

PREFACE

The Town of Bath is located in Steuben County and was formed March 8, 1796. Like many other municipalities, the Town of Bath has passed through a process of legislative change. While only a few simple laws were necessary at the time of the formation of the Town, subsequent growth of the community, together with the complexity of modern life, has created the need for more and detailed legislation for the proper function and government of the Town. The recording of local law is an aspect of municipal history, and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up-to-date. It was with thoughts such as these in mind that the Town Board ordered the following codification of the Town's legislation.

Contents of Code

The various chapters of the Code contain all currently effective legislation (local laws, ordinances and certain resolutions) of a general and permanent nature enacted by the Town Board of the Town of Bath, 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 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 legislation of a regulatory nature. Legislation in this part generally imposes penalties for violation of the provisions contained therein, whereas that in Part I does not. The local law providing for the renumbering of Town legislation into an orderly and organized system and designating the body of such renumbered legislation as the "Code of the Town of Bath" appears in Chapter 1, General Provisions, Article I.

BATH CODE

Grouping of Legislation Arrangement of Chapters

The legislation of the Town is organized into chapters, the order being an alphabetical progression from one subject to another. Wherever there are two or more items of legislation dealing with the same subject, they are combined into a single chapter. Thus, for example, all legislation pertaining to the regulation of taxation may be found in Part II, in the chapter entitled "Taxation." In such chapters, use of Article or Part designations has preserved the identity of the individual items of legislation.

Table of Contents

The Table of Contents details the arrangement of material by chapter as a means of identifying specific areas of legislation. Wherever two or more items or legislation have been combined by the editor into a single chapter, titles of the several Articles or Parts are listed beneath the chapter title in order to facilitate location of the individual item of legislation.

Reserved Chapters

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

Pagination

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

PREFACE

Numbering of Sections

A chapter-related section-numbering system is employed in which each section of every item of legislation is assigned a number which indicates both the number of the chapter in which the legislation is located and the location of the section within that chapter. Thus, the first section of Chapter 6 would be § 6-1, while the fourth section of Chapter 53 would be § 53-4.

Scheme

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

Chapter Histories

At the end of the Scheme in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the ordinance or local law number, if pertinent, and date of adoption. In the case of chapters containing Articles or Parts derived from more than one item of legislation, the source of each Article or Part is indicated in the History.

Amendments and Revisions

Sections of this Code amended or revised during the process of codification are specifically enumerated in chapter Histories with reference to “Ch. 1, General Provisions, Art. I,” where the Code adoption legislation effecting such change is located. Sections so amended or revised are also indicated in the text by means of Editor’s Notes referring to Article I of Chapter 1. The history of other amendments to each chapter appears where pertinent in the text.

BATH CODE

General References; Editor's Notes

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

Appendix

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

Index

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

Supplementation

Supplementation of the Code will follow the adoption of new legislation. New local laws, ordinances and amendments 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 Clerk, Town Attorney and the entire Town Board is gratefully acknowledged by the editors. Their dedication to the tasks involved in the preparation of this Code make it an outstanding

PREFACE

achievement of the Town of Bath. This Code is dedicated to the memory of former Town Attorney, Robert W. Wightman, Esq.

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

TABLE OF CONTENTS

PART I: ADMINISTRATIVE LEGISLATION

1.	General Provisions	1:1
	Article I Adoption of Code	
6.	Clerk.....	6:1
	Article I Term of Office	
7.	Code Enforcement Officer	7:1
	Article I Residency Requirement	
8.	Defense and Indemnification	8:1
12.	Ethics, Code of.....	12:1
16.	Grievance Procedure	16:1
20.	Personnel Policies	20:1
24.	Planning Board.....	24:1
	Article I Creation	
	Article II Powers and Duties	
	Article III Residency Requirement	
25.	Purchasing.....	25:1
	Article I Best Value Bidding Procedure	
26.	Receiver of Taxes.....	26:1

PART II: GENERAL LEGISLATION

31.	Adult Uses.....	31:1
36.	Bingo and Games of Chance.....	36:1
	Article I Bingo	
	Article II Games of Chance	

BATH CODE

40. Building Construction 40:1

41. Signs..... 41:1

43. Buildings, Numbering of..... 43:1

54. Dogs 54:1

 Article I Control, Regulation and Licensing

59. Environmental Quality Review 59:1

65. Flood Damage Prevention..... 65:1

 Article I General Provisions

 Article II Definitions

 Article III Applicability and Enforcement

 Article IV Administration

 Article V Provisions for Flood Hazard Reduction

 Article VI Variances

70. Garbage, Rubbish and Refuse 70:1

82. Mobile Homes..... 82:1

93. Records, Public Access to 93:1

 Signs -- See Ch. 41

96. Site Plan Review 96:1

99. Snowmobiles..... 99:1

103. Streets and Sidewalks..... 103:1

 Article I Highway Construction and Dedication

 Article II Street Names and Numbers

 Article III Prior Notice of Defects

 Article IV Highway Right-of-Way Permits

 Article V High-Frequency, High-Impact Truck Traffic

107. Subdivision of Land 107:1

 Article I General Provisions

 Article II Procedure

 Article III General Requirements and Design Standards

 Article IV Required Data and Plats

 Article V Required Improvements and Agreements

 Article VI Definitions and Word Usage

TABLE OF CONTENTS

111. Taxation 111:1

- Article I Senior Citizens Tax Exemption
- Article II Exemption for the Physically Disabled
- Article III Alternative Veterans Exemption
- Article IV Exemption for Persons with Disabilities and Limited Incomes
- Article V Exemption for Historic Barns
- Article VI Exemption for Volunteer Firefighters or Ambulance Workers
- Article VII Cold War Veterans Exemptions

116. Water..... 116:1

- Article I Control of Backflow and Cross-Connections

118. Wind Energy Facilities..... 118:1

APPENDIX

DISPOSITION LIST

INDEX

Chapter 1

GENERAL PROVISIONS

[HISTORY: Adopted by the Town Board of the Town of Bath: Art. I, 12-8-1986 by L.L. No. 2-1987. Amendments noted where applicable.]

ARTICLE I

Adoption of Code

[Adopted 12-8-1986 by L.L. No. 2-1987]

§ 1-1. Legislative intent; derivation table.

- A. In accordance with Subdivision 3 of § 20 of the Municipal Home Rule Law, the local laws, ordinances and certain resolutions of the Town of Bath referred to in Subsection B of this section shall be known collectively as the "Code of the Town of Bath," hereafter termed the "Code," and the various parts and sections of such local laws, ordinances and resolutions shall be distributed and designated as provided and set forth in Subsection B of this section. Wherever reference is made in any of the local laws, ordinances and resolutions contained in the "Code of the Town of Bath" 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 below, as if such local law, ordinance or resolution had been formally amended to so read.
- B. Distribution of local laws, ordinances and resolutions. (Sections providing for severability of provisions, repeal of conflicting legislation and effective dates which are covered by provisions of this local law have been omitted from the Code, and such sections are indicated as "Omitted" in the table which follows.)

Derivation Table

New Number (chapter, title, Article, section)	Old Number (source)	Adoption or Amendment Date
Ch. 8, Defense and Indemnification	Resolution	6-28-1982
§ 8-1	First paragraph	
§ 8-2	Second paragraph	
§ 8-3	Third paragraph	
§ 8-4	Fourth paragraph	
§ 8-5	Fifth paragraph	
Ch. 12, Ethics, Code of	L.L. No. 1-1970	6-15-1970

	Article I	
§ 12-1	Section 1	
§ 12-2	Section 2	
	Article II	
§ 12-3	Section 1	
§ 12-4	Section 2	
§ 12-5	Section 3	
§ 12-6	Section 4	
	Article III	
§ 12-7	Section 1	
§ 12-8	Section 2	
§ 12-9	Section 3	
	Article IV	
§ 12-10	Section 1	
§ 12-11	Section 2	
§ 12-12	Section 3	
Omitted	Articles V and VI	
Ch. 16, Grievance Procedure	Resolution	10-17-1984
§ 16-1	First paragraph	
§ 16-2	1	
§ 16-3	2	
§ 16-4	3	
§ 16-5	4	
§ 16-6	5	
§ 16-7	6	
§ 16-8	7	
§ 16-9	8	
§ 16-10	9	
Ch. 20, Personnel Policies	Resolution	3-9-1981
§ 20-1	I	Amended at time of adoption of Code
§ 20-2	II	
§ 20-3	III	Amended at time of adoption of

		Code
§ 20-4	IV	
§ 20-5	V	Amended at time of adoption of Code
§ 20-6	VI	Amended at time of adoption of Code
§ 20-7	VII	
§ 20-8	VIII	
§ 20-9	IX	
§ 20-10	X	
Ch. 24. Planning Board		
Art. I, Creation	Resolution	1-14-1963; amended at time of adoption of Code
§ 24-1	First paragraph	
Art. II, Powers and Duties	Resolution	2-11-1963; amended 7-10-1967
§ 24-2	First paragraph	
Omitted	Second paragraph	
Ch. 36, Bingo	Ordinance	8-13-1973
§ 36-1	Section 1	
§ 36-2	Section 2	Amended at time of adoption of Code
§ 36-3	Section 3	
Omitted	Section 4	
Ch. 40, Building Construction		
Art. I, Administration and Enforcement of Uniform Fire Prevention and Building Code	L.L. No. 3-1984	7-23-1984
§ 40-1	Section 1	
§ 40-2	Section 2	
Omitted	Sections 3 and 4	
Art. II, Code Officer; Building Permits	L.L. No. 4-1984	7-23-1984
§ 40-3	Section 1	Amended at time of adoption of Code
§ 40-4	Section 2	

§ 40-5	Section 3	
§ 40-6	Section 4	
§ 40-7	Section 5	
§ 40-8	Section 6	
§ 40-9	Section 7	Amended at time of adoption of Code
§ 40-10	Section 8	
§ 40-11	Section 9	Amended at time of adoption of Code
§ 40-12	Section 10	Amended at time of adoption of Code
§ 40-13	Section 11	
§ 40-14	Section 12	
§ 40-15	Section 13	
Omitted	Sections 14 and 15	
§ 40-16		Added at time of adoption of Code
Ch. 54. Dogs		
Art. I, Control and Regulation	L.L. No. 1-1980	1-14-1980
§ 54-1	Section 1	
§ 54-2	Section 2	
§ 54-3	Section 3	
§ 54-4	Section 4	
§ 54-5	Section 5	
§ 54-6	Section 6	
§ 54-7	Section 7	
Omitted	Sections 8 and 9	
Art. II, License Fees	L.L. No. 1-1981	11-9-1981
§ 54-8	Section 1	
Omitted	Section 2	
Ch. 59, Environmental Quality Review	L.L. No. 1-1977	5-23-1977
§ 59-1	Section 1	
§ 59-2	Section 2	
§ 59-3	Section 3	

