equal to the front yard specified for the district, except as noted in § 87-16.

MINERAL — Any naturally formed, usually inorganic, solid material located on or below the surface of the earth. For the purposes of this chapter, peat and topsoil shall be considered minerals.

MINING — The extraction of overburden and minerals from the earth; the preparation and processing of minerals, including any activities or processes or parts thereof for the extraction or removal of minerals from their original location and the preparation, washing, cleaning, crushing, stockpiling or other processing of minerals at the mine location so as to make them suitable for commercial, industrial, or construction use, exclusive of manufacturing processes, at the mine location; the removal of such materials through sale or exchange, or for commercial, industrial or municipal use; and the disposition of overburden, tailings and waste at the mine location. Mining shall not include the excavation, removal and disposition of minerals from construction products, exclusive of the creation of water bodies, or excavations in aid of agricultural activities.

MINOR — A person less than 18 years of age.

MOBILE HOME — A movable single dwelling unit equipped with a chassis designed for and providing housekeeping facilities for year-round occupancy, including plumbing, heating, electrical, cooking and refrigeration systems and equipment.

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

MODULAR HOME — A prefabricated dwelling unit capable of being delivered to a site in several sections and which is indistinguishable in appearance from conventionally built homes.

MOTORIZED SPORTS FACILITY — Racetrack, dragstrip, motocross, snowmobiles.

NAMEPLATE — A plaque or sign for nonbusiness purposes bearing the name of the owner of the residence and no larger than eight square feet.

NONCONFORMING USE — A structure or land lawfully occupied by a use that does not conform to the regulations of the district in which it is located.

NURSING OR CONVALESCENT HOME OR HOME FOR THE AGED — A building used for the accommodation and care of persons with, or recuperating from, illness or incapacity, where nursing services are furnished, or for the accommodation and care of persons of advanced age.

OPEN SPACE — Any parcel or area of land or water essentially unimproved by buildings.

PARKING SPACE — The area required for parking one automobile, which in this chapter is held to be an area at least nine feet wide and 20 feet long, exclusive of passageways and driveways thereto.

PERMANENT FOUNDATION — Concrete or stone walls which support the bottom floor and exterior walls of a building and extending below the ground deeper than the average annual frost level, or a reinforced concrete base below the bottom floor of a building of sufficient thickness and having a suitable subbase to resist shifting and heaving from changes in temperature and moisture conditions in the ground beneath the building.

PERSONAL SERVICE SHOPS — Establishments providing services or entertainment, as opposed to products, to the general public, including, but not limited to: cleaning and garment services, beauty shops, photography shops, shoe repair, barber shops, funeral services, clothing rental, reduction salons and tanning parlors.

PERSONAL WIRELESS SERVICE FACILITY — A facility for the provision of personal wireless services. A personal wireless service facility includes an antenna, equipment mounting structure, and accessory buildings and equipment. For purposes of this chapter, a personal wireless service facility shall not be included within the definition of a "public utility facility" as specified in this chapter.

PERSONAL WIRELESS SERVICES — Any person, firm, corporation, or governmental agency, duly licensed/authorized to furnish the public, under governmental regulation, commercial mobile services, wireless telecommunications services, and common-carrier wireless exchange access services, including cellular radiotelephone, specialized mobile radio system and personal communication services, which are regulated by the Federal Communications Commissions in accordance with the Communication Act of 1934 [47 U.S.C. Sections 151-613 (1988) as it may hereinafter be amended from time to time].

PLANNING BOARD — Planning boards are given certain advisory powers by state statute simply by virtue of their being created. These "automatic" functions fall into two general categories:

- A. The power to make investigations, maps, and reports on specific issues relating to the planning and development of the municipality. A Planning Board does not have to wait to be asked for an opinion. Within the limit of its budget, it can act on its own in rendering advice.
- B. The power to draft and recommend a comprehensive plan to guide the future growth of the Town in an orderly manner.

PROFESSIONAL OFFICE — Offices for a person or persons whose vocation or occupation requires advanced training in a liberal art or science and whose service usually involves nonmanual work.

PUBLIC BUILDING — Any Town, county, state or federally owned building(s) or land, including, but not limited to: Town halls and Highway Department garages.

PUBLIC UTILITY — Any person, firm, corporation or governmental agency, duly authorized to furnish the public, under governmental regulation electricity, gas, water sewage treatment, steam, cable television, or related communication service. This definition shall not bestow any special status or standing not already provided by State or Federal Law.

PUBLIC UTILITY FACILITY — A facility, other than a personal wireless service facility, for the provision of public utility services, including facilities constructed, altered or maintained by utility corporations, either public or privately owned, or governmental agencies, necessary for the provision of electricity, gas, steam, heat, communication, water, sewage collection, or such service to the general public. Such facilities shall include poles, wires, mains, drains, sewers, pipes, conduits, cables, alarms and call boxes and other similar equipment, but shall not include office or administrative buildings.

RESIDENCE — A structure or portion thereof used as a dwelling unit.

RESTAURANT — A building or portion of a building wherein food and beverages are available for on-site or off-site consumption.

RETAIL FARM MARKET — A structure for the sale of agricultural products either produced on or off the premises.

RETAIL STORE — Any building or permanent structure or portion thereof in which one or more services or one or more articles of merchandise are sold at retail, including department stores.

SHED — An accessory building which is no larger than 150 square feet.

SIGN — Any device affixed to or painted or represented directly or indirectly upon a building, structure or land and which directs attention to an object, product, place, activity, person, institution, organization or business, but not including any flag, badge or insignia of any government or government agency, school, or religious group or of any civic, charitable, religious, patriotic, fraternal or similar organization, nor any official traffic control device. Each display surface shall be considered to be a sign.

SIGN, ADVERTISING — A sign which directs attention to a business, commodity, service or entertainment sold or offered elsewhere than upon the premises where such sign is located, or to which it is affixed, only incidentally on the premises, if at all.

SIGN, BUSINESS — A sign which directs attention to a business or profession conducted, or a commodity, service, or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed. A "For Sale" or "For Let" sign relating to the lot on which it is displayed shall be deemed to be a business sign.

SIGN, FLASHING — Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color when such sign is in use. For the purpose of this chapter any revolving, illuminated sign shall be considered a flashing sign.

SITE PLAN — A plan of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Planning Board.

SITE PLAN REVIEW — A review and approval process, conducted by the Planning Board, whereby site plans are reviewed utilizing criteria stated in the ordinance and as authorized by Town Law. ¹

SPECIAL PERMITTED USE — A use of property that is basically appropriate to a given zoning district, but which may be incompatible in some locations within the district and therefore is not permitted by right everywhere within such districts. A special permitted use, therefore, is one which is allowable only when facts and conditions specified in the ordinance as those upon which the use is permitted are found to exist.

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

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

STORY — That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

STORY, HALF — That part of a building between a pitched roof and the uppermost full story, and having a floor area at least half as large as the floor below. Space with less than five feet clear headroom shall not be considered as floor area.

STREET — A public way which affords the principal means of access to abutting property.

STRUCTURE — Any building or other construction, with or without a roof, which requires location on the ground or attachment to something having location on the ground.

STRUCTURAL ALTERATION — Any change in the supporting members of a building.

SUBDIVISION — Division of any parcel or property into two or more parcels.

THEATER, OUTDOOR — An open lot or part thereof, with its appurtenant structures and facilities, devoted primarily to the showing of motion pictures or theatrical production on a paid-admission basis.

TOURIST HOME — A dwelling where transient guests are lodged for hire.

TOWNHOUSE — One of several units in a building designed for and occupied exclusively as a residence for not more than one family living independently of any other family,

1. Editor's Note: See Ch. 113, Site Plan Review.

separated from other units by a party wall or walls, and erected on a lot intended to be held in the form of a condominium or in a single and separate ownership from any adjoining units.

TRAILER — A mobile unit designed for camping, recreational travel, or vacation use which is equipped with a chassis and provides partial housekeeping facilities such as plumbing, heating, electrical, cooking or refrigeration systems or equipment.

TRAILER CAMP — An area occupied or designed for occupancy by two or more trailers.

TRUCK TERMINAL — A building or area in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semi-trailers, including tractor and/or trailer units and other trucks are parked or stored.

VARIANCE — Permission to depart from the literal requirements of this chapter.

VARIANCE, AREA — A departure from the area setback, frontage, coverage, size or other requirements of the applicable zoning district, or a departure from any provision of this chapter except use.

VARIANCE, USE — A variance granted for a use or structure that is not permitted in the zoning district.

WHOLESALE STORAGE OR WAREHOUSE — A building or buildings used as a wholesale distribution center.

WINDMILL/WIND TOWER — Any structure that converts wind energy to mechanical energy.

YARD, FRONT — An open, unoccupied and unobstructed space on the same lot with a main building, extending the full width of the lot and situated between the front property line and the front line of the main building projected to the side lines of the lot.

YARD, REAR — A space on the same lot with a main building, open and unoccupied except for accessory buildings, extending the full width of the lot and situated between the rear line of the main building projected to the side lines of the lot and the rear line of the lot.

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

ARTICLE III Districts and Boundaries

§ 87-8. Establishment of districts.

A. For the purpose of this chapter, the Town of Glen is divided into the following districts:

Rural/Residential (R-R)
 Hamlet (H)
 Commercial (C)
 Industrial Business Park (IBP)

- B. Said districts are bounded and defined as shown on a map entitled "Zoning Map Town of Glen," hereinafter called the "Zoning Map," adopted by the Town Board and certified by the Town Clerk, which accompanies and which, with all explanatory matter thereon, is hereby made a part of this chapter.²

§ 87-9. Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries.
- B. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
- C. Where the boundary of a district follows a stream or other body of water, said boundary line shall be deemed to be the center line of such stream or body of water unless otherwise indicated.

ARTICLE IV
Use Regulations

§ 87-10. Interpretation.

The principal permitted uses of each zoning district are permitted as of right. All special permitted uses require both special permit review and site plan review. Uses not listed for a specific zoning district are prohibited from that district and would therefore require a use variance.

§ 87-11. Rural Residential District (RR).

In the Rural Residential (RR) District no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

- A. Principal permitted uses.
- (1) One-family dwelling.
 - (2) Two-family dwelling.

2. Editor's Note: The Zoning Map is on file in the Town offices.

- (3) Townhouse.
- (4) Farm and accessory buildings and uses.
- (5) Mobile home as part of a farm operation.
- (6) Nursery.
- (7) Community park or playground.
- (8) Accessory use and building.
- (9) Home occupation.
- (10) Picnic grove.

B. Permitted uses by special permit. (See § 87-27.)

- (1) Multiple-family dwelling.
- (2) Cluster housing.
- (3) Bed-and-breakfast establishment.
- (4) Boarding or rooming house.
- (5) Mobile home park.
- (6) Church.
- (7) Parish house, convent.
- (8) Public parochial school or college.
- (9) Nursing or convalescent home or home for the aged.
- (10) Adult residential center.
- (11) Day-care.
- (12) Launderette.
- (13) Retail store.
- (14) Golf course, country club, or other sporting facility.
- (15) Fish and game club.
- (16) Commercial recreation.
- (17) Public building.
- (18) Animal/Veterinary hospital.
- (19) Kennel (five or more animals).

- (20) Boarding stable.
- (21) Funeral home.
- (22) Crematorium.
- (23) Firehouse/Emergency services.
- (24) Self-storage.
- (25) Radio, TV transmitter or receiving tower with building.
- (26) Radio, TV transmitter or receiving tower without building.
- (27) Car wash.
- (28) Public or private utility facility with building.
- (29) Public or private utility facility without building.
- (30) Personal wireless service facility (cell tower).
- (31) Wind tower.
- (32) Organic fertilizer manufacturing (composting).
- (33) Farm products plant.
- (34) Topsoil operation.
- (35) Earth, sand, gravel or mineral excavation.
- (36) Gas and oil extraction.
- (37) Agricultural lime manufacturing.
- (38) Rock quarry operation.
- (39) Advertising sign.
- (40) Airport/Heliport.
- (41) Mobile home.
- (42) Motorized sports facility.
- (43) Windmill.

§ 87-12. Hamlet District (H).

In the Hamlet District (H) no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

- A. Principal permitted uses.
- (1) One-family dwelling.
 - (2) Two-family dwelling.
 - (3) Community park or playground.
 - (4) Farm and accessory use or building.
 - (5) Fire station, municipal building.
 - (6) Historic building or site.
 - (7) Accessory uses or buildings.
- B. Permitted uses by special permit. (See § 87-27.)
- (1) Church, parish house, convent.
 - (2) Public or parochial school or college.
 - (3) School and colleges.
 - (4) Hotel.
 - (5) Marina.
 - (6) Gasoline station.
 - (7) Multifamily dwelling.
 - (8) Bed-and-breakfast establishment.
 - (9) Retail store.
 - (10) Personal service shop.
 - (11) Bank.
 - (12) Custom workshop.
 - (13) Museum.
 - (14) Launderette.
 - (15) Restaurant.
 - (16) General store.
 - (17) Home occupation.
 - (18) Professional office, studio.
 - (19) Antique store.

- (20) Mobile home.

§ 87-13. Commercial District (C).

In the Commercial District (C) no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

A. Principal permitted uses.

- (1) Bed-and-breakfast establishment.
- (2) Personal service shop.
- (3) Retail store.
- (4) Museum.
- (5) Custom workshop.
- (6) Radio, television or household appliance sales or service.
- (7) Funeral home.
- (8) Antique shop.
- (9) Animal/Veterinary hospital.
- (10) Feed, lumber, seed or fertilizer building.
- (11) Car wash.
- (12) Fire station or municipal building.
- (13) Cabinet, electrical, heating, plumbing or air conditioner shop.
- (14) Mobile home as part of a farm operation.
- (15) Community park or playground.
- (16) Retail bakery.
- (17) Historic building or site.
- (18) Laundry or dry-cleaning plant.
- (19) Farm and accessory uses or buildings.
- (20) One-family dwelling.
- (21) Accessory use or building.
- (22) Home occupation.

B. Permitted uses by special permit. (See § 87-27.)

- (1) Gasoline station.
- (2) Professional office, studio.
- (3) Bank.
- (4) Public utility facility.
- (5) Hotel.
- (6) Public garage.
- (7) Restaurant.
- (8) Fuel sales and storage.
- (9) Automobile, boat, farm implement, tool or mobile home sales or rental.
- (10) Indoor storage of non-liquid, non-gaseous fuel.
- (11) Bowling alley.
- (12) Multifamily dwelling.
- (13) Two-family dwelling.
- (14) Adult-oriented business.
- (15) Tavern.
- (16) Windmill.

§ 87-14. Industrial District (IBP).

In the IBP Industrial Business Park District no building or premises shall be used and no building shall be erected or altered except for one or more of the following uses:

A. Principal permitted uses.

- (1) Wholesale storage or warehouse.
- (2) Lightweight assembly plant.
- (3) Manufacturing or assembly of electronic devices or instruments.
- (4) Printing or publishing plant.
- (5) Tool, die, pattern or machine shop.
- (6) Manufacture or processing of dairy or other food products.
- (7) Distribution center.
- (8) Research and development center.

- (9) Transportation services, including automobile and truck rentals and public garages.
 - (10) Professional offices.
 - (11) Customary accessory uses or buildings.
 - (12) Cold storage plant.
 - (13) Farm and accessory use or building.
- B. Uses permitted by special permit by the Planning Board. (See § 87-27.)
- (1) Manufacture of textile products or leather goods.
 - (2) Manufacture or fabrication of metal, concrete, stone, plastic, paint, fiber or wood products.
 - (3) Truck terminal.
 - (4) Bulk storage of inflammable liquids.
 - (5) Public utility facility.
 - (6) Windmill.

ARTICLE V

Area and Height Regulations; Lots, Yards and Buildings

§ 87-15. Regulations.

Regulations governing lot area and lot width; front, side and rear yards; building coverage and building height are specified in the Tables of Use and Bulk Regulations and in the additional regulations of Article VI, and supplementary regulations of Article VII. Schedule A accompanies and is hereby made a part of this chapter.³

§ 87-16. Area regulations.

- A. Lots of less than required dimensions.
- (1) Any lot with an area or a width less than that required in the district in which said lot is located may be used for any permitted principal use in the district, provided that all other regulations prescribed for the district shall be complied with, and further provided that said lot was held under separate ownership at the time of the adoption of this chapter and the owner thereof owned no adjoining land that could be combined with said lot to meet the dimensional requirements.
 - (2) In the event that compliance with the yard and coverage requirements of the district would result in a residential structure of less width than 24 feet, the Board

3. Editor's Note: The Tables of Use and Bulk Regulations are included at the end of this chapter.

of Appeals shall determine and fix yard and coverage requirements for said lot to permit its reasonable utilization for a permitted use.

- B. Reduction of lot area. The minimum yards and open spaces, including lot area per family, required by this chapter shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot be reduced below the district requirements of this chapter.
- C. Corner lots. On a corner lot in any district where a front yard is required, a yard shall be provided on each street equal in depth to the required front yard on each such street. One rear yard shall be provided on each corner lot, and the owner shall designate the rear yard on his application for a permit. The Board of Appeals shall determine the yards and building width of a corner lot facing an intersecting street, and of record at the time of the passage of this chapter, if the yard requirements would result in a residential structure less than 24 feet wide.
- D. Visibility at street corners. On a corner lot in any district where a front yard is required, no fence, hedge, wall or other structure or planting more than three feet in height shall be erected, placed or maintained so as to obstruct visibility of vehicular traffic within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at points 20 feet distant from the point of intersection, measured along said lines. Intersections with county or state roads shall be in accordance with corresponding Transportation Department regulations and restrictions imposed by this chapter.
- E. Transition yard requirements.
 - (1) Where two districts abut on the same street between two intersecting streets, and the front yard requirements of one district are less than those of the other district, there shall be provided for buildings hereafter constructed or structurally altered within a distance of 50 feet from the district boundary line in the less-restricted district a front yard equal in depth to the average of the required depths in the two districts.
 - (2) Where the side or rear yard of a lot in a Residential District abuts a side or rear yard of a lot in a Commercial District, there shall be provided along such abutting line or lines in the Commercial District a side or rear yard equal in depth to that required in the more restricted district; and in addition, a planting buffer at least 10 feet wide, having evergreen vegetative screening and/or opaque fencing at least eight feet high, may be required by the Town Planning Board in an easement in any Commercial District.
- F. Projecting architectural features, terraces, porches, fire escapes.
 - (1) The space in any required yard shall be open and unobstructed except for the ordinary projections of window sills, belt courses, cornices, eaves and other architectural features; provided, however, that such features shall not project more than two feet into any required yard.

- (2) A paved terrace shall not be considered as part of a building in the determination of yard size or lot coverage, provided that such terrace is without a roof and without walls, parapets, or other form of enclosure exceeding six feet in height.
 - (3) In determining the percentage of building coverage or the size of yards for the purpose of this chapter, enclosed porches, or porches open at the side but roofed, shall be considered a part of the building.
- G. Walls, fences and hedges. The yard requirements of this chapter shall not prohibit any necessary retaining wall nor any fence, wall or hedge permitted by the Town Ordinance, provided that in any Residence District such fence, wall or hedge shall be no closer to any front lot line than two feet, and shall comply with visibility at street corners as provided in this article.

§ 87-17. Height regulations.

- A. Chimneys, spires, etc. The height limitations of this chapter shall not apply to belfries, church spires, cupolas, and domes which are not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks or other storage tanks/silos and necessary mechanical appurtenances usually carried above the roof level; nor to flagpoles, monuments, transmission towers and cables, radio and television antennas or towers and similar structures. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose for which they are intended, and are subject to Planning Board review and approval. No advertising device of any kind whatsoever shall be inscribed upon or attached to that part of any chimney, tower, tank or other structure which extends above the roof limitations.
- B. Through lots. On through lots 120 feet or less in depth, the height of a building may be measured from the grade of either street. On through lots more than 120 feet deep, the height regulations and basis of height measurement for the street permitting the greater height shall apply to a depth of not more than 120 feet from that street.

ARTICLE VI

Site Plan Approval and Special Permits

§ 87-18. Purpose and authorization.

- A. The purpose of site plan approval and special permit approval is to ensure compliance with the objectives of this chapter, thereby promoting the public health, safety and general welfare.
- B. This article of this chapter is enacted under the authority of § 274-a of the Town Law of the State of New York to protect the health, safety, convenience and general welfare of the inhabitants of the Town. This article regulates the development of structures and sites in a manner which considers the following concerns and, where necessary, requires modification of development proposals to eliminate or minimize potential problems and nuisances.

- C. The power to approve, or approve with conditions, or deny site plans and special permits as required by this article is vested in the Planning Board. All site plan and special permit applications shall comply with the adopted, current requirements and procedures of the Planning Board.

§ 87-19. Developments requiring site plan review.

All development projects in all districts other than agricultural in the Rural Residential District require site plan review. In addition, all special permits require site plan review by the Planning Board.

§ 87-20. Procedure.

- A. Prior to the submission of a formal site plan, a presubmission conference may be held wherein the applicant shall meet in person with the Zoning Enforcement Officer to discuss the proposed site plan so that the necessary subsequent steps may be undertaken with a clear understanding of the Town's requirements in matters relating to the development of the site.
- B. Within six months following the presubmission conference, five copies of the site plan and any related information shall be submitted to the Zoning Enforcement Officer, accompanied by a fee in accordance with the schedule of fees of the Town of Glen, payable to the Town Clerk. If the application is not submitted within this six-month period, another presubmission conference may be required. An Environmental Assessment Form, as required by the State Environmental Quality Review Act,⁴ shall also be submitted with the application.
- C. The Zoning Enforcement Officer shall certify on each site plan or amendment whether or not the application is complete in accordance with the requirements of this article, and whether the plan meets the requirements of all provisions of this chapter other than those of this article, such as setbacks, number of parking spaces, etc. The Zoning Enforcement Officer shall act to certify the application or return it to the applicant for completion or revision within 10 days of submission by the applicant.
- D. Following certification of a complete application, the Zoning Enforcement Officer shall forward the application to the Planning Board no later than 10 days prior to its next meeting.
- E. The Planning Board may, at its discretion, hold a public hearing on the application. Said hearing shall be held within 62 days of submission to the Planning Board of said complete application. The Planning Board shall give notice of the hearing in a newspaper of general circulation in the Town at least 10 days prior to the hearing. In addition, the applicant shall give notice in writing by certified mail, return receipt required, to all property owners of the land immediately adjacent to, extending 500 feet therefrom, and directly opposite thereto, extending 500 feet from the street frontage of the land in said application. The applicant shall mail these notices at least 10 days in advance of the

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

hearing and furnish the Planning Board with such Post Office receipts as have been received as of the date of such hearing.

- F. The Planning Board shall make a determination of significance of the proposed site plan according to SEQR. The time limitations of Subsection H shall not apply until the conclusion of the SEQR process.
- G. Referral to County Planning Board.
- (1) Whenever any site plan involves real property in an area described in § 239-m of the General Municipal Law, said site plan shall be referred to the County Planning Board, which Board shall report its recommendations to the Town Planning Board. Failure of the County Planning Board to report within 30 days may be construed to be approval.
 - (2) The concurring vote of a majority plus one of the Town Planning Board shall be necessary to override County Planning Board recommendations of approval with modification or disapproval. In the event that the County Planning Board recommends modifications or disapproval of a referred matter and the Town Planning Board acts to the contrary, the Town Planning Board shall file a report of its final action with the County Planning Board within seven days after final action.
- H. The Planning Board shall, within 62 days of the public hearing, if one is held, or within 62 days of the receipt of a complete site plan application, either:
- (1) Approve the site plan if the Board finds that the plan meets the requirements of this chapter and any other applicable rules and regulations; or
 - (2) Condition approval of the site plan upon the applicant making certain changes or modifications to the plan, said conditions to be set forth in writing by the Board; or
 - (3) Disapprove the site plan, the reasons for such action to be set forth in writing by the Board.
- I. Failure by the Planning Board to act within the required time shall be deemed approval. Should the Planning Board need additional time to consider the application, it may do so only with the consent of the applicant. Said agreement shall be recorded in the meeting minutes.
- J. Review of amendments to an approved site plan shall be acted upon in the same manner as the review of an original plan.

§ 87-21. Enforcement.

- A. The Planning Board may require the posting of a bond or other similar performance guarantee to ensure compliance with the plan and stated conditions of approval. The Zoning Enforcement Officer may suspend any permit or license when work is not performed as required.

- B. Any special permit issued under this section shall lapse within one year if a substantial use thereof has not commenced, except for good cause. The time required to pursue and await determination of a judicial appeal pursuant to the Town Law shall be included within the one-year time limit.
- C. The Planning Board may adopt additional detailed design guidelines and performance standards, as it deems necessary by majority vote of the Planning Board, after conducting a public hearing to receive comments on any proposed revisions. Such hearing shall be advertised once in a newspaper of general local circulation, at least seven days prior to the hearing. Such standards and guidelines shall not become effective until adopted by the Town Board following a public hearing.

§ 87-22. Submission requirements.

- A. The site plan shall include the following data, details and supporting plans. The number of pages submitted will depend on the proposal's size and complexity. All of the requirements must be met in each plan except in accordance with Subsection B below.
- B. The Planning Board may waive any of the requirements of Subsection C or D and parts thereof, prior to the submission of a formal site plan, when such requirements are not material to the project under review.
- C. Site plans shall be prepared by a surveyor, registered professional engineer, architect, or landscape architect at a scale of one inch equals 20 feet or less, on standard twenty-four-inch by thirty-six-inch sheets, with continuation on eight-and-one-half-inch by eleven-inch sheets as necessary for written information.
- D. Items required for submission include:
 - (1) Name of the project, boundaries, location maps showing site's location in the Town, date, North arrow and scale of the plan. This title block shall be located in the lower righthand corner of the site plan.
 - (2) Name and address of the owner of record, developer, and seal of the engineer, architect, surveyor or landscape architect.
 - (3) Name and address of all owners of record of abutting parcels and those within 500 feet of the property line.
 - (4) All existing lot lines, easements, and rights-of-way; include areas in acres or square feet; abutting land uses, and the location and size of structures within 500 feet of the site.
 - (5) The location and use of all existing and proposed buildings and structures within the development; include all dimensions of height and floor area, and show all exterior entrances, and all anticipated future additions and alterations.
 - (6) The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping and walls. Location, type and screening details for all waste disposal containers shall also be shown.

- (7) The location, height, intensity and bulk type (e.g., fluorescent, sodium incandescent) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
- (8) The location, height, size, materials and design of all proposed signage.
- (9) The location of all present and proposed utility systems, including the following:
 - (a) Sewage or septic systems.
 - (b) Water supply system.
 - (c) Telephone, cable and electrical systems.
 - (d) Storm drainage system, including existing and proposed drainage lines, culverts, catch basins, headwalls, end walls, hydrants, manholes, and drainage swales. The Planning Board may also require soil logs, soil profile analyses (deep hole test pits), percolation tests and stormwater run-off calculations for large developments or developments in environmentally sensitive areas.
- (10) Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive run-off, excessive raising or lowering of the water table, and flooding of other properties, as applicable. There shall be pre- and post-drainage calculations for the site done by a certified engineer. From this the engineer must show how there will be no increase in runoff from the site. The use of ponds, dry wells, etc. shall be used, but all sites shall have zero increase in runoff so as not to disturb neighboring properties.
- (11) Existing and proposed topography at five-foot-contour intervals. All elevations shall refer to the nearest United States Coastal and Geodetic Bench Mark. If any portion of the parcel is within the one-hundred-year floodplain, the area will be shown and base flood elevations given. Areas within site where ground removal or filling is required shall be indicated, and their approximate volume in cubic yards shall be given.
- (12) A landscape plan showing all existing natural land features, trees, forest cover and water sources, and all proposed changes to these features, including size and type of plant material, and erosion control measures. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains, and drainage retention areas.
- (13) Zoning district boundaries within 200 feet of the site's perimeter shall be drawn and identified on the plan.
- (14) Traffic flow patterns within the site, entrances and exits, loading and unloading area, curb cuts on the site and within 200 feet of the site. The Planning Board may require a detailed traffic study for large developments or for those in heavy traffic areas to include:
 - (a) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak-hour traffic level.

- (b) The projected traffic flow pattern, including vehicular movements at all major intersections likely to be affected by the proposed use of the site.
 - (c) The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak-hour traffic levels as well as road capacity levels shall also be given.
- (15) For new construction or alterations to any existing building, a table containing the following information must be included:
- (a) Area of building to be used for a particular use such as retail operation, office, storage, etc.
 - (b) Maximum number of employees.
 - (c) Maximum seating capacity, where applicable.
 - (d) Number of parking spaces existing and required for the intended use.
 - (e) Dimensions, materials, and designs of all structures.
- (16) Elevation plans at a scale of 1/4 inch equals one foot for all exterior facades of the proposed structures) and/or existing facades, plus addition(s) showing design features and indicating the type and color of materials to be used.
- E. An environmental assessment form (either a short- or long-form, depending upon the nature of the proposal) shall be submitted with the site plan to ensure compliance with the New York State Environmental Quality Review Act (6 NYCRR 617), to identify the potential environmental, social, and economic impacts of the project.

§ 87-23. Standards for review.

The Planning Board shall review the site plan and supporting documents, taking into consideration the reasonable fulfillment of the objectives listed below. Pursuant to § 87-22C, detailed design guidelines and performance standards may be adopted by the Planning Board to guide decisions with respect to these objectives, and to help ensure consistency in the review of all applications.

- A. Legal: conformance with the provisions of the local laws and ordinances of the Town, the Town Law of New York State, and all applicable rules and regulations of state and federal agencies.
- B. Traffic: convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.
- C. Parking: provision for off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate parking, adequate lighting, and internal traffic.
- D. Public services: reasonable demands placed on public services and infrastructure.

- E. Pollution control: adequacy of methods of sewage and refuse disposal and the protection from pollution of both surface waters and groundwater. This includes minimizing soil erosion both during and after construction.
- F. Nuisances: protection of abutting properties and Town amenities from any undue disturbances caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, odors, glare, stormwater runoff, etc.
- G. Existing vegetation: minimization of the area over which existing vegetation is to be removed. Where tree removal is required, special attention shall be given to planting of replacement trees.
- H. Amenities: the applicant's efforts to integrate the proposed development into existing landscape through design features, such as vegetative buffers, roadside plantings, and the retention of open space and agricultural land.
- I. Town character: the building setbacks, area and location of parking, architectural compatibility, signage, and landscaping of the development, and how these features harmonize with the surrounding landscape and the natural landscape.

§ 87-24. Consultant review; payment of fees.

In its review, the Planning Board may consult with the Code Enforcement Officer, Fire Commissioners, Highway Superintendent, other local and county officials, and the Town's private design consultants. In addition, the Town may also consult with representatives of federal and state agencies, the Soil Conservation Service, the State Department of Transportation, the State Department of Environmental Conservation, and the NYS Department of Health. If a consultant is retained by the Board during the review process the developer shall agree to pay his/her fees. An estimate of his/her fees shall be provided at the beginning of the project. The developer will be required to pay one-third at this time, another third at the time of the public hearing and a final third before a decision is rendered by the Board.

§ 87-25. Additional requirements.

The Planning Board may require such additional provisions and conditions as appear necessary for advancement of the public environment. Such shall include but shall not be limited to the following:

- A. Reimbursable costs. Reasonable costs incurred by the Planning Board for private consultation fees or other extraordinary expense in connection with the review of a proposed site plan shall be charged to the applicant. Such reimbursable costs shall be in addition to the fee required in the Town Schedule of Fees for site plan review.⁵
- B. Performance guarantee. No certificate of occupancy shall be issued until all improvements shown on the final site plan are installed or a performance guarantee, a letter of credit or a certificate of deposit has been posted for improvements not yet

5. Editor's Note: The Schedule of Fees is on file in the Town offices.

completed. Such performance guarantee, letter of credit or certificate of deposit shall be posted in accordance with procedures specified within the Town Law relating to subdivisions. Additional requirements relating to performance guarantees shall be established by the Town Board. The amount and sufficiency of such performance guarantee shall be established by the Planning Board after consultation with the Code Enforcement Officer, Attorney(s) for the Town and the Planning Board's designated consultants, or other competent persons.

- C. Inspection of improvements. The Zoning Enforcement Officer shall be responsible for the overall inspection of site improvements, including coordination with the Town's private consultants, as may be appropriate on multifamily residential, commercial and industrial projects.

§ 87-26. Appeals.

Any person or persons jointly or severally aggrieved by any decision of the Planning Board concerning review of a site plan may bring a proceeding to review in a manner provided by Article 78 of the Civil Practice Law and Rules in a court of record.

§ 87-27. Special permits.

On application and after public notice and hearing by the Planning Board, said Board may authorize, by resolution, the issuance of a special permit only for those uses in a district where this chapter requires such a permit. In authorizing the issuance of a special permit, the Planning Board shall take into consideration the public health, safety, and general welfare and shall prescribe appropriate conditions and safeguards to ensure the accomplishment of the following objectives, unless otherwise provided all special permits shall be valid for a period as determined by the Planning Board.

- A. Objectives of the special permit process.

- (1) That all proposed structures, equipment, or material shall be readily accessible for fire and police protection.
- (2) That the proposed use is of such location, size, and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
- (3) That, in addition to the above, in the case of any use located in, or directly adjacent to a residential district:
 - (a) The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or incongruous with the residential district or

conflict with the normal traffic or the neighborhood and use of adjacent land and buildings or diminish the value thereof.

- (b) The location and height of buildings and structures, the location, nature, and height of walls and fences, and the nature and extent of screening and landscaping on the site shall be such that the use will not hinder or discourage the appropriate development.
- B. Procedure. Since all special permits require site plan review, the procedure for a special permit shall be the same as specified for a site plan review, § 87-20, except that a public hearing is mandatory. Site plan and special permit review should be conducted jointly to save time, effort, and repetition of information.
- C. Conditions and safeguards. In authorizing the issuance of a special permit it shall be the duty of the Planning Board to attach such conditions and safeguards as may be required in order that the results of its action may, to the maximum extent possible, further the general objectives of this chapter. The Planning Board may require that special permitted uses be periodically renewed. Such renewal shall be granted allowing due public notice and hearings, and may be withheld only upon determination that such conditions as may have been prescribed by the Board in conjunction with the issuance of the original permit have not been, or are no longer being complied with. In such cases, a period of 60 days will be granted the applicant for full compliance prior to the revoking of the permit. Any use for which a special permit may be granted shall be deemed to be a conforming use in the district in which such use is located, provided that:
- (1) The provision in this chapter under which such exception was issued is still in effect.
 - (2) Such exception was issued in conformity with the provisions of this chapter.
 - (3) Such use shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted.
- D. Appeals. Any person or persons jointly or severally aggrieved by any decision of the Planning Board concerning review of a special permit application may bring a proceeding to review in a manner provided by Article 78 of the Civil Practice Law and Rules in a court of record.

§ 87-28. (Reserved)

ARTICLE VII Supplementary Regulations

§ 87-29. Access to improved streets or state highways.

In any district, a lot to be used for building purposes shall have direct frontage on an improved street, or highway, or on a street in a subdivision plot approved by the Planning Board.

§ 87-30. Lots in two districts.

Where a district boundary line divides a lot in one ownership at the time of adoption of said district line, the regulation for either district may be used up to 100 feet into the other district, provided the lot has the minimum required frontage on a street.

§ 87-31. Drive-in food services.

Any drive-in food service building shall be located 60 feet or more from any public right-of-way. Such businesses, where persons are served in automobiles, shall not be closer than 200 feet to a Residential District. Arrangements of ingress and egress of vehicles, lights, fences and screening shall be approved by the Planning Board in such a way as not to interfere with uses in the Residential District.

§ 87-32. Accessory buildings.

- A. Number. On any lot intended or used primarily for residential purposes, an accessory building, such as a private garage for use in connection with the principal dwelling, is permitted.
- B. Height. The maximum height of accessory buildings shall be 25 feet, except that there shall be no height limitation on barns, silos and other farm structures.
- C. Location. Private garage accessory buildings in Rural Residential Districts, which are not attached to a principal building, may be erected within the rear yard in accordance with the following requirements:
 - (1) Rear yard: Five feet from side or rear property line, except when abutting an alley, then 10 feet,
 - (2) Side yard: Street side of corner lot same as for principal building.
 - (3) Not closer to a principal or accessory building than 10 feet.
 - (4) In any district, accessory buildings other than private garages shall comply with front and side yard requirements for the principal building to which they are accessory and shall be not closer to any rear property line than 10 feet.
- D. Attached accessory buildings in Residence Districts. When an accessory building is attached to the principal building, it shall comply in all respects with the requirements of this chapter that are applicable to the principal building. The maximum lot coverage shall include all principal and accessory buildings.

§ 87-33. Quarrying; soil mining.

- A. Any quarry or soil mining operation which will extract 1,000 tons or more of material within any 12 consecutive months shall operate only under a valid mining permit issued pursuant to the New York State Mined Land Reclamation Law and related regulations. No further mining permit from the Town shall be required.

- B. Any commercial quarrying or soil mining operation which is not subject to the requirements of the New York State Mined Land Reclamation Law and related regulations shall apply to the Zoning Board of Appeals for a special use permit pursuant to Article VII of this chapter. The issuance of such special use permit shall be subject to the following requirements:
- (1) A time schedule for completion of either the entire operation or, if excavation is to occur in stages, of each stage of the operation shall be submitted for approval as part of the special use permit application.
 - (2) An operations plan, including the number and types of trucks and other machinery to be used on the site, shall be submitted for approval as part of the special use permit application.
 - (3) A restoration and rehabilitation plan showing both existing contours and proposed final contours after operations are completed shall be submitted for approval as part of the special use permit application.
 - (4) A performance bond to assure complete restoration and rehabilitation shall be posted in an amount satisfactory to the Planning Board.
 - (5) A buffered area of not less than 200 feet shall be established between the operation and any residential land use within 1,000 feet and shall be planted to evergreen trees so as to screen the operation from public view.
- C. Such special use permit shall be restricted to an active working area not to exceed 10 acres and a time limit not to exceed five years. In any district, the mining of more than 1,000 tons of minerals from the earth within 12 successive calendar months shall require a New York State Department of Environmental Conservation (DEC) permit and approval. Local review by the Planning Board is not required. The Town Board will be sent a copy of the applicant's proposal and may make suggestions on ingress, egress and hours of operation, but final decisions are that of the DEC.

§ 87-34. Junkyards.

See Chapter 85, Junk and Junkyards.

§ 87-35. Signs.

Signs shall comply with the following regulations:

- A. In the Rural Residential and Hamlet Districts nonilluminated and nonadvertising signs are permitted as follows:
- (1) One business sign, not to exceed an aggregate of 24 square feet of sign area, showing the name or permitted home occupation of the occupant of the premises.
 - (2) One sign not to exceed an aggregate of 24 square feet of sign area, during and pertaining to the sale, lease or rental of the land or building.

- (3) One temporary sign, not to exceed an aggregate of 24 square feet of sign area, during and pertaining to construction, repairs or alterations to the property.
 - (4) Institutional or religious announcement sign, not to exceed 64 aggregate feet in area.
 - (5) The above signs can be located in any required yard, provided that the sign is set back at least 15 feet from the road right-of-way.
 - (6) Two farm product signs, each not exceeding 64 aggregate feet in area, may be displayed on the property, but only when such products are on sale.
- B. In Rural Residential (RR), Commercial (C), and Industrial Business Park (IBP) Districts, nonflashing, nonadvertising signs are permitted as follows:
- (1) A business sign or signs directing attention to a business or profession conducted, or a commodity, service or entertainment offered or sold, on the premises shall be permitted. Such sign can be two-sided with a maximum of 32 square feet on each side. The size of the sign may increase if the road frontage on which the sign is displayed is over 500 feet. For each additional 500 feet of road frontage, the sign may increase by 25 square feet on each side, with a maximum total of 100 square feet on each side. No such sign shall project into or over the public right-of-way. In the case of a retail store or other group of related buildings, in addition to the general sign, each individual unit may display an identification sign affixed flat against the building. Said sign may be a maximum of 10% of the vertical square footage of the side of the building to which it is attached.
 - (2) If illuminated, the source of light shall not be visible.
 - (3) Nonilluminated real estate signs, not over 16 square feet in aggregate area, advertising the sale, rental or lease of the premises on which they are located, are permitted.

§ 87-36. Permanent building foundations.

All dwellings, including one-family, two-family, multiple-family, boarding or rooming houses, mobile homes, and modular homes, shall be placed upon a permanent foundation, except for mobile homes located within a mobile home court in a Rural Residential District and temporary mobile homes allowed by special permit from the Planning Board.

§ 87-37. Sight distance at intersections.

No obstructions to vision, such as shrubbery, brush, trees, earth, signs or structures, shall be permitted at road intersections within the triangle formed by the intersections of road center lines and a line drawn between points along such lines 20 feet distant from their point of intersection.

§ 87-38. Landscaping requirements.

- A. Where any permitted nonresidential land use, multiple-family development or mobile home park abuts an existing residential parcel or vacant parcel where residential development could occur, a strip of land at least 20 feet wide shall be maintained as a landscaped area in the front, side and/or rear yard which adjoin these uses.
- B. Required landscaping shall be installed and maintained in a healthy growing condition and shall take the form of any or all of the following: shade trees, deciduous shrubs, evergreens, well-kept grassed areas or ground cover.

§ 87-39. Corner and through lots.

For corner and through lots, front yard setbacks and minimum road frontages are required on both road fronts. The two remaining yards shall be designated by the applicant as to which will be the rear yard and which will be the side yard.

§ 87-40. Flag lots.

The following apply to flag lots:

- A. The access strip of land shall be a minimum of 60 feet wide and no more than 300 feet deep.
- B. The minimum lot area, lot width and lot depth requirements shall be met exclusive of the land contained in the access strip.
- C. Minimum front, side and rear setback requirements shall be met, excluding the narrow access strip.
- D. No more than one flag lot shall be served by a single access strip.
- E. Access strips shall be a minimum distance apart of at least the minimum lot width in the zoning district.
- F. The access strip shall not be a right-of-way, but shall be owned in fee title by the owner of the flag parcel.
- G. No more than 10% of the lots in a new residential subdivision approved after the date of the adoption of this chapter shall be flag lots.

§ 87-41. Environmental quality review.

The State Environmental Quality Review Act (SEQR) requires that local governments examine the environmental impact of all actions they permit, fund or construct. Article 8 of the Environmental Conservation Law and Part 617 of Title 6 of the New York Code of Rules and Regulations are hereby adopted by reference.

§ 87-42. Exterior lighting.

In no case shall any exterior lighting be directed toward the highway so as to interfere with the vision or attract the attention of the driver of a motor vehicle, nor shall the light be directed toward any other lot or cause excessive illumination to adjacent properties.

§ 87-43. Mobile homes.

See Chapter 92, Mobile Homes.

§ 87-44. Public utility facilities.

Public utility substations and similar structures shall comply with the following:

- A. The facility shall be surrounded by a fence set back from property lines in conformance with district regulations for front, side and rear yards.
- B. A landscaped area at least 20 feet wide shall be maintained in front, side and rear yards.
- C. There shall be no equipment visible from surrounding property.
- D. Public utility services' line poles and attendant lines will be allowed, as necessary, in all districts.

§ 87-45. Swimming pools.

- A. Accessory to single-family dwellings. Swimming pools, whether permanent or portable, having a depth of at least two feet, shall meet the front, rear, and side setback requirements.
- B. Accessory to residential developments. Swimming pools accessory to residential developments, whether clustered single-family dwellings, seasonal dwellings, camps or multifamily dwellings, shall be of permanent construction and shall be located not closer than 10 feet to any lot line and closer than 10 feet to any dwelling unit and shall meet the setback of the existing house.
- C. Nonresidential. Swimming pools that are part of nonresidential uses, whether commercial or noncommercial, such as hotels, motels, clubs, campgrounds, or day-use recreational facilities or institutions, shall be of permanent construction and shall be located not closer than the setback requirements for the district in which it is located.
- D. Fencing. Fencing of swimming pools shall comply with New York State Uniform Fire Prevention and Building Code requirements.

§ 87-46. Adult-oriented businesses overlay.

See Chapter 38, Adult Bookstores.

§ 87-47. Off-street loading facilities.

- A. Off-street loading facilities shall be provided for each commercial or industrial establishment hereafter erected or substantially altered and shall be so arranged as not to interfere with pedestrian or motor traffic on the public street or highway. Loading requirements apply to individual occupancies and are exclusive of driveways, aisles and other necessary circulation areas. For uses not specified, the Board of Appeals shall establish loading requirements, after recommendation of the Planning Board.
- B. Loading space requirements for certain uses are specified in the following table. For uses not specified, the Planning Board and the Zoning Board of Appeals shall establish loading requirements. Loading requirements apply to each occupancy and are exclusive of driveways, aisles and other necessary circulation areas.

Table of Off-Street Loading

Use	Spaces Required
All commercial uses	1 space for 5,000 square feet or more of gross floor area, plus 1 space for each additional 6,000 square feet of gross floor area
All industrial uses	1 space for 5,000 square feet or more of gross floor area, plus 1 space for each additional 6,000 square feet of gross floor area
Institution	1 space for 5,000 square feet or more of gross floor area, plus 1 space for each additional 6,000 square feet of gross floor area
Hospital	1 space for 5,000 square feet or more of gross floor area, plus 1 space for each additional 6,000 square feet of gross floor area
Hotel	1 space for 5,000 square feet or more of gross floor area, plus 1 space for each additional 6,000 square feet of gross floor

§ 87-48. Windmills.

Windmills: for electricity.

§ 87-49. Historical district.

See overlay within the Hamlet District (H).

§ 87-50. Waste management.

See Chapter 120, Solid Waste, Article III, Waste Management Facilities.

§ 87-51. (Reserved)

§ 87-52. (Reserved)

§ 87-53. (Reserved)

§ 87-54. (Reserved)

§ 87-55. (Reserved)

§ 87-56. (Reserved)

§ 87-57. Nonconforming uses.

The lawful use of any land or building existing at the time of adoption of this chapter may be continued although such use does not conform to the provisions of this chapter. Any such building may be reconstructed or structurally altered and the nonconforming use thereby changed, provided the following conditions prevail:

A. Nonconforming uses of buildings.

- (1) Reconstruction or alteration. A nonconforming building may not be reconstructed or altered during its life to exceed 50% of its fair value, unless such building is changed from a nonconforming use to a conforming use as defined by this chapter, except that a mobile home which is a preexisting nonconforming use may be replaced with a new or larger mobile home, provided that such exchange is made within 30 days after the owner has obtained a building permit to make the exchange.
- (2) Restoration. A building, nonconforming as to use, which has been damaged by fire or other causes to the extent of 75% of its fair value, and has not been repaired or reconstructed for the same nonconforming use within a period of 12 months, shall not be repaired or reconstructed except in conformance with the regulations of the district in which such building is located.
- (3) Discontinuance. When a nonconforming use has been discontinued for a period of 12 months, any future use of such building shall conform to the regulation for the district in which it is located.
- (4) Changes. A nonconforming use may not be changed to another nonconforming use under the provisions of this section.
- (5) Completion of building. Any building lawfully under construction at the time of enactment of this chapter may be completed.

- B. Nonconforming use of land. The nonconforming use of land shall not be enlarged or extended beyond the area of land occupied by such use at the time of adoption of this chapter. A nonconforming use of land may not be moved in whole or in part to any other portion of the lot or parcel of land occupied by such nonconforming use at the time of adoption of this chapter. If a nonconforming use of land is discontinued for a period of 12 consecutive months, it shall not be renewed, and any subsequent use of the land shall conform to the regulations of the district in which the land is located.

ARTICLE VIII
Administration

§ 87-58. Enforcement officer.

The Town Board shall designate an officer to enforce this chapter. The enforcement officer shall in no case grant any building permit where the proposed erection, alteration, relocation, or use would be in violation of any provision of this chapter. The enforcement officer shall make inspections of buildings or premises necessary to carry out his duties. No permit or certificate of occupancy required hereunder shall be issued by the enforcement officer except in compliance with the provisions of this chapter or as directed by the Board of Appeals under the provisions of Article IX.

§ 87-59. Building permits.

- A. No building shall hereafter be erected, relocated or altered as to outside dimensions or so as to permit a change in its use and no excavation for any building shall be begun unless and until a permit therefor has been issued by the enforcement officer.
- B. No such permit shall be issued until there has been filed with the enforcement officer a sketch or plot plan showing the actual dimensions and angles of the lot to be built upon, the exact size and location of the lot of the building or accessory buildings to be erected, relocated or altered and such other information of this chapter. Each application shall state the purpose for which the structure or land is to be used and a general description of the type of construction. A working drawing of any proposed building shall be filed with the application for a building permit.
- C. The enforcement officer shall act upon all applications for building permits within a reasonable time, not to exceed 10 days, and shall, within such period, issue or refuse to issue such permits. Notice of refusal to issue any permit shall be given to the owner or to his authorized representative in writing, and shall state the reason for said refusal. The building permit fee shall be set by the Town Board. The fees charged shall be reviewed periodically.
- D. A building permit shall be issued for a period of one year and may be renewed for two additional years. If the improvements described in the application for a building permit have not been completed within three years from the date that the permit is issued, the owner shall apply to the Zoning Board of Appeals to continue the permit in force.

- E. No building permit shall be issued for lots in an approved subdivision except as provided for in Chapter 124, Subdivision of Land.

§ 87-60. Certificates of occupancy.

- A. No land shall be used and no building occupied prior to the issuance of a certificate of occupancy by the Code Enforcement Officer. Under such rules as may be established by the Board of Appeals, a temporary certificate of occupancy for not more than 30 days for a part of a building may be issued by the Code Enforcement Officer. For previously existing construction, the Code Enforcement Officer may, on request, issue such certificate if he determines that the use of the building in question meets the requirements of this chapter.
- B. A certificate of occupancy shall be issued only if the proposed use and construction of the building or land conforms to the provisions of this chapter and to the plot plan, purpose and description for which the permit was issued. The Code Enforcement Officer shall make or cause to have made an inspection of each building or lot for which a certificate of occupancy has been applied before issuing such certificate. Such inspection shall be made within 10 days from the date of application, with Saturdays, Sundays and legal holidays being the exception.
- C. The Code Enforcement Officer shall deny a certificate of occupancy if any violation of the state or county health regulations is discovered. The issuance of a certificate of occupancy shall not be construed as a representation by the Town that the premises complies with such health regulations, but solely that no violations have been found.

§ 87-61. Penalties for offenses.

- A. Any person, firm or corporation who commits an offense against, disobeys, neglects or refuses to comply with or resists the proper enforcement of any of the provisions of these regulations shall, upon conviction, be deemed guilty of a violation, punishable by a fine of \$350, or by imprisonment not exceeding 15 days, or by both such fine and imprisonment. Each week an offense is continued shall be deemed a separate violation of these regulations.
- B. If any building or structure is erected, constructed, reconstructed, altered, converted or maintained; or any building, structure or land is used; or any land is divided into lots, blocks, or sites, in violation of this chapter, the Town Board or the Zoning Enforcement Officer may institute an action or proceeding in the Town Justice Court or in the County Court, Montgomery County, to prevent such unlawful conduct; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about the subject premises. In any such action by the Town Board or the Zoning Enforcement Officer, any person found to have violated this chapter shall be liable to the Town.

ARTICLE IX
Zoning Board of Appeals

§ 87-62. Creation, appointment and organization.

A Zoning Board of Appeals is hereby created. Said Board shall consist of five members appointed by the Town Board. The Zoning Board of Appeals chooses its own Chair, to be ratified by the Town of Glen full Board. The Zoning Board of Appeals shall prescribe rules for the conduct of its affairs.

§ 87-63. Powers and duties.

The Zoning Board of Appeals shall have all the powers and duties prescribed by statute and by this chapter, which are more particularly specified as follows:

- A. Interpretation: upon appeal from a decision by an administrative official, to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
- B. Appeals for variances: The Zoning Board of Appeals shall hear requests for variances. Not all requests for variances need include a denial from the Zoning Enforcement Officer. New state laws passed in 1993 allow applicants with proposed subdivisions or site plans which lack minimum area, frontage or setback requirements to appeal directly to the Zoning Board of Appeals.
- C. Area variances: Area variances may be granted where setback, frontage, lot size, density or yard requirements of this chapter cannot be reasonably met. In making decisions, the Zoning 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 Zoning Board of Appeals shall also consider the following:
 - (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting of the area variance;
 - (2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - (3) Whether the requested area variance is substantial;
 - (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance. The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it deems necessary and adequate and yet at the same time which will preserve and protect

the character of the neighborhood and the health, safety and welfare of the community.

D. Use variance: Use variances may be granted by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulation. No such variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. The applicant shall demonstrate to the Zoning Board of Appeals that:

- (1) Under applicable zoning regulations the applicant is deprived of all economic use or benefit from the property in question, which deprivation must be established by competent financial evidence;
- (2) That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
- (3) That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (4) That the alleged hardship has not been self-created.

E. Variance procedure.

- (1) All applications for variances shall be in writing on forms established by the Zoning Board of Appeals, which are available from the Zoning Enforcement Officer.
- (2) Every application shall refer to the specific provision of the law involved and establish the details of why the variance should be granted.
- (3) Upon receipt of the completed application, the Zoning Board of Appeals shall:
 - (a) Schedule a public hearing within 62 days.
 - (b) Arrange publication of a notice of public hearing in the Town's official newspaper.
 - (c) Notify the applicant of the date of the public hearing at least 15 days in advance of such hearing.
 - (d) All use variances submitted to the Zoning Board of Appeals shall be referred to the Planning Board for review as to the conformance with the objectives of the Comprehensive Plan. No decision shall be made by the Zoning Board of Appeals until the Planning Board review has been completed and a report has been issued. If the Planning Board fails to issue its report within 30 days, the Zoning Board of Appeals shall assume that a favorable report has been issued.
 - (e) Refer the application to the County Planning Board as required by General Municipal Law § 239, if required.

- (f) Determine whether a draft environmental impact statement should be required.
- (4) The applicant shall notify by certified mail, return receipt required, all landowners within 500 feet of the applicant's parcel.
- (5) The Zoning Board of Appeals shall render a decision within 62 days of the close of the public hearing.
- (6) If the matter was referred to the County Planning Board, a copy of the Zoning Board of Appeals' findings and decision must be sent to the County Planning Board.
- (7) All decisions made by the Zoning Board of Appeals shall be by resolution, each of which will contain a full record of the findings of the Board in the particular case. Each such resolution shall be filed in the office of the Town Clerk by case number under one or another of the following headings: Interpretations, Use Variances and Area Variances; together with all documents pertaining thereto. The Zoning Board of Appeals shall notify the Town Board of each variance granted under the provisions of this chapter.

ARTICLE X Amendments

§ 87-64. Initiation; time frame for Town Board action.

- A. The Town Board may, from time to time, on its own motion, amend, supplement, repeal or change the regulations or district boundaries established by this chapter.
- B. Whenever the owners of 50% or more of the frontage in any district or part thereof included in such change shall present a petition duly signed and acknowledged to the Town Board requesting an amendment, supplement or change of the regulations prescribed for such district or part thereof, it shall be the duty of the Town Board to vote upon said petition within 90 days after the filing of the same by the petitioners with the Town Clerk.
- C. The Planning Board may, by resolution, propose an amendment to the Town Board suggesting a change or repeal of specific portions of this chapter. Within 90 days from the time such resolution is filed with the Town Clerk, it shall be the duty of the Board to vote on such proposed amendment.

§ 87-65. Referral of amendments to Planning Board.

All proposed amendments, supplements or change originating by petition, or by motion of the Town Board, shall be referred to the Town Planning Board for a report and recommendation thereon. The Town Planning Board shall submit its report within 45 days after receiving referral. Failure of the Planning Board to report within the required time may be deemed to be approval of the proposed amendment.

§ 87-66. Hearing on proposed amendment.

Before any amendment, supplement or change in the regulations or district boundaries, there shall be a public notice and hearing thereon as provided by law. The notice of hearing shall be published in the official newspaper at least 10 days prior to the hearing. Such hearing may be held by the Town Board, by a committee of the Board, or by the Planning Board on request

§ 87-67. Adoption of amendment.

After the public hearing, and referral to and report by the Planning Board, a majority vote of the members of the Town Board shall be required to amend this chapter, except as described in § 87-68, Protest petition.

§ 87-68. Protest petition.

If a protest against a proposed amendment, supplement or change is presented to the Town Board, duly signed and acknowledged by the owners of 20% or more of the area of the land included in such proposed change, or by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not be passed except by the favorable vote of three-fourths of the Town Board.

§ 87-69. (Reserved)**ARTICLE XI
Miscellaneous****§ 87-70. Periodic review of chapter.**

From time to time, at intervals of not more than three years, the Planning Board shall re-examine the provisions of this chapter and the location of district boundary lines and shall submit a report to the Town Board, recommending such changes or amendments, if any, which may be desirable in the interest of public safety, health, convenience, necessity or the general welfare.

§ 87-71. Validity.

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

§ 87-72. Interpretation.

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, morals, safety, or the general welfare. Whenever the requirements of this chapter are at variance with the

requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive, or that imposing the high standard, shall govern.

LAND USE MANAGEMENT

87 Attachment 1

**Town of Glen
Table of Use and Bulk Regulations
Rural Residential District - RR**

Permitted Uses	Special Permitted Uses	Minimum Lot size		Maximum Lot Coverage	Minimum Living Area (square feet)	Number of Building Stories	Building Height (feet)	Yard Dimensions (feet)			
		Area (square feet)	Width (feet)					Front	Side		Rear
									One	Both	
Single-family dwelling		80,000	200	20%	1,000	2.5	35	50	25	50	50
Two-family dwelling		80,000	200	20%	1,000/unit	2.5	35	50	25	50	50
Townhouse		80,000	200	10%	1,000/unit	2.5	35	50	25	50	50
Mobile home		80,000	200	10%	860/unit	1.0	15	50	25	50	50
Farm and accessory buildings and uses		—	—	—	—	—	—	50	10	20	10
Mobile home as part of farm operation		—	—	—	600	1.0	15	50	10	25	50
Nursery		5 acres	200	25%	—	—	—	50	25	50	50
Community park or playground		20,000	100	5%	—	1	15	50	10	20	10
Accessory use and building		—	—	See § 87-32	—	2	35	50	10	20	10
Home occupation		80,000	200	20%	1,000/unit	2.5	35	50	25	50	50
Picnic grove		—	—	—	—	2.5	35	50	25	50	50
	Multifamily dwelling	80,000	200	10%	1,000/unit	2.5	35	50	25	50	50
	Cluster housing										
	Bed-and-breakfast establishment	80,000	200	20%	1,000	2.5	35	50	25	50	50
	Boarding or rooming house	80,000	200	20%	1,200	2.5	35	50	25	50	50
	Mobile home park	6,000/ MH	600; 70/MH	20%/MH	860/MH	1	15	100	50	100	50
	Church	80,000	200	25%	—	—	—	50	25	50	50
	Parish house or convent	80,000	200	20%	1,000	2.5	35	50	25	50	50

GLEN CODE

Permitted Uses	Special Permitted Uses	Minimum Lot size		Maximum Lot Coverage	Minimum Living Area (square feet)	Number of Building Stories	Building Height (feet)	Yard Dimensions (feet)			
		Area (square feet)	Width (feet)					Front	Side		Rear
									One	Both	
	Public parochial school or college	5 acres	500	25%	—	2	35	50	50	100	50
	Nursing or convalescent home for aged	150,000	200	25%	600	2.5	35	50	25	50	50
	Adult residential center (ARC)	150,000	200	25%	600	2.5	35	50	25	50	50
	Day care										
	Laundrette	40,000	150	25%	—	1	30	50	25	50	50
	Retail store	40,000	150	25%	—	1	30	25	25	50	50
	Golf course, country club or other sporting facilities	75 acres	200	—	—	2.5	35	100	50	100	100
	Fish and game club	—	—	—	—	2.5	35	50	25	50	50
	Commercial recreation	25 acres	600	20%	—	2.5	35	100	100	200	100
	Public building	—	—	—	—	—	—	50	25	50	50
	Animal/Veterinary hospital	40,000	150	30%	—	1	30	50	10	25	30
	Kennel (5 or more animals)										
	Boarding stables										
	Funeral home										
	Crematorium										
	Firehouse/ Emergency services										
	Self-storage										
	Radio, TV transmitter or receiving tower w/building	50,000	200	25%	—	1	35	50	25	50	50
	Radio, TV transmitter or receiving tower w/o building	10,000	100	20%	—	—	—	25	25	50	50

LAND USE MANAGEMENT

Permitted Uses	Special Permitted Uses	Minimum Lot size		Maximum Lot Coverage	Minimum Living Area (square feet)	Number of Building Stories	Building Height (feet)	Yard Dimensions (feet)			
		Area (square feet)	Width (feet)					Front	Side		Rear
									One	Both	
	Car wash										
	Public or private utility facility w/building	50,000	200	25%	—	1	35	50	25	50	50
	Public or private utility facility w/o building	10,000	100 20%	20%	—	—	—	25	25	50	50
	Personal wireless service facility (cell tower)	50,000	200	25%	—	—	—	50	25	50	50
	Wind tower										
	Organic fertilizer manufacturing (composting)										
	Farm products plans	—	—	—	—	—	—	100	100	200	100
	Topsoil operation										
	Earth, sand, gravel or mineral excavation	—	—	—	—	—	—	100	100	200	100
	Gas and oil extraction										
	Agricultural lime manufacturers	5 acres	200	25%	—	—	—	50	100	200	50
	Rock quarry operation	—	—	—	—	—	—	100	100	200	100
	Advertising sign	—	—	—	—	—	16	75	—	—	—
	Air-/Heliport										

LAND USE MANAGEMENT

87 Attachment 2

**Town of Glen
Table of Use and Bulk Regulations
Hamlet District - H**

Permitted Uses	Special Permitted Uses	Minimum Lot size		Maximum Lot Coverage	Minimum Living Area (square feet)	Number of Building Stories	Building Height (feet)	Yard Dimensions (feet)			
		Area (square feet)	Width (feet)					Front	Side		Rear
									One	Both	
Single-family dwelling		80,000	200	20%	1,000	2.5	35	50	25	50	50
Community park or playground		20,000	100	5%	—	1	15	50	10	20	10
Two-family dwelling		80,000	200	20%	1,000/unit	2.5	35	50	25	50	50
Farm and accessory building or uses		—	—	—	—	—	—	50	25	50	50
Fire station, municipal building		—	—	—	—	—	—	50	25	50	50
Historical building or site		—	—	—	—	—	—	—	—	—	—
Accessory use and building		—	—	See § 87-32	—	—	—	50	10	20	10
	Church	50,000	200	25%	—	—	—	50	25	50	50
	Parish house or convent	80,000	200	20%	1,000	2.5	35	50	25	50	50
	Public and parochial school, colleges	5 acres	500	25%	—	2	35	50	50	100	50
	Hotel	—	—	30%	—	—	—	50	20	50	30
	Marina	—	—	30%	—	1	35	50	20	50	30
	Gasoline station	40,000	150	20%	—	1	30	50	25	50	50
	Multifamily dwelling	80,000	200	10%	1,000/unit	2.5	35	50	25	50	50
	Bed-and-breakfast establishment	80,000	200	20%	1,000	2.5	35	50	25	50	50
	Retail store	40,000	150	30%	—	1	30	50	10	25	30

GLEN CODE

Permitted Uses	Special Permitted Uses	Minimum Lot size		Maximum Lot Coverage	Minimum Living Area (square feet)	Number of Building Stories	Building Height (feet)	Yard Dimensions (feet)			
		Area (square feet)	Width (feet)					Front	Side		Rear
									One	Both	
	Personal service shop	40,000	150	30%	—	1	30	50	10	25	30
	Bank	40,000	150	30%	—	1	30	50	10	25	30
	Custom workshop	40,000	150	30%	—	1	30	50	10	25	30
	Museum	40,000	150	30%	—	1	30	50	10	25	30
	Launderette	40,000	150	30%	—	1	30	50	10	25	30
	Restaurant	40,000	150	30%	—	1	30	50	10	25	30
	General store	40,000	150	30%	—	1	30	50	10	25	30
	Home occupation	40,000	150	30%	—	1	30	50	10	25	30
	Professional office, studio	40,000	150	30%	—	2	35	50	10	25	30
	Antique store	40,000	150	30%	—	—	—	50	10	25	30

LAND USE MANAGEMENT

87 Attachment 3

**Town of Glen
Table of Use and Bulk Regulations
Commercial District - C**

Permitted Uses	Special Permitted Uses	Minimum Lot size		Maximum Lot Coverage	Minimum Living Area (square feet)	Number of Building Stories	Building Height (feet)	Yard Dimensions (feet)			
		Area (square feet)	Width (feet)					Front	Side		Rear
									One	Both	
Bed-and-breakfast establishment		80,000	200	20%	1,000	2.5	35	50	25	50	50
Personal service shop		40,000	150	30%	—	1	30	50	10	25	30
Retail store		40,000	150	30%	—	1	30	30	10	25	30
Museum		40,000	150	30%	—	1	30	50	10	25	30
Custom workshop		40,000	150	30%	—	1	30	50	10	25	30
Radio, TV or household appliance sales or service		40,000	150	30%	—	1	30	50	10	25	30
Funeral home		40,000	150	30%	—	1	30	50	10	25	30
Antique shop		40,000	150	30%	—	1	30	50	10	25	30
Animal/Veterinary hospital		40,000	150	30%	—	—	—	50	10	50	30
Feed, lumber, seed or fertilizer building		40,000	150	30%	—	—	—	50	10	50	30
Car wash		20,000									
Fire station or municipal building		—	—	—	—	—	—	50	25	50	50
Cabinet, electrical, heating, plumbing or air conditioner shop		40,000	150	30%	—	1	30	50	20	50	30
Mobile home as part of farm operation		—	—	—	600	1	15	50	10	25	50
Community park or playground		20,000	100	5%	—	1	15	50	10	20	10
Retail bakery		40,000	150	30%	—	1	30	50	20	50	30
Historic building or site		—	—	—	—	—	—	—	—	—	—

GLEN CODE

Permitted Uses	Special Permitted Uses	Minimum Lot size		Maximum Lot Coverage	Minimum Living Area (square feet)	Number of Building Stories	Building Height (feet)	Yard Dimensions (feet)			
		Area (square feet)	Width (feet)					Front	Side		Rear
									One	Both	
Laundry or dry-cleaning plant		40,000	150	30%	—	2.5	35	50	20	50	30
Farm and accessory use building		—	—	—	—	—	—	50	25	50	30
One-family dwelling		80,000	200	20%	1,000	2.5	35	50	25	50	50
Accessory use of building		—	—	See § 87-32	—	—	—	50	10	20	10
Home occupation		80,000	200	20%	1,000	2.5	35	50	25	50	50
	Gasoline station	40,000	150	20%	—	1	30	50	25	50	50
	Professional office, studio	40,000	150	30%	—	2	35	100	20	50	30
	Bank	40,000	150	30%	—	1	30	50	10	25	30
	Public utility facility	10,000 w/o building	200	25%	—	1	30	50	25	50	50
	Hotel	—	—	30%	—	—	30	50	20	50	30
	Public garage	40,000	150	30%	—	1	30	50	20	50	30
	Restaurant	40,000	150	30%	—	1	30	50	10	25	30
	Fuel sales and storage	40,000	150	30%	—	1	30	50	25	50	30
	Automobile, boat, farm implementation, or mobile home sales or rental	40,000	150	30%	—	1	35	50	20	50	30
	Indoor storage of nonliquid, nongaseous fuel	40,000	150	30%	—	1	30	50	25	50	30
	Bowling alley	80,000	200	30%	—	1	35	50	20	50	30
	Two-family dwelling	80,000	200	20%	1,000/unit	2.5	35	50	25	50	50
	Multifamily dwelling	80,000	200	20%	1,000/unit	2.5	35	50	25	50	50
	Adult-oriented business	80,000	200	20%		2.5	35	50	25	50	50
	Tavern	80,000	200	20%	1,000/unit	2.5	35	50	25	50	50

LAND USE MANAGEMENT

87 Attachment 4

**Town of Glen
Table of Use and Bulk Regulations
Industrial Business District - IBP**

Permitted Uses	Special Permitted Uses	Minimum Lot size		Maximum Lot Coverage	Minimum Living Area (square feet)	Number of Building Stories	Building Height (feet)	Yard Dimensions (feet)			
		Area (square feet)	Width (feet)					Front	Side		Rear
									One	Both	
Wholesale storage/Warehouse		—	—	30%	—	—	—	50	20	50	30
Lightweight assembly plant		—	—	30%	—	—	—	50	20	50	30
Manufacture or assembly of electronic devices or instruments		—	—	30%	—	—	—	50	50	100	50
Printing or publishing plant		—	—	30%	—	—	—	50	20	50	30
Tool, die, pattern, machine shop		—	—	—	—	—	—	50	50	100	50
Manufacturing or processing dairy or other food products		—	—	—	—	—	—	50	50	100	50
Distribution center		—	—	—	—	—	—	50	50	100	50
Research and development center											
Transportation services, including auto and truck rental and public garages											
Professional offices		—	—	30%	—	3	48	100	20	50	30
Custom accessory use or building		—	—	—	—	—	—	50	10	20	10
Cold storage plant		—	—	—	—	—	—	50	50	100	50
Farm and accessory use or building		—	—	—	—	—	—	50	25	50	50

GLEN CODE

Permitted Uses	Special Permitted Uses	Minimum Lot size		Maximum Lot Coverage	Minimum Living Area (square feet)	Number of Building Stories	Building Height (feet)	Yard Dimensions (feet)			
		Area (square feet)	Width (feet)					Front	Side		Rear
									One	Both	
	Manufacture of textile products or leather goods	—	—	—	—	—	—	50	50	100	50
	Manufacture or fabrication of metal, concrete, stone, plastic, paint, fiber or wood products	—	—	—	—	—	—	50	50	100	50
	Truck terminal	—	—	—	—	—	—	50	50	100	50
	Bulk storage of inflammable liquids (or as Board requires)	—	—	—	—	—	—	50	50	100	50
	Public utility facility	50,000	200	25%	—	2.5	35	50	25	50	50

Chapter 92

MOBILE HOMES

- | | |
|--|--|
| <p>§ 92-1. Title.</p> <p>§ 92-2. Purpose; authority.</p> <p>§ 92-3. Word usage and definitions.</p> <p>§ 92-4. Permits.</p> <p>§ 92-5. Location, installation and use standards.</p> <p>§ 92-6. Exceptions.</p> <p>§ 92-7. Nonconforming mobile homes, mobile home parks and lots.</p> | <p>§ 92-8. Mobile home parks.</p> <p>§ 92-9. Penalties for offenses.</p> <p>§ 92-10. Stop orders.</p> <p>§ 92-11. Creation, appointment and organization of Board of Appeals.</p> <p>§ 92-12. Powers and duties of Board.</p> <p>§ 92-13. Procedure.</p> <p>§ 92-14. Interpretation.</p> |
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[HISTORY: Adopted by the Town Board of the Town of Glen 5-10-1990 by L.L. No. 1-1990. Amendments noted where applicable.]

§ 92-1. Title.

This chapter shall be known as the “Regulating Mobile Homes — Local Law No. 1-1990, of the Town of Glen.”

§ 92-2. Purpose; authority.