§ 59-4	Section 4	
§ 59-5	Section 5	
§ 59-6	Section 6	
§ 59-7	Section 7	
§ 59-8	Section 8	
§ 59-9	Section 9	
§ 59-10	Section 10	
§ 59-11	Section 11	
§ 59-12	Section 12	
§ 59-13	Section 13	
§ 59-14	Section 14	
§ 59-15	Section 15	
§ 59-16	Section 16	
§ 59-17	Section 17	
Omitted	Section 18	
Ch. 65, Flood Damage Prevention	L.L. No. 1-1983	3-14-1983
§ 65-1	Article 1	
	Article 2	
§ 65-2	Section 2.1	
§ 65-3	Section 2.2	
§ 65-4	Section 2.3	
§ 65-5	Section 2.4	
§ 65-6	Article 3	
	Article 4	
§ 65-7	Section 4.1	
§ 65-8	Section 4.2	
§ 65-9	Section 4.3	Amended at time of adoption of Code
§ 65-10	Section 4.4	
§ 65-11	Section 4.5	
§ 65-12	Section 4.6	
	Article 5	
§ 65-13	Section 5.1	Amended 4-14-1986 by L.L. No. 1-1986

§ 65-14	Section 5.2	Amended 4-14-1986 by L.L. No. 1-1986
§ 65-15	Section 5.3	Amended 4-14-1986 by L.L. No. 1-1986
§ 65-16	Section 5.4	Amended 4-14-1986 by L.L. No. 1-1986
	Article 6	
§ 65-17	Sections 6.1, 6.2 and 6.3	
	Article 7	
§ 65-18	Section 7.1	Amended 4-14-1986 by L.L. No. 1-1986; at time of adoption of Code
§ 65-19	Section 7.2	Amended 4-14-1986 by L.L. No. 1-1986
§ 65-20	Section 7.3	
Omitted	Section 7.4	
Omitted	Articles 8 and 9	
Ch. 70, Garbage, Rubbish and Refuse	Ordinance	2-13-1961
§ 70-1	Article I	
§ 70-2	Article II	
§ 70-3	Articles III and IV	
§ 70-4	Article V	
§ 70-5	Article VI	
§ 70-6	Article VII	Amended at time of adoption of Code
§ 70-7	Article VIII	
§ 70-8	Article IX	
Omitted	Article X	
Ch. 82, Mobile Homes	Ordinance	8-23-1971
§ 82-1	Section 1	
§ 82-2	Section 2	
§ 82-3	Section 3	
§ 82-4	Section 4	
§ 82-5	Section 5	Amended at time of adoption of

		Code
§ 82-6	Section 6	Amended at time of adoption of Code
§ 82-7	Section 7	
§ 82-8	Section 8	
§ 82-9	Section 9	
§ 82-10	Section 10	
§ 82-11	Section 11	
§ 82-12	Section 12	
§ 82-13	Section 13	
§ 82-14	Section 14	
§ 82-15	Section 15	
§ 82-16	Section 16	
Omitted	Section 17	
§ 82-17	Section 18	Amended at time of adoption of Code
Omitted	Section 19	
Ch. 93, Records, Public Access to	Resolution	12-16-1974
§ 93-1	Section 1	
§ 93-2	Section 2	
§ 93-3	Section 3	
§ 93-4	Section 4	
§ 93-5	Section 5	
§ 93-6	Section 6	Amended at time of adoption of Code
Ch. 99, Snowmobiles	Ordinance	12-11-1972
§ 99-1	Section 1	Amended at time of adoption of Code
§ 99-2	Section 2	
§ 99-3	Section 3	
§ 99-4	Section 4	Amended at time of adoption of Code
§ 99-5	Section 5	
Ch. 103, Streets and Sidewalks		
Art. I, Highway Construction and	Resolution	5-14-1962

Dedication		
§ 103-1	Section 1	
§ 103-2	Section 2(a), (b), (c)	
§ 103-3	Section 2(d), (e), (f)	
§ 103-4	Section 3	
§ 103-5	Section 4	
§ 103-6	Section 5	
§ 103-7	Section 6	
§ 103-8	Section 7	
§ 103-9	Section 8	
§ 103-10	Section 9	
§ 103-11	Section 10	
§ 103-12	Section 11	
§ 103-13	Section 12	
§ 103-14	Section 13	
§ 103-15	Section 14	
§ 103-16	Section 15	
§ 103-17	Section 16	
Omitted	Section 17	
Art. II, Street Names and Numbers	Resolution	9-9-1963
§ 103-18	Unnumbered paragraph	
Art. III, Prior Notice of Defects	L.L. No. 1-1975	3-31-1975
§ 103-19	Section 1	
§ 103-20	Section 2	
§ 103-21	Section 3	Amended at time of adoption of Code
§ 103-22	Section 4	
§ 103-23	Section 5	
Omitted	Section 6	
Ch. 107, Subdivision of Land	Resolution	8-14-1967
Art. I	Article I	

§ 107-1	Section 10	
§ 107-2	Section 11	
§ 107-3	Section 12	
§ 107-4	Section 13	
Omitted	Section 14	
§ 107-5	Section 15	
Art. II	Article II	
§ 107-6	Unnumbered paragraph	
§ 107-7	Section 20	Amended at time of adoption of Code
§ 107-8	Section 21	Amended at time of adoption of Code
§ 107-9	Section 22	Amended at time of adoption of Code
Art. III	Article III	
§ 107-10	Unnumbered paragraph	
§ 107-11	Section 30	
§ 107-12	Section 31	
§ 107-13	Section 32	
§ 107-14	Section 33	
Art. IV	Article IV	
§ 107-15	Unnumbered paragraph	
§ 107-16	Section 40	
§ 107-17	Section 41	
§ 107-18	Section 42	
§ 107-19	Section 43	
Art. V	Article V	
§ 107-20	Unnumbered paragraph	
§ 107-21	Section 50	
§ 107-22	Section 51	
Art. VI	Article VI	

§ 107-23	Section 60	
§ 107-24	Section 61	
Ch. 111, Taxation		
Art. I, Senior Citizens Tax Exemption	L.L. No. 1-1966	10-25-1986
§ 111-1	Section 1	
§ 111-2	Section 2	Amended 4-22-1985 by L.L. No. 3-1985; at time of adoption of Code
§ 111-3		Added 4-22-1985 by L.L. No. 3-1985
Omitted	Section 3	
Art. II, Exemption for the Physically Disabled	L.L. No. 1-1984	4-26-1984
§ 111-4	Section 1	
§ 111-5	Section 2	
§ 111-6	Section 3	
§ 111-7	Section 4	
Omitted	Section 5	
Art. III, Alternative Veterans Exemption	L.L. No. 2-1986	7-14-1986
§ 111-8	Section 1	
§ 111-9	Section 2	
Omitted	Sections 3 and 4	

C. Wherever the terms "local law," "ordinance" or "resolution" are used in any of the local laws, ordinances or resolutions renumbered by Subsection B above, such terms shall be changed to "chapter," "Article" or "section," as appropriate, as if such local laws, ordinances or resolutions had been formally amended to read.

§ 1-2. Continuation of existing provisions.

The provisions of the Code, insofar as they are substantively the same as those of local laws, ordinances and resolutions in force immediately prior to the enactment of the Code by this local law, as distributed and renumbered in § 1-1 above, 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 Bath, and it is the intention of said Board that each such provision contained within the Code is hereby reaffirmed as it appears in said Code. Only

such provisions of former local laws and ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below.

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

All local laws and ordinances of a general and permanent nature of the Town of of Bath 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 Bath prior to the effective date of this local law, or any action or proceeding brought for the enforcement of such right or liability.
- B. An offense or act committed or done before the effective date of this local law in violation of any legislative provision of the Town of Bath, 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 Bath.
- D. Any franchise, license, right, easement or privilege heretofore granted or conferred by the Town of Bath.
- E. Any local law or ordinance of the Town of Bath providing for the laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, park or other public place within the Town of Bath or any portion thereof.
- F. Any local law or ordinance of the Town of Bath appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the Town of Bath or other instruments or evidence of the town's indebtedness.
- G. Local laws or ordinances authorizing the purchase, sale, lease or transfer of property, or any lawful contract or obligation.
- H. The levy or imposition of special assessments or charges.
- I. The dedication of property.
- J. Any legislation relating to salaries.
- K. All legislation adopted subsequent to July 14, 1986.

§ 1-5. Severability.

If any clause, sentence, paragraph, section, Article or part of this local law or of any local law, ordinance or resolution cited in the table in § 1-2 hereof, or any legislation included in this Code 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 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 Bath and shall remain there for use and examination by the public until final action is taken on this local law; and, if this local law shall be adopted, such copy shall be certified to by the Town Clerk of the Town of Bath by impressing thereon the Seal of the Town of Bath, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while the said Code is in effect. The enactment and publication of this local law, coupled with the availability of a copy of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-7. Amendments to Code.

Any and all additions, deletions, amendments or supplements to any of the local laws, ordinances and resolutions known collectively as the "Code of the Town of Bath," 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 Bath required to be filed in the office of the Town Clerk for use by the public. All changes in said Code and all local laws and resolutions adopted by the Town Board subsequent to the enactment of this local law in such form as to indicate the intention of said Board to be a part of said Code shall, when finally enacted or adopted, be included therein by temporary attachment of copies of such changes, local laws or resolutions 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 Bath upon the payment of a fee to be set by resolution of the Town Board, which Board may also arrange by resolution for procedures for the periodic supplementation thereof.

§ 1-10. Penalties for tampering with Code.

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

§ 1-11. Changes in previously adopted legislation.

- A. In compiling and preparing the local laws, ordinances and resolutions for publication as the Code of the Town of Bath, as distributed and designated in the table in § 1-1 hereof, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made, except as provided for in Subsection B hereof. In addition, certain grammatical changes and other minor nonsubstantive changes were made in one or more of said pieces of legislation. It is the intention of the Town Board that all such changes be adopted as part of the Code as if the local laws, ordinances and resolutions had been previously formally amended to read as such.
- B. In addition, the following changes, amendments or revisions are made herewith, to become effective upon the effective date of this local law. (Chapter and section number references are to the local laws, ordinances and resolutions as they have been renumbered and appear in the Code.)¹

§ 1-12. Incorporation of provisions into Code.