It is the purpose of this chapter to promote the health, safety, convenience, economy, amenity and general welfare of the inhabitants of the Town of Glen by the more efficient regulation of mobile homes by enforcing minimum standards, including provisions of sewage disposal, water supply, garbage removal, traffic control and safety, inspection of facility and other actions deemed necessary for said purpose pursuant to the authority conferred by § 130, Subdivision 21, of the Town Law and § 10 of the Municipal Home Rule Law.

§ 92-3. Word usage and definitions.

A. General terms.

- (1) For the purpose of this chapter, words and terms used herein shall be interpreted as follows:
 - (a) Words used in the present tense include the future.
 - (b) The singular includes the plural.
 - (c) The word “person” includes a corporation, partnership and association as well as the individual.
 - (d) The term “shall” is always mandatory.

(e) The term "may" is permissive.

(2) Any word or term not defined herein shall be used with a meaning of standard usage.

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

ACCESSORY STRUCTURE — Any structure 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 of Glen Building Inspector or other person designated and appointed as enforcement officer by the Town Board to enforce the provisions of this chapter.

MANUFACTURED HOME — A mobile home that is manufactured under the authority of 42 U.S.C. § 5401, the National Manufactured Home Construction and Safety Standards Act (also known as the HUD Code), which became effective in 1976.

MOBILE HOME — Any self-contained dwelling unit built on a permanent chassis and designed to be transported to its site on its own wheels, and those of another vehicle, and which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and contains the same water supply, kitchen facilities and plumbing and sewerage disposal and electrical systems as immobile housing and is designed to be used exclusively for residential purposes. A travel trailer or recreational vehicle is not considered a mobile home.

MOBILE HOME LOT — A parcel of land occupied or to be occupied by a single mobile home and its accessory buildings, together with such open spaces as are required under the provisions of this chapter and for the exclusive use of the occupants.

MOBILE HOME PARK — A parcel of land under one ownership or management which has been planned and improved for the placement of at least two mobile homes for nontransient use and for which a rental fee is collected.

MODULAR HOME — A factory manufactured home, either a one-, two- or multiple family dwelling, consisting of component parts manufactured off-site which must be transported to the building site separately for erection, construction or installation as a permanent structure. Modular homes differ from manufactured homes in that a modular home must be installed on a site-built permanent foundation, is not designed to be moved or transported once installed on the foundation and is subject to the requirements of Chapter B of the New York State Uniform Fire Prevention and Building Code.

RECREATIONAL VEHICLE or TRAVEL TRAILER — A motor home or camping trailer which is towed by an automobile, can be operated independently or with utility connections, is limited in width to eight feet, in length to 32 feet and is designed to be used principally as a temporary vacation dwelling.

§ 92-4. Permits.

No person being the owner or occupant of any land within the Town of Glen shall use or permit the use of such land for the placement of a mobile home without first obtaining a building permit from the Code Enforcement Officer and complying with the regulations herein provided.

§ 92-5. Location, installation and use standards.

- A. Location. The site of such mobile home shall be well-drained and properly graded.
- B. Lot requirements. No more than one mobile home shall be permitted to occupy any one mobile home lot except that a farmer may place up to two mobile homes within the boundaries of the farm operated by the farmer, provided such mobile homes are used specifically for the housing of a farm employee and the immediate family of such employee. Individual lot size shall be a minimum of 1.5 acres with a minimum of 200 feet of road frontage.
- C. Setback requirements. No mobile home shall be located within 75 feet of the center line of any public or private road surface, nor shall any mobile home be located closer than 20 feet of side lot lines and 50 feet of rear lot lines.
- D. Sewage. A mobile home shall be provided with suitable and adequate sewage disposal system as required by state and local regulations and shall be designed in accordance with the New York State Department of Health Wastewater Treatment Handbook.
- E. Water. A sufficient supply of potable drinking water shall be provided for such mobile home as provided by state and local regulations, meeting the requirements of the New York State Health Department as specified in the booklet called "Rural Water Supply."
- F. Plumbing. Connections of mobile homes shall comply with all requirements of the State Standard Plumbing Code.
- G. Fire protection. Each mobile home shall be equipped with an adequate fire extinguisher and smoke detectors.
- H. Garbage and refuse. Each mobile home owner shall make provisions for sanitary equipment to prevent littering of the grounds and premises with rubbish, garbage and refuse. Each mobile home shall have containers with tightly fitting covers. Regular disposal shall be provided for all rubbish, trash and garbage by owner or tenants.
- I. All mobile homes installed in the Town of Glen shall be constructed in accordance with regulations set forth in the Compilation of Federal Regulations (CFR), Title 24 - Housing and Urban Development, Chapter II-Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, Part 280 Manufactured Home of Construction and Safety Standards.
 - (1) Data plate: Every mobile home shall bear a data plate affixed in the manufacturing facility bearing not less than the following information:

- (a) The statement: "This mobile home is designed to comply with the federal mobile home construction and safety standards in force at the time of manufacture."
 - (b) Reference to the structural zone and wind zone for which the home is designed.
- J. Each mobile home without a basement shall be placed upon a foundation in the form of either a full concrete slab, perimeter foundation, lateral runners, longitudinal runners or pillars. Such pad shall be provided with concrete piers, or an equivalent stand, which extend 36 inches below ground level and are designed for support of a mobile home so as to prevent heaving, shifting and uneven settling.
- K. Each mobile home shall be secured to the concrete pad with frame tie-downs at no fewer than six points, designed so as to secure the mobile home against uplift, sliding, rotation and overturning.
- L. The siting of the mobile home shall take into consideration prevailing wind direction, use of existing vegetation and tree protection.
- M. No mobile home shall be parked or allowed to remain on any street, highway or Town road for a period longer than 24 hours, except for emergency stopping or parking occasioned by mechanical failure, which is permitted on any street, highway or Town road for a period not longer than 72 hours, subject, however, to other existing laws and regulations imposed for parking purposes.
- N. All mobile homes shall have skirting to screen the space between the mobile home and the ground. Skirting shall be of permanent material such as metal or other solid material and shall be finished to conform to the mobile home.
- O. All mobile homes shall contain a minimum of 720 square feet of living area.

§ 92-6. Exceptions.

None of the provisions of this chapter shall be applicable to a house trailer temporarily located on the site of a construction project, survey project or other similar work project and used solely as a field office or work or tool house in connection with such, provided that such trailer is removed from said site within 14 days after completion of such project.

§ 92-7. Nonconforming mobile homes, mobile home parks and lots.

- A. Continuation. The lawful use of any land or building existing at the time of adoption of this chapter may be continued although such use does not conform with the provisions of this chapter. Any such building may be reconstructed or structurally altered and the nonconforming use thereby changed, provided the following conditions prevail.
- B. Nonconforming use of buildings.

- (1) Reconstruction or alteration. A nonconforming building may not be reconstructed or altered during its life to exceed 50% of its fair value, unless such building is changed from a nonconforming to a conforming use as defined by this chapter.
 - (2) Restoration. A building, nonconforming as to use, which has been damaged by fire or other causes to the extent of 75% of its fair value shall not be repaired or reconstructed except in conformance with these regulations.
 - (3) Discontinuance. When a nonconforming use has been discontinued for a period of 18 months, any future use of such building, shall conform with these regulations.
 - (4) Completion of building. Any building lawfully under construction at the time of enactment of this chapter may be completed.
- C. Use of existing undersized lots. A mobile home may be placed on an undersized lot in existence prior to the enactment of this chapter, provided that it meets setback requirements and all other provisions of this chapter are met.

§ 92-8. Mobile home parks.

New mobile home parks shall not be permitted after the adoption of this chapter.

§ 92-9. Penalties for offenses.

Any person, firm or corporation who violates any provision of this chapter shall be guilty of a violation and subject to a fine of not more than \$100 or imprisonment for a period of not more than 15 days, or both such fine and imprisonment. The imposition of penalties for any violation of this chapter shall not excuse the violation or permit it to continue. The application of the above penalty or penalties or the prosecution of the violation of these provisions shall not be held to prevent the enforced removal of conditions prohibited by this chapter. Each week such violation shall continue shall constitute a separate and distinct violation of this chapter, subjecting the offender to additional penalty.

§ 92-10. Stop orders.

Whenever the Code Enforcement Officer has reasonable grounds to believe that work on any building or structure is being done in violation of the provisions of this chapter or in an unsafe and dangerous manner, the Code Enforcement Officer shall notify the owner of the property to suspend all work. Such stop order and notice shall state in writing the conditions under which the work may be resumed and may be served upon an owner either by delivering it to the owner personally or by posting the same upon a conspicuous portion of the structure under construction and sending a copy of the same by registered mail.

§ 92-11. Creation, appointment and organization of Board of Appeals.

A Board of Appeals is hereby created. Said Board shall consist of five members appointed by the Town Board. The Town Board shall also designate the Chairman. The Board of Appeals shall prescribe rules for the conduct of its affairs.

§ 92-12. Powers and duties of Board.

The Board of Appeals shall have all the powers and duties prescribed by law and by this chapter, which are more particularly specified as follows:

- A. **Interpretation.** Upon appeal from a decision of the Code Enforcement Officer to decide any question involving the interpretation of any provision of this chapter.
- B. **Variance.** To vary or adapt the strict application of any of the requirements of this chapter in the case of exceptionally irregular, narrow, shallow or steep lots, or other exceptional physical conditions whereby such strict application would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of the land.
- C. No variance in the strict application of any provision of this chapter shall be granted by the Board of Appeals unless it finds:
 - (1) That there are special circumstances or conditions, fully described in the findings, applying to the land for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings, or conditions are such that strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building.
 - (2) That, for reasons fully set forth in the findings, the granting of the variance is necessary for the reasonable use of the land and that the variance as granted by the Board is the minimum variance that will accomplish this purpose.
 - (3) That the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious or otherwise detrimental to the public welfare.
- D. In granting any variance, the Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.

§ 92-13. Procedure.

The Board of Appeals shall act in strict accordance with the procedure specified by law and by this chapter. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board. Every appeal or application shall refer to the specific provisions of the local law involved, and shall exactly set forth the interpretation that is claimed, the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be. Every decision of the Board of Appeals shall be by resolution, each of which will contain a full record of findings of the Board in the particular case. Each such resolution shall be filed in the Office of the Town Clerk by case number.

§ 92-14. Interpretation.

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, morals, safety or the general welfare. Whenever the requirements of this chapter are at variance with the

requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive, or that imposing the higher standard shall govern.

Chapter 96

NOTIFICATION OF DEFECTS

§ 96-1. Defects in highways and other property.

§ 96-2. Defects in sidewalks.

§ 96-3. Action by Superintendent of Highways.

§ 96-4. Records.

§ 96-5. Construal of provisions.

[HISTORY: Adopted by the Town Board of the Town of Glen 11-10-1983 by L.L. No. 1-1983. Amendments noted where applicable.]

§ 96-1. Defects in highways and other property.

No civil action shall be maintained against the Town of Glen or the Town Superintendent of Highways of the Town, or against an improvement district in the Town for damages or injuries to person or property (including those arising from the operation of snowmobiles) sustained by reason of any highway, bridge, culvert, highway marking sign or device, or any other property owned, operated or maintained by the Town or any property owned, operated or maintained by any improvement district therein, being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous, or obstructed condition of such highway, bridge, culvert, highway marking, sign or device, or any other property owned, operated or maintained by the Town, or any property owned, operated or maintained by any improvement district, was actually given to the Town Clerk of the Town or the Town Superintendent of Highways of the Town, and there was thereafter a failure or neglect within a reasonable time to repair or remove the defect, danger or obstruction complained of; and no such action shall be maintained for damages or injuries to persons or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, culvert or any other property owned by the Town or any property owned by any improvement district in the Town unless written notice thereof, specifying the particular place, was actually given to the Town Clerk of the Town or the Town Superintendent of Highways of the Town 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.

§ 96-2. Defects in sidewalks.

No civil action will be maintained against the Town and/or the Town Superintendent of Highways of the Town for damages or injuries to person or property sustained by reason of any defect in the sidewalks of the Town or in consequence of the existence of snow or ice upon any of its sidewalks, unless such sidewalks have been constructed or are maintained by the Town or the Superintendent of Highways of the Town pursuant to statute, or shall any action be maintained for damages or injuries to person or property sustained by reason of such defect or in consequence of such existence of snow or ice unless written notice thereof, specifying the particular place, was actually given to the Town Clerk of the Town or to the Town Superintendent of Highways of the Town and there was a failure or neglect to cause

such defect to be remedied, such snow or ice to be removed, or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

§ 96-3. Action by Superintendent of Highways.

The Town Superintendent of Highways of the Town shall transmit, in writing, to the Town Clerk of the Town within five days after receipt thereof, all written notices received by him pursuant to this chapter, and he shall take any and all corrective action with respect hereto as soon as practicable.

§ 96-4. Records.

The Town Clerk of the Town shall keep an accurate record of all written notices which the Town Clerk shall receive of the existence of a defective, unsafe, dangerous, or obstructed condition in or upon, or of an accumulation of ice and snow upon any Town highway, bridge, culvert or a sidewalk, or any other property owned by the Town, or by any improvement district, the Town Clerk, upon receipt of such written notice, shall immediately and in writing notify the Town Superintendent of Highways of the Town of the receipt of such notice.

§ 96-5. Construal of provisions.

Nothing contained in this chapter shall be held to repeal or modify or waive any existing requirement or statute of limitations but, on the contrary, shall be held to be additional requirements to the rights to maintain such action. Nothing contained herein shall be held to modify any existing rule of law relative to the question of contributory negligence, nor to impose upon the Town, its officers and employees, and/or any of its improvement districts, any greater duty or obligations than that it shall keep its streets, sidewalks and public places in a reasonably safe condition for public use and travel.

Chapter 105

SEPTAGE WASTE, LAND APPLICATION OF

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| § 105-1. Title. | § 105-8. Testing requirements. |
| § 105-2. Findings. | § 105-9. Annual report. |
| § 105-3. Purpose. | § 105-10. Surety. |
| § 105-4. Definitions. | § 105-11. Enforcement; liabilities;
penalties for offenses. |
| § 105-5. Permit application. | § 105-12. Right to farm. |
| § 105-6. Permit duration and reissuance. | § 105-13. Coordination with other laws. |
| § 105-7. Operational regulations. | |

[HISTORY: Adopted by the Town Board of the Town of Glen 12-9-2002 by L.L. No. 3-2002. Amendments noted where applicable.]

GENERAL REFERENCES

Sewers — See Ch. 109.

§ 105-1. Title.

This chapter shall be known and may be cited as the “Town of Glen Regulations for Land Application of Sewage Wastes.”

§ 105-2. Findings.

The Town Board of the Town of Glen hereby finds as follows:

- A. Due to the rising cost of waste disposal, agricultural land in the Town of Glen is increasingly being viewed as a potential disposal area for municipal sewage sludge and private septage wastes.
- B. The spreading of sewage sludge in the Town of Glen has previously been prohibited by the Waste Management Facilities Law of the Town of Glen, Local Law No. 1 of 1998, and will continue to be regulated by that law.¹
- C. The Town of Glen is characterized by residential properties adjoining agricultural lands, and agricultural lands being converted to residential use.
- D. The Soil Survey of Montgomery County and Schenectady Counties indicates that soils in the Town of Glen are generally characterized by high levels of clay, resulting in poor permeability and increased runoff potential.

1. Editor's Note: See Ch. 120, Solid Waste, Art. III.

- E. There are limited public water supplies within the Town of Glen and thus all residential and agricultural properties are currently served by private wells and springs.
- F. Contamination or potential contamination of the groundwater supply, creeks and streams within the Town of Glen poses a threat to the health, safety and general welfare of the residents. Contamination of any water supply may be extremely difficult and expensive to remediate.
- G. Sewage sludge and septage wastes, as well as some composts and other materials derived from such wastes, may contain varying levels of pathogens, acids, nitrates and heavy metals, which, when applied to the soil in sufficient quantities, may cause a loading effect in the soil. Known carcinogens such as PCBs may also be present and may be carried through surface water and groundwater into potable wells and springs.
- H. The Town's existing community character may be adversely and unalterably impacted by the land application of human septage. Regulations designed to protect the groundwater supplies from contamination, and to regulate and record the location and rates of application of septage wastes are in the best interests of the public and serve to protect the health, safety and welfare of the residents of the Town of Glen.
- I. Current federal and state regulations are insufficient to relieve the foregoing concerns.

§ 105-3. Purpose.

- A. This chapter regulating the land application of septage wastes is adopted pursuant to the Town's police powers under Municipal Home Rule Law and Town Law §§ 130 and 136 for the physical and mental well-being and safety of its citizens, in order to restrict septage land application operations within the Town that might otherwise be permitted under federal and state regulations.
- B. The purpose of this chapter is to protect the health, welfare and safety of the residents of the Town of Glen; to maintain the quality of the soil, water and air resources of the Town; to provide standards for the regulation, review, monitoring and enforcement procedures for land application of septage wastes; to provide notice and opportunity for public input concerning such application; to ensure that accurate records concerning such application is available to public officials and citizens, and to ensure adequate remedy for any public harm or damage that may occur as the result of such application.
- C. It is not the intent of this chapter to restrict, obstruct or otherwise hinder the continuation of agricultural production. The Town Board believes that the community is enhanced by the farms that operate within its boundaries. This chapter affirms the Town's commitment to agriculture for this generation, and future generations who will work the land.

§ 105-4. Definitions.

For the purposes of this chapter, the following definitions and abbreviations are included herein:

CEO — The Code Enforcement Officer of the Town of Glen.

COAPPLICANTS — The operator seeking to apply septage wastes to land in the Town of Glen, and the owner of the land to which such waste shall be applied.

DEC — The New York State Department of Environmental Conservation.

DEC RULES — The Rules and Regulations contained in 6 NYCRR, Part 360, Solid Waste Management Facilities, and Part 364, Waste Transporter Permits, as promulgated and existing as of the date hereof, and as may hereafter be enacted and/or amended.

DISPOSE or DISPOSAL — The discharge, deposit, injection, dumping, spilling, spreading, leaking or placing of any septage waste or by-products into or on any land or water in the Town of Glen.

DOH — New York State Department of Health.

EPA — Environmental Protection Agency.

LAND APPLICATION — The discharge, deposit, injection, dumping, spilling, spreading, leaking or placing of any septage wastes or by-products, into or on any land situated in the Town of Glen.

LAND APPLICATION FACILITY OR SITE — A site where septage is applied to the soil surface or injected into the upper layer of the soil to improve soil quality or provide plant nutrients.

LAND RECLAMATION — The application of septage for the purposes of revegetation onto lands disturbed by strip mining, construction or other similar activities, or onto lands that marginally support vegetation.

OPERATOR — A handler of septage waste or by-products who proposes to dispose of septage waste in the Town of Glen.

OWNER — The title owner of the land on which septage waste is proposed to be applied by the operator.

PERMIT — A certificate issued by the Town Clerk upon review and approval of an application prepared and submitted pursuant to the provisions hereof by the Town Planning Board.

PUBLIC CONTACT AREA — Land with a high potential for contact by the public, including, but not limited to, public parks, ball fields, cemeteries, plant nurseries, turf farms, golf courses and school yards.

SEPTAGE — The contents of a septic tank, cesspool or other individual sewage treatment facility which receives only domestic sewage wastes. Septage does not include waste from portable chemical toilets, type II marine sanitation devices, or waste from either commercial or industrial sources.

SEQRA — New York State Environmental Quality Review Act.

SEWAGE SLUDGE — The accumulated semisolids or solids resulting from treatment of waste waters from publicly or privately owned or operated sewage treatment plants.

SITE — The area of land where septage waste is to be surface applied or injected.

SITE PLAN — A conceptual map or rendering, together with any and all additional and supplemental data or information, of the particular property upon which an applicant hereunder seeks approval for a permit to dispose of septage wastes, their derivatives and/or by-products, required by law to be presented to the Town Planning Board.

STORAGE — The holding or containment of any septage waste or by-product such that it does not constitute disposal of such materials.

VECTOR ATTRACTION — The characteristic of certain solid waste that attracts rodents, flies, mosquitoes or other organisms capable of transporting infectious agents.

§ 105-5. Permit application.

- A. No person(s), business or corporation shall dispose of any septage wastes within the Town of Glen without first preparing and filing an application with the Town Clerk, obtaining approval from the Town Planning Board after review and public hearing, and obtaining a permit for septage land application from the Town Clerk.
- B. Permit fees. The initial permit application fee shall be \$500, and the permit reissuance fee shall be \$500. These fees shall be collected by the Town Clerk upon the application for any such permit or reissuance. In addition, the coapplicants shall pay all actual and necessary costs and expenses incurred by the Town in the discharge and administration of its duties. The coapplicants shall pay such costs and expenses within 30 days from the date they are presented by the Town and they shall be nonrefundable. These fees may be adjusted by the Town Board of the Town of Glen by local law or resolution.
- C. Each application for a septage land application permit must contain the following:
 - (1) A completed Part I of the SEQRA Long Environmental Assessment Form.
 - (2) A vicinity map that delineates land use, residences, surface waters, access roads and other existing and proposed features within the proposed facility and within one-half mile of the proposed facility boundaries. A U.S. Geological Survey topographic map with a scale of 1:24000 is sufficient.
 - (3) A site plan prepared and stamped by a licensed land surveyor or professional engineer duly licensed by the State of New York. This map must have a minimum scale of 1:2,400 (1" = 200') with five feet maximum contour intervals, and must indicate:
 - (a) The location of the proposed land application site(s) with the actual area of the activity and required setbacks specifically marked;
 - (b) The location of all residences, public contact areas, and buildings on-site and within 1,000 feet of the site;

- (c) The location of access roads and roads on-site;
 - (d) The location of property boundaries, identifying the names and addresses of all adjacent landowners and those within 500 feet of the site;
 - (e) The location of all surface water bodies and their water quality classification on-site and within 1,000 feet of the site;
 - (f) The location and type (dug and drilled) of all potable water wells and springs, on-site and within 1,000 feet of the site;
 - (g) The location of any primary and principal aquifers and wellhead protection areas on-site and within 1,000 feet of the site;
 - (h) The location of all drainage swales on-site and within 500 feet of the site;
 - (i) The location of all test pits, soil borings and soil sampling points;
 - (j) The location of fences, forested areas, and any other nonagricultural areas;
 - (k) The direction of the prevailing winds; and
 - (l) The location of existing and proposed monitoring wells and surface water sampling stations.
- (4) A map indicating the location and classification of any state and federal regulated wetlands, and the locations of any floodplains, including one-hundred-year-flood elevations and locations of any floodways, on-site and within 1,000 feet of the site.
 - (5) A soil survey map from the U.S. Department of Agriculture's Soil Conservation Service, indicating the location of the proposed land application site, a key to the soil survey, and the pH results of the top six inches of soil (plow layer).
 - (6) The depth to bedrock and seasonal high groundwater under the site, and the source of this information.
 - (7) A description of surface drainage patterns at the site.
 - (8) A description of the source, quantity and quality of the septage, including:
 - (a) A description of the proposed sources of the septage, and the anticipated quantity collected.
 - (b) A description of the quality of the septage, including, but not limited to, analysis for fecal coliform or salmonella, total Kjeldahl nitrogen, ammonia, nitrate, total phosphorus, total potassium, pH, total solids, total volatile solids, arsenic, cadmium, total chromium, copper, lead, mercury, molybdenum, nickel, selenium and zinc, and total PCBs. If the average amount of septage handled by the operator is less than 15,000 gallons per day, six analyses are required. Samples taken must be representative of the material proposed for land application. With the exception of pH, total solids and total volatile solids these results must be reported on a dry-weight basis.

- (c) All analyses must be performed by an independent certified laboratory acceptable to DEC. Copies of the original laboratory results must be included with the application.
- (9) One current certified soil analysis report from a licensed laboratory for each 15 acres or fraction thereof, including, but not limited to, available nitrogen, available phosphorus, available potassium, pH, Cd, Cu, total Cr, Hg, Ni, Pb and Zn. With the exception of pH, these results must be reported on a dry-weight basis. The sampling depth must be consistent with the depth of the plow layer and depth of proposed septage application.
- (10) Calculations showing the proposed daily rate and annual hydraulic loading, in gallons per acre, at the site.
- (11) Calculations showing the annual and cumulative heavy metal and nutrient loading, based on the septage analysis, impacts of previous waste applications, and the crops grown.
- (12) A detailed description of the process to significantly reduce pathogens.
- (13) A Facility Operation Plan that must include:
 - (a) The amount of land that will be used and the crops to be grown.
 - (b) Timing of planting and harvesting.
 - (c) Timing and amount of waste application and any supplemental waste or fertilizer that will be used.
 - (d) Provisions for waste storage or disposal when land application is restricted, i.e., due to weather or other site conditions.
 - (e) Methods of application and incorporation, including the type, size and quantity of equipment that will be used and the time between application and incorporation.
 - (f) A description of how the operational requirements specified herein shall be satisfied.
- (14) A written agreement between the operator and the landowner concerning who is responsible for each of the operational requirements outlined in § 105-7, including site application regulations, pathogen reduction, vector attraction reduction, odor control, access restrictions and crop harvesting restrictions.
- (15) A written statement signed by the coapplicants that they shall be jointly liable for any damage to persons, property, wildlife or the environment resulting from the proposed land application of septage wastes, and shall hold harmless and indemnify the Town for any liability arising therefrom.
- (16) A proposed plan of remedial action to be taken in the event of any soil, ground or surface water contamination of the land application site or surrounding properties,

together with an agreement that all costs for such remediation shall be paid by the coapplicants.

- D. The Planning Board shall review the application and make a determination as to its completeness within 60 days after submission, and shall advise the applicant as to whether the application, as submitted, shall be deemed complete, or whether additional materials shall be required. The Planning Board shall schedule a public hearing on the application within 60 days of its determination of completeness. Landowners within 500 feet of the proposed application site shall be notified of the public hearing by certified mail. The Planning Board may, following such public hearing, approve such application, and direct the Town Clerk to issue a permit for the land application of septage subject to the following conditions:
- (1) SEQRA review and issuance of a negative declaration of environmental impact for the proposed land application of septage.
 - (2) Submittal of a valid DEC permit and a copy of any and all information required by DEC, including a copy of the application, results of any and all tests required, and a copy of any and all conditions and/or limitations imposed by DEC.
 - (3) In the event that any parcel of land to which septage has been applied is subsequently offered for sale and/or subdivided, a note shall be recorded on the deed and/or subdivision plat stating that septage has been applied to the land and that detailed information is on file and available for public inspection at the office of the Town Clerk of the Town of Glen.
 - (4) In addition, in the event that any residence located on a parcel of land to which septage has been applied, is subsequently offered for sale, a notice shall be recorded on the Property Condition Disclosure Statement, specifying that septage has been applied to the site and that detailed information is on file and available for public inspection at the office of the Town Clerk of the Town of Glen.

§ 105-6. Permit duration and reissuance.

- A. A septage land application permit issued hereunder shall be valid for a period of one year from the date of its issuance.
- B. An application for reissuance of said permit shall be filed with the Town Clerk no less than 60 days prior to its expiration date, and shall include a copy of the annual report as specified in § 105-9, and all information submitted to the DEC in connection with its most recent review.
- C. The coapplicants shall submit the reissuance fee with the application. In addition, they shall pay all actual and necessary costs and expenses incurred by the Town in the discharge and administration of its duties within 30 days from the date they are presented by the Town, and they shall be nonrefundable.
- D. Within 30 days of notice of the filing of an application for reissuance hereunder, the CEO shall file a report with the Planning Board containing the results of all septage, soil

and groundwater tests from the previous permit period, and a statement of any and all violations of these provisions or the permit conditions which have occurred.

- E. Not less than 30 days prior to the expiration of a permit issued hereunder, the Planning Board shall conduct a public hearing to consider the reissuance application. Landowners within 500 feet of the site shall be notified of the public hearing by certified mail.
- F. If, after review of the reissuance application and supplementary information, and after the public hearing, the Planning Board determines that the applicant has been in substantial compliance with the provisions hereunder as well as any conditions under a permit issued hereunder, it shall approve the reissuance of the applicant's permit for an additional term of one year.

§ 105-7. Operational regulations.

A. All septage land application sites located in the Town of Glen shall be designed, maintained and operated in compliance with the requirements of this chapter and all applicable Federal EPA regulations (40 CFR Part 503 Rule) and New York State DEC regulations (6 NYCRR, Part 360, Solid Waste Management Facilities, and Part 364, Waste Transporter Permits) as promulgated and existing as of the date hereof, and as may hereafter be enacted and/or amended. Where conflicting requirements exist, the more stringent shall apply.

B. Site application regulations:

- (1) Minimum horizontal distance from the perimeter of the land application area must meet or exceed the values found in the following table:

Feature	Distance (feet)
Property line	100
Residence, business or public contact area	500
Potable water well	500
Stream, pond or other body of water	200
State or federal regulated wetland	200
Drainage swale	25

- (2) Land application of septage is prohibited in areas where the seasonal groundwater is within 48 inches of the ground surface. Land application of septage is prohibited in areas where an aquifer or wellhead protection area is within 60 inches of the ground surface, or over a primary aquifer.
- (3) Land application is prohibited in areas where bedrock lies less than 24 inches below the ground surface.
- (4) Land application is prohibited on land with a slope exceeding 15%. Land application of waste with a total solids content of less than 20% is prohibited on

land with a slope greater than 8%, unless applied by subsurface injection along paths parallel to contour lines for the land.

- (5) Land application is allowed only on soil having a permeability of 0.06 to 6.0 inches per hour and within one or more of the following soil texture classes: sandy loam, sandy clay loam, loam, silt loam, sandy clay and clay loam.
- (6) The hydraulic loading must not exceed 8,000 gallons per acre in any twenty-four-hour period. The application rate must not exceed 25,000 gallons per acre per year, or the rate determined by the following calculation, whichever is less:

$$\begin{array}{l} \text{Application Rate} \\ \text{(gallons/acre/year)} \end{array} = \begin{array}{l} \text{Crop nitrogen needs} \times 385 \\ \text{(lbs. nitrogen/acre)} \end{array}$$

- (7) Land application on a site located in a one-hundred-year floodplain must not result in a washout of the septage applied, or pose a hazard to human life, wildlife, or land or water resources. Land application is prohibited in floodplain areas designated as floodways pursuant to 6 NYCRR Part 502.
- (8) Land application is permitted only when the beneficial value of the septage as a supply of nutrients or as a soil conditioner can be demonstrated. The land application rate must not exceed the agronomic rate, or the rate of lime addition designed to achieve a soil pH value in an acceptable range for the crop grown, whichever results in a lower rate. The application rate must be sufficiently reduced to insure appropriate application rates are not exceeded if supplemental fertilizer or manure are later added to the site, based on information provided by the farm owner or operator.
- (9) Land application rates and practices must not cause contravention of groundwater and surface water standards provided in 6 NYCRR Parts 700-705.
- (10) Septage must not be deposited in a manner that will allow any material to drain or become washed into any body of water, stream or drainage swale. Dikes, berms, or other pollution protection devices must be used as required by the Town to prevent runoff from entering surface waters or running off site.
- (11) Proper soil conservation practices and agricultural management practices must be used to minimize runoff and soil loss through erosion.
- (12) Land application is prohibited on snow, frozen or water saturated ground or during rainfall.
- (13) Septage applications shall not be permitted on lawns or home gardens.
- (14) Spray application of septage is prohibited.
- (15) Septage storage facilities or lagoons are prohibited.
- (16) Septage must not be used for land reclamation.

- (17) The operator shall notify the CEO, the Town Supervisor, and all owners of property adjacent to the land application site at least 48 hours prior to each septage application event.
- C. Pathogen reduction. The pH of the septage to be land applied must be raised to 12 or higher through the addition of alkali. The pH must remain at 12 or higher, without the addition of more alkali, for 1/2 hour minimum. A certification must be completed by the operator for each load, listing the date, source of load, time of lime addition and pH test results. These records must be available to the CEO for inspection upon request.
- D. Vector attraction reduction. One of the following methods of vector attraction reduction must be used:
- (1) Septage injected below the surface of the land must leave no significant amount of septage present on the land surface within one hour after injection; or
 - (2) Septage applied to the land surface must be incorporated into the soil within six hours after application.
- E. Odor control. Odors must be effectively controlled so that they do not constitute nuisances or hazards to health, safety or property.
- F. Site access restrictions.
- (1) Public access to the septage application site is prohibited for at least 12 months after the last application of septage and must be controlled during that period by the use of fences and gates, or by signage. Such signs shall be of a size and content acceptable to the Town, shall warn the public that septage has been applied to the site, and shall be posted around the perimeter of the site at an interval of at least every 100 feet.
 - (2) Domestic livestock must not graze for at least 12 months after the last septage application, and other animals, excluding wild game, must not graze for at least one month after the last application.
- G. Crop harvesting restrictions:
- (1) Food crops with harvested parts touching or above the surface of the soil must not be harvested for 18 months after land application.
 - (2) Food crops with harvested parts below the surface of the land must not be harvested for 38 months after land application.
 - (3) Animal feed crops and fiber crops must not be harvested for at least 30 days after land application.

§ 105-8. Testing requirements.

- A. The Town shall require tests to identify concentrations of heavy metals, pathogens or other contaminants in the septage to be applied, and in the Town's soil and water. These tests shall be performed on an annual basis prior to the first application of septage each

year. Additional testing times and parameters may be required if found necessary by the Town Board. All tests required hereunder shall be conducted by a certified independent laboratory acceptable to DEC and shall be conducted in accordance with guidelines established by DEC, DOH and/or the EPA, as the same may hereafter be amended or revised. A copy of all such test results shall be filed with the CEO. The costs of all tests required hereunder shall be borne by the coapplicants.

- B. Septage tests. Annual septage testing is required prior to the first septage application each year. This testing must include, but is not limited to, analysis for fecal coliform or salmonella, total Kjeldahl nitrogen, ammonia, nitrate, total phosphorus, total potassium, pH, total solids, total volatile solids, arsenic, cadmium, total chromium, copper, lead, mercury, molybdenum, nickel, selenium and zinc, and total PCBs. If the average amount of septage handled by the operator is less than 15,000 gallons per day, two analyses are required. If the average quantity handled is greater than 15,000 gallons per day, six analyses are required. With the exception of pH, total solids and total volatile solids these results must be reported on a dry-weight basis.
- C. Soil tests. Annual soil testing is required prior to the first septage application each year. One analysis is required for each 15 acres or fraction thereof, including, but not limited to, available nitrogen, available phosphorus, available potassium, pH, Cd, Cu, total Cr, Hg, Ni, Pb and Zn. With the exception of pH, these results must be reported on a dry-weight basis. The sampling depth must be consistent with the depth of the plow layer and depth of septage application.
- D. Groundwater tests. Groundwater tests shall be conducted prior to the first septage application each year. Groundwater samples shall be collected at a minimum of two monitoring wells placed by a licensed engineer or hydro geologist, at a depth of four feet to 12 feet or such depths as may be determined by said licensed professional, with one upgrading and one downgrading on the permitted site, and not greater than 100 feet from the edge of any application site. Parameters for such tests shall include, but not be limited to, fecal coliform, salmonella, phosphorus, nitrate and nitrogen.
- E. Potable water well and surface water tests. At the discretion of the Town Board, the operator may be required to periodically test water samples from potable water wells and springs and surface water features within 1,000 feet of the application site.
- F. The results of all septage, soil, groundwater, surface water and water well tests must meet or exceed current New York State DOH and DEC standards for safety before a septage application permit may be issued or renewed. An existing permit shall be immediately revoked if any of these test results do not meet said standards of safety.

§ 105-9. Annual report.

An annual report must be submitted to the CEO and Town Planning Board at least 60 days prior to the expiration of the permit. It must include at a minimum:

- A. The location of the land spreading fields used.
- B. The crops grown on each field.