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

§ 1-13. When effective.

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

¹. Editor's Note: In accordance with § 1-11B, the following sections were added or amended: §§ 20-1B, 20-3B, 20-5B, 20-6, 36-2, 40-3, 40-9C, 40-11A, 40-12D, 40-16, 65-9, 65-18, 70-6, 82-5A, 82-6E, 82-17, 93-6, 99-1, 99-4, 103-21, 107-7C(1), 107-8A(6), 107-9G and 111-2A and C. The following chapters or Articles were amended: Art. I of Ch. 24. A complete description of each change is on file in the Town Clerk's office.

Chapter 6

CLERK

[HISTORY: Adopted by the Town Board of the Town of Bath: Art. I, 8-12-1996 by L.L. No. 2-1996. Amendments noted where applicable.]

ARTICLE I

Term of Office

[Adopted 8-12-1996 by L.L. No. 2-1996]

§ 6-1. Term.

The term of office of the Town Clerk shall henceforth be four years.

§ 6-2. Effective date.

This article shall take effect with the term of office commencing January 1, 1998, and is subject to a mandatory referendum.

§ 6-3. Referendum.

- A. Pursuant to § 23 of the Municipal Home Rule, this article shall be submitted for approval of the electors at a regular election to be held on the fifth day of November, 1996.¹
- B. Said referendum shall be conducted in the manner prescribed by the Town Law and the Election Law.

¹. Editor's Note: This article received the affirmative vote of a majority of the qualified electors voting thereon in accordance with the applicable provisions of law.

Chapter 7

CODE ENFORCEMENT OFFICER

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

GENERAL REFERENCES

Building construction — See Ch. 40.

Flood damage prevention — See Ch. 65.

Subdivision of land — See Ch. 107.

ARTICLE I

Residency Requirement

[Adopted 2-15-2000 by L.L. No. 1-2000]

Notwithstanding the provisions of § 23 of the Town Law and § 3 of the Public Officers Law, or any other provision of law, duly appointed Code Enforcement Officers of the Town of Bath may reside in any town in the County of Steuben, New York.

Chapter 8

DEFENSE AND INDEMNIFICATION

[HISTORY: Adopted by the Town Board of the Town of Bath 6-28-1982. Amendments noted where applicable.]

GENERAL REFERENCES

Code of Ethics — See Ch. 12.

Personnel policies — See Ch. 20.

§ 8-1. Acceptance of statute.

Pursuant to § 18 of the Public Officers Law of the State of New York, the Town of Bath does hereby confer the benefits of such § 18 of the Public Officers Law upon its employees as defined therein.

§ 8-2. Responsibility for costs.

The Town of Bath hereby agrees to be held liable for the costs hereinafter incurred under the provisions of such law.

§ 8-3. Compliance by employee required.

Such benefits and liability for costs shall be conferred and incurred only in those cases in which the employee has complied with all of the requirements and conditions as set forth in § 18 of the Public Officers Law.

§ 8-4. Town to purchase insurance.

The Town of Bath shall purchase insurance from an insurance company authorized by law to transact business in this state against any liability imposed by the provisions of § 18 of the Public Officers Law or this chapter.

§ 8-5. When effective.

This chapter shall become effective upon the effective date of the insurance to be purchased hereunder.

Chapter 12

ETHICS, CODE OF

[HISTORY: Adopted by the Town Board of the Town of Bath 6-15-1970 by L.L. No. 1-1970. Amendments noted where applicable.]

GENERAL REFERENCES

Defense and indemnification — See Ch. 8.

Personnel policies — See Ch. 20.

§ 12-1. Statement of intent; purpose.

The Town Board of the Town of Bath recognizes that there are state statutory provisions mandating towns to establish rules and standards of ethical conduct for public officers and employees¹ which, if observed, can enhance public confidence in local government. In the light of a tendency today on the part of some people to down-grade our local governments and to discredit our public servants and our free institutions generally, it appears necessary that every effort is made to assure the highest caliber of public administration of this town as part of our state's important system of local government. It is the purpose of this chapter to implement this objective through the establishment of standards of conduct, to provide for punishment of violations of such standards and to create a Board of Ethics to render advisory opinions to the town's officers and employees as provided for herein.

§ 12-2. Effect on other legislation.

The standards, prohibited acts and procedures established herein are in addition to any prohibited acts, conflicts of interest provisions or procedures prescribed by statute of the State of New York and also in addition to common law rules and judicial decisions relating to the conduct of town officers to the extent that the same are more severe in their application than this chapter.

§ 12-3. Definitions.

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

TOWN — Any board, commission, district, council or other agency, department or unit of the government of the Town of Bath.

TOWN EMPLOYEE — Any officer or employee of the Town of Bath, whether paid or unpaid, whether serving in a fulltime, part-time or advisory capacity.

§ 12-4. Conflicts of interest.

No town employee shall have any interest, financial or otherwise, direct or indirect, or engage in

1. Editor's Note: See General Municipal Law § 806.

any business or transaction or professional activity or incur any obligation of any nature which is in substantial conflict with the proper discharge of his duties in the public interest.

§ 12-5. Standards.

- A. No town employee shall accept other employment which will impair his independence of judgment in the exercise of his official duties.
- B. No town employee shall accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority.
- C. No town employee shall use or attempt to use his official position to secure unwarranted privileges or exemptions for himself or others.
- D. No town employee shall engage in any transaction as representative or agent of the town with any business entity in which he has a direct or indirect financial interest that might reasonably tend to conflict with the proper discharge of his official duties.
- E. A town employee shall not, by his conduct, give reasonable basis for the impression that any person can improperly influence him or unduly enjoy his favor in the performance of his official duties or that he is affected by the kinship, rank, position or influence of any party or person.
- F. Each town employee shall abstain from making personal investments in enterprises which he has reason to believe may be directly involved in decisions to be made by him or which will otherwise create substantial conflict between his duty in the public interest and his private interest.
- G. Each town employee shall endeavor to pursue a course of conduct which will not raise suspicion among the public that he is likely to be engaged in acts that are in violation of his trust.
- H. No town employee employed on a full-time basis nor any firm or association of which such employee is a member nor corporation a substantial portion of the stock of which is owned or controlled, directly or indirectly, by such employee shall sell goods or services to any person, firm, corporation or association which is licensed or whose rates are fixed by the town in which such employee serves or is employed.

§ 12-6. Penalties for offenses.

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

§ 12-7. Board of Ethics established.

There is hereby established a Board of Ethics consisting of three members to be appointed by the Town Board, all of whom reside in the Town of Bath and who shall serve without compensation and at the pleasure of the Town Board of the Town of Bath. A majority of such members shall be

persons other than town employees but shall include at least one member who is an elected or appointed town employee of the Town of Bath.

§ 12-8. Duties of Board of Ethics.

The Board of Ethics established hereunder shall render advisory opinions to town employees on written request and, upon request of the Town Board, shall make recommendations to such Town Board as to any amendments of this chapter. The opinions of the Board of Ethics shall be advisory and confidential, and in no event shall the identity of the town employee be disclosed except to authorized persons and agencies. Such opinions shall be on the advice of counsel employed by the Board of Ethics or, if none, of the Town Attorney.

§ 12-9. Rules and regulations of Board of Ethics; records.

Such Board of Ethics, upon its formation, shall promulgate its own rules and regulations as to its form and procedures and shall maintain appropriate records of its opinions and proceedings.

§ 12-10. Distribution and posting required.

Upon the adoption of this chapter, the Town Supervisor shall cause a copy thereof to be distributed to every town employee of this town. Failure to distribute any such copy or failure of any town employee to receive such copy shall have no effect on the duty of compliance with this code nor the enforcement of provisions hereof. The Town Supervisor shall further cause a copy of this chapter to be kept posted conspicuously in each public building under the jurisdiction of the town. Failure to so post this chapter shall have no effect on the duty of compliance herewith nor the enforcement provisions hereof.

§ 12-11. Filing.

Within 30 days of the adoption of this chapter, the Town Clerk shall file a copy thereof in the office of the State Comptroller.

§ 12-12. Appropriation of money by Town Board.

The Town Board may appropriate moneys from the general town funds for the maintenance of and for personnel services to the Board of Ethics established hereunder, but such Board of Ethics may not commit the expenditure of town moneys except within the appropriations provided herein.

Chapter 16

GRIEVANCE PROCEDURE

[HISTORY: Adopted by the Town Board of the Town of Bath 10-17-1984. Amendments noted where applicable.]

GENERAL REFERENCES

Defense and indemnification — See Ch. 8

Personnel policies — See Ch. 20.

§ 16-1. Complaints by handicapped persons.

- A. The Town of Bath hereby adopts an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the Office of Revenue Sharing's (ORS) regulations [31 CFR 51.55(d)(2)] implementing Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794). Section 504 states, in part, that "no otherwise qualified handicapped individual . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance . . ."
- B. Complaints should be addressed to: Supervisor, Town of Bath, Municipal Hall, Bath, New York 14810, who is designated to coordinate Section 504 compliance efforts.

§ 16-2. Filing requirements.

A complaint shall be filed in writing, containing the name and address of the person filing it, and shall briefly describe the alleged violation of the regulations.

§ 16-3. Time limit for filing.

A complaint shall be filed within 15 days after the complainant becomes aware of the alleged violation. (Processing of allegations of discrimination occurring before this grievance procedure was in place will be considered on a case-by-case basis).

§ 16-4. Investigation.

An investigation, as may be appropriate, shall follow a filing of a complaint. The investigation will be conducted by the Supervisor. This chapter contemplates informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint. Under 31 CFR 51.55(d)(2), the Town of Bath need not process complaints from applicants for employment or from applicants for admission to post-secondary educational institutions.

§ 16-5. Determination and resolution.

A written determination as to the validity of the complaint and description of resolution, if any, shall be issued by the Supervisor, and a copy shall be forwarded to the complainant no later than 30 days after its filing.

§ 16-6. Files and records to be maintained.

The Section 504 coordinator shall maintain the files and records of the Town of Bath relating to complaints filed and actions taken.

§ 16-7. Request for reconsideration.

The complainant may request a reconsideration of the case in instances where he or she is dissatisfied with the determination. Any request for reconsideration shall be made to the Town Board, in writing, within 15 days of receipt of the determination under § 16-5 hereof.

§ 16-8. Review by Town Board.

The Town Board, upon receipt of a request for reconsideration, shall afford the complainant an opportunity to be heard and, after hearing the complainant and reviewing the action taken by the Supervisor, may dismiss the application or may make any determination as to validity and resolution thereof which could have been made by the Supervisor. In fulfilling its reconsideration functions under this section, the Supervisor shall not sit as a member of the Town Board.