- C. The total quantity of septage applied, including land application dates and quantity applied during each application on each field.
- D. The loading rates (hydraulic nutrient, and cumulative heavy metal) for the sites used.
- E. Septage soil sample and groundwater analysis, including copies of all laboratory reports.
- F. A description of any problems, complaints, etc., arising as a result of the land application operation and the corrective actions taken.
- G. A management plan for the next year which includes: crops to be grown, fields to be used, schedules and methods of application and harvesting, and revised loading rate. Loading rates must be determined based on the quantity of nutrients, heavy metals, and organic concentrations in the land and the septage, and the nitrogen uptake requirements of the plants to be grown.

§ 105-10. Surety.

The operator shall carry such insurance as required under the provisions of 6 NYCRR Section 364.5, as the same may be hereafter amended or revised, and shall provide the CEO and the Planning Board with copies of any and all such policies.

§ 105-11. Enforcement; liabilities; penalties for offenses.

- A. In the enforcement of the provisions hereunder, the CEO, Town Supervisor and/or a duly appointed officer or agent of the Town may enter any permitted property at reasonable hours for periodic inspections without notice, and any such entry shall not constitute a trespass. The CEO, Town Supervisor, and/or the duly appointed officer or agent shall issue a notice of any violation hereof, and is authorized hereby to enforce the provisions hereof. Upon receipt of a copy of the CEO's notice of violation, the Planning Board may, upon notice and hearing in connection therewith, and upon finding that a provision hereof has been violated, suspend or revoke any permit granted hereunder. In addition, in the event that the CEO and/or Planning Board has probable cause to believe that a provision of an accompanying DEC permit has been violated, he/it shall notify the DEC thereof.
- B. No person, business or corporation in violation of the provisions hereunder or of any conditions attached to the issuance of a permit issued hereunder or the reissuance thereof, shall remain in operation while such violations continue. The CEO is hereby authorized to issue a stop-work order for any action or activity observed in violation of the foregoing. In addition, any such violation shall be and hereby is declared to be a public nuisance.
- C. The coapplicants shall be fully liable for any damage to persons, property, wildlife or the environment resulting from the storage, disposal or land application of the materials covered hereunder, and shall hold harmless and indemnify the Town for any liability arising therefrom.

- D. Any person, business or corporation adjudged in a civil or criminal proceeding to have violated this chapter shall be liable to the Town for all expenses incurred by the Town in connection with such proceedings, including reasonable attorneys fees.
- E. Any person, business or corporation violating the provisions of this chapter shall be punished upon a conviction thereof by a fine not less than \$500 or confinement to a maximum term of imprisonment of 15 days, or both. Each day's continued violation shall constitute a separate and additional violation hereof.

§ 105-12. Right to farm.

Nothing contained herein shall be deemed to limit the right to farm as set forth in Article 25-AA of the New York State Agriculture and Markets Law. Notwithstanding any other provision herein, no "sound agricultural practice" as defined in said statute shall be deemed prohibited under these regulations.

§ 105-13. Coordination with other laws.

All relevant sections of federal and state law, especially the EPA Part 503 Rule and 6 NYCRR Parts 360 and 364, as the same may hereafter be amended or revised, are deemed to be included within and as part of this chapter. The provisions of this chapter shall be interpreted in a manner to be consistent with state and federal law, except that the more stringent requirements shall apply.

Chapter 109
SEWERS AND WATER

ARTICLE I
Leachate

§ 109-1. Introduction into Sewer District No. 1 prohibited.

ARTICLE II
Regulations and Rates

§ 109-2. Definitions.
§ 109-3. General regulations.
§ 109-4. Payment of bills.
§ 109-5. Water/Sewer rates.

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

GENERAL REFERENCES

Land application of septage waste — See Ch. 105.

Water district regulations — See Ch. A145.

ARTICLE I
Leachate
[Adopted 12-13-1999]

§ 109-1. Introduction into Sewer District No. 1 prohibited.

The Town of Glen shall prohibit the introduction of any waste material classified as leachate into the sewer lines of the Town of Glen Sewer District No. 1.

ARTICLE II
Regulations and Rates
[Adopted 9-11-2006]

§ 109-2. Definitions.

For the purpose of these rules and regulations, the following definitions are applicable:

APPROVED — Written acceptance by the Town as meeting an applicable specification stated or cited in these rules and regulations or as suitable for the proposed use.

CROSS-CONNECTION — Any physical connection through which a water supply could be contaminated.

CURB BOX — The casing that houses the curb valve with provisions for the operating rod.

CURB VALVE or CURB-STOP — An approved valve in the service line located in or adjacent to the public right-of-way to control the water supply in the service line (water service valve).

CUSTOMER — A water consumer who has an established account with the Town.

DISTRICT — A water district which is a specific geographical area wherein water is supplied and related costs are accounted, duly established and administered by the Town. This term shall also include improvements created pursuant to Article 12C of the Town Law.

FIXTURE, PLUMBING — Any installed receptacles, devices, or appliances supplied with water or that receive or discharge liquids or liquid-borne wastes.

METER PIT —

- A. Residential: fifteen-inch diameter; Mueller coiled meter pit with angle meter stop inlet and meter coupling outlet, four-inch insulation pad, cast-iron center locking lid for 5/8 inch by 3/4 inch meters five-foot bury.
- B. Commercial: twenty-seven-inch diameter; Mueller two-inch pit vault with angle ball valve inlet and 90° elbow meter coupling outlet, four-inch insulation pad, cast-iron center locking lid for two-inch meter five-foot bury.

OWNER — The person, persons, or corporation holding title to the property, as reflected on the real property tax roll of the Town.

POTABLE WATER — Water that is free from impurities, pollutants, or contaminants present in amounts sufficient to cause disease or physiological effects. Its bacteriological and chemical quality shall conform to the requirements of the public health service drinking water standards or the regulations of the public health authority having jurisdiction.

PUBLIC WATER SUPPLY — A water supply system, including the source, treatments works, transmission mains, distribution system and storage facilities serving the public.

RECEPTACLE — A vessel or container which receives or into which any liquid substance is received and held (e.g., sink, water closet, bathtub, swimming pool, etc.).

REMOTE READING DEVICE — A weatherproof device mounted to the outside of the customer's premises with a cable connected to a special register head on the water meter in the customer's premises.

SERVICE LINE — That water line or pipe connected to the curb valve and through which water is available to a customer.

TOWN — The Town of Glen.

TOWN BOARD — The Town Board of the Town of Glen.

VALVE — For interior piping shall be angle, gate or globe type.

§ 109-3. General regulations.

- A. All water service of whatsoever kind and nature shall be rendered by the district, and customers shall be billed for such service by the Town.

- B. The Town undertakes to use reasonable care and diligence to provide to users in the respective water districts a continuous supply of water. The Town may at any time and without notice shut off the water in any water district main for any purpose. The Town shall not be liable for a deficiency or failure in the supply of water or in the pressure for any cause whatsoever. The Town will give notice of the shutting off of water when time and conditions permit.
- C. Permission of the Town must be secured before any water can be turned on or off. No person (except for fire protection purposes) shall open or interfere or draw water from any hydrant without permission of the Town. No person shall molest, tamper with, or damage any Town and/or Town water district facility, including, but not limited to, hydrants, mains, valves, curb boxes, meters, meter seals, service pipes, etc. Any person violating this article shall be dealt with according to the Penal Law.
- D. The Town makes no warranty or guarantee of the quality or quantity of water which will be made available, and shall not be liable for such quality or quantity.
- E. It is understood that the water supplied is derived from the Village of Fultonville water system and that the Town of Glen has no control over the village's quality or quantity of water, and the Town shall not be liable for such quality or quantity.
- F. All rules and regulations of the Village of Fultonville are incorporated by reference herein as same may be applicable to Town water districts.
- G. Every person desiring a supply of water through the principal water mains must make application at the office of the Town Clerk, Town of Glen, New York, for a service pipe and connection, with forms furnished by said Town Board, which must be signed by the owners of the property or their duly authorized agent, and the meter costs and connection charge must be paid.
- H. Notice of change of ownership requires written notice to the Supervisor of the Town of Glen or the Water and Sewer Superintendent. In addition, completion of an application account form is required. (Application account forms are available at the Town of Glen Supervisor's office.)
- I. The location of the service pipe between the curb valve and meter shall be approved by the Superintendent of the Water Department.
- J. The curb valve controlling any service shall not be opened by any person after connecting said service at the curb, so that water may be supplied to such premises by said service, unless the service pipe installation has been approved by the Superintendent of the Water Department and the meter installation completed.
- (1) New construction requires a curbside meter pit (See Section 1-8).
 - (2) Any repairs to service involving a meter on a pipe to the curb shall include the installation of a meter pit (See the definition of "meter pit" in § 109-2.)
- K. Any person responsible for any injury to any main, pipe, hydrant or other water facility shall reimburse the Water District therefor, and for the loss of water caused thereby. He shall also be responsible for any damage caused by such escaping water.

- L. In the case of any excavation for the introduction of any water pipe or connection under authority of a permit from the Superintendent of the Water Department, the owner will be held responsible for the trench opened. Public safety and conveniences shall be duly regarded and conserved by the construction of such bridges across open trenches as may be required to insure safety to the public. Red lights, barricades and all such other means of protection against accident must be provided. Before trenches are backfilled, materials and workmanship shall be inspected by the Superintendent of the Water District and approved in writing.
- M. The owner of property into which water is introduced by a service pipe will be required to maintain to perfect order, at his own expense, the service pipe from the service valve to the meter on or before his premises, including all fixtures therein provided for delivering or supplying water for any purpose. In case such services and fixtures are not so kept in repair, the Town Board or its representative may cause to be made all necessary repairs and renewals or parts thereof. The expense of such work and all materials and labor required shall be paid by the property owner.
- N. The Superintendent, Town officers, or employees of the water district, upon presentation of proper credentials, may enter upon any premises where water is being supplied by water districts or upon any premises when application is made for a permit to connect plumbing with the water pipes, for the purpose of reading or for inspecting the plumbing fixtures of the water service.
- O. In the case of making or constructing new work, or in making repairs or leakage tests, the right is reserved to shut off the water from any consumer, without notice, for as long a period as may be necessary. No water district, its employees or the Town shall be liable for any damage which may result to any person, property or premises from shutting off of the water from any main, or service, for any purpose whatsoever, even in cases where no notice is given.
- P. No water district of the Town of Glen shall be liable for any damage or loss of any kind to property or persons which may arise from, or be caused by any change, either increase or decrease, in pressure of water supplied, from any cause whatsoever, including negligence on the part of the water district, its agents, servants, or employees. Service pipes of all sizes, together with all plumbing fixtures, shall be able to stand a pressure of 150 pounds per square inch. Each installation shall be equipped with a curb-cock and curb-box located at an approved location. Each service must provide a backflow prevention device meeting specifications approved by the American Water Works Association.
- Q. Service pipes of all sizes, together with all plumbing fixtures, shall be able to stand a pressure of 150 pounds per square inch. Each installation shall be equipped with a curb cock and curb box located at an approved location. Each service must provide a backflow prevention device meeting specifications approved by the American Water Works Association.
- R. All service lines are owned and shall be maintained, repaired, or replaced by the property owner. Service lines are the lines commencing at but not including the curb-stop and running from this point to the inlet side of the meter. The Water Department shall have

the right to test service pipes for leakage at any time. Should investigation disclose a leak on the service line to any property, the owner will be notified in writing. Such notice will inform the owner that if the repairs are not made within 10 days from the date of the notice, the Water Department will shut off the service as required to stop the leak. If the leak is between an existing usable curb-stop at the house, the curb-stop will be closed to control the leakage. If the leak exists between the corporation stop and an existing usable curb-stop, then the Water Department will make any necessary pavement cuts and excavations and repair the leak. Any cost incurred by the Water Department in investigating leaks which are determined to be on the customer's service will be charged against the customer. Any cost incurred in investigating leaks which are determined to be on the lines of the Water Department will be assumed and paid for by the Water Department.

- S. Each property served by the water system shall have a separate and individual tap into the main, unless otherwise approved by the Town Board.
- T. In case of removal or replacement of the service pipe, the old service must be removed or abandoned and the old corporation cock turned off at the main before the new corporation cock will be turned on. Where a building is demolished, water service is to be shut off at the main by the contractor, owner, architect, or engineer handling the project.
- U. Water rates for all water consumed shall be recorded and paid for by meter registration and at rates fixed by the Town Board. Copies of said rates may be obtained at the Town Clerk's Office, 7 Erie Street, Fultonville, New York.
- V. Hook-up fees will be fixed by the Town Board and will be based on the size of the service.
- W. No water through any connection, pipe or main shall be sold or furnished outside the water districts.
- X. No connection whatsoever shall be made by any person between the facilities of the water districts and any other water system, public or private, without the consent in writing of a duly authorized agent for the Town Board, after action of the Town Board.
- Y. Failure of the applicant to give written notice to have service discontinued will make the owner of property liable for all water charges against said premises and such notices must actually be delivered to the office of the Town Clerk.
- Z. A seasonal customer is a customer who has his water turned on and off for one or more quarters in any one year. Seasonal customers have water turned off and meters removed and then water is turned on and meters installed by an authorized agent of the Town Board after paying the required fees.
- AA. Commercial water bills are presented on the first week of every month. Residential bills are presented monthly. If not paid on or before the last day of the aforementioned months, a collection fee of 10% will be added. Notice will then be given and 30 days allowed for payment in full or service will be disconnected. Users in the Town will be given 30 days' notice of overdue payment and then, if not received, this amount will be

levied to the Town taxes. Reinstatement of water service can be accomplished only by paying the unpaid bill (including penalty), plus a reconnect charge of \$25. Water bills may be paid by mail (and must be postmarked on or before late date acceptable to avoid penalty) or in person at the Town Hall.

- BB. Upon a transfer of ownership, the present owner must make written request for a final meter reading and satisfy any unpaid balance before the responsibility will be conveyed to the new owner.

§ 109-4. Payment of bills.

- A. Service charge for bad checks. Anyone tendering a check or other commercial paper which fails to clear through the banks and is returned to the Water Billing office shall be assessed a service charge for each time such check or instrument is returned. The Water Billing office will notify the person by mail when the check is returned to the Town. Returned checks submitted for payment on delinquent accounts are subject to immediate termination of service and may be referred to the police for prosecution.
- B. Owner's responsibility.
- (1) The maintenance of water service connection being a substantial and valuable benefit to land, any owner of real estate premises maintaining such water service connections shall assume responsibility for the total of all water and/or sewer service charges levied against the premises during his ownership in the same manner as the person who actually incurred the charges. This assumption of responsibility shall be a necessary condition to the continuance of water services to the premises, and the failure to pay such charges when billed shall constitute grounds for the Superintendent to refuse water service to the premises.
 - (2) In the event a person incurs an obligation to pay for services performed or water and/or service, as an owner or tenant for one piece of property, and subsequently moves to another location, he may be denied service if he is delinquent in payment for service at the previous location.
 - (3) Likewise, a person owning multiple pieces of property with accounts in his name may be denied service at one or more properties for delinquency at any location. If delinquent, the Town will not allow a new account to be opened by a tenant at that location until the account is paid in full.
 - (4) Upon request of an owner or bona fide prospective purchaser of real estate premises, the Superintendent shall supply information concerning water service charges known to exist at the time of the request.

§ 109-5. Water/Sewer rates.

Water/sewer rates shall be as follows:

- A. Residential Rate Schedule #1.
- (1) Rate for first 7,500 gallons: \$35.39 minimum charge.
 - (2) Rate for next 4,000 gallons: \$.0047 per gallon.
 - (3) Rate for next 5,000 gallons: \$.0047 per gallon.
 - (4) Rate for next 9,999,999 gallons: \$0.00 per gallon.
- B. Commercial - Rte. 5-S Water #2.
- (1) Rate for first 7,500 gallons: \$57.90 minimum charge.
 - (2) Rate for next 42,500 gallons: \$.0063 per gallon.
 - (3) Rate for next 9,999,999 gallons: \$0.00 per gallon.
- C. Commercial - Rte. 5-S #2 Sewers.
- (1) Rate for first 5,000 gallons: \$51.44 minimum charge.
 - (2) Rate for next 9,999,999 gallons: \$.0103 per gallon.
- D. Commercial - Riverside Drive #3.
- (1) Rate for first 7,500 gallons: \$35.39 minimum charge.
 - (2) Rate for next 42,500 gallons: \$.0039 per gallon.
 - (3) Rate for next 9,999,999 gallons: \$0.00 per gallon.
- E. Commercial - Riverside Drive #3 Sewer.
- (1) Rate for first 5,000 gallons: \$51.44 minimum charge.
 - (2) Rate for next 9,999,999 gallons: \$.0103 per gallon.

Chapter 113

SITE PLAN REVIEW

ARTICLE I General Provisions

- § 113-1. Enactment and authorization.
- § 113-2. Title.
- § 113-3. Purpose.
- § 113-4. Planning Board authority to review site plans.
- § 113-5. Interpretation and application.

ARTICLE II Definitions

- § 113-6. Definitions.

ARTICLE III Applicability

- § 113-7. Uses requiring site plan approval.

ARTICLE IV Procedures

- § 113-8. Compliance with standards and procedures.
- § 113-9. Sketch plan.
- § 113-10. Application for site plan approval.
- § 113-11. Site plan submission requirements.
- § 113-12. Less intensive review.
- § 113-13. Acceptance of site plan application.
- § 113-14. Segmentation.
- § 113-15. Referrals to other agencies and boards.
- § 113-16. Compliance with SEQR.

- § 113-17. Public hearing on site plan.
- § 113-18. Planning Board action on site plan.
- § 113-19. Extension of time to render decision.

ARTICLE V Criteria

- § 113-20. Applicants required to meet criteria.
- § 113-21. Necessity.
- § 113-22. Location.
- § 113-23. Collocation.
- § 113-24. Lot criteria.
- § 113-25. Antenna height.
- § 113-26. Security fencing.
- § 113-27. Architectural compatibility.
- § 113-28. Placement of antennas.
- § 113-29. Antenna support structure safety.
- § 113-30. Performance bond.

ARTICLE VI Design Guidelines

- § 113-31. Conformance required.
- § 113-32. Finish/colors.
- § 113-33. Illumination.
- § 113-34. Landscaping for towers or monopoles.
- § 113-35. Visibility.
- § 113-36. Signage.

**ARTICLE VII
Construction and Maintenance**

§ 113-37. Time limit for completion.

§ 113-38. Annual inspections.

§ 113-39. Abandonment of facility.

§ 113-40. Alteration of an existing antenna.

§ 113-42. Building Inspector.

§ 113-43. Amendments.

§ 113-44. Penalties for offenses.

§ 113-45. Appeals.

§ 113-46. Waivers.

§ 113-47. Conflict with other laws.

**Personal Wireless Service
Facilities Overlay District Map**

**ARTICLE VIII
Administration and Enforcement**

§ 113-41. Site plan compliance.

[HISTORY: Adopted by the Town Board of the Town of Glen 6-8-1998 by L.L. No. 3-1998. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision of land — See Ch. 124.

**ARTICLE I
General Provisions**

§ 113-1. Enactment and authorization.

The Town Board of the Town of Glen, Montgomery County, New York, does hereby ordain and enact the Town of Glen Site Plan Review Local Law pursuant of the authority and provisions of § 10 of the Municipal Home Rule Law and § 274-a of the Town Law.

§ 113-2. Title.

This chapter shall be known as the “Town of Glen Site Plan Review Local Law.”

§ 113-3. Purpose.

- A. Through site plan review, it is the intent of this chapter to promote the health, safety, and general welfare of the Town. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the Town and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the Town and the general welfare of its inhabitants.
- B. It is further the intent of this chapter to ensure the optimum overall conservation, protection, preservation, development and use of the natural and man-related resources of the Town through review and approval of site plans.

§ 113-4. Planning Board authority to review site plans.

The Planning Board is hereby authorized to review and approve, approve with modifications, or disapprove site plans for land uses within the Town as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this chapter.

§ 113-5. Interpretation and application.

- A. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements. More stringent provisions may be required if it is demonstrated that different standards are necessary to promote the public health, safety and welfare.
- B. Where the conditions imposed by any provisions of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this chapter or of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

**ARTICLE II
Definitions****§ 113-6. Definitions.**

Unless otherwise expressly stated, the following terms shall, for the purpose of this chapter, have the meanings herein indicated:

ANTENNA — A device used in communications which converts radio frequency electrical energy to radiated electromagnetic energy and vice versa; in a transmitting station, an antenna is the device from which radio waves are emitted.

APPLICANT — The person(s), corporation, agency, or other legal entity responsible for submitting site plan applications for review by the Planning Board.

BUFFER AREA — An undeveloped part of a property or an entire property specifically intended to separate and thus minimize the effects of a land use activity on adjacent properties.

BUILDING — A structure designed to be used as a place of occupancy, business, storage, or shelter. The term "building" shall include the term "structure" as well as receiving and transmitting commercial, radio, television and other utility communication towers.

COLLOCATION — The mounting of personal wireless service facilities used by two or more persons, firms or corporations on the same equipment mounting structure.

EASEMENT — The right to use the land of another, obtained through the purchase of the use rights from a landowner, for a special purpose consistent with the property's current use.

ENVIRONMENTAL ASSESSMENT FORM (EAF) — A form used to determine whether a project will have significant environmental impacts. Depending on the site's environmental

features and the project's magnitude, either a short or long SEQR environmental assessment form will be completed.

ENVIRONMENTAL IMPACT STATEMENT (EIS) — A document prepared pursuant to SEQR, subsequent to a determination of potential adverse impacts that examines the existing and developed environment, and identifies and presents impacts, mitigation measures and alternatives.

EQUIPMENT MOUNTING STRUCTURE — Any structure used primarily to support reception or transmission equipment, including, but not limited to, antenna support structures, towers and monopoles.

GRADING — The leveling of land for site development purposes, including construction of roads, building construction, drainage areas, and parking.

LOT — A designated parcel, tract, or area of land established by a plat or otherwise as permitted by law and to be used, developed, or built upon as a unit.

OWNER/OPERATOR — Person, persons, corporation, etc., that owns and/or operates the business or facility.

PERSON — Any individual, group of individuals, partnership, firm, corporation, association, or other legal entity.

PERSONAL WIRELESS SERVICE — Commercial mobile services, wireless telecommunication services using duly authorized devices which do not require individual licenses (excluding the provision of direct-to-home satellite services), and common carrier wireless exchanges, including cellular radiotelephone, specialized mobile radio system and personal communication services.

PERSONAL WIRELESS SERVICE FACILITIES — A facility for the provision of personal wireless services. A personal wireless service facility includes, but is not limited to, an antenna equipment mounting structure and accessory buildings and equipment.

PHASED DEVELOPMENT — Development that occurs in defined stages.

ROAD — A public thoroughfare or right-of-way dedicated, deeded or condemned for use as such, which affords the principal means of access to abutting property.

ROAD, RIGHT-OF-WAY — An area defined by a boundary which provides for road construction, maintenance, improvement and/or widening.

SCREENING — Vegetation, fencing, or earthen materials used to block visibility toward and/or away from a site.

SETBACK — A minimum horizontal distance from a given point or line of reference, such as from a road edge or right-of-way, within which development is restricted.

SIGN — A name, identification, description, display or illustration, or any other visual display which is affixed to or painted or represented directly or indirectly upon a building, structure, or piece of land which directs attention to an object, product, place, activity, person, institution, organization or business. However, a sign shall not include any display of official

court or public office notices nor any official traffic control devices nor shall it include the flag emblem or insignia of a nation, state, county, municipality, school, or religious group.

SITE PLAN — A rendering, drawing, or sketch prepared to specifications and containing necessary elements, as set forth in the applicable zoning ordinance or local law, which shows the arrangement, layout and design of the proposed use of a single parcel of land as shown on said plan.

SKETCH PLAN — Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review. May be used by the applicant as the basis for preparing the site plans for Planning Board review.

SKETCH PLAN CONFERENCE — Initial optional Planning Board review of the project proposal with the applicant. The sketch plan conference provides an opportunity for an applicant to learn from the Planning Board what the site plan submission requirements will be prior to submitting the site plan.

START OF CONSTRUCTION — The initiation of any physical alteration of the property, excluding planning and design, during any phase of a project and shall include land preparation, such as clearing, grading and filling; installation of roads, excavation for footings, foundations or the erection of temporary forms. Start of construction also includes any work for which a valid building permit is required.

STATE ENVIRONMENTAL QUALITY REVIEW (SEQR) — Review of an application according to the provisions of the State Environmental Quality Review Act, 6 NYCRR, Part 617 (Statutory Authority: Environmental Conservation Law, § 8-0113), which incorporates the consideration of environmental, social and economic factors into the planning, review and decisionmaking processes of state, county and local government agencies.

STRUCTURE — Anything constructed or built, any edifice or building of any kind, which requires location on the ground or is attached to something having a location on the ground.

ARTICLE III

Applicability

§ 113-7. Uses requiring site plan approval.

- A. All new personal wireless service facilities, and all additions and/or modifications to currently existing personal wireless service facilities within the Town shall require site plan approval before being undertaken.
- B. Existing uses and structures. This chapter does not apply to uses and structures that are lawfully in existence as of the date this chapter becomes effective. Any use that would otherwise be subject to this chapter, which has been discontinued for a period of one year or more, shall be subject to review pursuant to the terms of this chapter before such use is resumed. Any use or structure shall be considered to be in existence, provided such use or structure has started construction prior to the effective date of this chapter and is

fully constructed and completed within one year after the effective date of these regulations.

- C. Uncertain applicability. Any person uncertain of the applicability of this chapter to a given land use activity may apply in writing to the Town of Glen Planning Board for a written jurisdictional determination.

ARTICLE IV Procedures

§ 113-8. Compliance with standards and procedures.

Any person, before undertaking any new land use activity at any location within the Town for which this chapter requires site plan, shall submit a site plan together with the appropriate supporting data to the Planning Board for review and approval in accordance with the standards and procedures set forth in this chapter.

§ 113-9. Sketch plan.

The applicant is strongly encouraged to meet with the Planning Board prior to submission of a site plan application. This informal meeting is suggested to prevent unnecessary expenses to the applicant. At the conference, the applicant shall provide either a verbal or written statement and rough sketch describing what is proposed together with a USGS topographic map showing the location of the building site and its relationship to the surrounding area. The Board will review the sketch plan and list all necessary information needed by the applicant to complete the site plan approval.

§ 113-10. Application for site plan approval.

Each application for site plan approval shall be submitted to the Town Clerk 10 days prior to the Planning Board's regular scheduled meeting. The Town Clerk shall immediately notify the Planning Board that such application has been filed and the date thereof. Application shall include the application, signed by the current owner or representative thereof; seven copies of the site plan with the information outlined in Article IV, § 113-11; an environmental assessment form, as required by the State Environmental Quality Review Act, and the appropriate fee.

§ 113-11. Site plan submission requirements.

- A. All site plans shall be prepared by a registered architect, landscape architect, licensed land surveyor or professional engineer duly licensed by the State of New York, unless this requirement is waived by the Planning Board because of the simplicity of the proposal. Site plans shall be prepared at a scale of one inch equals 20 feet or less, on standard 24 inch by 36 inch sheets, with continuation on 8 1/2 inch by 11 inch sheets as necessary for written information.
- B. Items required for submission include:

- (1) Title of site plan, boundaries, location maps showing site's location in the Town, date, north arrow and scale of the plan.
- (2) Name and address of the owner of record, developer, and seal of the engineer, architect, surveyor or landscape architect.
- (3) Name and address of all owners of record of abutting parcels and those within 500 feet of the property line.
- (4) All existing lot lines, easements and rights-of-way. Include areas in acres or square feet, abutting land uses, and the location and size of structures within 500 feet of the site.
- (5) The location of existing and proposed personal wireless telecommunication facilities structures (plan and elevation of facility) and improvements, including roads, buildings, tower, guy wire anchors, parking and landscaping and will include grading plans for new facilities and roads.
- (6) The applicant shall submit documentation on the intent and capacity of use as well as justification for the height of any tower or antenna and justification for any clearing required.
- (7) Structural engineering report. A report prepared by a New York State licensed professional engineer specializing in structural engineering as to the structural integrity of the personal wireless service facility. In the case of a tower or monopole, the structural engineering report shall describe the structure's height and design, including a cross-section of the structure, demonstrates the structure's compliance with applicable structural standards and describes the structure's capacity, including the number of antennas it can accommodate and the precise point at which the antenna shall be mounted. In the case of an antenna mounted on an existing structure, the structural engineering report shall indicate the ability of the existing structure to accept the antenna, the proposed method of affixing the antenna to the structure, and the precise point at which the antenna shall be mounted.
- (8) Engineering analysis of radio emissions. An engineering analysis of radio emissions and a propagation map for the proposed personal wireless service facilities is required. The analysis shall be prepared and signed by a New York State licensed professional engineer specializing in electrical engineering with expertise in radio communication facilities. The results from the analysis must clearly show that the power density levels of the electromagnetic energy generated from the proposed facility are within the allowable limits established by the FCC which are in effect at the time of the application. If the proposed personal wireless service facilities would be collocated with an existing facility, the cumulative effects of the facilities must also be analyzed. The power density analysis shall be based on the assumption that all antennas mounted on the proposed facility are simultaneously transmitting radio energy at a power level equal to the maximum antenna power rating specified by the antenna manufacturer.

- (9) Map of proposed coverage and existing facilities. A map showing the area of coverage of the proposed facility and listing all existing personal wireless service facilities in the Town and bordering municipalities containing personal wireless service facilities used by the applicant, and a detailed report indicating why the proposed personal wireless service facility is required to provide service to locations which the applicant is not able to serve with existing facilities which are located within and outside the Town by collocation and otherwise.
 - (10) Shared use of existing towers. At all times, shared use of existing towers shall be preferred to the construction of new towers. An applicant shall be required to present an adequate report, including an inventory of existing structures within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities as an alternative to a proposed tower.
- C. An environmental assessment form (either short or long form, depending upon the nature of the proposal) shall be submitted with the site plan to insure compliance with the New York State Environmental Quality Review Act (6 NYCRR 617), to identify the potential environmental, social, and economic impacts of the project.
- D. Agriculture data statement. The applicant must submit an agricultural data statement (ADS) if the proposed project occurs on property within an agricultural district containing a farm operation or on property with boundaries within 500 feet of a farm operation located within an agricultural district.

§ 113-12. Less intensive review.

The Planning Board may elect to conduct a less intensive review. The Planning Board must state its grounds for waiving certain submission requirements in writing and file such statement along with the site plan application and supporting documents.

§ 113-13. Acceptance of site plan application.

The Planning Board shall, within 30 days of a site plan application being filed, begin the review process. If the application is inadequate or lacking information as outlined in Article IV, §§ 113-10 and 113-11, then the Planning Board may, in writing, request further information from the applicant. The time period in which the Planning Board must make a recommendation may be extended by written consent of the applicant and the Planning Board.

§ 113-14. Segmentation.

The site plan and associated maps shall include all proposed phases of development. Site plan approval shall be based on the total planned project in order to facilitate the assessment of all potential development impacts. The Planning Board shall consider applications incomplete where there is a reason to believe the application applies only to a segment of the total planned development. In such situations, the Board shall return such application to the applicant together with a letter stating the basis for its determination.

§ 113-15. Referrals to other agencies and boards.

- A. Coordinated review. The Planning Board may refer the site plan for review and comment to local and county officials or their designated consultants, and to representatives of federal, state, and county agencies, including but not limited to the Soil Conservation Service, the New York State Department of Transportation, the State Department of Environmental Conservation, and the state or county Department of Health, whichever has jurisdiction.
- B. Required referral:
- (1) Whenever any site plan involves real property in an area described in § 239-m of the General Municipal Law, said site plan shall be referred to the Montgomery County Planning Board for their review and approval pursuant to § 239-m of the General Municipal Law.
 - (2) The concurring vote of a majority plus one of the Town Planning Board shall be necessary to override County Planning Board recommendations of approval with modifications or disapproval. In the event that the County Planning Board recommends modifications or disapproval of a referred matter and the Town Planning Board acts to the contrary, the Town Planning Board shall file a report of its action with the County Planning Board within seven days after final action.

§ 113-16. Compliance with SEQR.

After the site plan has been accepted as complete, the applicant shall demonstrate compliance for any actions subject to SEQR prior to site plan approval. The Planning Board shall classify the application according to the New York State Environmental Quality Review Act, and review the environmental assessment form and decide:

- A. If additional information is needed to render a determination of significance. The Planning Board will specify exactly what the applicant needs to supply; or
- B. If the information is provided and the project is identified as having small to moderate impacts with little significance, then a negative declaration can be given; or
- C. If an action has been identified as having a large and significant impact, then a positive declaration shall be determined and a full EIS will be provided.

§ 113-17. Public hearing on site plan.

The Planning Board may, at its discretion, hold a public hearing on the application. Said hearing shall be held within 62 days of receipt of the accepted site plan application. The Planning Board shall mail notice of the public hearing to the applicant at least 10 days before the public hearing and shall give public notice of said hearing in a newspaper of general circulation in the Town at least five days prior to the date of the hearing. If the application requires a public hearing and § 239-m review by the Montgomery County Planning Board, then the Board shall mail notice of the public hearing to the County Planning Board 10 days prior to said public hearing.

§ 113-18. Planning Board action on site plan.

- A. The time limitations of this section shall not apply until the conclusion of the SEQR process as discussed in § 113-16.
- B. The Board shall make a decision on the application within 62 days after the public hearing. If no public hearing is held, a decision on the application shall be made within 62 days of the receipt of a complete site plan application. The time within which the Board must render a decision may be extended by mutual consent of the applicant and the Board. The Board shall render its decision to either approve, approve with modifications, or disapprove the site plan. The decision of the Board shall be filed in the office of the Town Clerk immediately and a copy mailed to the applicant.
- (1) Approval. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file the site plan and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall also be sent to the Building Inspector.
 - (2) Approval with modifications. The Planning Board may approve the site plan and require that specific modifications be made. A copy of the written statement of approval containing the modifications required by the Planning Board shall be mailed to the applicant by certified mail. Upon approval, and after payment by the applicant of all fees and reimbursable costs due to the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file the site plan and a written statement of approval with modifications with the Town Clerk. A copy of the written statement of approval with modifications shall also be sent to the Building Inspector.
 - (3) Disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall immediately be filed with the Town Clerk and a copy thereof mailed to the applicant by certified mail along with a letter stating the Planning Board's reasons for disapproval. A copy of the written statement of disapproval shall also be sent to the Building Inspector.

§ 113-19. Extension of time to render decision.

The time period which the Planning Board must render its decision on the site plan may be extended by mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within the time specified or agreed upon between the applicant and the Planning Board shall constitute Planning Board approval of the site plan as submitted or last amended.

**ARTICLE V
Criteria****§ 113-20. Applicants required to meet criteria.**

Applicants for site plan review for the establishment of construction of personal wireless service facilities shall meet all of the following criteria.

§ 113-21. Necessity.

The proposed personal wireless service facility is required to provide service to locations which the applicant is not able to serve with existing facilities which are located within and outside the Town by collocation and otherwise.

§ 113-22. Location.

The applicant shall demonstrate, using technological evidence, that the antenna must be placed where it is proposed, in order to satisfy its function in the providers grid system.

§ 113-23. Collocation.

The collocation of existing personal wireless service facilities shall be strongly preferred to the construction of new personal wireless service facilities. If a new site for a personal wireless service facility is proposed, the applicant shall submit a report setting forth in detail: (1) an inventory of existing personal wireless service facilities which are within a reasonable distance from the proposed facility with respect to coverage; (2) an inventory of existing personal wireless service facilities in other municipalities which can be utilized or modified in order to provide coverage to the locations the applicant is seeking to serve; and (3) a report on the possibilities and opportunities for collocation as an alternative to a new site. The applicant must demonstrate that the proposed personal wireless service facilities cannot be accommodated on an existing facility in another municipality due to one or more of the following reasons:

- A. The proposed equipment would exceed the existing and reasonably potential structural capacity of existing and approved personal wireless service facilities, considering existing and planned use for those facilities.
- B. The existing or proposed equipment would cause interference with other existing or proposed equipment which could not reasonably be prevented or mitigated.
- C. Existing or approved personal wireless service facilities in neighboring municipalities do not have space on which the proposed equipment can be placed so it can function effectively and reasonably, and the applicant has not been able, following a good faith effort, to reach an agreement with owners of such facilities.
- D. Other reasons make it impractical to place the proposed equipment on existing and approved personal wireless service facilities, and on other existing facilities in other municipalities.
- E. Service to the locations to which the applicant seeks to provide service cannot be provided by existing facilities within or outside the Town.

§ 113-24. Lot criteria.

- A. There shall be only one personal wireless service facility allowed per lot, unless a provider collocates on the existing tower or monopole on that lot.

- B. The minimum lot size for a tower or monopole shall be equal to the square of twice the tower's or monopole's height.
- C. If a new antenna support structure is constructed as opposed to mounting the antenna on an existing structure, the minimum distance between the base of the support structure and the property lines shall be 10% greater than the height of the antenna. All personal wireless service facilities shall be separated from all residential dwellings by a distance of no less than 500 feet, and by no less than 500 feet from the road right-of-way. All guy wire anchors and accessory facilities shall be set back a minimum of 30 feet from the property line.

§ 113-25. Antenna height.

The applicant shall demonstrate that the antenna is the minimum height required to function satisfactorily. No antenna that is taller than this minimum height shall be approved.

§ 113-26. Security fencing.

Security fencing, showing the location, materials and height, shall be provided around each tower or monopole to secure the site and provide an opaque barrier. Access to the structure shall be through a locked gate.

§ 113-27. Architectural compatibility.

Where a personal wireless service facility is to be attached to an existing building or structure, such facility shall be integrated into such existing building or structure in such a manner which blends with the architectural characteristics of the building or structure to the maximum extent practicable.

§ 113-28. Placement of antennas.

Unless wall-mounted on an existing roof-mounted mechanical enclosure or similar appurtenance, all antennas mounted on a roof shall be located so that visibility of the antenna is limited to the greatest extent practicable. Antennas wall-mounted on a roof mounted mechanical enclosure or similar appurtenance shall not exceed the height of the appurtenance at the point of installation.

§ 113-29. Antenna support structure safety.

The applicant shall demonstrate that the proposed antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference. All support structures shall be fitted with anticlimbing devices, as approved by manufacturers.

§ 113-30. Performance bond.

Prior to site plan approval, a performance bond or other security sufficient to cover the full cost of the removal and disposal of the personal wireless service facility upon abandonment of said facility shall be provided by the owner/operator. This cost shall be determined by an estimate of the Town-designated engineer. Any such security must be provided pursuant to a written security agreement with the Town, approved by the Town Board and also approved by the Town attorney as to form, sufficiency and manner of execution. The form of security shall be limited to those permissible under New York State Law.

**ARTICLE VI
Design Guidelines****§ 113-31. Conformance required.**

The proposed personal wireless service facility shall meet the following applicable design guidelines.

§ 113-32. Finish/colors.

Towers or monopoles not requiring Federal Aviation Administration (FAA) painting or marking shall either have a galvanized finish or be painted gray or blue gray above the surrounding treeline and gray, green or tannish brown below the surrounding treeline.

§ 113-33. Illumination.

No signals, lights or illumination shall be permitted on personal wireless service facilities unless required by the FAA or other federal, state or local authority.

§ 113-34. Landscaping for towers or monopoles.

For towers or monopoles, vegetative screening shall be provided to effectively screen the tower base and accessory facilities. At a minimum, screening shall consist of one row of native evergreen shrubs or evergreen trees capable of forming a continuous hedge at least 10 feet in height within two years of planting. Existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute of or in supplement toward meeting landscaping requirements. Additional screening may be required to screen portions of the structure from nearby residential property or important views. All landscaping shall be properly maintained to ensure good health and viability for the life of the facility.

§ 113-35. Visibility.

All personal wireless service facilities shall be sited to have minimum adverse visual effect on residential areas, parks or major roadways.

§ 113-36. Signage.

Signage shall be prohibited on personal wireless service facilities except for signage to identify the facility which is located along the right-of-way frontage. Except as specifically required by a federal, state or local authority, no signage shall be permitted on equipment mounting structures or antennas.

**ARTICLE VII
Construction and Maintenance**

§ 113-37. Time limit for completion.

A building permit must be obtained within six months after approval of a site plan for a personal wireless service facility and construction of such facility must be completed within 12 months of such approval. The site plan approval shall automatically expire in the event that the Building Inspector has not granted such permit and construction of the facility is not completed with the periods set forth above.

§ 113-38. Annual inspections.

- A. Unless otherwise preempted by federal or state law, personal wireless service facilities, including towers, monopoles and antennas, shall be inspected annually at the applicant's expense for structural integrity, and a copy of the inspection report shall be promptly transmitted to the Building Inspector. The structural inspection shall be performed by a New York State licensed professional engineer specializing in structural engineering. The structural inspection report shall describe the structural integrity of the personal wireless service facility, maintenance issues and repairs needed or made, if any. In the event that the structural inspection indicates structural deficiencies, then the deficiencies must be remedied by the applicant at the applicant's expense within the time reasonably set by the Building Inspector.
- B. Unless otherwise preempted by federal or state law, personal wireless service facilities, including towers, monopoles and antennas, shall be inspected annually at the applicant's expense for radio emissions, and a copy of the inspection report shall be promptly transmitted to the Building Inspector. Radio emission inspection shall be performed by a New York State licensed professional engineer specializing in electrical engineering with expertise in radio communication facilities. The radio emission inspection shall describe the power density levels of the electromagnetic energy generated from the facility, including the cumulative effects of collocated antennas. In the event that the radio emission inspection indicates that the electromagnetic energy generated from the facility is above the allowable limits stated within applicable state or federal guidelines in effect at the time of the inspection, the applicant shall cease all use of the facility until such time as it proves to the satisfaction of the Building Inspector that the power density levels of the electromagnetic energy to be generated at the facility are below the applicable standards.

§ 113-39. Abandonment of facility.

In the event that the use of any personal wireless service facility has been discontinued by all operators on such facility for a period of 180 consecutive days or more, the facility shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Building Inspector, who shall have the right to request documentation from the owner/operator of the facility regarding usage thereat. Upon such abandonment, the owner/operator shall remove the facility at its own expense, and failing prompt removal, the municipality may remove the facility at the owner/operator's expense. At the applicant's expense, the site shall be returned, to the maximum extent practicable, to its original condition. All site plan approval and approvals of any nature granted by the municipality shall automatically expire as of the date of abandonment of the facility.

§ 113-40. Alteration of an existing antenna.

Alteration of an existing antenna which results in an increase in the size or height of the antenna may be permitted only after application to the Planning Board which shall review the matter as if the alteration were an entirely new application for site plan approval.

ARTICLE VIII
Administration and Enforcement

§ 113-41. Site plan compliance.

No permit or certificate of occupancy shall be issued by the Building Inspector, except upon the authorization by and in conformity with an approved site plan where required.

§ 113-42. Building Inspector.

- A. The Town Board may alternatively appoint some other enforcement officer to conduct inspections and any other enforcement activities required by this chapter.
- B. The Town Board may appoint a Building Inspector to carry out the duties assigned by this chapter. If appointed, the Building Inspector shall be responsible for the overall inspection of site improvements, including coordination with the Planning Board and other officials and agencies, as appropriate.

§ 113-43. Amendments.

The Town Board may, on its own, on petition, or on recommendation of the Planning Board, after public notice and hearing, amend this chapter pursuant to all applicable requirements of law.

§ 113-44. Penalties for offenses.

- A. Any person, firm, or corporation who commits an offense against, disobeys, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this chapter

shall, upon conviction, be deemed guilty of a violation, punishable by a fine of not more than \$350, or by imprisonment not exceeding 20 days, or both such fine and imprisonment. Each week an offense is continued shall be deemed a separate violation of this chapter.

- B. In addition to the penalties provided above, the Building Inspector, or Town Board, may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

§ 113-45. Appeals.

Any person aggrieved by any decision of the Planning Board, Town Board, Building Inspector, or any other officer, department, or board of the Town involved with the administration and enforcement of this chapter, may apply to the Supreme Court for review under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within 30 days after the filing of a decision in the office of the Town Clerk.

§ 113-46. Waivers.

The Planning Board may waive, subject to appropriate conditions, the provisions of any or all standards set forth if in the special circumstances of a particular application such standards are not in the interest of the public health, safety, and general welfare or strict adherence to such standards would cause unnecessary hardships for the applicant without achieving public benefit objectives. The Planning Board must state its reasons for granting any waivers in writing and file the same along with the site plan application and supporting documents.

§ 113-47. Conflict with other laws.

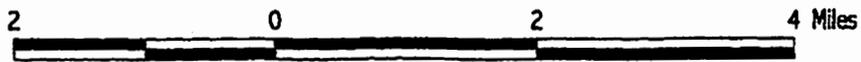
This chapter in no way affects the provisions or requirements of any federal, state, or local law or regulations.

SITE PLAN REVIEW

113 Attachment 1

Town of Glen

Personal Wireless Service Facilities Overlay District



 500 (feet) Buffer Zone From Roads



Prepared By:
The Montgomery County
Department of Planning & Development
May 1998

Chapter 120
SOLID WASTE

ARTICLE I
Town Dump

- § 120-1. **Definitions.**
- § 120-2. **Site.**
- § 120-3. **Vehicles and large articles.**
- § 120-4. **Restrictions on use.**
- § 120-5. **Use by residents only.**
- § 120-6. **Manner of use.**
- § 120-7. **Depositing garbage on public highways or places.**
- § 120-8. **Penalties for offenses.**
- § 120-9. **Revocation of privilege.**

ARTICLE II
Dumps and Dumping

- § 120-10. **Intent.**
- § 120-11. **Definitions.**
- § 120-12. **Prohibited activities.**

- § 120-13. **Exceptions.**
- § 120-14. **Penalties for offenses.**

ARTICLE III
Waste Management Facilities

- § 120-15. **Title.**
- § 120-16. **Findings.**
- § 120-17. **Purpose.**
- § 120-18. **Applicability.**
- § 120-19. **Definitions.**
- § 120-20. **Exemptions.**
- § 120-21. **Coordination with state law.**
- § 120-22. **Operation of waste management facilities prohibited.**
- § 120-23. **Penalties for offenses; enforcement.**
- § 120-24. **Repealer; effect on other laws.**

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

ARTICLE I
Town Dump
[Adopted 12-2-1958]

§ 120-1. Definitions.

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

GARBAGE — Includes waste foods, papers, dead animals or parts thereof, and all waste or discarded wood, lumber or vegetable matter of any kind, or any other matter which shall be inflammable or capable of fermentation or decay.

PERSON — Includes an individual, society, club, firm, partnership, corporation or association of persons, and the singular number shall include the plural number.

RUBBISH — Includes waste metal, tin cans, ashes, cinders, glass, pottery and all discarded substances of a solid and incombustible nature.

§ 120-2. Site.

The premises owned by the Town of Glen, situate on the Log Town-Rural Grove Road, bounded North by highway, South by Grandy Road, East by Fonda and West by Fonda, are hereby designated as a dumping ground of the Town of Glen, Montgomery County, New York, by the residents of the said Town subject to the provisions of this article.

§ 120-3. Vehicles and large articles.

No person shall carry or leave, or cause to be carried or left, upon the premises mentioned in § 120-2 of this article, any automobile, vehicle, machine, appliance or other article, or any part thereof, unless the same shall have been dismantled and the body thereof so cut and flattened out so as to permit the same to occupy a minimum of space.

§ 120-4. Restrictions on use.

No person shall carry or leave, or cause to be carried or left, upon the premises mentioned in § 120-2 of this article, any material, waste or offal of any kind which shall give off any offensive odor, either when left upon the premises or thereafter, or which creates or may thereafter create a nuisance of any kind, or which shall be or may become dangerous to human or animal life.

§ 120-5. Use by residents only.

No person not a resident of or conducting an established business in the Town of Glen, Montgomery County, New York, shall deposit any rubbish or garbage of any kind on the premises herein designated for that purpose.

§ 120-6. Manner of use.

No person shall deposit or cause to be deposited any substance of any kind on the dumping ground herein designated, except at the places and in the manner directed by the person in charge of the premises under authority of the Town Board, whether such direction is given personally, or by another person by his authority, or by a sign or signs erected upon the premises by his authority.

§ 120-7. Depositing garbage on public highways or places.

No person shall throw or deposit or cause to be thrown or deposited any garbage, rubbish or abandoned vehicles, or parts thereof, in or upon any public highway, street or place within said Town of Glen, Montgomery County, New York, excepting upon the dumping ground aforesaid pursuant to the regulations hereof.

§ 120-8. Penalties for offenses.

Any person violating any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof be punishable by a fine not exceeding \$25 for each offense or by imprisonment in the county jail, or by both such fine and imprisonment; and upon failure to pay any such fine, to be imprisoned in the county jail until such fine be paid, not to exceed one day for each dollar of the fine imposed.

§ 120-9. Revocation of privilege.

Any person, who or whose servants, agents, employees or officers shall be convicted of violation hereof, may thereafter be denied the use of such dumping ground either temporarily or permanently by the officer or employee in charge thereof or by resolution of the Town Board.

ARTICLE II
Dumps and Dumping
[Adopted 9-8-1988 by L.L. No. 1-1988]

§ 120-10. Intent.

The Town Board of the Town of Glen intends to regulate, control and prohibit the dumping, storing or placing of certain kinds of solid or liquid waste materials within the boundaries of the Town of Glen, and to preclude the creation of any private dump or dumping ground for such materials within the Town. This article is enacted by the Town Board of the Town of Glen pursuant to § 130, Subdivisions 6 and 15, of the Town Law of the State of New York.

§ 120-11. Definitions.

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

DUMP or DUMPING GROUNDS — Includes any place used for the disposal or leaving of solid or liquid waste material by the public or any person.

PERSON — Includes any individual, firm, corporation, municipality or association of individuals.

SOLID OR LIQUID WASTE MATERIAL — Includes all putrescible and nonputrescible solid wastes, including, but not limited to, garbage, rubbish, ashes, incinerator residue, street cleanings, demolition and construction debris, abandoned vehicles, offal, commercial, hospital and industrial wastes and hazardous and toxic wastes.

§ 120-12. Prohibited activities.

- A. The dumping, storing or placing of any kind of solid or liquid waste materials within the Town of Glen, which originates either within or outside the Town of Glen is prohibited.

- B. The creation, maintenance and/or operation at dumps or dumping grounds within the Town of Glen of solid or liquid waste materials other than by the Town of Glen is prohibited.

§ 120-13. Exceptions.

- A. Nothing herein contained shall be deemed to prohibit any person from disposing of rubbish, waste material and garbage on property upon which such rubbish, waste material and garbage is produced.
- B. Furthermore, the accumulation or placing of organic waste materials intended solely for agricultural or horticultural purposes shall be exempted from the provisions of this article.

§ 120-14. Penalties for offenses.

Any person violating any of the provisions of this article will be guilty of a misdemeanor and, upon conviction, be punished by a fine not to exceed \$1,000 for each offense, or by imprisonment in the county jail for not more than one year, or both. The Town Board may also bring a civil action to restrain any violation of this article in a court of competent jurisdiction. When a violation of this article is continuous, each 24 hours thereof will constitute a separate and distinct offense.

ARTICLE III
Waste Management Facilities
[Adopted 2-23-1998 by L.L. No. 1-1998]

§ 120-15. Title.

This article shall be known and may be cited as the "Waste Management Facilities Law of the Town of Glen."

§ 120-16. Findings.

The Town Board finds that environmental science is presently inadequate to satisfactorily evaluate and control pollution from solid and liquid waste disposal facilities such as landfills, ash fills, resource recovery or incineration facilities. Among other factors, the Board finds as follows:

- A. The inability of geological science to precisely ascertain the existence and flow of groundwater and to map subterranean geology makes it impossible to determine the extent to which solid and liquid waste disposal may, or may not be, contaminating water supplies.
- B. Moreover, the accumulated extent of hazardous waste disposal in solid and liquid waste disposal facilities cannot be measured or accurately determined because of state and

federal regulations permitting disposal of residential or small user quantities of hazardous wastes.

- C. The Town's need for solid and liquid waste disposal is being met.
- D. Future correction of pollution from solid or liquid waste management facilities, including sanitary landfills and incineration facilities may be very expensive or impossible to achieve.
- E. The Town's existing community character will be adversely and unalterably impacted by the location and operation of any solid or liquid waste management facilities within the Town.
- F. Substantial scientific opinion questions the environmental and health effects of both resource recovery facilities that incinerate or burn solid waste and of the handling and disposal of ash residue from such facilities, and the containment methods for liquid waste.
- G. Solid and liquid waste regulation under New York Environmental Conservation Law (ECL) is inadequate to relieve the foregoing concerns.

§ 120-17. Purpose.

The Town intends by this article to:

- A. Restrict the operation of solid waste management facilities within the Town of Glen in order to promote a clean, wholesome and attractive environment for the community.
- B. Ensure that accurate, current information about currently exempted solid waste disposal operations within the Town is available to public officials and citizens.
- C. Protect the residents of the Town from undesirable effects of solid waste disposal operation, including:
 - (1) Unaesthetic results, including odors, blowing litter, increased traffic, dust, and noise; and
 - (2) Deterioration in property values associated with an adjacent or proximate disposal operation that may interfere with the orderly development of properties; and
 - (3) Threats to public health or the environment by contamination of air, surface water or groundwaters.
- D. Exercise the Town's police powers under the Municipal Home Rule Law and §§ 130 and 136 of the Town Law for the physical and mental well-being and safety of its citizens and to restrict waste disposal operations within the Town that might otherwise be permitted under the Environmental Conservation Law. Section 27-0711 of the Environmental Conservation Law specifically recognizes and authorizes the right and authority of a Town to legislate stricter controls on solid waste management operation than state law requires.

§ 120-18. Applicability.

This article shall apply to all territory within the confines of the Town of Glen.

§ 120-19. Definitions.

A. Unless defined below or the context otherwise requires, the terms and words used in the article shall have the same meanings as those defined in Article 27 of the Environmental Conservation Law and Title 6, Parts 360 to 364 and 617, of the New York Codes, Rules and Regulations.

B. As used in this article, these terms and words shall be defined as follows:

6 NYCRR — Title 6 of the New York Codes, Rules and Regulations.

ASHFILL — Any landfill designed to accept ash, ash residue, bottom ash, combined ash or fly ash.

ASH or ASH RESIDUE — All the solid residue and any entrained liquids resulting from the combustion of solid waste at a solid waste incinerator, including bottom ash, boiler ash, fly ash and the solid residue of any air pollution control device used in a solid waste incinerator.

COMMERCIAL WASTE — Liquid or solid waste generated by stores, offices, warehouses and restaurants.

COMPOSTING — Aerobic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material used for fertilizing and conditioning land.

CONSTRUCTION and DEMOLITION DEBRIS — Uncontaminated, inert solid waste resulting from the construction, remodeling, repair and demolition of structures, and from road building and land clearing. Such waste includes, but is not limited to bricks, concrete, and other masonry materials, soil, rock, wood, wall coverings, plaster drywall, asphaltic pavement, glass, plastics that are not sealed in a manner that conceals other wastes, and metals that are incidental to any of the above.

CONTAINMENT POND or POOL — Any basin, tank, pond or pool for the disposal, storage, retention, procession treatment or other handling of liquid waste.

DEC — The New York State Department of Environmental Conservation.

DISPOSAL — The placement, distribution, storage, removal or transportation of solid wastes.

FACILITY — Any solid waste management facility.

HAZARDOUS WASTE — Waste meeting the definition set forth in 6 NYCRR Part 371.

HOUSEHOLD WASTE — Liquid or solid waste from residential sources.

INDUSTRIAL WASTE — Any liquid, gaseous, solid or waste substance or combination thereof resulting from any process of industry, manufacturing, trade or business. It shall include, but not be limited to, pesticides, lime, acids, chemicals, petroleum products, tar, and dye-stuffs.

LANDFILL or SANITARY LANDFILL — Any disposal area for solid waste in or upon the ground.

MANURE — Refuse of stables and barnyards consisting of livestock excreta with or without litter used for fertilizing land.

PERSON — Any individual, partnership, firm, association, business, industry, enterprise, public or private corporation, political subdivision of the state, government agency, municipality, estate, trust or any other legal entity whatsoever.

RECYCLING — The reuse of solid waste recovered from the solid waste stream into goods or materials suitable for reuse in original or changed form.

SEWAGE — The water carrying human or animal wastes from residences, buildings, industrial establishments or other places, together with such ground infiltration and surface water as may be present.

SOLID WASTE INCINERATOR — An incinerator at which household waste and nonhazardous industrial/commercial waste are combusted for energy.

SOLID WASTE MANAGEMENT FACILITY — Any facility employed beyond the initial solid or liquid waste collection process and managing solid or liquid waste including but not limited to: storage areas or facilities; transfer stations, rail-haul or barge-haul facilities; procession facilities; landfills; ashfills; disposal facilities; solid waste incinerators; resource recovery facilities; recycling facilities; and waste tire storage facilities; containment ponds or pools, sewage treatment plants and storage tanks or containers, or any other facility of any kind designated a solid waste management facility by the DEC.

SOLID WASTE or LIQUID WASTE — All putrescible and nonputrescible materials or substances that are discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection, including but not limited to liquids, garbage, refuse, industrial, commercial and household waste, sludge from air or water treatment facilities, rubbish, tires, ashes, contained gaseous material, incinerator ash and residue and construction and demolition debris. In addition:

- (1) A material is "discarded" if it is abandoned by being:
 - (a) Disposed of;
 - (b) Burned or incinerated, including being burned as a fuel for the purpose of recovering usable energy; or
 - (c) Accumulated, stored, or physically, chemically or biologically treated (other than burned or incinerated) instead of being disposed of.

- (2) A material is "disposed of" if it is discharged, deposited, injected, dumped, spilled, leaked or placed into or on any land or water.

SOUND AGRICULTURAL PRACTICES — Refers to those practices necessary for the on-farm production, preparation and marketing of agricultural commodities.

§ 120-20. Exemptions.

A. The following are not subject to this article:

- (1) Any disposal and storage of manure in farming operations following sound agricultural practices; but not including sewage sludge processing and spreading.
- (2) Operations or facilities which receive or collect only nonputrescible, nonhazardous solid waste and beneficially use or reuse or legitimately recycle or reclaim such waste. Such exempt facilities are limited to citizen recycling programs, Town recycling operations, composting, farming operations, Town highway operations and bona-fide salvage dealers.
- (3) Any sewage treatment facility, but not including any sewage sludge spreading facility.
- (4) Any bona fide solid waste management facility previously in existence on the effective date of this article shall remain exempt under the current terms and conditions of their operating permit.

B. None of the above exemptions shall be construed to permit any activity contrary to existing building codes or other laws or as exempting any other permit required by state or local law.

§ 120-21. Coordination with state law.

- A. All relevant sections of Article 27 of the Environmental Conservation Law and 6 NYCRR, Parts 360 to 364 and 617, are deemed to be included within and as part of this article, and any violation thereof shall be considered to constitute a violation of this article.
- B. The provisions of this article shall be interpreted in such manner as being consistent with state law, except that the more stringent requirements of this article shall apply.

§ 120-22. Operation of waste management facilities prohibited.

No solid waste management facility shall hereafter be constructed, allowed to commence operation or to continue operation within the Town of Glen.

§ 120-23. Penalties for offenses; enforcement.

- A. All violations of this article or any of its regulations or provisions shall be deemed Class A misdemeanors, punishable by a fine not exceeding \$5,000 or imprisonment not exceeding one year, or both. Each and every day that a violation of this article is permitted to exist shall constitute a separate offense.
- B. Any violation of this article or regulations or provisions thereof shall create a liability to the people of the Town for a civil penalty not to exceed \$5,000, to be after a hearing or opportunity to be heard, upon due-notice and with the right to specification of the charges and representation by counsel at such hearing. Each and every day that a violation of this article occurs or continues shall constitute violation for purposes of civil liability.
- C. Upon any violation of this article by any person, the Town shall be entitled to obtain an injunction against such persons prohibiting further violations and in addition, ordering that any solid or liquid waste disposed of in violation hereof be removed from the Town, and ordering that any land on which solid or liquid waste is disposed of in violation of this article be restored as nearly as possible to its former condition by the removal of any waste illegally disposed of by such other restorative measures as are available, and further ordering that the operator remedy any effects of violation of surrounding or adjacent properties or resources, including, without limitation, air, trees, crops, water bodies, wetlands and groundwater.

§ 120-24. Repealer; effect on other laws.

All other ordinances and local laws or parts thereof in conflict herewith are superseded by this article; provided, however, that the provisions of the article shall not be interpreted as obviating any requirements or restrictions wherever it is possible to conform to the provisions of both this article and any other law or ordinance.

Chapter 124

SUBDIVISION OF LAND

ARTICLE I

Title; Purpose; Applicability

- § 124-1. Enactment and authorization.
- § 124-2. Title.
- § 124-3. Purpose.
- § 124-4. Administration.
- § 124-5. Fees.
- § 124-6. Applicability and exemptions.

ARTICLE II

Definitions

- § 124-7. Definitions.

ARTICLE III

Review and Approval Procedure

- § 124-8. Purpose.
- § 124-9. Review procedure for minor subdivision.
- § 124-10. Review procedure for major subdivisions.
- § 124-11. Sketch plan conference.
- § 124-12. New York State Department of Health.
- § 124-13. Application for major subdivision preliminary plat approval.
- § 124-14. Public hearing for preliminary plat.
- § 124-15. Action on preliminary plat.
- § 124-16. Effect of preliminary plat approval.
- § 124-17. Application for final plat approval.
- § 124-18. Public hearing for final plat.

- § 124-19. Waiver of public hearing for final plat of major subdivision.

- § 124-20. Guarantees for required improvements.

- § 124-21. Action on final plat.

- § 124-22. Conditional approval of final plat.

- § 124-23. Filing of plats in sections.

- § 124-24. Recording of final plat.

- § 124-25. Compliance with State Environmental Quality Review Act.

ARTICLE IV

Documents to be Submitted

- § 124-26. Purpose.

- § 124-27. Information required for all plat submissions.

- § 124-28. Agricultural data statement.

- § 124-29. Minor subdivisions.

- § 124-30. Preliminary plat of major subdivision.

- § 124-31. Final plat of major subdivision.

- § 124-32. Waiver of subdivision requirements.

ARTICLE V

Design Standards and Required Improvements

- § 124-33. Purpose.

- § 124-34. General road standards.

- § 124-35. Road construction standards.

- § 124-36. Pedestrianways.

- § 124-37. Utilities.

- § 124-38. Water supply.
- § 124-39. Sewage disposal.
- § 124-40. Lot requirements.
- § 124-41. Unique and natural features.
- § 124-42. Reservation of parkland.
- § 124-43. Land unsuitable for subdivision.
- § 124-44. Cluster development.
- § 124-45. Waiver of standards.

- § 124-51. Inspections of improvements.
- § 124-52. Financial security options.
- § 124-53. Review of proposed financial security.
- § 124-54. Schedule of improvements.
- § 124-55. Staged refunding of financial guarantees.
- § 124-56. Acceptance of required public improvements.

**ARTICLE VI
Financial Guarantees for Public
Improvements**

**ARTICLE VII
General Provisions; Penalties**

- § 124-46. Purpose.
- § 124-47. Required public improvements.
- § 124-48. Extension of time limit.
- § 124-49. Time limit on installation of improvements.
- § 124-50. Phasing of improvements.

- § 124-57. Subdivision compliance.
- § 124-58. Penalties for offenses.
- § 124-59. Certification and filing with county.
- § 124-60. Amendments.
- § 124-61. Interpretation and conflict.

[HISTORY: Adopted by the Town Board of the Town of Glen 5-23-2001 by L.L. No. 2-2001. Amendments noted where applicable.]

**ARTICLE I
Title; Purpose; Applicability**

§ 124-1. Enactment and authorization.

Pursuant to the authority granted to the Town in Article 16, §§ 276 and 278, of the Town Law, the Town Board of the Town of Glen, by resolution dated March 13, 1995, authorizes and empowers the Planning Board of the Town of Glen to approve preliminary and final plats of subdivisions showing lots, blocks or sites, with or without streets or highways; to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of the County; and to approve cluster developments within that part of the Town of Glen outside the limits of any incorporated city or village.

§ 124-2. Title.

This regulation shall be known as "Town of Glen Subdivision Regulations."

§ 124-3. Purpose.

The purpose of these regulations is to provide for orderly efficient growth within the community, and to afford adequate facilities for the transportation, housing, comfort, convenience, safety, health and welfare of its population. The provisions in these regulations shall be administered to supplement and facilitate the provisions of the Town of Glen Comprehensive Plan.

§ 124-4. Administration.

These regulations shall be administered by the Town of Glen Planning Board.

§ 124-5. Fees.

Application filing, consulting, environmental quality review and inspection fees shall be set by the Town Board resolution.

§ 124-6. Applicability and exemptions.

Any subdivision of any parcel of land as defined in Article II of these regulations is subject to these regulations. The following exemptions to these regulations shall apply only if the land parcel undergoing subdivision has not been part of any subdivision during the past consecutive three-year period:

- A. A minor two-lot subdivision in which one lot is retained by the owner is exempt;
- B. A minor two-lot subdivision in which one lot contains an existing dwelling is exempt;
- C. A minor two-lot subdivision in which each of the two lots contain five acres or more is exempt.

**ARTICLE II
Definitions****§ 124-7. Definitions.**

Unless otherwise expressly stated, for the purpose of these regulations words and terms herein are defined as follows:

CLUSTER DEVELOPMENT — A planned development in which lots are platted with less than the minimum lot size and dimension requirements of land use regulations, if such exist, but which have access to common open space that is a part of the overall development plan approved by the Planning Board.

COMPREHENSIVE PLAN — A long range plan for the development of the Town.

CONDITIONAL APPROVAL OF FINAL PLAT — Approval of a final plat subject to conditions set forth by the Planning Board in a resolution conditionally approving such plat.

Conditional approval does not qualify a final plat for recording nor authorize issuance of building permits prior to final plat approval.

ENVIRONMENTAL ASSESSMENT FORM — A form used by the Planning Board in the State Environmental Quality Review process to assist in determining the environmental significance or nonsignificance of an action or project.

FINAL PLAT — A scale drawing, in final form and clearly marked “final plat,” showing a proposed subdivision containing all information or detail required by law and by these regulations to be presented to the Planning Board for approval, and which after final plat approval may be duly filed or recorded by the applicant in the office of the County Clerk.

FINAL PLAT APPROVAL — The signing of a final plat by a duly authorized officer of a Planning Board after a resolution granting final approval to the plat, or after conditions specified in a resolution granting conditional approval of the plat are completed. Such final approval qualifies the plat for recording in the office of the County Clerk.

LOT — A designated parcel, tract or area of land established by a plat or otherwise as permitted by law.

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.

PLANNING BOARD — The Town of Glen Planning Board.

PLAT — A scale drawing or drawings showing the layout of a proposed subdivision, including, but not restricted to, road and lot layout and dimensions, key plan, topography and drainage, and all proposed facilities.

PRELIMINARY PLAT — A scale 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.

RESUBDIVISION — The further division of lots, plots, sites, or other division of land or the relocation of lot lines of any lot within a subdivision previously made and approved or recorded according to law; or changes in the lines of existing streets, highways or public areas within any such subdivision; but not including conveyances made so as to combine existing lots by deed or other instrument.

REVERSE FRONTAGE LOT — Lots with the rear lot line abutting an existing or proposed street.

ROAD, MAJOR — A road intended to serve heavy flows of traffic from minor roads or as a business road providing access to business properties.

ROAD, MINOR — A road intended to serve primarily as an access to abutting residential properties.

SEQR — State Environmental Review Quality Act.

SKETCH PLAN — A scale 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 these regulations.

SUBDIVISION — The 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. The term “subdivision” shall include “resubdivision.”

SUBDIVISION, MAJOR — Any subdivision not classified as a minor subdivision, including, but not limited to, subdivisions of five or more lots, or any subdivision requiring any new street or extension of municipal facilities.

SUBDIVISION, MINOR — Any subdivision for single-family residential housing containing not more than four lots fronting on an existing street, not involving any new street or road or the extension of municipal facilities, not adversely affecting the development of the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of these regulations, or any master plan, official map, or land use regulations, if such exist.

UNDEVELOPED FLAT — A plat where 20% or more of the lots within the plat are unimproved unless existing conditions, such as poor drainage, have prevented their development.

ARTICLE III Review and Approval Procedure

§ 124-8. Purpose.

The purpose of this article is to establish the procedure for Planning Board review and action on applications for subdivisions. The procedure is intended to provide orderly and expeditious processing of such application.

§ 124-9. Review procedure for minor subdivision.

Minor subdivisions shall be processed in the following steps:

- A. Sketch plan conference. (Optional.)
- B. Application for final plat approval. Environmental assessment form must be completed and submitted with application.
- C. Planning Board review of final plat and environmental assessment form.
- D. Public hearing.
- E. Planning Board determination of environmental significance pursuant to SEQR.
- F. Planning Board action on final plat.

§ 124-10. Review procedure for major subdivisions.

Major subdivisions shall be processed in the following steps:

- A. Sketch plan conference. (Optional.)
- B. Application for final plat approval. Environmental assessment form must be completed and submitted with application.
- C. Planning Board review of environmental assessment form and preliminary plat.
- D. Planning Board determination of environmental significance pursuant to SEQR.
- E. Public hearing.
- F. Planning Board action on preliminary plat.
- G. Final plat submitted to Planning Board.
- H. Planning Board review.
- I. Public hearing. (Optional.)
- J. Planning Board action on final plat.

§ 124-11. Sketch plan conference.

The subdivider may request an appointment with the Planning Board for the purpose of reviewing a sketch plan. The Planning Board Clerk shall notify the subdivider of the time, date and the place that the Planning Board will meet to consider and review such sketch plan as it relates to the Comprehensive Plan, design standards and required improvements as defined in Article V of these regulations. 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. The plat will be classified as a minor or major subdivision by the Planning Board as defined by these regulations. Subdivisions classified as minor may proceed directly to preparation of a final plat without submission and approval of a preliminary plat. The sketch plan meeting does not require formal application, fee or filing with the Planning Board.

§ 124-12. New York State Department of Health.

New York State 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.

§ 124-13. Application for major subdivision preliminary plat approval.

All major subdivisions shall be subject to the preliminary plat requirements of these regulations. The subdivider shall file an application for approval of the preliminary plat on forms available from the Town Clerk accompanied by all documents specified in Article IV of these regulations. Such application shall be filed at least 10 days prior to the meeting at which

it is to be considered by the Planning Board. The application for approval of the preliminary plat shall not be considered complete until all fees and reimbursable costs have been deposited by the subdivider with the Town of Glen. In addition, a preliminary plat shall not be considered complete until a negative declaration or a notice of completion of the draft environmental impact statement has been filed in accordance with the provision of SEQR. The time periods for review of a preliminary plat shall begin upon filing of the negative declaration or the notice of completion.

§ 124-14. Public hearing for preliminary plat.

Following the review of the preliminary plat and supplementary material submitted for conformity to these regulations, and following negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by him/her, the Planning Board shall hold a public hearing. This hearing shall be held within 62 days after receipt of a complete preliminary plat by the Clerk of the Planning Board. The subdivider or a duly authorized representative shall attend the hearing. This hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five days before the hearing. The Planning Board may provide that the hearing be further advertised in such manner as it deems appropriate.