§ 16-9. Effect on other action taken by complainant.

The right of a person to a prompt and equitable resolution of the complaint filed hereunder shall not be impaired by the person's pursuit of other remedies, such as the filing of a Section 504 complaint with the Office of Revenue Sharing, United States Department of the Treasury. Utilization of this grievance procedure is not a prerequisite to the pursuit of other remedies.

§ 16-10. Purpose.

This chapter shall be construed to protect the substantive rights of interested persons, to meet appropriate due process standards and to assure that the Town of Bath complies with Section 504 and the Office of Revenue Sharing regulations.

Chapter 20

PERSONNEL POLICIES

[HISTORY: Adopted by the Town Board of the Town of Bath 3-9-1981. Amendments noted where applicable.]

GENERAL REFERENCES

Defense and indemnification — See Ch. 8.

Code of Ethics — See Ch. 12.

Grievance procedure — See Ch. 16.

§ 20-1. Workweek; classifications; return to employment.

- A. Normal workweek of the employees shall be five days, Monday through Friday. All hours worked in excess of 40 hours per week and/or eight hours per day shall be compensated for at the rate of 1 1/2 times the hourly rate. The department head shall have the right to change the working schedule whenever necessary to ensure orderly operation or to provide for unusual conditions.
- B. Employees will be classified as one of the following: Clerk, Deputy Clerk, Tax Clerk, Court Clerk, bookkeeper, Deputy Superintendent of Highways, laborer, MEO I, MEO II, MEO III, working foreman, mechanic and mechanic's helper. Wages will be set at the first meeting in January by the Town Board. [Amended 12-8-1986 by L.L. No. 2-1987]
- C. Any employee leaving employment for other than disability or leave of absence will be considered a new employee regarding any benefits upon returning to Town employment.

§ 20-2. Vacations; sick and personal leaves. [Amended 2-9-1987 by L.L. No. 1-1987; 3-11-1991 by L.L. No. 1-1991]

In order to be covered by all benefits, an employee must be appointed to a full-time permanent position. He or she must have worked at least six months with the Town to be allowed to draw sick leave as allowed herein.

A. Vacations.

- (1) Vacation leave shall be granted as follows:
 - (a) After completion of one year: five working days.
 - (b) After completion of two years: 10 working days.
 - (c) After completion of five years: 11 working days.
 - (d) After completion of 10 years: 17 working days.
 - (e) After completion of 15 years: 23 working days.

- (f) After completion of 20 years: 24 working days.
- (2) Vacation leave may be accumulated to total not exceeding 40 days at any time. Said accumulation shall be prorated on a per diem basis should the employee be terminated during the year of service. All vacations shall be scheduled with the concurrence of the Superintendent of Highways or department head. Any credit or accumulated vacation time earned prior to January 1, 1981, will be honored. Any employee covered by this section, upon separation from the service of the town, will be entitled to any accumulated vacation, with pay, based upon the foregoing schedule. [Amended 11-14-1994 by L.L. No. 1-1994]

B. Sick leave.

- (1) Each permanent employee shall accrue sick leave credit of 10 days per year, which may be accumulated to a maximum of 150 days. [Amended 11-14-1994 by L.L. No. 1-1994]
- (2) An employee absent from work for three consecutive days or more due to personal illness or accident will be required to submit to his department supervisor a doctor's statement covering complete absence before returning to work and/or receiving sick pay.
- (3) If any employee finds it necessary to be absent or tardy from work by reason of illness, he shall, as soon as reasonably possible and not later than one hour after time to start work, notify the department head or person in charge of the reason for absence and the length of time expected to be absent.
- (4) Any absence from work other than as provided herein or under the provision of the Workers' Compensation Law shall be charged to vacation (but see § 20-2A).
- (5) Upon retirement, unused accumulated sick leave shall be disposed of pursuant to law.

C. Personal leave. After completion of one year of continuous service, an employee shall be entitled to three days' personal or business leave annually, which shall not be accumulated. Unused personal leave days shall not be paid at the time of separation, retirement or death.

§ 20-3. Holidays. [Amended 12-8-1986 by L.L. No. 2-1987; 2-9-1987 by L.L. No. 1-1987; 3-11-1991 by L.L. No. 1-1991]

A. The following days are designated as paid holidays:

- New Year's Day
- Martin Luther King Day
- Lincoln's Birthday [Added 1-12-1998 by L.L. No. 1-1998]
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veterans Day
- Thanksgiving Day

Day after Thanksgiving
Christmas

- B. If any holiday falls on a Saturday, then it shall be observed on the Friday preceding the holiday; and if any holiday falls on a Sunday, then it shall be observed on the Monday following the holiday.
- C. If any of the above-specified holidays fall when an employee is on vacation, such time shall not be charged against the employee's vacation time.
- D. Employees having to work on Thanksgiving, Christmas or New Year's Day shall be paid regular time for the holidays, plus double time for time worked.
- E. Employees having to work on other holidays shall be paid for the holiday, plus overtime for hours worked.
- F. Employees must have worked their last scheduled workday preceding and their first scheduled workday succeeding the holiday unless absent because of vacation, personal day or industrial accident for which the employee received workers' compensation. Employees who have been requested to work and do not report for work on the holidays are not eligible for holiday pay.

§ 20-4. Absence to attend funerals.

In the event of a death of the immediate family of any employee, the employer shall pay the employee not to exceed three working days to attend the funeral services. "Immediate family" means father, mother, father-in-law, mother-in-law, wife, children, brother, sister and one day off for grandparents.

§ 20-5. Health insurance.¹ [Added 12-13-2004 by L.L. No. 2-2004]

The Town of Bath participates in a group health insurance plan. The Town Board reserves the right to change or eliminate plans and/or coverages and the respective responsibilities for the payment of premium costs from time to time, as conditions warrant, by Board resolution at the annual organizational meeting.

§ 20-6. Tardiness. [Amended 12-8-1986 by L.L. No. 2-1987]

Any employee who is over 15 minutes late reporting for work shall have 1/2 hour's pay deducted from his paycheck. Any employee who is 30 minutes to one hour late shall have one hour's pay deducted.

§ 20-7. Insubordination.

Any employee who fails to carry out the instructions or orders of his supervisor to the satisfaction of the department head shall be subject to disciplinary action by the department head. Such action may include suspension without pay, in the discretion of the department head.

1. Editor's Note: Former § 20-5, Health insurance, as amended, was repealed 12-8-2003 by L.L. No. 3-2003.

§ 20-8. Jury and court attendance.

A permanent employee of the Town shall be entitled to his usual wages for the days he serves as a juror or is in court pursuant to subpoena or other order of the court, provided that he turns over to the Town for refund to the Town Treasurer the fees he earns as a juror, retaining the mileage. If the employee is released from jury during the regular scheduled work hours, he has to report back to work within one hour from the time of release or forfeit his usual Town wages for the day.

§ 20-9. Military leave.

Military leave shall be as provided by the New York statutes pertaining to the same.

§ 20-10. Workers' compensation.

Employees injured and coming within the provisions of the Workers' Compensation Law and who are awarded compensation under the law shall have no charge made against the employee's accumulated sick leave for such time as he may be drawing compensation. The employing officer shall file with the Administrator of the County Self Insurance Plan, in cases of injuries coming under the Workers' Compensation Law, a certificate of such absence, together with reason therefor. All employees, while under workers' compensation benefits, may elect to take sick leave for the first seven days of their injury in lieu of any compensation benefits due them. Any benefits from workers' compensation covering the first seven days will then revert to the proper budgetary item of the department. Sick leave credits equal to the money value of the above credits which are reimbursed by the Self Insurance Plan to the department shall be restored to the employee's credit.

§ 20-11. Clothing allowance. [Added 2-9-1987 by L.L. No. 1-1987]

The Superintendent of Highways, Deputy Superintendent of Highways, laborer, MEO I, MEO II, MEO III, working foreman, mechanic and mechanic's helper shall receive an annual clothing allowance as established by the Board, included in the first pay period of each year commencing in the year 1987. The Highway Department employees listed herein shall be responsible for submitting receipts to the Superintendent of Highways verifying their expenditures for work-related articles during the year in which the clothing allowance is given.

§ 20-12. Additional rules and regulations. [Added 3-11-1991 by L.L. No. 1-1991]

Nothing contained herein shall prevent the Highway Superintendent and/or Town Board from adopting such rules and regulations as may be necessary to further identify, supplement or implement the provisions hereof.

Chapter 24

PLANNING BOARD

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

GENERAL REFERENCES

Building construction — See Ch. 40.
Environmental quality review — See Ch. 59.
Mobile homes — See Ch. 82.
Subdivision of land — See Ch. 107.

ARTICLE I

Creation

[Adopted 1-14-1963; amended 12-8-1986 by L.L. No. 2-1987]

§ 24-1. Membership; terms of office; powers and duties.

There is hereby created a Planning Board for the Town of Bath, to consist of seven members, appointed in accordance with § 271 et seq. of the Town Law, to serve for terms of seven years. Such Board shall have all the powers and duties as described in the Town Law and as further provided in this chapter.

ARTICLE II

Powers and Duties

[Adopted 2-11-1963; amended in its entirety 7-10-1967]

§ 24-2. Authorization to recommend plats. [Amended 2-9-1987 by L.L. No. 1-1987]

Pursuant to Town Law § 267, as amended by Chapter 695 of the Laws of 1966, and for the purpose of providing for the future growth and development of the town and affording adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of the population of the Town of Bath, the Town Planning Board of the Town of Bath shall recommend plats showing lots, blocks or sites, with or without streets or highways, and recommend conditionally preliminary plats within that part of the Town of Bath which is outside the limits of any incorporated city or village, and the Bath Town Board of the Town of Bath will consider the recommendations of the Town Planning Board for approval for the development of plats already filed in the office of the Clerk of the County of Steuben relating to plats within the area of the Town of Bath outside the limits of any incorporated city or village if such plats are entirely or partially undeveloped.

ARTICLE III

Residency Requirement

[Adopted 2-15-2000 by L.L. No. 1-2000]

§ 24-3. Authorized county of residence.

Notwithstanding the provisions of § 23 of the Town Law and § 3 of the Public Officers Law, or any other provision of law, duly appointed members of the Town of Bath Planning Board may reside in any town located within the County of Steuben, New York.

Chapter 25

PURCHASING

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

ARTICLE I

Best Value Bidding Procedure

[Adopted 8-13-2012 by L.L. No. 2-2012]

§ 25-1. Findings and purpose.