§ 124-15. Action on preliminary plat.

Within 62 days after the public hearing, the Planning Board shall approve, with or without modifications, or disapprove the preliminary plat and state its reasons for disapproval. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board. Within five days of approval of such preliminary plat it shall be certified by the Clerk of the Planning Board as having been granted preliminary approval, a copy filed in the Clerk's office, and a certified copy mailed to the subdivider.

§ 124-16. Effect of preliminary plat 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 these regulations and all requirements set forth by the Planning Board in their review of the preliminary plat, and any other State Health Department requirements.

§ 124-17. Application for final plat approval.

All major and minor subdivisions shall require final plat approval by the Planning Board. The subdivider shall file for final plat approval on forms available from the Town Clerk, and accompanied by documentation as specified in Article IV of these regulations, 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.

§ 124-18. Public hearing for final plat.

A public hearing shall 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 plat. The subdivider shall attend the hearing. The hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five days before the hearing.

§ 124-19. Waiver of public hearing for final plat of major subdivision.

The public hearing for major subdivisions may be waived by the Planning Board if the final plat is in substantial agreement with the preliminary plat.

§ 124-20. Guarantees for required improvements.

Prior to final plat approval, the subdivider shall construct all required infrastructure and improvements. As an alternative, a performance bond or other security sufficient to cover the full cost of same shall be furnished to the Town by the subdivider as provided in Article VI of these regulations.

§ 124-21. Action on final plat.

The Planning Board shall by resolution conditionally approve, with or without modifications; disapprove; or grant final approval to the final plat within 62 days after the public hearing. If the public hearing has been waived pursuant to § 124-19 above, the Planning Board shall act within 62 days after the official submission date. The time in which the Planning Board must take action on such plat may be extended by mutual consent of the subdivider and the Planning Board. The subdivider shall be notified of the final action of the Planning Board by mail within five days. If disapproved, the grounds for disapproval shall be stated in the record of the Planning Board, including reference to the provision violated by the plat.

§ 124-22. Conditional approval of final plat.

Upon conditional approval of such final plat the Planning Board shall empower a duly authorized officer to sign the plat and grant final approval upon completion of such requirements as may be stated in the conditional approval resolution. The plat shall be certified by the Planning Board Clerk. A certified statement of the requirements shall accompany the plat which, when completed, will authorize the signing of the conditionally approved final plat. Upon completion of the requirements, the plat shall be signed by said duly authorized officer of the Planning Board. Conditional approval of a final plat shall expire 180 days after the date of the resolution granting conditional approval. The Planning Board may, however, extend the expiration time not to exceed two additional periods of 90 days each.

§ 124-23. Filing of plats in sections.

Prior to granting conditional or final approval of a plat in final form, the Planning Board may permit the plat to be subdivided into two or more sections and may in its resolution granting conditional or final approval state that such requirements as it deems necessary to insure the orderly development of the plat be completed before such sections may be signed by the duly authorized officer of the Planning Board. Conditional or final approval of the sections of a final plat, subject to any conditions imposed by the Board, may be granted concurrently with conditional or final approval of the plat.

§ 124-24. Recording of final plat.

The subdivider shall record the final plat, or section thereof, in the Office of the Clerk of Montgomery County, New York within 60 days after the date of approval; otherwise the plat shall be considered void and must again be submitted to the Planning Board for approval before recording in the Office of the Clerk of Montgomery County, New York.

§ 124-25. Compliance with State Environmental Quality Review Act.

The Planning Board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in 6 NYCRR 617.

ARTICLE IV
Documents to be Submitted

§ 124-26. Purpose.

The documents to be submitted are intended to provide the approving authority (Planning Board) with sufficient information and data to assure compliance with all municipal codes and specifications and ensure that the proposed development meets the design and improvement standards contained in these regulations.

§ 124-27. Information required for all plat submissions.

- A. Name and address of subdivider and professional advisors who may appear in public with the subdivider or on the subdivider's behalf.
- B. Map of property, prepared and stamped by a licensed land surveyor in the State of New York, at a scale of one inch to 50 feet, one inch to 100 feet, or one inch to 200 feet, showing:
 - (1) Subdivision name, the tax map section, block and lot number(s), scale, north arrow, location map showing on a tax map, USGS map, or street map the general location of the plat, and date.
 - (2) Subdivision boundaries.

- (3) Contiguous properties and names of owners.
 - (4) Existing and proposed roads, sidewalks, utilities, structures and drainage systems.
 - (5) Watercourses, marshes, wooded areas, public facilities and other significant physical features on or near the site.
 - (6) Proposed layout of lots, including lot widths and depths, road layout, open space, drainage, water supply, and sewage disposal facilities.
 - (7) Land contours at ten-foot intervals, or other suitable indicators of slope.
 - (8) Proposed alterations of existing topography.
- C. Copy of tax map(s).
- D. Existing restrictions on the use of land, including easements, covenants and land use regulations.
- E. Total acreage of subdivision and number of lots proposed.
- F. Environmental assessment form.

§ 124-28. Agricultural data statement.

An application for subdivision approval that would occur on property within an agricultural district 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. In addition to the information required in § 124-27, an agricultural data statement shall include the following:

- A. The 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; and
- B. A tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

§ 124-29. Minor subdivisions.

The following shall be submitted with all applications of a final plat for a minor subdivision:

- A. One copy of the plat to be submitted to the County Clerk, drawn with ink on Mylar or other material that is acceptable for filing, plus three paper copies.
- B. All information specified under §§ 124-27 and 124-28, updated and accurate.
- C. Data acceptable to the Planning Board to readily determine the location, bearing and length of every road line, lot line and boundary line, sufficient to allow for the reproduction of such lines on the ground.

- D. A statement that all on-site sanitation and water supply facilities shall be designed to meet the specifications of the State Department of Health, and a note attesting to this shall be stated on the plat and signed by a licensed engineer. All sanitary facilities shall be shown on the plat.
- E. A copy of any covenants or deed restrictions that are intended to cover all or part of the tract.
- F. Any additional information which is deemed necessary by the Planning Board.
- G. Any required fees.

§ 124-30. Preliminary plat of major subdivision.

The following shall be submitted with all applications for approval of a preliminary plat for a major subdivision:

- A. Three copies of the plat plan, drawn to scale. The map scale shall be one inch to 100 feet unless otherwise specified by the Planning Board.
- B. All information specified under §§ 124-27 and 124-28, updated and accurate.
- C. All parcels of land proposed to be dedicated to public use and the conditions of such use.
- D. Grading, erosion control and landscaping plans.
- E. 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.
- F. The approximate location and size of all proposed water lines, hydrants and sewer lines, showing connection to existing lines.
- G. Drainage plan, indicating profiles of lines or ditches and drainage easements on adjoining properties.
- H. Plans and cross-sections showing sidewalks, road lighting, roadside trees, curbs, water mains, sanitary sewers and storm drains; the character, width and depths of pavements and subbase; and the location of any underground cables.
- I. Preliminary designs for any bridges or culverts.
- J. The proposed lot lines with approximate dimensions and area of each lot.
- K. An actual field survey of the boundary lines of the tract, giving complete description by 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 used in the surveying industry and shown on the plat.
- L. A copy of all covenants or deed restrictions intended to cover all or part of the tract.

- M. Where the preliminary plat submitted covers only a part of the subdivider's entire holding, a sketch of the prospective future road and drainage system of the unsubdivided portion.
- N. Any additional information as deemed necessary by the Planning Board.
- O. Any required fees.

§ 124-31. Final plat of major subdivision.

The following shall be submitted with all applications for approval of a final plat for a major subdivision:

- A. One copy of the plat to be submitted to the County Clerk, drawn with ink on Mylar or other material that is acceptable for filing, and clearly marked "Final Plat," plus three paper copies. The map scale shall be one inch to 100 feet unless otherwise specified by the Planning Board.
- B. Proposed subdivision name and the name of the Town and county; the name and address of record owner and subdivider; the name, address, license number and seal of the licensed land surveyor.
- C. Road lines, pedestrianways, lots, easements and areas to be dedicated to public use.
- D. Data acceptable to the Planning Board to readily determine the location, bearing and length of every road line, lot line, and boundary line, sufficient to allow for the reproduction of such lines on the ground.
- E. The length and bearing of all straight lines, radii, length of curves and central angles of all curves. Tangent bearings shall be given for each road. All dimensions of the lines of each lot shall also be given. The plat shall show the boundaries of the property, locations, graphic scale and true north point.
- F. All offers of cession and any covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
- G. Permanent reference monuments shall be shown at block corners and other points selected by the Planning Board.
- H. Approval of the State Health Department of water supply systems and sewage disposal systems proposed or installed.
- I. Construction drawings, including plans, profiles and typical cross-sections, as required, showing the proposed location, size and type of road, sidewalks, road lighting standards, roadside trees, curbs, water mains, sanitary sewer or septic systems, storm drains or ditches, pavements, subbase and other facilities.
- J. Evidence of legal ownership of property.
- K. Existing and proposed deed restrictions, in form for recording.

- L. Any other data such as certificates, affidavits, endorsements or other agreements as may be required by the Planning Board.

§ 124-32. Waiver of subdivision requirements.

The Planning Board may waive, when reasonable, any requirements for the approval, approval with modifications or disapproval of subdivisions submitted for its approval. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety and general welfare. The reason for such waiver shall be indicated in the minutes of the Planning Board.

ARTICLE V

Design Standards and Required Improvements

§ 124-33. Purpose.

The purpose of a good subdivision is to create a functional and attractive development, to minimize adverse impacts and to ensure a project will be an asset to the community. To promote this purpose, the subdivision shall conform to the following standards which are designed to result in a well-planned community without adding unnecessarily to development costs. The overall character and design of the subdivision shall be in conformance with the Town of Glen Comprehensive Plan.

§ 124-34. General road standards.

- A. The arrangement, width, location and extent of all proposed roads shall conform to and be in harmony with the Comprehensive Plan and Official Map of the Town as they may exist or shall conform to the recommendation of the Planning Board based on existing and planned roads, topography, public safety, convenience and proposed uses of the land.
- B. Marginal access roads may be required parallel to major highway rights-of-way. Marginal access roads shall be separated from major highways by a distance which allows for an appropriate use of the intervening land. Such distance shall also be determined with regard for requirements of approach grades and future grade separation.
- C. Reverse frontage lots may be required along major highway rights-of-way. Screen planting contained in a nonaccess reservation along the rear property line may be required or such other treatment as may be necessary for adequate protection of residential properties.
- D. Stub roads providing access to parcels adjacent to the subdivision may be required. Turnarounds may not be required for stub roads which do not provide access to dwellings within the subdivision.
- E. Roads shall intersect at right angles where possible. Roads shall not intersect at angles of less than 60°. Right-of-way lines at right-angled intersections shall be rounded by curves

of at least 20 feet in radius. All other intersections shall be rounded by curves suitable to the Planning Board.

- F. Road offsets with center line offsets of less than 125 feet shall be avoided.
- G. Dead-end road shall not exceed 800 feet in length or 20 dwelling units and shall be provided with a turnaround suitable for snow plowing and the turning of school buses and emergency vehicles.
- H. New road names shall not duplicate the names of existing platted roads. Extensions of existing roads shall bear the name of the extended road. Signs bearing road names shall be erected by the subdivider at all intersections consistent with specifications for existing signage.
- I. House numbers shall be consistent with the numbering system currently in effect.
- J. Roadside vegetation shall not be planted in such way as to impair snow removal and safe driver visibility at intersections.
- K. The Town Highway Superintendent and District Fire Chief shall be consulted by the Planning Board for an advisory opinion prior to the approval of any plan containing a new road or any plat containing lots whose only existing or proposed access to a public road is by easement or right-of-way.
- L. Road design standards are as follows:
 - (1) Minimum width right-of-way:
 - (a) Minor roads: 50 feet.
 - (b) Major roads: 60 feet.
 - (2) Minimum width of pavement:
 - (a) Minor roads: 18 feet.
 - (b) Major roads: 24 feet.
 - (3) Minimum width of shoulders: four feet.
 - (4) Minimum radius of horizontal curves:
 - (a) Minor roads: 150 feet except for road intersection corners.
 - (b) Major roads: 400 feet.
 - (5) Minimum length of vertical curves:
 - (a) Minor roads: shall be such that at least a one-hundred-foot line of sight exists measured three feet above the road surface.
 - (b) Major roads: 200 feet.
 - (6) Minimum length of tangents between reverse curves:

- (a) Minor roads: 100 feet, except where excessive grades may be reduced to reasonable grades by shortening the tangent.
 - (b) Major roads: 200 feet.
 - (7) Maximum grade:
 - (a) Minor roads: 10% or 14% on short runs.
 - (b) Major roads: 6% to 8%.
 - (8) Minimum grade: 1%.
 - (9) Minimum braking sight distance:
 - (a) Minor roads: 200 feet.
 - (b) Major roads: 300 feet.
- M. The Planning Board may reduce standards for road width if warranted based on the size of the subdivision and anticipated traffic levels.

§ 124-35. Road construction standards.

- A. Road improvements shall be installed by the subdivider.
- B. Road shall be built as follows:
 - (1) Remove topsoil a minimum of six inches prior to the laying of base material.
 - (2) Subgrade.
 - (a) Subgrade shall be rough graded the full width of the road right-of-way. The subbase shall consist of a suitable gravel and stone material approved by the Town Highway Superintendent and compacted the full width of the road right-of-way to a depth of 12 inches.
 - (3) Base course.
 - (a) Base course of gravel should be minimum of eight inches with a maximum size stone of four inches.
 - (b) Top course of gravel a minimum of four inches with maximum size stone of two inches.
 - (4) Bituminous asphalt concrete.
 - (a) Base should be a minimum of three inches compacted depth.
 - (b) Top coat to have a minimum of two inches compacted depth.
- C. All slopes shall be graded and seeded.

- D. Culs-de-sac are required on dead-end roadways with a sufficient turning radius for school buses and emergency vehicles.
- E. The Planning Board may reduce standards for roadway surface based on the size of the subdivision and anticipated traffic levels.

§ 124-36. Pedestrianways.

- A. In order to facilitate safe and convenient pedestrian access from roads to schools, parks, play areas or nearby roads, perpetual unobstructed easements of at least 20 feet in width may be required.
- B. In areas of heavy vehicular or pedestrian traffic, sidewalks may be required.
- C. All required sidewalks shall be installed at the expense of the subdivider, and shall conform to the specifications of the Planning Board.
- D. All required sidewalks shall be of concrete or of a material approved by the Planning Board, and shall have a minimum of four feet in residential areas and five feet in commercial and industrial areas. Sidewalks shall also have a minimum depth of four inches, with sidewalks in driveway crossings having a minimum depth of six inches.

§ 124-37. Utilities.

Public utility improvements may be required and shall be installed as follows:

- A. Fire protection. The Planning Board may require the provision of a supply of water for fire fighting purposes consisting of dry hydrants and a water source. This supply may be provided through fire hydrants connected to a community water supply system or by means of fire ponds. The design, location, and capacity of fire ponds and hydrants shall conform to standards and specifications of the National Fire Protection Association and be acceptable to the Chief of the Fire Department in whose district the subdivision is located. Hydrants to be of size, type and location specified by the Insurance Services Organization.
- B. Streetlighting: poles, brackets and lights to be of size, type and location approved by the local power company.
- C. Electricity: power lines shall be placed underground and shall conform to Public Service Commission Standards.
- D. Utility services: shall be located from six to eight feet from the front property line to the center line of the utility service, between the sidewalk and curblin. All telephone and other service lines and cable shall be placed underground.

§ 124-38. Water supply.

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. The subdivider shall connect each lot at the property line with the public water supply. If no water supply is required, individual on-site wells shall be designed to meet the specifications of the New York State Department of Health.

§ 124-39. Sewage disposal.

- A. If, in the opinion of the Planning Board, a subdivision can be reasonably served by the extension of a public sanitary sewer or by a neighborhood system, the subdivider shall provide sanitary sewers and laterals for each lot for such service. Where public or neighborhood sanitary sewers are not feasible, the subdivider shall provide and install an individual system for each lot or a sewage treatment facility adequate for all proposed development within the subdivision, in accordance with state and local requirements.
- B. In case the subdivider sells lots, rather than lots improved with houses, it shall be the responsibility of the subdivider to obtain approval of the proposed sewage disposal systems. The installation of the approved individual sewage disposal facilities shall be the responsibility of the purchasers.
- C. In order to determine that the proposed lots are large enough to accommodate future improvements, subdivision plats shall indicate the location of septic tank, leach field, water well, and residence for each proposed lot. The size of the leach field will be based on percolation test results pursuant to State Health Department standards.

§ 124-40. Lot requirements.

- A. Each lot shall directly abut public or approved private road, as required by Town Law § 280-a. This abutment shall include at least 15 feet of road frontage suitable for access by emergency vehicles. Easements may be considered for access. A private road constructed to the standards of § 124-35 of these regulations may be required.
- B. Corner lots shall have sufficient width to allow building setbacks from and orientation to all abutting roads.
- C. All lot dimensions and areas shall conform to the Town of Glen's land use regulations, if such exist.
- D. Each lot shall have a buildable area, free from development restrictions such as wetlands, floodplains, steep slopes, rock outcrops and unbuildable soils.
- E. Where a community sewage disposal system is not required, each lot shall have sufficient area so as to make adequate provision for septic absorption fields or seepage pit systems as required by the New York State Uniform Fire Prevention and Building Code. A percolation test shall be required for each lot. Each lot shall be of sufficient size to accommodate on-site sewage disposal system and well pursuant to the New York State Department standards.
- F. One or more off-street parking areas may be required at the base of a steep driveway to facilitate parking in inclement weather.

§ 124-41. Unique and natural features.

- A. Unique physical features, such as historical landmarks and sites, rock outcrops, desirable natural contours and similar features, shall be preserved where possible.
- B. All surfaces shall be graded and restored, leaving no unnatural mounds or depressions.
- C. Topsoil moved during construction shall be returned and stabilized by seeding and planting. An erosion control plan may be required to prevent soil erosion and sedimentation of surface waters during construction. Erosion control measures shall conform to the guidelines available from the Montgomery County Soil and Water Conservation District.
- D. The removal or damage of existing trees and shrubs shall be minimized.

§ 124-42. Reservation of parkland.

- A. Before the Planning Board approves a subdivision plat containing residential units, such subdivision plat shall show, when required by the Planning Board, a park or parks suitably located for a playground or other recreational purposes.
- B. Land for park, playground or other recreational purposes may not be required until the Planning Board has made a finding that a proper case exists for requiring such parkland. Findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the Town based upon projected population growth to which the particular subdivision will contribute.
- C. If the Planning Board makes a finding that the proposed subdivision presents a proper case for requiring a park, but that a suitable park or parks of adequate size cannot be located on the subdivision plat, the Planning Board may require a sum of money in lieu thereof in an amount to be established by the Town Board.
- D. Any monies required by the Planning Board in lieu of land for park, parks, playground or other recreational purposes pursuant to this section shall be deposited into a trust fund to be used by the Town exclusively for park, parks, playground or other recreational purposes, including the acquisition of property.

§ 124-43. Land unsuitable for subdivision.

As a safety measure for the protection of the health and welfare of the people of the Town, that portion of a proposed lot which is found to be unsuitable for subdivisions due to harmful features (e.g., drainage problems), shall not be included in the subdivision until adequate methods to mitigate adverse impacts are formulated by the subdivider and approved by the Planning Board.

§ 124-44. Cluster development.

The purpose of this section is to enable and encourage flexibility of design and development of land in such manner as to promote the most appropriate use of land, to facilitate the

adequate and economical provision of streets and utilities, and to preserve the natural and scenic qualities of open lands.

A. Modification of land use regulations. The Planning Board may modify the provisions of land use regulations, if such exist, simultaneously with the approval of a subdivision plat, to permit the development of cluster subdivisions. Subdivision plats for cluster developments shall be approved in the same manner and subject to the same procedural requirements as any other subdivision plat.

- (1) The subdivider desiring this modification shall present a sketch plan to the Planning Board consistent with all the criteria established by these regulations and land use regulations, if such exist. Before modifying these requirements, the Planning Board shall find that such modifications would be consistent with the purpose of these regulations and beneficial to the interests of the Town and the neighborhood in which the subdivision is located.
- (2) The Planning Board, in reviewing any plat for which modifications are not requested, may determine that the proposed subdivision should be considered as a cluster development pursuant to the design standards and required improvements of these regulations.
- (3) The application of this procedure shall result in no more than the number of lots or dwelling units which, in the Planning Board's judgement, could be permitted if the land were subdivided in the conformance with the design standards of these subdivision regulations and with Town of Glen's land use regulations, if such exist.

B. Cluster developments.

(1) Cluster developments shall result in lands made available for open space. Such land shall be clearly identified and shall be labeled on the subdivision plat and shall be subject to the following requirements for dedications, ownership or maintenance:

(a) Dedications.

[1] Any land dedicated for open land space purposes shall be used only for park, recreation, conservation or selective timbering and agricultural purposes. Such land shall be encumbered by appropriate covenants or conservation easements approved by the Planning Board ensuring that the open space can not be further subdivided; the use of the open space will continue in perpetuity for the stated purpose; and appropriate provisions will be made for maintenance.

[2] Any land dedication for purposes of this section shall be recorded in the County Clerk's office. Such land shall be clearly identified on a final plat. Such identification shall note use, ownership, and management as well as other liber and page of relevant filings with the County Clerk's office.

(b) Ownership. The ownership of land dedicated for park, recreation, or open space use shall be determined by the property owner or applicant subject to approval by the Planning Board. Ownership shall be with one of the following:

- [1] The Town;
- [2] Another public jurisdiction or agency subject to their acceptance;
- [3] A private, nonprofit organization incorporated with a purpose consistent with the use and management requirements of the dedicated land;
- [4] Shared, common interest by all property owners in a subdivision;
- [5] A homeowner, condominium, or cooperative associations or organizations; or
- [6] Private ownership encumbered by a conservation easement pursuant to § 247 of the General Municipal Law or §§ 49-0301 through 49-0311 of the Environmental Conservation Law.

(c) Maintenance.

- [1] The person or entity having the right of ownership shall be responsible for its proper maintenance or continued upkeep. Where a homeowner, condominium or cooperative association or organization fails to properly maintain any required open space, the Town shall be authorized to enter and repair or maintain such areas and assess such owners for the cost thereof. For the purpose of this subsection, "proper maintenance" may include the removal of brush and weeds, snow removal, mowing of grass, removal of waste, refuse or garbage, or maintenance of workable drainage facilities.
 - [2] In the case of a residential plat, the dwelling units may be, at the discretion of the Planning Board, in detached, semidetached, attached or multistory structures.
- (2) The provisions of this section shall not be deemed to authorize a change in the permissible use of land as provided in the land use regulations, if they exist.

appropriate note or reference thereto on the Town Land Use Map, if such exists.

§ 124-45. Waiver of standards.

The Planning Board may waive, subject to appropriate conditions, the provision of any or all of such improvements as in its judgement of the special circumstances of a particular plat or plats are not required in the interest of the public health, safety and general welfare, or which in its judgement are inappropriate because of inadequacy or lack on infrastructure adjacent or in proximity to the subdivision.

ARTICLE VI
Financial Guarantees for Public Improvements

§ 124-46. Purpose.

Improvement guarantees shall be provided to ensure the proper installation and maintenance of required street, utility and other improvements. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the developer.

§ 124-47. Required public improvements.

If required by the Planning Board pursuant to § 124-20 of these regulations, applicants for subdivision plat approvals shall provide the Town with acceptable financial security in an amount sufficient to guarantee the installation of basic public improvements. Such public improvements may include public water supply, sewage disposal systems, storm drains and sewers, roads, pavement markings and traffic signs, signals and sidewalks and other public improvements.

§ 124-48. Extension of time limit.

The applicant may request an extension of time to perform required public improvements provided reasonable cause can be shown for the inability to construct and install said improvements within the required time. Such extension of time shall not exceed six months.

§ 124-49. Time limit on installation of improvements.

The construction or installation of any improvements or facilities, other than roads, for which a financial guarantee has been made pursuant to this article shall be completed with one year from the date of approval of the subdivision plat or special use. Road improvements shall be made within two years from the date of approval of the subdivision plat. At the end of such time, if the required public improvements are not completed by the Town, the Town may use as much of the financial security required by this article to construct and install, maintain or perfect the improvements as necessary to meet all applicable state and local laws, ordinances, rules and regulations.

§ 124-50. Phasing of improvements.

The applicant may request a phasing of required improvements provided reasonable cause can be shown that is directly part of the documenting phasing schedule for a subdivision reviewed by the Planning Board.

§ 124-51. Inspections of improvements.

At least five days prior to commencing construction of required public improvements, the applicant shall pay to the Town Clerk the inspection fee required by the municipality and shall notify the Town Board or an official designated by the Town Board, in writing, of the time when the construction of such improvements will be commenced so that the Town Board

may cause inspections to be made to assure that all applicable specifications and requirements shall be met in the construction of such improvements and to assure the satisfactory completion of public improvements required by the Planning Board.

§ 124-52. Financial security options.

Acceptable financial security shall be provided to the Town in one of the following ways:

- A. The applicant shall furnish a bond executed by a surety company in an amount equal to the cost of construction of the public improvements required by the Planning Board pursuant to these regulations;
- B. The applicant shall present to the Town Clerk a certified check in an amount equal to the cost of construction of the public improvements required by the Planning Board pursuant to these regulations;
- C. The applicant shall present to the Town Clerk an irrevocable letter of credit drawn in favor of the Town in an amount equal to the cost of construction of the public improvements required by the Planning Board pursuant to these regulations.

§ 124-53. Review of proposed financial security.

All required public improvements shall be shown on the subdivision plat and the total amount of the required financial security shall be based thereon. Such estimates shall be certified by a licensed professional engineer and shall be reviewed by the Town Board for financial adequacy as a guarantee of construction and of reasonable performance during a warranty period. The Town Board and the Town Attorney shall jointly review the guarantee agreement for sufficiency of form and execution and for the soundness of the financial guarantee offered by the applicant.

§ 124-54. Schedule of improvements.

When a guarantee agreement has been approved by the Town Board and the required surety bond, certified check, or letter of credit has been received by the Town Clerk, the Town and the applicant shall enter into a written agreement itemizing the required public improvements, establishing a schedule for the construction and installation of such improvement, and itemizing the cost of construction and installation for each improvement. Whenever feasible, costs shall be organized by logical phases of work completion in order to facilitate the partial release of funds held as a financial guarantee by the municipality to the applicant as work is satisfactorily completed.

§ 124-55. Staged refunding of financial guarantees.

At such times as the applicant wishes to have guarantee funds released in consideration of work performed and accepted, the applicant shall cause to be prepared an accurate statement of the work performed and accepted as of a date certain. This statement shall use the same item structure as was employed in the written agreement itemizing the required public

improvements. The applicant, after preparing such statement, shall submit it for review, approval and signature by an engineer acting on behalf of the Town, by the appropriate Municipal inspectors and by the Town fiscal officer. If the statement is approved by the Town fiscal officer, the statement shall be forwarded promptly to the Town Clerk, together with a recommendation that the amount approved on said statement be released from the financial guarantee provided by the applicant. Where the financial guarantee provided by the applicant makes staged refunding possible, the Town Clerk will then direct, in writing, to the surety company or financial institution having custody of the guarantee funds to release the approved amount of those funds to the applicant.

§ 124-56. Acceptance of required public improvements.

When the project inspector, following final inspection of the project, certifies to the Planning Board and the Town Board that all required public improvements have been completed in accordance with all applicable requirements, the Town Board may act by resolution to accept the public improvements.

ARTICLE VII
General Provisions; Penalties

§ 124-57. Subdivision compliance.

No permit or certificate of occupancy shall be issued by the Code Enforcement Officer, except upon the authorization by and in conformity with an approved subdivision where required.

§ 124-58. Penalties for offenses.

Any person, firm or corporation who commits an offense against, neglects or refuse to comply with or resist the enforcement of any of the provisions of these regulations, upon conviction, be deemed guilty of a violation, punishable by a fine of not more than \$350, or by imprisonment not exceeding 20 days, or by both such fine and imprisonment. Each week an offense is continued shall be deemed a separate violation of these regulations.

§ 124-59. Certification and filing with county.

Upon adoption, the Town Clerk is hereby directed to file a certified copy of these regulations with the Clerk of Montgomery County.

§ 124-60. Amendments.

The Town Board may, on its own, on petition or on recommendation of the Planning Board, after public notice and hearing, amend these regulations pursuant to all applicable requirements of law.

§ 124-61. Interpretation and conflict.

- A. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements. More stringent provisions may be required if it is demonstrated that different standards are necessary to promote the public health, safety and welfare.
- B. Where conditions imposed by any provisions of these regulations are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of these regulations or any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

Chapter 129

TAXATION

ARTICLE I Senior Citizens Exemption

- § 129-1. Purpose.
- § 129-2. Exemption granted; conditions.

ARTICLE II Veterans Exemption

- § 129-3. Authority; exemption granted.
- § 129-4. Repealer.

ARTICLE III Economic Development Zone Exemption

- § 129-5. Title.
- § 129-6. Purpose.

- § 129-7. Authorization.
- § 129-8. Exemption scale.
- § 129-9. Base amount of exemption.
- § 129-10. Filing of application.
- § 129-11. Granting of exemption.
- § 129-12. Termination of designation of economic development zone.

ARTICLE IV Elimination of Permissive Tax Exemptions

- § 129-13. Elimination of exemptions.

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

GENERAL REFERENCES

Assessors and Board of Assessment Review — See Ch. 5.

ARTICLE I Senior Citizens Exemption [Adopted 2-9-1967]

§ 129-1. Purpose.

The purpose of this article is to grant 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 over meeting the requirements set forth in § 467 of the Real Property Tax Law.

§ 129-2. Exemption granted; conditions.

Real property owned by persons 65 years of age or over shall be exempt from Town taxes to the extent of 50% of the assessed valuation subject to the following conditions:

- A. The owner or all of the owners must file an application annually in the Assessor's office at least 90 days before the day for filing the final assessment roll or such other time as may hereafter be fixed by law.
- B. The income of the owner or the combined income of the owners must not exceed \$17,500 for the 12 consecutive months prior to the date that the application is filed. Percentage of exemption is decided according to the following scale. **[Amended 1-9-1975; 3-1-1979; 10-12-1989; 6-11-2001]**

Aged Exemption Sliding Scale

If senior's income is:	Exemption is:
Up to and including \$10,000	50%
\$10,000.01 to \$11,000	45%
\$11,000.01 to \$12,000	40%
\$12,000.01 to \$13,000	35%
\$13,000.01 to \$13,900	30%
\$13,900.01 to \$14,800	25%
\$14,800.01 to \$15,700	20%
\$15,700.01 to \$16,600	15%
\$15,600.01 to \$17,500	10%

- C. Title to the property must be vested in the owners, or if more than one, in all the owners for at least 60 consecutive months prior to the date that the application is filed.
- D. The property must be used exclusively for residential purposes, be occupied in whole or in part by the owners, and constitute the legal residence of the owners.

**ARTICLE II
Veterans Exemption
[Adopted 7-13-1989 by L.L. No. 2-1989]**

§ 129-3. Authority; exemption granted.

Pursuant to the authority of § 458-a of the Real Property Tax Law, the amount of exemption provided by paragraphs (a), (b) and (c) of Subdivision 2 of said section is hereby set as follows: (a) \$12,000; (b) \$8,000 and (c) \$40,000.

§ 129-4. Repealer.

Local Law No. 1 of the year 1985 of the Town of Glen, adopted January 10, 1985, entitled "Reduction of Veteran's Exemption Law," is hereby repealed.

ARTICLE III
Economic Development Zone Exemption
[Adopted 9-13-1999 by L.L. No. 1-1999]

§ 129-5. Title.

This article shall be known as the "Economic Development Zone Tax Exemption Law."

§ 129-6. Purpose.

The purpose of this article is to allow the Town of Glen to grant the real property tax exemption for real property constructed, altered, installed or improved in an economic development zone in the Town of Glen pursuant to § 485-e of the Real Property Tax Law.

§ 129-7. Authorization.

The Town of Glen is hereby authorized to grant the real property tax exemption as authorized by § 485-e of the Real Property Tax Law designated pursuant to Article 18-B of the General Municipal Law as follows.

§ 129-8. Exemption scale.

Real property constructed, altered, installed or improved in an area designated an economic development zone pursuant to Article 18-B of the General Municipal Law shall be exempt from taxation and special ad valorem levies by the Town of Glen for the period and to the extent herein provided.

- A. For exemptions commencing in the first seven years from the date on which the economic development zone was designated, the amount of such exemption in any of these years shall be 100% of the base amount determined pursuant to § 129-9 of this article. In the eighth, ninth and 10th years, the amount of the exemption shall be 75%, 50% and 25%, respectively, of such base amount.
- B. For exemptions commencing in the eighth, ninth and 10th years from the date on which the economic development zone was designated, the amount of such exemption shall be 75%, 50% and 25%, respectively, of the base amount, determined pursuant to § 129-9 of this article.

§ 129-9. Base amount of exemption.

- A. The base amount of the exemption shall be the extent of the increase in assessed value attributable to such construction, alteration, installation or improvement as determined in the initial year for which application for exemption is made pursuant to this article. The base amount shall remain constant for the authorized term of the exemption, subject to the following:
 - (1) If there is subsequent construction, alteration, installation or improvement during the term of the exemption, the base amount shall be revised to include the increase

in assessed value attributable to such construction, alteration, installation or improvement.

- (2) If a change in level of assessment of 15% or more is certified for an assessment roll pursuant to the rules of the State Board, the base amount shall be adjusted by such change in level of assessment. The exemption on that assessment roll shall thereupon be recomputed, notwithstanding the fact that the Assessor receives the certification after the completion, verification and filing of the final assessment roll. In the event the Assessor does not have custody of the roll when such certification is received, the Assessor shall certify the recomputed exemption to the local officers having custody and control of the roll, and such local officers are hereby directed and authorized to enter the recomputed exemption certified by the Assessor on the roll.
- B. No such exemption shall be granted unless, pursuant to Article 18-B of the General Municipal Law:
- (1) Notice of the designation of the economic development zone has been filed with the Town Clerk of the Town of Glen by the commissioner on or before the applicable taxable status date;
 - (2) The construction, alteration, installation or improvement commenced on or after the date the economic development zone was designated; and
 - (3) The designation of the economic development zone has not ended and has not been terminated by the commissioner on or before the applicable taxable status date.
- C. For purposes of this article the terms "construction," "alteration," "installation" and "improvement" shall not include ordinary maintenance and repairs.
- D. No such exemption shall be granted concurrent with or subsequent to any other real property tax exemption granted to the same improvements to real property, except, where during the period of such previous exemption, payments in lieu of taxes or other payments were made to the Town of Glen in an amount that would have been equal to or greater than the amount of real property taxes that would have been paid on such improvements had such property been granted an exemption pursuant to this article. In such case an exemption shall be granted for a number of years equal to the ten-year exemption granted pursuant to this article less the number of years the property would have been previously exempt from real property taxes.

§ 129-10. Filing of application.

Such exemption shall be granted only upon application by the owner of such real property on a form prescribed by the State Board. The original of such application shall be filed with the Assessor of the Town of Glen. Such original application shall be filed on or before the appropriate taxable status date of such assessing unit and no later than one year from the date of completion of such construction, alteration, installation or improvement.

§ 129-11. Granting of exemption.

If the Assessor receives the notice described in § 129-9B of this article and an application by the owner of the real property, he shall approve the application and such real property shall thereafter be exempt from taxation as herein provided commencing with the assessment roll prepared after the taxable status date referred to in § 129-10 of this article. The assessed value of any exemption granted pursuant to this article shall be entered by the Assessor on the assessment roll with the taxable property, with the amount of the exemption entered in a separate column.