Pursuant to General Municipal Law, § 103(1), as amended by L. 2011, c. 608 and L. 2012, c. 2, the Town Board of the Town of Bath is authorized to adopt a local law which would permit the Town to use the best value standard in awarding contracts or accepting offers for purchase contracts, including contracts for purchase of services. The Town Board of the Town of Bath determines that it is in the best interest of the Town that such legislation be enacted, and that such standard be used in the Town for the award of such contracts.

§ 25-2. Method of award for public contracts resulting from bids and bidding.

Best value shall be utilized in the Town's procurement process as authorized and as limited by General Municipal Law, § 103, the provisions of which are incorporated by reference herein.

§ 25-3. Definitions.

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

BEST VALUE — As currently defined in § 163 of the State Finance Law, the basis for awarding contracts for services to the offerer which optimizes quality, cost and efficiency, among responsive and responsible offerers. Such basis shall reflect, wherever possible, objective and quantifiable analysis.

§ 25-4. Types of contracts covered.

This article shall apply only to purchase contracts, including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract, pursuant to Article Eight of the Labor Law, and shall not be applicable to contracts for public works.

Chapter 26

RECEIVER OF TAXES

[HISTORY: Adopted by the Town Board of the Town of Bath 6-23-2011 by L.L. No. 2-2011. Amendments noted where applicable.]

§ 26-1. Abolition of elected office.

The elected office of Receiver of Taxes of the Town of Bath, a four-year term of office, is hereby abolished.

§ 26-2. Establishment of appointed office.

An appointed office of Receiver of Taxes is hereby established. The duties of the Receiver of Taxes shall be performed by the office of the Town Clerk.

§ 26-3. Legislative authority; supersession of state law.

This chapter is being enacted pursuant to Municipal Home Rule Law, § 10 and supersedes Town Law § 20(1)(a).

§ 26-4. Mandatory referendum.

This chapter is subject to a mandatory referendum pursuant to Municipal Home Rule Law § 23(2)(e).¹

§ 26-5. Effective date.

This chapter shall take effect upon its filing with the Secretary of State, on or before January 1, 2012.

1. Editor's Note: This chapter was approved at referendum 11-8-2011.

Chapter 31

ADULT USES

[HISTORY: Adopted by the Town Board of the Town of Bath 12-8-2008 by L.L. No. 1-2008. Amendments noted where applicable.]

§ 31-1. Purpose and intent.

It is the intent of the Town of Bath to regulate adult uses in order to reduce or mitigate potential secondary impacts of such uses that have occurred in other communities, including but not limited to increased crime rates, noise, and traffic; decreased property values; and general deterioration of neighborhoods and hindrance of economic development.

§ 31-2. Definitions.

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

ADULT USES — Adult uses shall be defined as follows:

- A. **ADULT BOOKSTORE and/or VIDEO STORE** — A commercial establishment which has a significant or substantial portion of its stock-in-trade in or derives a significant or substantial portion of its revenues from or devotes a significant or substantial portion of its interior business or advertising to the sale of, for or rental of, for any form of consideration, any one or more of the following: books, magazines, periodicals or other visual representations which are characterized by the exposure or emphasis of specified sexual activities or specified anatomical areas; or instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities and which are for sale, rental, or viewing on or off the premises. An establishment may have other principal business purposes that do not involve the offering for sale or rental or viewing of materials depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult book and/or video store so long as one of its principal purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe specified anatomical areas or specified sexual activities.
- B. **ADULT ENTERTAINMENT CABARET** — A public or private establishment which regularly presents topless and/or bottomless dancers, strippers, waiters or waitresses, male or female impersonators of exotic dancers, or other similar entertainment, or film, motion pictures, videos, slides or other photographic material or which utilizes employees, as part of their employment, to regularly expose patrons to specified sexual activities or anatomical areas.
- C. **ADULT MOTION PICTURE THEATER** — Any motion-picture theater where, for any form of consideration, films, motion pictures, videocassettes, slides or other photographic reproductions are shown, and in which a substantial portion of the total presentation time is devoted to the showing of material characterized by the emphasis upon the depiction or

description of specified sexual activities or specified anatomical areas.

- D. ADULT THEATER — A theater, concert hall, auditorium, or similar establishment which, or any form of consideration, regularly features live performances characterized by the exposure of specified sexual activities or specified anatomical areas.
- E. MASSAGE ESTABLISHMENT — Any establishment having a fixed place of business where massages, or any other treatment or manipulation of the human body, are administered for any form of consideration or gratuity as part of or in connection with specified sexual activities or where any person providing such treatment or services related thereto exposes specified anatomical areas. This definition shall not be construed to include hospitals, nursing homes, or medical clinics, or the office of a physician, surgeon, chiropractor, osteopath, duly licensed physical therapist or duly licensed massage therapist or barbershop or beauty salon, athletic club, health club, school, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental accessory service.

SPECIFIED ANATOMICAL AREAS

- A. Human genitals, pubic region, buttocks, and female breasts directly and laterally below the top of the areola that are less than completely and opaquely covered by clothing; and
- B. Human male genitals in a discernible turgid state even if completely and opaquely covered by clothing.

SPECIFIED SEXUAL ACTIVITIES

- A. Human genitals in a state of sexual stimulation or arousal; or
- B. Acts of human masturbation, sexual intercourse, oral copulation, or sodomy; or
- C. Fondling or other erotic touching of human genitals, pubic regions, buttocks, or breasts.

§ 31-3. Restrictions.

Adult uses shall be permitted subject to the following restrictions:

- A. Adult uses are prohibited:
 - (1) Within 1,200 feet of any single-family, two-family, or multiple-family dwelling.
 - (2) Within 1,200 feet of any public or private school or day-care center.
 - (3) Within 1,200 feet of any church or other religious facility or institution.
 - (4) Within 1,200 feet of any public park, public bike path, playground, playing field, cemetery, or civic or recreational facility.
 - (5) Within 8,000 feet of any other existing adult use.
- B. No more than one adult use shall be located on any lot.
- C. The distances provided above shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which

the adult use is to be located to the nearest point of the property parcel from which the adult use is to be separated.

- D. No adult use shall be conducted in any manner that allows the observation of any material depicting, describing, or relating to specified sexual activities or specified anatomical areas from any property not operating as an adult use. This provision shall apply to any sign, show, window, or other opening.
- E. There shall be no outdoor sign, display, or other advertising of any kind other than one identification sign limited to only the name of the establishment.

§ 31-4. Penalties for offenses.

Any person committing an offense against any provision of this chapter shall be guilty of a violation punishable by a fine not exceeding \$250, or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense. The Town may also maintain an action or special proceeding for an injunction or other equitable relief to compel compliance with, or to restrain the violation of, this chapter. The use of any remedy shall not prevent the use of any other remedy hereunder. The listing of remedies herein shall not deprive the Town of the use of any other remedies provided by other provisions of law.

Chapter 36

BINGO AND GAMES OF CHANCE

[HISTORY: Adopted by the Town Board of the Town of Bath: Art. I, 8-13-1973; Art. II, 11-14-1988 by L.L. No. 2-1989. Section 36-2 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

ARTICLE I

Bingo

[Adopted 8-13-1973¹]

§ 36-1. Applicability.

This Article shall be applicable to all territory within the limits of the Town of Bath.

§ 36-2. Bingo permitted; statutory authority. [Amended 12-8-1986 by L.L. No. 2-1987]

It shall be lawful for any authorized organization, namely, a bona fide religious, charitable or nonprofit organization, upon obtaining a license therefor as provided by the General Municipal Law, Article 14-H, and rules and regulations adopted by the State Racing and Wagering Board pursuant to the State Bingo Control Law, to conduct the game or games of bingo in the territory of the Town of Bath on all days of the week, including the first day of the week commonly known and designated as "Sunday."

§ 36-3. Licensing and conduct; incorporation of statute.

The provisions of the Bingo Licensing Law of the State of New York² shall control the licensing of organizations and the conduct of bingo games in the Town of Bath, and this Article incorporates the provisions of those statutes by reference as if set forth in full herein.

ARTICLE II

Games of Chance

[Adopted 11-14-1988 by L.L. No. 2-1989³]

§ 36-4. Authority; title.

This Article 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 Bath."

§ 36-5. Definitions.

-
1. Editor's Note: This ordinance was passed at referendum by a majority of the qualified electors of the town on 11-6-1973.
 2. Editor's Note: See General Municipal Law Art. 14-H.
 3. Editor's Note: This local law was passed at referendum by a majority of the qualified electors of the town on 3-21-1989.

The words and terms used in this Article shall have the same meaning as such words and terms used in Article 9-A of the General Municipal Law of the State of New York.

§ 36-6. Games of chance authorized; games on Sunday.

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, the rules and regulations of the New York State Racing and Wagering Board and this Article. The conduct of games of chance on Sundays is authorized, except as otherwise restricted in Article 9-A of the General Municipal Law.

§ 36-7. Supervision of games.

The powers and duties set forth in Subdivision 1 of § 194 of the General Municipal Law shall be exercised by the chief law enforcement officer of the County of Steuben.

Chapter 40

BUILDING CONSTRUCTION

[HISTORY: Adopted by the Town Board of the Town of Bath 11-27-2006 by L.L. No. 3-2006.¹ Amendments noted where applicable.]

GENERAL REFERENCES

Code Enforcement Officer — See Ch. 7.
Environmental quality review — See Ch. 59.
Flood damage prevention — See Ch. 65.
Mobile homes — See Ch. 82.
Streets and sidewalks — See Ch. 103.
Subdivision of land — See Ch. 107.

§ 40-1. Purpose and intent.

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

§ 40-2. Definitions.

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

BUILDING PERMIT — A permit issued pursuant to § 40-4 of this chapter. The term "building permit" shall also include a building permit that is renewed, amended or extended pursuant to any provision of this chapter.

CERTIFICATE OF OCCUPANCY/CERTIFICATE OF COMPLIANCE — A certificate issued pursuant to § 40-7B of this chapter.

CODE ENFORCEMENT OFFICER — The Code Enforcement Officer appointed pursuant to § 40-3B of this chapter.

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

COMPLIANCE ORDER — An order issued by the Code Enforcement Officer pursuant to § 40-15A of this chapter.

ENERGY CODE — The State Energy Conservation Construction Code, as currently in effect

¹ Editor's Note: This local law superseded former Chapter 40, Building Construction, consisting of Article I, Administration and Enforcement of Uniform Fire Prevention and Building Code, adopted 7-23-1984 by L.L. No. 3-1984, and Article II, Code Officer: Building Permits, adopted 7-23-1984 by L.L. No. 1984, as amended.

and as hereafter amended from time to time.

INSPECTOR — An inspector appointed pursuant to § 40-3D of this chapter.

OPERATING PERMIT — A permit issued pursuant to § 40-10 of this chapter. The term "operating permit" shall also include an operating permit that is renewed, amended or extended pursuant to any provision of this chapter.

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

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

STOP-WORK ORDER — An order issued pursuant to § 40-6 of this chapter.

TEMPORARY CERTIFICATE — A certificate issued pursuant to § 40-7D of this chapter.

TOWN — The Town of Bath.

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

§ 40-3. Code Enforcement Officer and Inspectors.

- A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this chapter. The Code Enforcement Officer shall have the following powers and duties:
- (1) To receive, review, and approve or disapprove applications for building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits, and the plans, specifications and construction documents submitted with such applications;
 - (2) Upon approval of such applications, to issue building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits, and to include in building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;
 - (3) To conduct construction inspections; inspections to be made prior to the issuance of certificates of occupancy/certificates of compliance, temporary certificates and operating permits; firesafety and property maintenance inspections incidental to the investigation of complaints; and all other inspections required or permitted under any provision of this chapter;
 - (4) To issue stop-work orders;
 - (5) To review and investigate complaints;
 - (6) To issue orders pursuant to § 40-15A (violations; penalties for offenses) of this chapter;

- (7) To maintain records;
 - (8) To collect fees as set by the Town Board of this Town;
 - (9) To pursue administrative enforcement actions and proceedings;
 - (10) In consultation with Town's Attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this chapter or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this chapter; and
 - (11) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this chapter.
- B. The Code Enforcement Officer shall be appointed by the Town Board of this Town. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- C. In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board of this Town to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this chapter.
- D. One or more inspectors may be appointed by the Town Board of this Town to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this chapter. Each inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and regulations promulgated thereunder.
- E. The compensation for the Code Enforcement Officer and inspectors shall be fixed from time to time by the Town Board of this Town.

§ 40-4. Building permits.

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

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

- (1) Construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided that the gross floor plan area does not exceed 144 square feet (13.88 square meters);
- (2) Installation of swings and other playground equipment associated with one- or two-family dwellings or multiple single-family dwellings (townhouses).
- (3) Installation of swimming pools associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above the ground;
- (4) Installation of fences that are not part of an enclosure surrounding a swimming pool;
- (5) Construction of retaining walls, unless such walls support a surcharge or impound Class I, II or IIIA liquids;
- (6) Construction of temporary motion picture, television and theater stage sets and scenery;
- (7) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (8) Installation of partitions or movable cases less than five feet nine inches in height;
- (9) Painting, wallpapering, tiling, carpeting, or other similar finish work;
- (10) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
- (11) Replacement of any equipment, provided that the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
- (12) Repairs, provided that such repairs do not involve:
 - (a) The removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component;
 - (b) The removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner that affects egress;
 - (c) The enlargement, alteration, replacement or relocation of any building system; or
 - (d) The removal from service of all or part of a fire protection system for any period of time.

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

of the Uniform Code or the Energy Code.

- D. Applications for building permits. Applications for a building permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:
- (1) A description of the proposed work;
 - (2) The Tax Map number and the street address of the premises where the work is to be performed;
 - (3) The occupancy classification of any affected building or structure;
 - (4) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
 - (5) At least two sets of construction documents (drawings and/or specifications) that:
 - (a) Define the scope of the proposed work;
 - (b) Are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;
 - (c) Indicate with sufficient clarity and detail the nature and extent of the work proposed;
 - (d) Substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and
 - (e) Where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.
- E. Construction documents. Construction documents will not be accepted as part of an application for a building permit unless they satisfy the requirements set forth in Subsection D(5) of this section. Construction documents that are accepted as part of the application for a building permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the code enforcement personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a building permit will be issued. Work shall not be commenced until and unless a building permit is issued.
- F. Issuance of building permits. An application for a building permit shall be examined to

ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and the Energy Code. The Code Enforcement Officer shall issue a building permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and the Energy Code.

- G. Building permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- H. Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents that were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The building permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended building permit reflecting such change is issued.
- I. Time limits. Building permits shall become invalid unless the authorized work is commenced within six months following the date of issuance. Building permits shall expire 12 months after the date of issuance. A building permit which has become invalid or which has expired pursuant to this subsection may be renewed upon application by the permit holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.
- J. Revocation or suspension of building permits. If the Code Enforcement Officer determines that a building permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a building permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the building permit or suspend the building permit until such time as the permit holder demonstrates that:
 - (1) All work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code; and
 - (2) All work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.
- K. Fee. The fee specified in or determined in accordance with the provisions set forth in § 40-16 (Fees) of this chapter must be paid at the time of submission of an application for a building permit, for an emended building permit, or for renewal of a building permit.

§ 40-5. Construction inspections.

- A. Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an inspector authorized by the Code Enforcement Officer. The permit holder shall notify the Code Enforcement Officer when any element of work described in Subsection B of this section is ready for inspection.
- B. Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:

- (1) Work site prior to the issuance of a building permit;
 - (2) Footing and foundation;
 - (3) Preparation for concrete slab;
 - (4) Framing;
 - (5) Building systems, including underground and rough-in;
 - (6) Fire-resistant construction;
 - (7) Fire-resistant penetrations;
 - (8) Solid-fuel-burning heating appliances, chimneys, flues or gas vents;
 - (9) Energy Code compliance; and
 - (10) A final inspection after all work authorized by the building permit has been completed.
- C. Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to where the work fails to comply with the Uniform Code or the Energy Code. Work not in compliance with any applicable provision of the Uniform Code or the Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code or the Energy Code, reinspected, and found satisfactory as completed.
- D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 40-16 (Fees) of this chapter must be paid prior to or at the time of each inspection performed pursuant to this section.

§ 40-6. Stop-work orders.

- A. Authority to issue. The Code Enforcement Officer is authorized to issue stop-work orders pursuant to this section. The Code Enforcement Officer shall issue a stop-work order to halt:
- (1) Any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or the Energy Code, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
 - (2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
 - (3) Any work for which a building permit is required which is being performed without the required building permit or under a building permit that has become invalid, has expired, or has been suspended or revoked.

- B. Content of stop-work orders. Stop-work orders shall:
- (1) Be in writing;
 - (2) Be dated and signed by the Code Enforcement Officer;
 - (3) State the reason or reasons for issuance; and
 - (4) If applicable, state the conditions that must be satisfied before work will be permitted to resume.
- C. Service of stop-work orders. The Code Enforcement Officer shall cause the stop-work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by certified mail, return receipt requested. The Code Enforcement Officer shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop-work order, personally or by certified mail, return receipt requested; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop-work order.
- D. Effect of stop-work order. Upon the issuance of a stop-work order, the owner of the affected property, the permit holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work that is the subject of the stop-work order.
- E. Remedy not exclusive. The issuance of a stop-work order shall not be the exclusive remedy available to address any event described in Subsection A of this section, and the authority to issue a stop-work order shall be in addition to, and not in substitution for or limited of, the right and authority to pursue any other remedy or impose any other penalty under § 40-15 (Violations; penalties for offenses) of this chapter or under any other applicable local law or state law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a stop-work order.

§ 40-7. Certificates of occupancy/certificates of compliance.

- A. Certificates of occupancy/certificates of compliance required. A certificate of occupancy/certificate of compliance shall be required for any work which is the subject of a building permit and for all structures or buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued shall be granted only by issuance of a certificate of occupancy/certificate of compliance.
- B. Issuance of certificates of occupancy/certificates of compliance. The Code Enforcement Officer shall issue a certificate of occupancy/certificate of compliance if the work which was the subject of the building permit was completed in accordance with all applicable provisions of the Uniform Code and the Energy Code and, if applicable, the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code

and the Energy Code. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a certificate of occupancy/certificate of compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the certificate of occupancy/certificate of compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the certificate of occupancy/certificate of compliance:

- (1) A written statement of structural observations and/or a final report of special inspections; and
- (2) Flood hazard certifications.

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

- (1) The building permit number, if any;
- (2) The date of issuance of the building permit, if any;
- (3) The name, address and Tax Map number of the property;
- (4) If the certificate of occupancy/certificate of compliance is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy/certificate of compliance be issued;
- (5) The use and occupancy classification of the structure;
- (6) The type of construction of the structure;
- (7) The assembly occupant load of the structure, if any;
- (8) If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
- (9) Any special conditions imposed in connection with the issuance of the building permit; and
- (10) The signature of the Code Enforcement Officer issuing the certificate of occupancy/certificate of compliance and the date of issuance.

D. Temporary certificate.

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

installed is operational, and

- (c) That all required means of egress from the building or structure have been provided.
- (2) The Code Enforcement Officer may include in a temporary certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A temporary certificate shall be effective for a period of time, not to exceed six months, which shall be determined by the Code Enforcement Officer and specified in the temporary certificate. During the specified period of effectiveness of the temporary certificate, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.
- E. Revocation or suspension of certificates. If the Code Enforcement Officer determines that a certificate of occupancy/certificate of compliance or a temporary certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.
- F. Fee. The fee specified or in determined in accordance with the provisions set forth in § 40-16 (Fees) of this chapter must be paid at the time of submission of an application for a certificate of occupancy/certificate of compliance or for a temporary certificate.

§ 40-8. Notification regarding fire or explosion.

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

§ 40-9. Unsafe buildings and structures.

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

- A. That in addition to any other duties conferred upon him by local law, or by any other Town resolution or ordinances, it shall hereinafter be the duty of the Town Code Enforcement Officer (hereinafter "CEO"):
 - (1) To inspect and report in writing to the Town Board any buildings and structures which are collapsed or in such poor state of repair, for whatever cause, and whether commercial, industrial or residential, that such buildings or structures may now be or shall hereafter become dangerous or unsafe to the public. Such report shall consist of a description of the nature and location of the building or structure; its condition and cause and duration of such condition, if known; the putative owners thereof; any communications had between the CEO and the owners or agents of the owners of any such structures; together with the CEO's recommendations concerning whether the structure poses an immediate danger to the public;

- (2) The CEO shall serve a copy of such report, either personally or by registered mail, upon the owner or someone of the owner's executors, legal representatives, agents, lessees or any other person having vested or contingent interests in the same, addressed to said owner's or such other person's last known address, as shown by the records of the Town's receiver of taxes. The CEO shall also serve an order upon such owner or other person requiring that the building or structure be made safe and secure or removed. If notice is by registered mail, the CEO shall post a copy of such notice and order on the premises.
- (3) Unless specified otherwise by the Town Board at the hearing provided for hereinafter, the CEO shall instruct the owner or other such person to commence the repair, the securing, or demolition and removal of such building or structure within 90 days of the receipt of such notice.
- (4) The CEO shall file a copy of such notice with the Steuben County Clerk's Office, which shall have the same effect as a notice of pendency and which shall be effective for a period of one year, unless the same shall have been vacated by the order of a judge or justice of a court of record or by consent of the Town Attorney.