§ 129-12. Termination of designation of economic development zone.

Exemptions existing prior in time to the termination of the designation of an economic development zone by the commissioner, or, prior in time to the expiration of such designation, shall continue as if the designation of the economic development zone had not been terminated, or, if applicable, had not expired; provided, however, that any further increase in the value attributable to construction, alteration, installation or improvement commenced subsequent to the date of termination, or, if applicable, the date of expiration, shall not be eligible for exemption pursuant to this article.

ARTICLE IV**Elimination of Permissive Tax Exemptions****[Adopted 4-12-1999]****§ 129-13. Elimination of exemptions.**

The permissive tax exemptions enumerated by § 420-b of the Real Property Tax Law are hereby eliminated, and that all such property owned by all owners shall be hereafter taxable for all purposes.

Chapter A145

WATER DISTRICT REGULATIONS

§ A145-1. Definitions.

§ A145-2. General regulations.

[HISTORY: Adopted by the Town Board of the Town of Glen 12-8-1997. Amendments noted where applicable.]

§ A145-1. Definitions.

For the purpose of these rules and regulations, the following definitions are applicable:

APPROVED — Written acceptance by the Town as meeting an applicable specification stated or cited in these rules and regulations or as suitable for the proposed use.

CORPORATION STOP — The valve on the main line between the main and the curb stop.

CROSS-CONNECTION — Any physical connection through which a water supply could be contaminated.

CURB BOX — The casing that houses the curb valve with provisions for the operating rod.

CURB VALVE or **CURB STOP** — An approved valve in the service line located in or adjacent to the public right-of-way to control the water supply in the service line (water service valve).

CUSTOMER — A water consumer who has an established account with the Town.

DISTRICT — A water district which is a specific geographical area wherein water is supplied and related costs are accounted, duly established and administered by the Town. This term shall also include improvements created pursuant to Article 12-C of the Town Law.

FIXTURE, PLUMBING — Any installed receptacles, devices, or appliances supplied with water or that receive or discharge liquids or liquid-borne wastes.

OWNER — The person, persons, or corporation holding title to the property, as reflected on the real property tax roll of the Town.

POTABLE WATER — Water that is free from impurities, pollutants, or contaminants present in amounts sufficient to cause disease or physiological effects. Its bacteriological and chemical quality shall conform to the requirements of the public health service drinking water standards or the regulations of the public health authority having jurisdiction.

PUBLIC WATER SUPPLY — A water supply system, including the source, treatments works, transmission mains, distribution system and storage facilities serving the public.

RECEPTACLE — A vessel or container which receives or into which any liquid substance is received and held (e.g., sink, water closet, bathtub, swimming pool, etc.).

REMOTE READING DEVICE — A weatherproof device mounted to the outside of the customer's premises with a cable connected to a special register head on the water meter in the customer's premises.

SEASONAL CUSTOMER — A customer who has his water turned on and off for one or more quarters in any one year.

SERVICE LINE — The water line or pipe connected to the curb valve and through which water is available to a customer.

TOWN — The Town of Glen.

TOWN BOARD — The Town Board of the Town of Glen.

VALVE — For interior piping shall be either angle, gate, or globe type.

§ A145-2. General regulations.

- A. All water service of whatsoever kind and nature shall be rendered by the district, and customers shall be billed for such service by the Town without the prior written consent of the Town.
- B. The Town undertakes to use reasonable care and diligence to provide users in the respective water districts a continuous supply of water at any time and to avoid without notice to shut off the water in any water district main for any purpose. The Town shall not be liable for a deficiency or failure in the supply of water or in the pressure for any cause whatsoever. The Town will give notice of the shutting off of water when time and conditions permit.
- C. Permission of the Town must be secured before any water can be turned on or off. No person (except for fire protection purposes) shall open or interfere or draw water from any hydrant without permission of the Town. No person shall molest, tamper with, or damage any Town and/or Town water district facility, including, but not limited to, hydrants, mains, valves, curb boxes, meters, meter seals, service pipes, etc. Any person violating this regulation shall be dealt with according to the Penal Law of the State of New York.
- D. The Town makes no warranty nor guarantee of the quality nor quantity of water which will be made available, and shall not be liable for such quality nor quantity.
- E. It is understood that the water supplied is derived from the Village of Fultonville water system, and that the Town of Glen has no control over the village's quality and quantity of water, and the Town shall not be liable for such quality nor quantity.
- F. All rules and regulations of the Village of Fultonville are incorporated by reference herein as same may be applicable to Town water districts.
- G. Every person desiring a supply of water through the principal water mains must make application at the office of the Town Clerk, Town of Glen, 7 Erie St., Fultonville, New York, for a service pipe and connection with forms furnished by said Town Board and

must be signed by the owner of the property or his duly authorized agent. All fees for water meter costs and connection charges must be paid prior to hookup.

- H. The service pipe between the curb valve and meter, wherever located, shall be approved by the Superintendent of the Water Department.
- I. The curb valve controlling any service shall not be opened by any person other than the Town of Glen officials or agents after connecting said service at the curb, so that water may be supplied to such premises by said service, unless the service pipe installation has been approved by the Superintendent of Water Department and the meter installation completed. In case of building operations, special permission may be given by the Town Board or Superintendent of Water Department under such conditions as they may prescribe.
- J. Any person responsible for any damage to any main, pipe, hydrant or other water facility shall reimburse the Water District therefore, and for the loss of water caused thereby. He shall also be responsible for any damage caused by such escaping water.
- K. In the case of any excavation for the introduction of any water pipe or connection under authority of a permit from the Superintendent of Water Department the owner will be held responsible for the trench opened. Public safety and conveniences shall be duly regarded and observed by the construction of such bridges across open trenches as may be required to insure safety to the public. Red lights, barricades and all such other means of protection against accident must be provided. Before trenches are backfilled, materials and workmanship shall be inspected by the Superintendent of Water District and approved in writing.
- L. The owner of property into which water is introduced by a service pipe will be required to maintain to perfect order, at his own expense, the said service pipe from the service valve to the meter on or before his premises, including all fixtures therein provided for delivering or supplying water for any purpose. In case such services and fixtures are not so kept in repair, the Town Board or their representative may cause to have made all necessary repairs and renewals or parts thereof. The expense of such work and all materials and labor required shall be paid by the property owner.
- M. The Superintendent, Town officers, or employees of the Water District, upon presentation of proper credentials, may enter upon any premises where water is being supplied by Water Districts or upon any premises when application is made for a permit to connect plumbing with the water pipes, for the purpose of reading the water meter, or for inspecting the plumbing and fixtures of the water service.
- N. In the case of new construction, in making repairs or leakage tests, the right is reserved to shut off the water from any consumer, without notice for as long a period as may be necessary. No water district, its employees or the Town shall be liable for any damage which may result to any person, property or premises from shutting off of the water from any main, or service, for any purpose whatever, even in cases where no notice is given.
- O. No Water District of the Town of Glen shall be liable for any damage or loss of any kind to property or persons which may arise from, or be caused by any change, either increase

or decrease, in pressure of water supplied, from any cause whatever, including negligence on the part of the Water Districts, its agents, servants, or employees.

- P. Service pipes of all sizes, together with all plumbing fixtures, shall be able to stand a pressure of 150 pounds per square inch. Each installation shall be equipped with a curb cock and curb box located at an approved location. Each service must provide backflow prevention device meeting specifications approved by the American Water Works Association.
- Q. All service lines shall be owned, maintained, repaired, or replaced by the property owner. Service lines are the lines commencing at but not including the curb stop and running from this point to the inlet side of the meter. The Water Department shall have the right to test service pipes for leakage at any time. Should investigation disclose a leak on the service line to any property, the owner will be notified in writing. Such notice will inform the owner that if the repairs are not made within 10 days from the date of the notice, the Water Department will shut off the service as required to stop the leak. If the leak is between an existing usable curb stop and the structure, the curb stop will be closed to control the leakage. If the leak exists between the corporation stop and an existing usable curb stop, then the Water Department will make any necessary pavement cuts and excavations and repair the leak. Any cost incurred by the Water Department in investigating leaks which are determined to be on the customer's service will be charged against the customer. Any cost incurred in investigating leaks which are determined to be on the lines of the Water Department will be assumed and paid for by the Water Department.
- R. Each property served by the water system shall have a separate and individual tap into the main, unless otherwise approved by the Town Board.
- S. In case of removal or replacement of the service pipe, the old service must be removed or abandoned and the old corporation cock turned off at the main before the new corporation cock will be turned on. Where a building is demolished, water service is to be shut off at the main by the contractor, owner, architect or engineer handling the project under the direction of the Town.
- T. The Water Department will test the accuracy of meters upon request of the customer. Should the meter on test show a registration in excess of 2% in favor of the Water Department, the bill will be adjusted accordingly, and the excess registration not to exceed the average two previous readings shall be credited to the account. Where no such error is found, the customer will be charged for the cost of the test, said cost to be established by the Town Board.
- U. All water consumed shall be recorded and paid for by meter registration and at rates fixed by the Town Board; copies of said rates are available at the Town Clerk's office, 7 Erie Street, Fultonville, New York.
- V. Hookup fees will be fixed by the Town Board and will be based on the size of the service.
- W. No water through any connection, pipe or main shall be sold or furnished outside the Water Districts.

- X. No connection whatsoever shall be made by any person between the facilities of the said Water Districts and any other water system, public or private, without the consent in writing of a duly authorized agent for the Town Board, after action of the Town Board.
- Y. Failure of the applicant to give written notice to have service discontinued will make the owner of property liable for all water charges against said premises, and such notices must actually be delivered to the office of the Town Clerk.
- Z. Seasonal customers may have their water turned off and meter removed and then water turned on and meter installed by an authorized agent of the Town Board after paying the required fees, said fee to be established by the Town Board.
- AA. Commercial water bills are presented on the first week of every month. Residential bills are presented quarterly. If not paid on or before the last day of the aforementioned months, a collection fee of 10% will be added. Notice will then be given and 30 days allowed for payment in full or service will be disconnected. Users in the Town will be given 30 days' notice of overdue payment and then, if not received, this amount will be levied to the Town taxes. Reinstatement of water service can be accomplished only by paying the unpaid bill (including penalty), plus a reconnect charge of \$25. Water bills may be paid by mail (and must be postmarked on or before late date acceptable to avoid penalty) or in person at the Town Hall.
- BB. Upon a transfer of ownership, the present owner must make written request for a final meter reading and satisfy any unpaid balance before the responsibility will be conveyed to the new owner.

**DISPOSITION
LIST**

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

The following is a chronological listing of legislation of the Town of Glen 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 adopted 6-26-2003.

§ DL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition
L.L. No. 1-2004	11-8-2004	Adoption of Code	Ch. 1, Art. I
L.L. No. 1-2006	6-12-2006	Land management	Ch. 87
	9-11-2006	Sewers and water: regulations and rates	Ch. 109, Art. II

INDEX

GLEN INDEX

DEFINITIONS NOTE: For the convenience of the Code user, all terms defined in this Code are included in the Index under the heading "Definitions and Abbreviations."

– A –

ABANDONMENT

- Building construction and fire prevention, 52-11
- Junk and junkyards, 85-3
- Solid waste, 120-7, 120-11, 120-19
- Water district regulations, A145-2

ACCESSORY BUILDINGS

- Land use management, 87-11, 87-32, 87-59

ACCESSORY USES

- Land use management, 87-11 – 87-14

ADOPTION OF CODE

- Amendments to Code, 1-7
- Changes in previously adopted legislation, 1-11
- Code Book to be kept up-to-date, 1-8
- Continuation of existing provisions, 1-2
- Copy of Code on file, 1-6
- Enactments saved from repeal, 1-4
- Fees, 1-9
- General provisions, 1-1 – 1-13
- Incorporation of provisions into Code, 1-12
- Legislative intent, 1-1
- Matters not affected, 1-4
- New provisions, 1-11
- Penalties for tampering with Code, 1-10
- Repeal of enactments not included in Code, 1-3
- Sale of Code Book, 1-9
- Severability, 1-5
- Supplementation, 1-9
- When effective, 1-13

ADULT BOOKSTORES

- Actions Involving Minors, 38-12 – 38-15
- Appeals, 38-12
- Definitions, 38-12
- Exceptions, 38-14
- Inspection, 38-12
- Liability, 38-12
- Minors, 38-12, 38-13
- Penalties for offenses, 38-15
- Unlawful acts, 38-13
- Location of Establishments, 38-1 – 38-6
- Bus stops, 38-4
- Definitions, 38-2
- Findings, 38-1
- Parks, 38-5
- Penalties for offenses, 38-6

- Places of worship, 38-5
- Proximity to libraries, parks and places of worship, 38-5
- Proximity to residential dwellings or other adult bookstores, 38-3
- Proximity to school and school bus stops, 38-4
- Purpose, 38-1
- Safety, 38-1
- Promotion of Obscene Materials, 38-7 – 38-11
- Definitions, 38-9
- Penalties for offenses, 38-11
- Presumptions, 38-10
- Presumptive evidence, 38-8
- Unlawful to promote, 38-7

ADVERTISING

- Land use management, 87-11, 87-17, 87-35

ANCHORING

- Flood damage prevention, 74-12, 74-13

ANIMALS

- Delinquent Dog License Renewals, 45-5
- Late fee established, 45-5
- Dog Control, 45-7 – 45-14
- Appearance tickets, 45-13
- Bicycles, 45-10
- Complaint procedure, 45-12
- Definitions, 45-9
- Dogs, 45-8
- Enforcement, 45-11
- Penalties for offenses, 45-14
- Prohibited acts, 45-10
- Purpose, 45-8
- Safety, 45-8
- Seizure, 45-8
- Title, 45-7
- Dog License Fees, 45-1 – 45-4
- Dogs, 45-3, 45-4
- Fees established, 45-3
- License, 45-1 – 45-3
- Purpose, 45-2
- Title, 45-1
- Use of funds, 45-4
- Land use management, 87-11, 87-13
- Redemption Fee, 45-6
- Dogs, 45-6
- Fee established, 45-6
- Hospital, 45-6
- Septage waste, land application of, 105-7
- Solid waste, 120-1

ANTENNAS

- Land use management, 87-17
- Site plan review, 113-11, 113-28, 113-36, 113-38

APPEALS

- Adult bookstores, 38-12
- Building construction and fire prevention, 52-8
- Flood damage prevention, 74-16
- Junk and junkyards, 85-10

- Land use management, 87-16, 87-21, 87-26, 87-27, 87-33, 87-47, 87-58 – 87-60, 87-62, 87-63

- Mobile homes, 92-11 – 92-13

- Site plan review, 113-45

APPEARANCE TICKETS

- Animals, 45-13

AREA, YARD AND BULK

REGULATIONS

- Land use management, 87-15

ASSESSMENT

- Assessors, 5-1, 5-2
- Approval by electors at special election, 5-2
- Office of Assessor to remain elective, 5-1
- Board of Assessment Review, 5-3
- Membership, 5-3
- Terms, 5-3

ASSESSMENTS

- Land use management, 87-20, 87-22

– B –

BARRICADES

- Sewers and water, 109-3
- Water district regulations, A145-2

BICYCLES

- Animals, 45-10

BLOCK

- Land use management, 87-22, 87-61

BOND

- Land use management, 87-21, 87-33

BRUSH

- Burning, outdoor, 61-3
- Land use management, 87-37
- Subdivision of land, 124-44

BUFFERS

- Land use management, 87-16, 87-23

BUILDING CONSTRUCTION

AND FIRE PREVENTION

- Abandonment, 52-11
- Acting Building Official, 52-3
- Appeals, 52-8
- Applicability, 52-1
- Certificate of occupancy, 52-6
- Demolition, 52-4, 52-11
- Designation of enforcement officer, 52-2
- Duties and powers of Code Enforcement Officer, 52-6
- Fill, 52-12
- Inspection, 52-5, 52-6, 52-8
- Lien, 52-11
- Meetings, 52-12
- Notices, 52-6, 52-8, 52-9
- Penalties for offenses, 52-10
- Permits, 52-7
- Records, 52-8, 52-12
- Removal of dangerous building or structure, 52-11
- Reports, 52-8

GLEN INDEX

Restrictions on employees, 52-4
Review Board, 52-12
Rules and regulations, 52-5
Safety, 52-11
Tests, 52-8
Variance, 52-12
Violations, 52-9

BUILDING PERMITS
Land use management, 87-57 – 87-59

BUILDINGS, NUMBERING OF
Notification, 56-2
Property numbering system adopted, 56-1

BURNING, OUTDOOR
Brush, 61-3
Burning on streets prohibited, 61-1
Burning permit, 61-3
Burning regulations, 61-5
Disorderly conduct, 61-4
Enclosed containers required, 61-2
Grass, 61-1 – 61-3
Inspection, 61-5
Liability, 61-3, 61-5
Minors, 61-5
Penalties for offenses, 61-4
Permit, 61-2, 61-3, 61-5
Safety, 61-3, 61-5
Smoke, 61-3
Tires, 61-3

BUS STOPS
Adult bookstores, 38-4

– C –

CERTIFICATE OF COMPLIANCE
Flood damage prevention, 74-12

CERTIFICATE OF OCCUPANCY
Building construction and fire prevention, 52-6
Site plan review, 113-41
Subdivision of land, 124-57

CERTIFICATES OF OCCUPANCY
Land use management, 87-25, 87-58, 87-60

CHURCHES
Junk and junkyards, 85-8
Land use management, 87-11, 87-12, 87-17

CLUSTER DEVELOPMENT
Subdivision of land, 124-44

COMPREHENSIVE PLAN
Flood damage prevention, 74-16
Land use management, 87-63
Subdivision of land, 124-3, 124-11, 124-33, 124-34

CONVALESCENT HOME
Land use management, 87-11

COSTS AND EXPENSES
Land use management, 87-25

CULVERTS
Land use management, 87-22

CURBS
Land use management, 87-22
Subdivision of land, 124-30, 124-31

– D –

DEFINITIONS AND ABBREVIATIONS
6 nycrr, 120-19
Accessory building, 87-7
Accessory structure, 92-3
Accessory use, 87-7
Adult bookstore, 38-2
Adult bookstore or video store, 87-7
Adult entertainment cabaret, 87-7
Adult motel, 87-7
Adult-oriented business, 87-7
Adult theater, 87-7
Alley, 87-7
Animal hospital/veterinary clinic, 87-7
Antenna, 113-6
Appeal, 74-4
Applicant, 87-7, 113-6
Approved, 109-2, A145-1
Arca, building, 87-7
Area of shallow flooding, 74-4
Area of special flood hazard, 74-4
Ashfill, 120-19
Ash or ash residue, 120-19
At large, 45-9
Base flood, 74-4
Basement, 74-4, 87-7
Bed-and-breakfast, 87-7
Boarding or rooming house, 87-7
Breakaway wall, 74-4
Buffer area, 113-6
Buffer zone, 87-7
Building, 74-4, 87-7, 113-6
Building floor area, 87-7
Building line, 87-7
Cellar, 74-4, 87-7
Ceo, 105-4
Cluster development, 124-7
Coapplicants, 105-4
Coastal high hazard area, 74-4
Code enforcement officer, 92-3
Collocation, 113-6
Commercial composting, 87-7
Commercial garage, 85-3
Commercial waste, 120-19
Community park or playground, 87-7
Composting, 120-19
Comprehensive plan, 124-7
Conditional approval of final plat, 124-7
Construction and demolition debris, 120-19
Containment pond or pool, 120-19
Corporation stop, A145-1
Cross-connection, 109-2, A145-1
Curb box, 109-2, A145-1
Curb-stop, 109-2

Curb valve, 109-2
Curb valve or curb stop, A145-1
Customer, 109-2, A145-1
Dec, 105-4, 120-19
Dec rules, 105-4
Development, 74-4
Disposal, 120-19
Dispose or disposal, 105-4
District, 109-2, A145-1
Doh, 105-4
Driveways and passageways, 87-7
Dump or dumping grounds, 120-11
Dwelling, multiple-family, 87-7
Dwelling, one-family, 87-7
Dwelling, two-family, 87-7
Dwelling unit, 87-7
Easement, 113-6
Elevated building, 74-4
Enforcement committee, 85-3
Enforcement officer, 85-3
Environmental assessment form, 124-7
Environmental assessment form (eaf), 113-6
Environmental impact statement (eis), 113-6
EPA, 105-4
Equipment mounting structure, 113-6
Facility, 120-19
Family, 87-7
Farm, 87-7
Farm products plant, 87-7
Farm stand, 87-7
Final plat, 124-7
Final plat approval, 124-7
Fixture, plumbing, 109-2, A145-1
Flood boundary and floodway map (fbfm), 74-4
Flood hazard boundary map (fbbm), 74-4
Flood insurance rate map (firm), 74-4
Flood insurance study, 74-4
Flood or flooding, 74-4
Floodproofing, 74-4
Floodway, 74-4
Floor, 74-4
Front, 87-7
Functionally dependent use, 74-4
Garage, private, 87-7
Garage, public, 87-7
Garbage, 120-1
Gasoline station, 87-7
Grading, 113-6
Greenspace, 87-7
Harbor, 45-9
Harmful to minors, 38-12
Hazardous waste, 120-19
Highest adjacent grade, 74-4
Historic building or site, 87-7
Home occupation, 87-7
Hospital, 87-7
Hotel, 87-7
Household waste, 120-19
Industrial waste, 120-19

GLEN INDEX

- Junk, 85-3
- Junk appliance, 85-3
- Junk farm and construction equipment, 85-3
- Junk trailer, 85-3
- Junk vehicle, 85-3
- Junkyard, 85-3, 87-7
- Kennel, 87-7
- Knowingly, 38-12
- Land application, 105-4
- Land application facility or site, 105-4
- Landfill or sanitary landfill, 120-19
- Land reclamation, 105-4
- Launderette, 87-7
- Light assembly plant, 87-7
- Living area, 87-7
- Loading space, 87-7
- Lot, 87-7, 113-6, 124-7
- Lot area, 87-7
- Lot, corner, 87-7
- Lot, coverage, 87-7
- Lot depth, 87-7
- Lot, interior, 87-7
- Lot, through, 87-7
- Lot width, 87-7
- Lowest floor, 74-4
- Manufactured home, 74-4, 92-3
- Manure, 120-19
- Massage establishment, 87-7
- Material, 38-9
- Mean sea level, 74-4
- Meter pit, 109-2
- Mineral, 87-7
- Mining, 87-7
- Minor, 38-12, 87-7
- Mobile home, 74-4, 87-7, 92-3
- Mobile home lot, 92-3
- Mobile home park, 87-7, 92-3
- Modular home, 87-7, 92-3
- Motorized sports facility, 87-7
- Nameplate, 87-7
- National geodetic vertical datum (ngvd), 74-4
- New construction, 74-4
- Nonconforming use, 87-7
- Nursing or convalescent home or home for the aged, 87-7
- Obscene, 38-9
- Official submission date, 124-7
- One-hundred-year flood, 74-4
- Open space, 87-7
- Operator, 105-4
- Owner, 45-9, 105-4, 109-2, A145-1
- Owner/operator, 113-6
- Parking space, 87-7
- Peep show, 87-7
- Permanent foundation, 87-7
- Permit, 105-4
- Person, 85-3, 113-6, 120-1, 120-11, 120-19
- Personal service shops, 87-7
- Personal wireless service, 113-6
- Personal wireless service facilities, 113-6
- Personal wireless service facility, 87-7
- Personal wireless services, 87-7
- Phased development, 113-6
- Planning board, 87-7, 124-7
- Plat, 124-7
- Potable water, 109-2, A145-1
- Preliminary plat, 124-7
- Principally above ground, 74-4
- Professional office, 87-7
- Promote, 38-9
- Public building, 87-7
- Public contact area, 105-4
- Public utility, 87-7
- Public utility facility, 87-7
- Public water supply, 109-2, A145-1
- Receptacle, 109-2, A145-1
- Recreational vehicle or travel trailer, 92-3
- Recycling, 120-19
- Regulatory floodway, 74-4
- Remote reading device, 109-2, A145-1
- Residence, 87-7
- Restaurant, 87-7
- Resubdivision, 124-7
- Retail farm market, 87-7
- Retail store, 87-7
- Reverse frontage lot, 124-7
- Road, 113-6
- Road, major, 124-7
- Road, minor, 124-7
- Road, right-of-way, 113-6
- Rubbish, 120-1
- Rubbish or debris, 85-3
- Sadomasochistic abuse, 38-12
- Sand dunes, 74-4
- Screening, 113-6
- Seasonal customer, A145-1
- Septage, 105-4
- Seqr, 124-7
- Seqra, 105-4
- Service line, 109-2, A145-1
- Setback, 113-6
- Sewage, 120-19
- Sewage sludge, 105-4
- Sexual conduct, 38-12
- Sexual excitement, 38-12
- Sexually explicit nudity, 38-12
- Shed, 87-7
- Sign, 87-7, 113-6
- Sign, advertising, 87-7
- Sign, business, 87-7
- Sign, flashing, 87-7
- Site, 105-4
- Site plan, 87-7, 105-4, 113-6
- Site plan review, 87-7
- Sketch plan, 113-6, 124-7
- Sketch plan conference, 113-6
- Solid or liquid waste material, 120-11
- Solid waste incinerator, 120-19
- Solid waste management facility, 120-19
- Solid waste or liquid waste, 120-19
- Sound agricultural practices, 120-19
- Special permitted use, 87-7
- Specified anatomical areas, 38-2
- Specified sexual activities, 38-2
- Stable, private, 87-7
- Stable, public, 87-7
- Start of construction, 74-4, 113-6
- State environmental quality review (seqr), 113-6
- Storage, 105-4
- Story, 87-7
- Story, half, 87-7
- Street, 87-7
- Structural alteration, 87-7
- Structure, 74-4, 87-7, 113-6
- Subdivision, 87-7, 124-7
- Subdivision, major, 124-7
- Subdivision, minor, 124-7
- Substantial improvement, 74-4
- Theater, outdoor, 87-7
- Tourist home, 87-7
- Town, 109-2, A145-1
- Town Board, 109-2
- Town board, A145-1
- Townhouse, 87-7
- Trailer, 87-7
- Trailer camp, 87-7
- Truck terminal, 87-7
- Undeveloped flat, 124-7
- Valve, 109-2, A145-1
- Variance, 74-4, 87-7
- Variance, area, 87-7
- Variance, use, 87-7
- Vector attraction, 105-4
- Wholesale storage or warehouse, 87-7
- Windmill/wind tower, 87-7
- Yard, front, 87-7
- Yard, rear, 87-7
- Yard, side, 87-7
- DEMOLITION**
 - Building construction and fire prevention, 52-4, 52-11
 - Solid waste, 120-11, 120-19
- DESIGN STANDARDS**
 - Subdivision of land, 124-11, 124-34, 124-44
- DISORDERLY CONDUCT**
 - Burning, outdoor, 61-4
- DOGS**
 - Animals, 45-3, 45-4, 45-6, 45-8
- DRAINAGE**
 - Flood damage prevention, 74-11, 74-13
 - Junk and junkyards, 85-8
 - Land use management, 87-22
 - Septage waste, land application of, 105-5, 105-7
 - Subdivision of land, 124-27, 124-30, 124-43, 124-44
- DRIVEWAYS**
 - Land use management, 87-22, 87-47
- DUST**
 - Land use management, 87-23
 - Solid waste, 120-17

GLEN INDEX

– E –

EASEMENT

- Land use management, 87-16, 87-22
- Subdivision of land, 124-34, 124-44

EMERGENCIES

- Flood damage prevention, 74-4, 74-8, 74-9, 74-12, 74-16
- Junk and junkyards, 85-5
- Land use management, 87-11
- Mobile homes, 92-5
- Procurement policy, 26-7
- Subdivision of land, 124-34, 124-35, 124-40

EMERGENCY VEHICLES

- Flood damage prevention, 74-16
- Subdivision of land, 124-34, 124-35, 124-40

ENVIRONMENTAL IMPACT STATEMENT

- Land use management, 87-63

EROSION AND SEDIMENTATION

- Subdivision of land, 124-41

EROSION CONTROL

- Land use management, 87-22

EXCAVATIONS

- Land use management, 87-11, 87-33, 87-59
- Water district regulations, A145-2

– F –

FEES

- Adoption of Code, 1-9
- Sewers and water, 109-3
- Subdivision of land, 124-5

FENCES

- Land use management, 87-16, 87-22, 87-27, 87-31, 87-44, 87-45
- Septage waste, land application of, 105-5, 105-7

FILL

- Building construction and fire prevention, 52-12
- Flood damage prevention, 74-4, 74-11, 74-15

FINAL PLAT

- Subdivision of land, 124-9 – 124-11, 124-16 – 124-24, 124-29, 124-31, 124-44

FLOOD DAMAGE PREVENTION

- Anchoring, 74-12, 74-13
- Appeals, 74-16
- Appcals Board, 74-16
- Applicability, 74-5
- Basis for establishing areas of special flood hazard, 74-6
- Certificate of compliance, 74-12
- Comprehensive Plan, 74-16
- Conditions for variances, 74-17
- Conflict with other provisions, 74-7

Designation of local administrator, 74-10

Drainage, 74-11, 74-13

Duties and responsibilities of local administrator, 74-12

Emergency, 74-4, 74-8, 74-9, 74-12, 74-16

Emergency vehicles, 74-16

Establishment of development permit, 74-11

Fill, 74-4, 74-11, 74-15

Findings, 74-1

Floodways, 74-15

General standards, 74-13

Grading, 74-2, 74-4

Height, 74-4

Inspection, 74-12

Insurance, 74-2, 74-4, 74-6, 74-7, 74-17

Interpretation, 74-7

Liability, 74-9

Lots, 74-13, 74-17

Manufactured home, 74-4, 74-13

Mobile home, 74-4

Nuisances, 74-17

Objectives, 74-3

Official Map, 74-4

Parking, 74-4

Parks, 74-13

Penalties for offenses, 74-8

Permit, 74-8, 74-10 – 74-13

Plumbing, 74-13

Purpose, 74-2

Records, 74-12, 74-16

Safety, 74-2, 74-4, 74-7, 74-16, 74-17

Sales, 74-4

Sanitary facilities, 74-4, 74-14

Specific standards, 74-14

Stop-work order, 74-11, 74-12

Storage, 74-4, 74-11

Utilities, 74-3, 74-4, 74-11, 74-13, 74-14, 74-16

Variance, 74-4, 74-7, 74-8, 74-12, 74-17

Vehicles, 74-4, 74-16

Ventilation, 74-13

Warning and disclaimer of liability, 74-9

Water, 74-2 – 74-4, 74-13, 74-14, 74-16

Watercourses, 74-4, 74-12

Word usage and definitions, 74-4

FLY ASH

Solid waste, 120-19

FUEL

Land use management, 87-13

Solid waste, 120-19

FUMES

Land use management, 87-23

– G –

GAMES OF CHANCE

Authority: title, 78-1

Definitions, 78-2

Effective date, 78-4

Games of chance authorized, 78-3

License, 78-3

Restrictions, 78-3

GARAGES

Land use management, 87-13, 87-14, 87-32

GAS

Land use management, 87-11

GENERAL PROVISIONS

Adoption of Code, 1-1 – 1-13

GLARE

Land use management, 87-22, 87-23

GRADING

Flood damage prevention, 74-2, 74-4

Junk and junkyards, 85-3

Land use management, 87-17

Site plan review, 113-11

Subdivision of land, 124-30

GRASS

Burning, outdoor, 61-1 – 61-3

Subdivision of land, 124-44

GUARANTEES

Land use management, 87-21, 87-25

Sewers and water, 109-3

Subdivision of land, 124-20, 124-46, 124-55

– H –

HEARINGS

Land use management, 87-20, 87-21, 87-24, 87-27, 87-63, 87-66, 87-67

HEATING

Land use management, 87-13

HEDGES

Land use management, 87-16

HEIGHT REGULATIONS

Flood damage prevention, 74-4

Junk and junkyards, 85-5

Land use management, 87-15 – 87-17, 87-22, 87-27, 87-32

Site plan review, 113-11, 113-24 – 113-26, 113-28, 113-34, 113-40

HOLIDAYS

Land use management, 87-60

HOME OCCUPATIONS

Land use management, 87-11 – 87-13, 87-35

HOSPITALS

Animals, 45-6

Land use management, 87-11, 87-13, 87-47

Solid waste, 120-11

HOTELS

Land use management, 87-12, 87-13, 87-45, 87-47

HYDRANTS

Land use management, 87-22

Water district regulations, A145-2

GLEN INDEX

- I -

IMPROVEMENTS

Land use management, 87-25,
87-59

INSECTS

Junk and junkyards, 85-2

INSPECTIONS

Adult bookstores, 38-12
Building construction and fire
prevention, 52-5, 52-6, 52-8
Burning, outdoor, 61-5
Flood damage prevention, 74-12
Junk and junkyards, 85-3, 85-7
Land use management, 87-25,
87-58, 87-60
Mobile homes, 92-2
Septage waste, land application
of, 105-5, 105-7
Site plan review, 113-38, 113-42
Subdivision of land, 124-5,
124-51, 124-56

INSURANCE

Flood damage prevention, 74-2,
74-4, 74-6, 74-7, 74-17
Septage waste, land application
of, 105-10
Subdivision of land, 124-37

INVESTIGATION

Water district regulations, A145-2

INVESTMENT POLICY

Authorized investments, 19-2
Effect of provisions, 19-4
Investments to be sufficiently col-
lateralized, 19-3
Objectives, 19-1

- J -

JUNK AND JUNKYARDS

Appeals, 85-10
Churches, 85-8
Definitions, 85-3
Drainage, 85-8
Emergency, 85-5
Enforcement and appeals proce-
dures, 85-10
Failure to comply, 85-13
General considerations, 85-8
Grading, 85-3
Height, 85-5
Insects, 85-2
Inspection, 85-3, 85-7
Junk storage regulations, 85-4
Junkyard permit, 85-6
Junkyard regulations, 85-5
Landscaping, 85-5
Land use management, 87-34
License, 85-3
Lien, 85-11
Mobile home, 85-3
Nuisances, 85-2
Odors, 85-8
Operation and inspections, 85-9
Outdoor burning, 85-5
Penalties for offenses, 85-12
Permit, 85-5 - 85-11
Registration, 85-3

Revocation of permit, 85-11
Rodents, 85-2
Safety, 85-8
Screening, 85-5
Site plan, 85-7
Smoke, 85-8
Storage, 85-1 - 85-4, 85-9, 85-10
Tires, 85-3
Title, 85-1
Trees, 85-5
Vehicles, 85-2 - 85-4
Water, 85-2, 85-5, 85-8

- K -

KENNELS

Land use management, 87-11

- L -

LANDSCAPE PLANS

Land use management, 87-22

LANDSCAPING

Junk and junkyards, 85-5
Land use management, 87-22,
87-23, 87-27, 87-38
Site plan review, 113-11, 113-34
Subdivision of land, 124-30

LAND USE MANAGEMENT

Administration, 87-58 - 87-61
Accessory buildings, 87-59
Appeals, 87-58 - 87-60
Block, 87-61
Building permits, 87-58, 87-59
Certificates of occupancy,
87-58, 87-60
Enforcement officer, 87-58
Excavations, 87-59
Holidays, 87-60
Improvements, 87-59
Inspections, 87-58, 87-60
Liability, 87-61
Lots, 87-59, 87-61
Notices, 87-59
Penalties for offenses, 87-58,
87-60, 87-61
Permits, 87-58 - 87-60

Amendments, 87-64 - 87-69

Adoption of amendment,
87-67
Hearing on proposed amend-
ment, 87-66

Hearings, 87-66, 87-67
Initiation, 87-64
Newspaper, 87-66
Notices, 87-66
Protest petition, 87-68
Referral of amendments to
Planning Board, 87-65
Reports, 87-65, 87-67
Time frame for Town Board
action, 87-64