B. Notice.

- (1) Such notice shall provide that a hearing will be held at the next regularly scheduled Town Board meeting to be held not less than 10 days after the service of such notice.
- (2) Such notice shall also provide that in the event the owner or other responsible person fails or refuses to repair or remove such building or structure within the specified time, the Town will undertake to demolish and remove such building or structure, and the actual costs and expense to the Town for such proceeding, including the actual demolition and removal, shall be assessed against the lands on which such buildings or structures are located.

C. At the hearing conducted by the Town Board, as provided in Subsection B(1) above, the Town Board may, for good cause shown, extend the time period within which such building or structure must be repaired or removed and may, with the consent of the owner or owners of such land, dispense with the grace period for the demolition and removal of such building or structure if such owner or owners execute in writing a waiver to such grace period, and written assurance that there are no judgments, mortgages, liens or other encumbrances held by any other person or persons affecting the improvements to be removed, or if there be such, the written release of the condemned premises by any such judgment creditor, lien holder, mortgagee for the purpose of demolition and removal by the Town.

D. The Town Board, at the hearing provided, shall have discretion to confer with the Town Highway Superintendent in order to determine whether Town equipment and personnel can safely demolish and remove such building or structure, and, if so, to so order the Highway Superintendent, or whether to advertise for bids by private contractors to demolish and remove such building or structure. All costs and expenses shall be paid by the owners of record or assessed against the lands, as provided hereinabove.

§ 40-10. Operating permits.

A. Operating permits required.

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

B. Applications for operating permits. An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

C. Inspections. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an operating permit.

D. Multiple activities. In any circumstance in which more than one activity listed in Subsection A(1) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate operating permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single operating permit to apply to all such activities.

E. Duration of operating permits. Operating permits shall be issued for such period of time, not to exceed one-year in the case of any operating permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the

Code Enforcement Officer to be consistent with local conditions. The effective period of each operating permit shall be specified in the operating permit. An operating permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

- F. Revocation or suspension of operating permits. If the Code Enforcement Officer determines that any activity or building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code, such operating permit shall be revoked or suspended.
- G. Fee. The fee specified in or determined in accordance with the provisions set forth in § 40-16 (Fees) of this chapter must be paid at the time of submission of an application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit.

§ 40-11. Firesafety and property maintenance inspections.

- A. Inspections required. Firesafety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at the following intervals:
 - (1) Firesafety and property maintenance inspections of buildings or structures that contain an area of public assembly shall be performed at least once every 12 months.
 - (2) Firesafety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every 12 months.
 - (3) Firesafety and property maintenance inspections of all multiple dwellings not included in Subsection A(1) or (2) and all nonresidential buildings, structures, uses and occupancies not included in Subsection A(1) or (2) shall be performed at least once every 36 months.
- B. Inspections permitted. In addition to the inspections required by Subsection A of this section, a firesafety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at any time upon 1) the request of the owner of the property to be inspected or an authorized agent of such owner; 2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or the Energy Code exist; or 3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or the Energy Code exist; provided, however, that nothing in this subsection shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.
- C. OFPC inspections. Nothing in this action or in any other provision of this chapter shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control (OFPC) and the New York State Fire Administrator

under Executive Law § 156-e and Education Law § 807-b. Notwithstanding any other provision of this section to the contrary:

- (1) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a building or structure that contains an area of public assembly if OFPC performs firesafety and property maintenance inspections of such building or structure at least once every 12 months;
 - (2) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a building or structure occupied as a dormitory if OFPC performs firesafety and property maintenance inspections of such building or structure at least once every 12 months;
 - (3) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a multiple dwelling not included in Subsection A(1) or (2) of this section if OFPC performs firesafety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in Subsection A(3) of this section; and
 - (4) The Code Enforcement Officer shall not perform firesafety and property maintenance inspections of a nonresidential building, structure, use or occupancy not included in Subsection A(1) or (2) of this section if OFPC performs firesafety and property maintenance inspections of such nonresidential building, structure, use or occupancy at intervals not exceeding the interval specified in Subsection A(3) of this section.
- D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 40-16 (Fees) of this chapter must be paid prior to or at the time each inspection is performed pursuant to this section. This subsection shall not apply to inspections performed by OFPC.

§ 40-12. Complaints.

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

- A. Performing an inspection of the conditions and/or activities alleged to be in violation and documenting the results of such inspection;
- B. If a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § 40-15 (Violations; penalties for offenses) of this chapter;
- C. If appropriate, issuing a stop-work order;
- D. If a violation that was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report

reflecting such abatement or correction, and filing such report with the complaint.

§ 40-13. Recordkeeping.

- A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all code enforcement personnel, including records of:
- (1) All applications received, reviewed and approved or denied;
 - (2) All plans, specifications and construction documents approved;
 - (3) All building permits, certificates of occupancy/certificates of compliance, temporary certificates, stop-work orders, and operating permits issued;
 - (4) All inspections and tests performed;
 - (5) All statements and reports issued;
 - (6) All complaints received;
 - (7) All investigations conducted;
 - (8) All other features and activities specified in or contemplated by §§ 40-4 through 40-12, inclusive, of this chapter; and
 - (9) All fees charged and collected.
- B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by state law and regulation.

§ 40-14. Program review and reporting.

- A. The Code Enforcement Officer shall annually submit to the Town Board of this Town a written report and summary of all business conducted by the Code Enforcement Officer and the inspectors, including a report and summary of all transactions and activities described in § 40-13 (Recordkeeping) of this chapter and a report and summary of all appeals or litigation pending or concluded.
- B. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Town, on a form prescribed by the Secretary of State, a report of the activities of this Town relative to administration and enforcement of the Uniform Code.
- C. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Town is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Town in connection with administration and enforcement of the Uniform Code.

§ 40-15. Violations; penalties for offenses.

- A. Compliance orders.

- (1) The Code Enforcement Officer is authorized to order, in writing, the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this chapter. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a compliance order. The compliance order shall:
 - (a) Be in writing;
 - (b) Be dated and signed by the Code Enforcement Officer;
 - (c) Specify the condition or activity that violates the Uniform Code, the Energy Code, or this chapter;
 - (d) Specify the provision or provisions of the Uniform Code, the Energy Code, or this chapter which is/are violated by the specified condition or activity;
 - (e) Specify the period of time that the Code Enforcement Officer deems to be reasonably necessary for achieving compliance;
 - (f) Direct that compliance be achieved within the specified period of time; and
 - (g) State that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time.
 - (2) The Code Enforcement Officer shall cause the compliance order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail, return receipt requested. The Code Enforcement Officer shall be permitted, but not required, to cause the compliance order, or a copy thereof, to be served on any building, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property personally or by certified mail, return receipt requested: provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the compliance order.
- B. Appearance tickets. The Code Enforcement Officer and each inspector are authorized to issue appearance tickets for any violation of the Uniform Code.
- C. Civil penalties. In addition to those penalties prescribed by state law, any person who violates any provision of the Uniform Code, the Energy Code or this chapter, or any term or condition of any certificates of occupancy/certificates of compliance, temporary certificates, stop-work orders, and operating permits or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this chapter, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of this Town.
- D. Injunctive relief. An action or proceeding may be instituted in the name of this Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this chapter, or any term or condition of any building permit, certificate of occupancy/certificate of compliance, temporary certificate, stop-work order, operating permit, compliance order, or

other notice or order issued by the Code Enforcement Officer pursuant to any provision of this chapter. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this chapter or any stop-work order, compliance order or other order obtained under the Uniform Code, the Energy Code or this chapter, an action or proceeding may be commenced in the name of this Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the Town Board of this Town.

- E. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies and penalties specified in this section, in § 40-6 (stop-work orders) of this chapter, in any other section of this chapter, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in § 40-6 (stop-work orders) of this chapter, in any other section of this chapter, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of § 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in Subdivision (2) of § 382 of the Executive Law.

§ 40-16. Fees.

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

§ 40-17. Intermunicipal agreements.

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

§ 40-18. Partial invalidity.

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

chapter.

§ 40-19. When effective.

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

Chapter 41

SIGNS

[HISTORY: Adopted by the Town Board of the Town of Bath 4-10-1989 by L.L. No. 4-1989. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 40.

Street signs — See Ch. 703.

§ 41-1. Purpose.

- A. The purpose of this chapter is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising signs and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, preserve the scenic and natural beauty and provide a more enjoyable and pleasing community. It is further intended hereby to reduce sign or advertising distractions and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more visual open space and curb the deterioration of the community's appearance and attractiveness.
- B. This chapter is intended to promote attractive signs which clearly present the visual message in a manner that is compatible with their surroundings. The appearance, character and quality of a community are affected by the location, size, construction and graphic design of its signs. Therefore, such signs should convey their messages clearly and simply to enhance their surroundings.

§ 41-2. Definitions.

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

AREA OF A SIGN — The "area of a sign" shall be computed as including the entire area within a regular geometric form or combinations of regular geometric forms connecting all of the elements of the matter displayed. A sign may be single-surfaced or multisurfaced. The area of each surface shall be included in the calculation for the maximum permitted area of the sign.

BILLBOARD SIGN — An advertising sign, structure or symbol erected and maintained by an entity, which may or may not be engaged in the sale or rental for profit of space to a clientele of manufacturing service or commercial enterprises, upon which space there is displayed, by means of painting, posting or other method, a business, commodity or service not necessarily made, produced, assembled, stored or sold from the lot or premises upon which the advertisement is displayed.

CANOPY SIGN — A sign attached to or made a part of a canopy.

FREESTANDING SIGN — Any sign not attached or part of any building or structure, separate and permanently affixed by any other means, in or upon the ground. Included are pole signs, pylon signs and masonry wall-type signs. Billboards are not included in this definition.

PORTABLE SIGN — A sign, whether on its own trailer, wheels or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or another sign.

PROJECTING SIGN — Any sign which is attached to a building or other structure and extends beyond the line of said building or structure or beyond the surface of that portion of the building or structure to which the sign is attached and not parallel to the face of the building.