Area and Height Regulations;
Lots, Yards and Buildings,
87-15 - 87-17
Advertising, 87-17
Antennas, 87-17

Appeals, 87-16
Area regulations, 87-16
Buffers, 87-16
Bulk regulations, 87-15
Churches, 87-17
Easements, 87-16
Fences, 87-16
Grading, 87-17
Hedges, 87-16
Height regulations, 87-15 -
87-17
Lots, 87-16, 87-17
Monuments, 87-17
Open space, 87-16
Permits, 87-16
Permitted uses, 87-16
Records, 87-16
Regulations, 87-15
Screening, 87-16
Storage, 87-17
Towers, 87-17
Walls, 87-16
Water, 87-17
Yards, 87-15, 87-16
Authority, Title, Purpose, Scope
and Separability, 87-1 - 87-5
Authority, 87-1
Purpose, 87-3
Safety standards, 87-3
Scope, 87-4
Severability, 87-5
Title, 87-2
Definitions, 87-6, 87-7
Word usage, 87-6
Districts and Boundaries, 87-8,
87-9
Establishment of districts, 87-8
Interpretation of district
boundaries, 87-9
Water, 87-9
Zoning Map, 87-8, 87-9
Miscellaneous, 87-70 - 87-72
Interpretation, 87-72
Periodic review of chapter,
87-70
Reports, 87-70
Safety standards, 87-70, 87-72
Validity, 87-71
Variances, 87-72
Site Plan Approval and Special
Permits, 87-18 - 87-28
Additional requirements,
87-25
Appeals, 87-21, 87-26, 87-27
Assessments, 87-20, 87-22
Block, 87-22
Bond, 87-21
Buffers, 87-23
Certificates of occupancy,
87-25
Consultant review, 87-24
Costs and expenses, 87-25
Culverts, 87-22
Curbs, 87-22
Developments requiring site
plan review, 87-19
Drainage, 87-22
Driveways, 87-22

GLEN INDEX

- Dust, 87-23
- Easements, 87-22
- Enforcement, 87-21
- Erosion control, 87-22
- Fences, 87-22, 87-27
- Fumes, 87-23
- Glare, 87-22, 87-23
- Guarantees, 87-21, 87-25
- Hearings, 87-20, 87-21, 87-24, 87-27
- Height regulations, 87-22, 87-27
- Hydrants, 87-22
- Improvements, 87-25
- Inspections, 87-25
- Landscape plan, 87-22
- Landscaping, 87-22, 87-23, 87-27
- Licenses, 87-21
- Lighting, 87-22, 87-23
- Manholes, 87-22
- Meetings, 87-20
- Minutes, 87-20
- Newspaper, 87-20, 87-21
- Noise, 87-23
- Notices, 87-20, 87-27
- Nuisances, 87-18, 87-23
- Odors, 87-23
- Off-street loading, 87-23
- Open space, 87-23
- Parking, 87-20, 87-22, 87-23
- Payment of fees, 87-24
- Performance standards, 87-21, 87-23
- Permits, 87-18, 87-19, 87-21, 87-27
- Permitted uses, 87-27
- Pollution, 87-22, 87-23
- Procedure, 87-20
- Purpose and authorization, 87-18
- Records, 87-22, 87-26, 87-27
- Reports, 87-20
- Safety standards, 87-18, 87-23, 87-27
- Screening, 87-22, 87-27
- Septic systems, 87-22
- Setbacks, 87-20, 87-23
- Site plans, 87-18 – 87-20, 87-22, 87-23, 87-25 – 87-27
- Smoke, 87-23
- Soil erosion, 87-23
- Special permits, 87-27
- Standards for review, 87-23
- Storage, 87-22
- Stormwater, 87-22, 87-23
- Submission requirements, 87-22
- Tests, 87-22
- Trees, 87-22, 87-23
- Utilities, 87-22
- Vapors, 87-23
- Vehicles, 87-22, 87-23
- Walls, 87-22, 87-27
- Water, 87-22
- Water supply, 87-22
- Wells, 87-22
- Yards, 87-22
- Supplementary Regulations, 87-29 – 87-57
 - Accessory buildings, 87-32
 - Access to improved streets or state highways, 87-29
 - Adult-oriented businesses overlay, 87-46
 - Advertising, 87-35
 - Appeals, 87-33, 87-47
 - Bond, 87-33
 - Brush, 87-37
 - Building permits, 87-57
 - Corner and through lots, 87-39
 - Drive-in food services, 87-31
 - Driveways, 87-47
 - Environmental quality review, 87-41
 - Excavations, 87-33
 - Exterior lighting, 87-42
 - Fences, 87-31, 87-44, 87-45
 - Flag lots, 87-40
 - Garages, 87-32
 - Height regulations, 87-32
 - Historical district, 87-49
 - Home occupations, 87-35
 - Hospitals, 87-47
 - Hotels, 87-45, 87-47
 - Junkyards, 87-34
 - Landscaping requirements, 87-38
 - Lighting, 87-42
 - Lots, 87-30, 87-39, 87-40
 - Lots in two districts, 87-30
 - Mobile home park, 87-38
 - Mobile homes, 87-36, 87-38, 87-43, 87-57
 - Motels, 87-45
 - Multifamily dwellings, 87-45
 - Nonconforming uses, 87-57
 - Obstructions, 87-37
 - Off-street loading, 87-47
 - Off-street loading facilities, 87-47
 - Permanent building foundations, 87-36
 - Permits, 87-33, 87-36, 87-41, 87-57
 - Pools, 87-45
 - Public utility facilities, 87-44
 - Quarrying, 87-33
 - Sales, 87-35
 - Screening, 87-31, 87-33
 - Setbacks, 87-35, 87-39, 87-40, 87-44, 87-45
 - Shade trees, 87-38
 - Sight distance at intersections, 87-37
 - Sign, 87-35
 - Signs, 87-35, 87-37
 - Single-family dwellings, 87-45
 - Soil mining, 87-33
 - Special use permit, 87-33
 - Swimming pools, 87-45
 - Trees, 87-33, 87-37, 87-38
 - Utilities, 87-44
 - Vehicles, 87-31, 87-42
 - Waste management, 87-50
- Windmills, 87-48
- Yards, 87-32, 87-35, 87-38, 87-39, 87-44
- Use Regulations, 87-10 – 87-14
 - Accessory buildings, 87-11
 - Accessory uses, 87-11 – 87-14
 - Advertising, 87-11
 - Animals, 87-11, 87-13
 - Churches, 87-11, 87-12
 - Commercial District (C), 87-13
 - Convalescent home, 87-11
 - Emergencies, 87-11
 - Excavations, 87-11
 - Fuel, 87-13
 - Garages, 87-13, 87-14
 - Gas, 87-11
 - Hamlet District (H), 87-12
 - Heating, 87-13
 - Home occupations, 87-11 – 87-13
 - Hospitals, 87-11, 87-13
 - Hotels, 87-12, 87-13
 - Industrial District (IBP), 87-14
 - Interpretation, 87-10
 - Kennels, 87-11
 - Marina, 87-12
 - Mobile home park, 87-11
 - Mobile homes, 87-11 – 87-13
 - Multifamily dwellings, 87-12, 87-13
 - One-family dwellings, 87-11 – 87-13
 - Permits, 87-10 – 87-14
 - Permitted uses, 87-10 – 87-14
 - Plastic, 87-14
 - Playgrounds, 87-11 – 87-13
 - Plumbing, 87-13
 - Restaurants, 87-12, 87-13
 - Rural Residential District (RR), 87-11
 - Sales, 87-13
 - Schools, 87-11, 87-12
 - Signs, 87-11
 - Site plans, 87-10
 - Storage, 87-11, 87-13, 87-14
 - Tower, 87-11
 - Two-family dwellings, 87-11 – 87-13
 - Utilities, 87-11, 87-13, 87-14
 - Variances, 87-10
- Zoning Board of Appeals, 87-62, 87-63
 - Appeals, 87-62, 87-63
 - Comprehensive Plan, 87-63
 - Creation, appointment and organization, 87-62
 - Environmental impact statement, 87-63
 - Hearings, 87-63
 - Newspaper, 87-63
 - Notices, 87-63
 - Powers and duties, 87-63
 - Records, 87-63
 - Reports, 87-63
 - Safety standards, 87-63
 - Setbacks, 87-63
 - Site plans, 87-63

GLEN INDEX

Variance, 87-63
Yards, 87-63

LIABILITY
Adult bookstores, 38-12
Burning, outdoor, 61-3, 61-5
Flood damage prevention, 74-9
Land use management, 87-61
Septage waste, land application of, 105-5, 105-11
Sewers and water, 109-3
Solid waste, 120-23

LICENSES
Animals, 45-1 – 45-3
Building construction and fire prevention, 52-7
Games of chance, 78-3
Junk and junkyards, 85-3
Land use management, 87-21
Mobile homes, 92-4
Subdivision of land, 124-31

LIENS
Building construction and fire prevention, 52-11
Junk and junkyards, 85-11

LIGHTING
Land use management, 87-22, 87-23, 87-42
Sewers and water, 109-3
Subdivision of land, 124-30, 124-31

LITTERING
Mobile homes, 92-5

LIVESTOCK
Septage waste, land application of, 105-7
Solid waste, 120-19

LOTS
Flood damage prevention, 74-13, 74-17
Land use management, 87-16, 87-17, 87-30, 87-39, 87-40, 87-59, 87-61
Mobile homes, 92-7, 92-12
Subdivision of land, 124-1, 124-6, 124-12, 124-27, 124-31, 124-34, 124-39, 124-40, 124-44

– M –

MAJOR SUBDIVISION
Subdivision of land, 124-11, 124-13, 124-19, 124-30, 124-31

MANHOLES
Land use management, 87-22

MANUFACTURED HOME
Flood damage prevention, 74-4, 74-13
Mobile homes, 92-3, 92-5

MARINAS
Land use management, 87-12

MEETINGS
Building construction and fire prevention, 52-12
Land use management, 87-20

METERS
Sewers and water, 109-3
Water district regulations, A145-2

MINORS
Adult bookstores, 38-12, 38-13
Burning, outdoor, 61-5

MINUTES
Land use management, 87-20

MOBILE HOME PARKS
Land use management, 87-11, 87-38

MOBILE HOMES
Appeals, 92-11 – 92-13
Authority, 92-2
Creation, appointment and organization of Board of Appeals, 92-11
Emergency, 92-5
Exceptions, 92-6
Flood damage prevention, 74-4
Inspection, 92-2
Interpretation, 92-14
Junk and junkyards, 85-3
Land use management, 87-11 – 87-13, 87-36, 87-38, 87-43, 87-57
Littering, 92-5
Location, installation and use standards, 92-5
Lots, 92-7, 92-12
Manufactured home, 92-3, 92-5
Mobile home, 92-3 – 92-5, 92-7, 92-8
Mobile home parks, 92-8
Nonconforming mobile homes, mobile home parks and lots, 92-7
Parking, 92-5
Parks, 92-7, 92-8
Penalties for offenses, 92-9
Permit, 92-4
Plumbing, 92-3, 92-5
Powers and duties of Board, 92-12
Procedure, 92-13
Purpose, 92-2
Safety, 92-2, 92-3, 92-5, 92-14
Setback, 92-5, 92-7
Smoke, 92-5
Stop orders, 92-10
Title, 92-1
Utility, 92-3
Variance, 92-12 – 92-14
Water, 92-2, 92-3, 92-5
Word usage and definitions, 92-3

MONUMENTS
Land use management, 87-17
Subdivision of land, 124-30, 124-31

MOTELS
Land use management, 87-45

MULTIFAMILY DWELLINGS
Land use management, 87-12, 87-13, 87-45

– N –

NEWSPAPERS
Land use management, 87-20, 87-21, 87-63, 87-66

NOISE
Land use management, 87-23

NONCONFORMING USES
Land use management, 87-57

NOTICES
Building construction and fire prevention, 52-6, 52-8, 52-9
Land use management, 87-20, 87-27, 87-59, 87-63, 87-66
Notification of defects, 96-3, 96-4
Sewers and water, 109-3
Water district regulations, A145-2

NOTIFICATION OF DEFECTS
Action by Superintendent of Highways, 96-3
Construction of provisions, 96-5
Defects in highways and other property, 96-1
Defects in sidewalks, 96-2
Notices, 96-3, 96-4
Records, 96-4
Sidewalks, 96-2, 96-5

NUISANCES
Flood damage prevention, 74-17
Junk and junkyards, 85-2
Land use management, 87-18, 87-23
Septage waste, land application of, 105-7

– O –

OBSTRUCTIONS
Land use management, 87-37

ODORS
Junk and junkyards, 85-8
Land use management, 87-23
Septage waste, land application of, 105-7
Solid waste, 120-17

OFFICIAL MAP
Flood damage prevention, 74-4
Subdivision of land, 124-34

OFF-STREET LOADING
Land use management, 87-23, 87-47

ONE-FAMILY DWELLINGS
Land use management, 87-11 – 87-13

OPEN SPACE
Land use management, 87-16, 87-23
Subdivision of land, 124-27, 124-31, 124-44

OUTDOOR BURNING
Junk and junkyards, 85-5

– P –

PARKING
Flood damage prevention, 74-4

GLEN INDEX

Land use management, 87-20,
87-22, 87-23
Mobile homes, 92-5
Site plan review, 113-11
Subdivision of land, 124-40

PARKS
Adult bookstores, 38-5
Flood damage prevention, 74-13
Mobile homes, 92-7, 92-8
Septage waste, land application
of, 105-4
Site plan review, 113-35
Subdivision of land, 124-36,
124-42

PENALTIES FOR OFFENSES
Adoption of Code, 1-10
Adult bookstores, 38-6, 38-11,
38-15
Animals, 45-14
Building construction and fire
prevention, 52-10
Burning, outdoor, 61-4
Flood damage prevention, 74-8
Junk and junkyards, 85-12
Land use management, 87-58,
87-60, 87-61
Mobile homes, 92-9
Septage waste, land application
of, 105-11
Sewers and water, 109-3
Site plan review, 113-44
Solid waste, 120-8, 120-14,
120-23
Subdivision of land, 124-58

PERFORMANCE STANDARDS
Land use management, 87-21,
87-23

PERMITS
Building construction and fire
prevention, 52-7
Burning, outdoor, 61-2, 61-3,
61-5
Flood damage prevention, 74-8,
74-10 - 74-13
Junk and junkyards, 85-5 - 85-11
Land use management, 87-10 -
87-14, 87-16, 87-18, 87-19,
87-21, 87-27, 87-33, 87-36,
87-41, 87-57 - 87-60
Mobile homes, 92-4
Septage waste, land application
of, 105-5, 105-6, 105-8,
105-9, 105-11
Site plan review, 113-37, 113-41
Solid waste, 120-20
Subdivision of land, 124-23,
124-57
Water district regulations, A145-2

PERMITTED USES
Land use management, 87-10 -
87-14, 87-16, 87-27

PLACES OF WORSHIP
Adult bookstores, 38-5

PLASTIC
Land use management, 87-14

PLAYGROUNDS
Land use management, 87-11 -
87-13

PLUMBING
Flood damage prevention, 74-13
Land use management, 87-13
Mobile homes, 92-3, 92-5
Water district regulations,
A145-1, A145-2

POLLUTION
Land use management, 87-22,
87-23
Septage waste, land application
of, 105-7
Solid waste, 120-16, 120-19

POOLS
Land use management, 87-45

PROCUREMENT POLICY
Annual review, 26-9
Awards to other than lowest of-
feror, 26-5
Documentation, 26-6
Emergencies, 26-7
Evaluation of purchase, 26-2
Exceptions, 26-7
Formal bids required, 26-3
Inability to obtain proposals, 26-6
Input from officers, 26-8
Methods of purchase, 26-4
Purpose, 26-1
Unintentional failure to comply,
26-10

- R -

RECORDS
Building construction and fire
prevention, 52-8, 52-12
Flood damage prevention, 74-12,
74-16
Land use management, 87-16,
87-22, 87-26, 87-27, 87-63
Notification of defects, 96-4
Septage waste, land application
of, 105-3, 105-7

RECYCLING
Solid waste, 120-19, 120-20

REGISTRATION
Junk and junkyards, 85-3
Water district regulations, A145-2

REGULATIONS AND RATES
Sewers and water, 109-2 - 109-5

REPORTS
Building construction and fire
prevention, 52-8
Land use management, 87-20,
87-63, 87-65, 87-67, 87-70
Septage waste, land application
of, 105-9

RESTAURANTS
Land use management, 87-12,
87-13
Solid waste, 120-19

RODENTS
Junk and junkyards, 85-2
Septage waste, land application
of, 105-4

- S -

SAFETY STANDARDS
Adult bookstores, 38-1
Animals, 45-8
Building construction and fire
prevention, 52-11
Burning, outdoor, 61-3, 61-5
Flood damage prevention, 74-2,
74-4, 74-7, 74-16, 74-17
Junk and junkyards, 85-8
Land use management, 87-3,
87-18, 87-23, 87-27, 87-63,
87-70, 87-72
Mobile homes, 92-2, 92-3, 92-5,
92-14
Septage waste, land application
of, 105-2, 105-3, 105-7,
105-8
Site plan review, 113-3, 113-5,
113-29, 113-46
Solid waste, 120-17
Subdivision of land, 124-3,
124-32, 124-34, 124-43,
124-45, 124-61
Water district regulations, A145-2

SALES
Code Book, 1-9
Flood damage prevention, 74-4
Land use management, 87-13,
87-35

SANITARY FACILITIES
Flood damage prevention, 74-4,
74-14
Subdivision of land, 124-29

SANITATION
Septage waste, land application
of, 105-4
Subdivision of land, 124-29

SCHOOLS
Land use management, 87-11,
87-12
Subdivision of land, 124-36

SCREENING
Junk and junkyards, 85-5
Land use management, 87-16,
87-22, 87-27, 87-31, 87-33
Site plan review, 113-34

SEIZURE
Animals, 45-8

**SEPTAGE WASTE, LAND AP-
PLICATION OF**
Animals, 105-7
Annual report, 105-9
Coordination with other laws,
105-13
Definitions, 105-4
Drainage, 105-5, 105-7
Enforcement, 105-11
Fences, 105-5, 105-7
Findings, 105-2
Inspection, 105-5, 105-7
Insurance, 105-10
Lead, 105-5, 105-8
Liability, 105-5, 105-11
Livestock, 105-7
Nuisances, 105-7
Odors, 105-7

GLEN INDEX

- Operational regulations, 105-7
- Parks, 105-4
- Penalties for offenses, 105-11
- Permit, 105-5, 105-6, 105-8, 105-9, 105-11
- Pollution, 105-7
- Purpose, 105-3
- Records, 105-3, 105-7
- Reports, 105-9
- Right to farm, 105-12
- Rodents, 105-4
- Safety, 105-2, 105-3, 105-7, 105-8
- Sanitation, 105-4
- Signs, 105-7
- Site plan, 105-4, 105-5
- Stop-work order, 105-11
- Storage, 105-4, 105-5, 105-7, 105-11
- Surety, 105-10
- Tests, 105-5, 105-6, 105-8
- Water, 105-2 – 105-5, 105-7, 105-8
- Yards, 105-4
- SEPTIC SYSTEMS**
 - Land use management, 87-22
- SETBACKS**
 - Land use management, 87-20, 87-23, 87-35, 87-39, 87-40, 87-44, 87-45, 87-63
 - Mobile homes, 92-5, 92-7
- SEWERS AND WATER**
 - Barricades, 109-3
 - Definitions, 109-2
 - Fees, 109-3
 - General regulations, 109-3
 - Guarantees, 109-3
 - Leachate, 109-1
 - Introduction into Sewer District No. 1 prohibited, 109-1
 - Liability, 109-3
 - Lighting, 109-3
 - Meters, 109-3
 - Notices, 109-3
 - Payment of bills, 109-4
 - Penalties for offenses, 109-3
 - Rates, 109-5
 - Regulations and rates, 109-1, 109-2 – 109-5
 - Tests, 109-3
 - Trenches, 109-3
 - Warranties, 109-3
- SHADE TREES**
 - Land use management, 87-38
- SIDEWALKS**
 - Notification of defects, 96-2, 96-5
 - Subdivision of land, 124-27, 124-30, 124-31, 124-36, 124-47
- SIGNS**
 - Land use management, 87-11, 87-35, 87-37
 - Septage waste, land application of, 105-7
 - Solid waste, 120-6
 - Subdivision of land, 124-34, 124-47
- SINGLE-FAMILY DWELLINGS**
 - Land use management, 87-45
- SITE PLAN REVIEW**
 - Administration and Enforcement, 113-41 – 113-47
 - Amendments, 113-43
 - Appeals, 113-45
 - Building Inspector, 113-42
 - Certificate of occupancy, 113-41
 - Conflict with other laws, 113-47
 - Inspection, 113-42
 - Penalties for offenses, 113-44
 - Permit, 113-41
 - Safety, 113-46
 - Site plan, 113-41, 113-46
 - Site plan compliance, 113-41
 - Waivers, 113-46
 - Applicability, 113-7
 - Site plan, 113-7
 - Uses requiring site plan approval, 113-7
 - Construction and Maintenance, 113-37 – 113-40
 - Abandonment of facility, 113-39
 - Alteration of an existing antenna, 113-40
 - Annual inspections, 113-38
 - Antennas, 113-38
 - Height, 113-40
 - Inspection, 113-38
 - Permit, 113-37
 - Site plan, 113-37, 113-39, 113-40
 - Time limit for completion, 113-37
 - Towers, 113-38
 - Criteria, 113-20 – 113-30
 - Abandonment, 113-30
 - Antenna height, 113-25
 - Antennas, 113-28
 - Antenna support structure safety, 113-29
 - Applicants required to meet criteria, 113-20
 - Architectural compatibility, 113-27
 - Collocation, 113-23
 - Height, 113-24 – 113-26, 113-28
 - Location, 113-22
 - Lot criteria, 113-24
 - Necessity, 113-21
 - Performance bond, 113-30
 - Placement of antennas, 113-28
 - Safety, 113-29
 - Security fencing, 113-26
 - Site plan, 113-20, 113-30
 - Definitions, 113-6
 - Design Guidelines, 113-31 – 113-36
 - Antennas, 113-36
 - Conformance required, 113-31
 - Finish/colors, 113-32
 - Height, 113-34
 - Illumination, 113-33
 - Landscaping for towers or monopolies, 113-34
 - Parks, 113-35
 - Screening, 113-34
 - Signage, 113-36
 - Towers, 113-32, 113-34
 - Trees, 113-34
 - Visibility, 113-35
- General Provisions, 113-1 – 113-5
 - Enactment and authorization, 113-1
 - Interpretation and application, 113-5
 - Planning Board authority to review site plans, 113-4
 - Purpose, 113-3
 - Safety, 113-3, 113-5
 - Site plan, 113-1 – 113-3
 - Title, 113-2
- Procedures, 113-8 – 113-19
 - Acceptance of site plan application, 113-13
 - Antennas, 113-11
 - Application for site plan approval, 113-10
 - Compliance with SEQR, 113-16
 - Compliance with standards and procedures, 113-8
 - Extension of time to render decision, 113-19
 - Grading, 113-11
 - Height, 113-11
 - Landscaping, 113-11
 - Less intensive review, 113-12
 - Parking, 113-11
 - Planning Board action on site plan, 113-18
 - Public hearing on site plan, 113-17
 - Referrals to other agencies and boards, 113-15
 - Segmentation, 113-14
 - Site plan, 113-8 – 113-19
 - Sketch plan, 113-9
 - Towers, 113-11
- SITE PLANS**
 - Junk and junkyards, 85-7
 - Land use management, 87-10, 87-18 – 87-20, 87-22, 87-23, 87-25 – 87-27, 87-63
 - Septage waste, land application of, 105-4, 105-5
 - Site plan review, 113-1 – 113-3, 113-7 – 113-20, 113-30, 113-37, 113-39 – 113-41, 113-46
- SMOKE**
 - Burning, outdoor, 61-3
 - Junk and junkyards, 85-8
 - Land use management, 87-23
 - Mobile homes, 92-5
- SOIL EROSION**
 - Land use management, 87-23
- SOLID WASTE**
 - Dumps and Dumping, 120-10 – 120-14

GLEN INDEX

- Abandonment, 120-11
- Definitions, 120-11
- Demolition, 120-11
- Exceptions, 120-13
- Hospital, 120-11
- Intent, 120-10
- Penalties for offenses, 120-14
- Prohibited activities, 120-12
- Vehicles, 120-11
- Town Dump, 120-1 – 120-9**
 - Abandonment, 120-7
 - Animals, 120-1
 - Definitions, 120-1
 - Depositing garbage on public highways or places, 120-7
 - Manner of use, 120-6
 - Penalties for offenses, 120-8
 - Restrictions on use, 120-4
 - Revocation of privilege, 120-9
 - Signs, 120-6
 - Site, 120-2
 - Use by residents only, 120-5
 - Vehicles, 120-3, 120-7
 - Vehicles and large articles, 120-3
- Waste Management Facilities, 120-15 – 120-24**
 - Abandonment, 120-19
 - Applicability, 120-18
 - Coordination with state law, 120-21
 - Definitions, 120-19
 - Demolition, 120-19
 - Dust, 120-17
 - Effect on other laws, 120-24
 - Enforcement, 120-23
 - Exemptions, 120-20
 - Findings, 120-16
 - Fly ash, 120-19
 - Fuel, 120-19
 - Liability, 120-23
 - Livestock, 120-19
 - Odors, 120-17
 - Operation of waste management facilities prohibited, 120-22
 - Penalties for offenses, 120-23
 - Permit, 120-20
 - Pollution, 120-16, 120-19
 - Purpose, 120-17
 - Recycling, 120-19, 120-20
 - Restaurants, 120-19
 - Safety, 120-17
 - Storage, 120-19, 120-20
 - Tires, 120-19
 - Trees, 120-23
 - Water, 120-16, 120-17, 120-19, 120-23
- SPECIAL USE PERMITS**
 - Land use management, 87-33
- STOP-WORK ORDERS**
 - Flood damage prevention, 74-11, 74-12
 - Septage waste, land application of, 105-11
- STORAGE**
 - Flood damage prevention, 74-4, 74-11
- Junk and junkyards, 85-1 – 85-4, 85-9, 85-10
- Land use management, 87-11, 87-13, 87-14, 87-17, 87-22
- Septage waste, land application of, 105-4, 105-5, 105-7, 105-11
- Solid waste, 120-19, 120-20
- Water district regulations, A145-1
- STORMWATER**
 - Land use management, 87-22, 87-23
- STREETLIGHTING**
 - Subdivision of land, 124-37
- SUBDIVISION OF LAND**
 - Definitions, 124-7
 - Design Standards and Required Improvements, 124-33 – 124-45
 - Brush, 124-44
 - Cluster development, 124-44
 - Comprehensive Plan, 124-33, 124-34
 - Design standards, 124-34, 124-44
 - Drainage, 124-43, 124-44
 - Easement, 124-34, 124-44
 - Emergency, 124-34, 124-35, 124-40
 - Emergency vehicles, 124-34, 124-35, 124-40
 - Erosion and sedimentation, 124-41
 - Final plat, 124-44
 - General road standards, 124-34
 - Grass, 124-44
 - Insurance, 124-37
 - Land unsuitable for subdivision, 124-43
 - Lot requirements, 124-40
 - Lots, 124-34, 124-39, 124-40, 124-44
 - Official Map, 124-34
 - Open space, 124-44
 - Parking, 124-40
 - Parks, 124-36, 124-42
 - Pedestrianways, 124-36
 - Reservation of parkland, 124-42
 - Road construction standards, 124-35
 - Safety, 124-34, 124-43, 124-45
 - Schools, 124-36
 - Sewage disposal, 124-39
 - Sidewalks, 124-36
 - Signs, 124-34
 - Streetlighting, 124-37
 - Trees, 124-41
 - Unique and natural features, 124-41
 - Utilities, 124-37, 124-44
 - Vehicles, 124-34, 124-35, 124-40
 - Waiver of standards, 124-45
 - Water, 124-37 – 124-39, 124-41
 - Water supply, 124-38
 - Weeds, 124-44
 - Documents to be Submitted, 124-26 – 124-32**
 - Agricultural data statement, 124-28
 - Curbs, 124-30, 124-31
 - Drainage, 124-27, 124-30
 - Final plat, 124-29, 124-31
 - Final plat of major subdivision, 124-31
 - Grading, 124-30
 - Information required for all plat submissions, 124-27
 - Landscaping, 124-30
 - License, 124-31
 - Lighting, 124-30, 124-31
 - Lots, 124-27, 124-31
 - Major subdivision, 124-30, 124-31
 - Minor subdivisions, 124-29
 - Monuments, 124-30, 124-31
 - Open space, 124-27, 124-31
 - Preliminary plat of major subdivision, 124-30
 - Purpose, 124-26
 - Safety, 124-32
 - Sanitary facilities, 124-29
 - Sanitation, 124-29
 - Sidewalks, 124-27, 124-30, 124-31
 - Trees, 124-30, 124-31
 - Utilities, 124-27
 - Waiver of subdivision requirements, 124-32
 - Water, 124-27, 124-29 – 124-31
 - Watercourses, 124-27
 - Financial Guarantees for Public Improvements, 124-46 – 124-56**
 - Acceptance of required public improvements, 124-56
 - Extension of time limit, 124-48
 - Financial security options, 124-52
 - Guarantees, 124-46, 124-55
 - Inspection, 124-51, 124-56
 - Inspections of improvements, 124-51
 - Phasing of improvements, 124-50
 - Purpose, 124-46
 - Required public improvements, 124-47
 - Review of proposed financial security, 124-53
 - Schedule of improvements, 124-54
 - Sidewalks, 124-47
 - Signs, 124-47
 - Staged refunding of financial guarantees, 124-55
 - Time limit on installation of improvements, 124-49
 - Utility, 124-46
 - Water, 124-47

GLEN INDEX

General Provisions; Penalties, 124-57 – 124-61
Amendments, 124-60
Certificate of occupancy, 124-57
Certification and filing with county, 124-59
Interpretation and conflict, 124-61
Penalties for offenses, 124-58
Permit, 124-57
Safety, 124-61
Subdivision compliance, 124-57
Review and Approval Procedure, 124-8 – 124-25
Action on final plat, 124-21
Action on preliminary plat, 124-15
Application for final plat approval, 124-17
Application for major subdivision preliminary plat approval, 124-13
Compliance with State Environmental Quality Review Act, 124-25
Comprehensive Plan, 124-11
Conditional approval of final plat, 124-22
Design standards, 124-11
Effect of preliminary plat approval, 124-16
Filing of plats in sections, 124-23
Final plat, 124-9 – 124-11, 124-16 – 124-24
Guarantees, 124-20
Guarantees for required improvements, 124-20
Lots, 124-12
Major subdivision, 124-11, 124-13, 124-19
New York State Department of Health, 124-12
Permit, 124-23
Public hearing for final plat, 124-18
Public hearing for preliminary plat, 124-14
Purpose, 124-8
Recording of final plat, 124-24
Review procedure for major subdivisions, 124-10
Review procedure for minor subdivision, 124-9
Sketch plan conference, 124-11
Waiver of public hearing for final plat of major subdivision, 124-19
Title; Purpose; Applicability, 124-1 – 124-6
Administration, 124-4
Applicability and exemptions, 124-6
Comprehensive Plan, 124-3

Enactment and authorization, 124-1
Fees, 124-5
Inspection, 124-5
Lots, 124-1, 124-6
Purpose, 124-3
Safety, 124-3
Title, 124-2

SWIMMING POOLS

Land use management, 87-45
Water district regulations, A145-1

- T -

TAXATION

Economic Development Zone
Exemption, 129-5 – 129-12
Authorization, 129-7
Base amount of exemption, 129-9
Exemption scale, 129-8
Filing of application, 129-10
Granting of exemption, 129-11
Purpose, 129-6
Termination of designation of economic development zone, 129-12
Title, 129-5
Elimination of Permissive Tax Exemptions, 129-13
Elimination of exemptions, 129-13
Senior Citizens Exemption, 129-1, 129-2
Conditions, 129-2
Exemption granted, 129-2
Purpose, 129-1
Veterans Exemption, 129-3, 129-4
Authority, 129-3
Exemption granted, 129-3
Repealer, 129-4

TESTS

Building construction and fire prevention, 52-8
Land use management, 87-22
Septage waste, land application of, 105-5, 105-6, 105-8
Sewers and water, 109-3
Water district regulations, A145-2

TIRES

Burning, outdoor, 61-3
Junk and junkyards, 85-3
Solid waste, 120-19

TOWERS

Land use management, 87-11, 87-17
Site plan review, 113-11, 113-32, 113-34, 113-38

TREES

Junk and junkyards, 85-5
Land use management, 87-22, 87-23, 87-33, 87-37, 87-38
Site plan review, 113-34
Solid waste, 120-23
Subdivision of land, 124-30, 124-31, 124-41

TRENCHES

Sewers and water, 109-3
Water district regulations, A145-2

TWO-FAMILY DWELLINGS

Land use management, 87-11 – 87-13

- U -

UTILITIES

Flood damage prevention, 74-3, 74-4, 74-11, 74-13, 74-14, 74-16
Land use management, 87-11, 87-13, 87-14, 87-22, 87-44
Mobile homes, 92-3
Subdivision of land, 124-27, 124-37, 124-44, 124-46

- V -

VAPORS

Land use management, 87-23

VARIANCES

Building construction and fire prevention, 52-12
Flood damage prevention, 74-4, 74-7, 74-8, 74-12, 74-17
Land use management, 87-10, 87-63, 87-72
Mobile homes, 92-12 – 92-14

VEHICLES

Flood damage prevention, 74-4, 74-16
Junk and junkyards, 85-2 – 85-4
Land use management, 87-22, 87-23, 87-31, 87-42
Solid waste, 120-3, 120-7, 120-11
Subdivision of land, 124-34, 124-35, 124-40

VENTILATION

Flood damage prevention, 74-13

- W -

WALLS

Land use management, 87-16, 87-22, 87-27

WARRANTIES

Sewers and water, 109-3

WATER

Flood damage prevention, 74-2 – 74-4, 74-13, 74-14, 74-16
Junk and junkyards, 85-2, 85-5, 85-8
Land use management, 87-9, 87-17, 87-22
Mobile homes, 92-2, 92-3, 92-5
Septage waste, land application of, 105-2 – 105-5, 105-7, 105-8
Solid waste, 120-16, 120-17, 120-19, 120-23
Subdivision of land, 124-27, 124-29 – 124-31, 124-37 – 124-39, 124-41, 124-47

GLEN INDEX

- Water district regulations,
A145-1, A145-2
, *see* SEWERS AND WATER
- WATERCOURSES**
 - Flood damage prevention, 74-4,
74-12
 - Subdivision of land, 124-27
- WATER DISTRICT REGULATIONS**
 - Abandonment, A145-2
 - Barricades, A145-2
 - Definitions, A145-1
 - Excavations, A145-2
 - General regulations, A145-2
 - Hydrant, A145-2
 - Investigation, A145-2
 - Meters, A145-2
 - Notices, A145-2
 - Permit, A145-2
 - Plumbing, A145-1, A145-2
 - Registration, A145-2
 - Safety, A145-2
 - Storage, A145-1
 - Swimming pool, A145-1
 - Tests, A145-2
 - Trench, A145-2
 - Water, A145-1, A145-2
- WATER SUPPLY**
 - Land use management, 87-22
- WEEDS**
 - Subdivision of land, 124-44
- WELLS**
 - Land use management, 87-22

- Y -

YARDS

- Land use management, 87-15,
87-16, 87-22, 87-32, 87-35,
87-38, 87-39, 87-44, 87-63
- Septage waste, land application
of, 105-4

- Z -

ZONING MAP

- Land use management, 87-8, 87-9