ROOF SIGN — Any sign erected, constructed and maintained wholly upon or above the roofline of any building with the principal support on the roof or eave structure.

SIGN — Any material, structure or device or part thereof composed of lettered or pictorial matter which is located out-of-doors or on the exterior of any building or indoors as a window sign displaying an advertisement, announcement, notice or name and shall include any declaration, demonstration, display, representation, illustration or insignia used to advertise or promote the interests of any person or business or cause when such is placed in view of the general public.

WALL SIGN — A sign which is painted on or attached to the outside wall of a building with the face of the sign in the plane parallel to such wall and not extending more than 15 inches from the face of such wall.

§ 41-3. Application procedure.

- A. All applications per sign shall be submitted to the Code Enforcement Officer on a standard form approved by the Town Board and available from the Town Clerk. Upon the filing of the completed application for a sign permit and the payment of the required fee, the Code Enforcement Officer shall examine the plan specifications and other data submitted on the premises on which the sign is to be erected or now exists. If it shall appear that the sign is in compliance with all the requirements of this chapter, he shall then, within 15 days, issue a permit for the erection of a proposed sign or for an existing sign. The issuance of a permit shall not excuse the applicant from conforming to all other local laws of the Town of Bath.
- B. If the erection of the sign authorized under any such permit does not commence within six months from the date of the issuance, the permit shall become null and void but may be renewed within 30 days prior to the expiration for good cause shown for an additional six months upon payment of 1/2 of the original fee.

§ 41-4. Permit required; repair and repainting excepted.

No one shall erect, alter or relocate any sign located within the Town of Bath without first obtaining a permit from the Code Enforcement Officer. Subsequent to the initial application, no permit shall be required for a sign to be repainted, repaired or have its message changed.

§ 41-5. Exempt signs.

The following types of signs may be erected and maintained without permits or fees:

- A. Temporary, nonilluminated, "for sale," "for rent" or "for lease" real estate signs and signs of similar nature concerning the premises upon which the sign is located, not exceeding six square feet if on residential property and not exceeding 50 square feet if on commercial or industrial property. All such signs shall be removed within two weeks after the sale, lease or rental of the premises.
- B. Official signs, notices or direction devices erected or maintained by federal, state, county or local government or an agency thereof.
- C. One sign denoting the name and address of the occupants of the premises which shall not exceed two square feet; one sign denoting the architect, engineer or contractor placed on the premises where construction, repair or renovation is in progress, which sign shall not exceed 32 square feet in surface area and must be removed within seven days after such construction, repair or renovation is completed.
- D. One sign for a home occupation, not to exceed 16 square feet and set back 10 feet from any highway right-of-way.
- E. One sign for roadside stands selling agricultural produce not exceeding 20 square feet in area, not to be illuminated and to be set back 10 feet from any highway right-of-way.
- F. Temporary nonilluminated window signs and posters not exceeding 25% of the window surface.
- G. At gasoline stations:
 - (1) Integral graphics or attached price signs on gasoline pumps.
 - (2) Two auxiliary signs per station, each not exceeding four square feet.
 - (3) One portable sign per station, not exceeding 12 square feet.
- H. Directional signs for meetings, conventions and other assemblies.
- I. Political posters, banners, promotional devices and similar signs not exceeding 32 square feet, provided that: [Amended 8-14-2000 by L.L. No. 2-2000]
 - (1) Placement shall not exceed 60 days and removal shall be completed within 15 days of election.
 - (2) The names and addresses of the persons responsible for the removal of said signs is given to the Code Enforcement Officer prior to their display.
- J. Historical markers, tablets and statues, memorial signs and plaques, names of buildings and dates of erections when cut into any masonry surface or when constructed of bronze, stainless steel or similar material and any emblems installed by governmental agencies, religious or nonprofit organizations not exceeding six square feet.
- K. Flags and insignia of any government, except when displayed in connection with commercial promotion.
- L. On-premises directional signs, for convenience of the general public, identifying public parking areas, fire zones, entrances and exits and similar signs not exceeding four square

feet. Business names and personal names shall be allowed, excluding advertising messages.

- M. Nonilluminated warning, "private drive," "posted" or "no trespassing" signs not exceeding two square feet per face.
- N. Number- and nameplates identifying residences mounted on a house, apartment or mailbox not exceeding two square feet.
- O. Private owner merchandise sales signs for garage sales and auctions not exceeding four square feet for a period not exceeding seven days and to be removed within 48 hours of completion of the sale or auction.

§ 41-6. Prohibitions.

No signs shall be erected or maintained within the Town of Bath except under the exempt signs provisions of this chapter, as follows:

- A. No signs shall be illuminated by or contain flashing, intermittent, rotating or moving lights, except to show time and temperature. [Amended 2-10-1997 by L.L. No. 1-1997; 5-12-1997 by L.L. No. 2-1997]
- B. No illumination of signs shall interfere with normal enjoyment of residential uses of adjacent residential properties.
- C. No sign shall appear or cause confusion of vehicular or pedestrian traffic in its design, color or placement. No sign shall impair visibility for the motorist at a street corner or intersection by placement and location within 50 feet of the intersection of the street or highway lines.
- D. No sign or sign supports shall be placed on the roof of any building.
- E. No sign shall be placed within 50 feet of any street or highway right-of-way.

§ 41-7. General regulations.

- A. Property owners will be responsible for maintaining signs in a good condition and maintaining signs in such a manner that they will not endanger the health and safety of the public.
- B. A sign readable from two sides with parallel faces shall be considered to be one sign.
- C. If a business leaves its premises, the owner of the building shall be responsible for the removal of any business signs from said premises.
- D. Signs illuminated by electricity or equipped in any manner with electric devices or appliances shall conform with respect to wiring and appliances to the State Building Code¹ and to the rules of the Board of Fire Underwriters.

§ 41-8. Specific regulations.

1. Editor's Note: See Ch. 40, Building Construction.

A. Wall signs.

- (1) A wall sign shall not extend beyond the ends or more than six feet over the top of the walls to which it is attached.
- (2) A wall sign shall not extend more than 18 inches from the face of building to which it is attached.
- (3) Any part of a sign extending over a pedestrian traffic area shall have a minimum clearance of eight feet.
- (4) Wall signs shall have a total surface area not exceeding 30% of the total area of the wall to which the signs are attached.
- (5) The total area of individual letters printed on or attached to the wall spelling out individual words or sentences shall be the entire area within a perimeter composed of not more than two squares, rectangles, circles, ovals or other geometrical shapes which enclose each block of letters.

B. Projecting signs.

- (1) No projecting sign may be higher than the roofline.
- (2) The exterior edge of the projecting sign shall extend not more than 10 feet from the building face.
- (3) No part of a projecting sign shall extend into a vehicular traffic area, and any part extending over pedestrian areas shall have a minimum clearance of eight feet.
- (4) No projecting sign shall may be larger than 100 square feet.
- (5) No projecting sign may be closer than 15 feet to the corner of a building located at a street intersection.
- (6) No projecting sign may be closer than 20 feet to any other projecting sign.
- (7) In determining the total area of a projecting sign, only the length and width of one side of the sign is used.

C. Freestanding signs.

- (1) No freestanding sign or structure shall be located closer than 20 feet to any side property line.
- (2) If for any reason the property line is changed at some future date, any freestanding sign made nonconforming thereby must be relocated within 90 days to conform with the minimum setback requirements.
- (3) No freestanding sign shall be more than 20 feet in height above road level or finished grade, whichever is greater. Such height shall be measured vertically from the established average grade directly below the sign to the highest point of the sign, including supporting sign structures.
- (4) No freestanding sign shall extend over or into a public right-of-way.

- (5) Freestanding signs under which a pedestrian walkway or driveway passes must have a ten-foot vertical clearance.
 - (6) The surface area of a freestanding sign shall not exceed 130 square feet.
 - (7) In determining the total area of a freestanding sign, only the length and width of one side of the sign is used.
- D. Portable signs. Portable signs are not allowed, except that a new business or a business in a new location awaiting installation of a permanent sign may utilize one portable sign for a period of not more than 60 days or until installation of a permanent sign, whichever occurs first. Such portable sign must meet all the construction standards of the municipality and may not be larger than 32 square feet.
- E. Billboards.
- (1) The size of all billboards shall not exceed 200 square feet and shall not be higher than 25 feet from the road level or from the finished grade, whichever is greater.
 - (2) No billboard may be attached to any building or vehicle.
 - (3) All billboards shall identify the name and address of the owner, person or corporation responsible for the general requirements and maintenance of such sign.
 - (4) No billboard may be located closer than 1,500 feet to any other billboard.
 - (5) In determining the total area of a billboard, only the length and width of one side of the billboard are used.
 - (6) Billboards include all signs advertising a business, service or commodity located other than upon the premises where the sign is located.
 - (7) Billboards shall be at least 150 feet from any highway right-of-way.
- F. Canopy signs.
- (1) Canopy signs shall not project horizontally beyond the supporting canopy.
 - (2) The maximum area of a canopy sign shall be 10 square feet.
 - (3) The bottom edge of the canopy sign shall not be less than eight feet above the sidewalk or ground elevation over which the canopy extends.
- G. Window signs. The maximum dimensions of a window sign shall be six square feet.

§ 41-9. Fees.

Sign permit fees shall be as determined by resolution of the Town Board.

§ 41-10. Severability.

If any section or part thereof of this chapter shall be determined void, unconstitutional or invalid by a proper court of law, such determination shall not be deemed to affect, impair or invalidate the remainder thereof.

§ 41-11. Nonconforming signs.

In the event that a sign lawfully erected prior to the effective date of this chapter does not conform to the provisions and standards of the chapter, then such sign should be modified to conform or be removed according to the following regulations:

- A. All nonconforming signs shall be modified by their owners to comply or be removed within 30 days after the owners receive written notice from the Code Enforcement Officer to so comply.
- B. If an owner has not complied as necessary with the above provision and the sign remains a nonconformity, he may apply for a permit to maintain the nonconforming sign for a fixed period based upon the remaining undepreciated useful life of such sign as determined by the appropriate depreciation formula (example: value standards in use by New York State Department of Transportation). Application for such permit shall be filed with the Code Enforcement Officer within six months of the effective date of this chapter and shall include satisfactory proof of the date of the erection of said sign. A permit to continue a nonconforming sign shall in no case exceed five years.
- C. A nonconforming sign shall not be enlarged or replaced by another nonconforming sign. Any maintenance, repair or alteration of a nonconforming sign shall not cost more than 50% of the current depreciated value of the sign as of the date of the alteration or repair.

§ 41-12. Appeals; variances.

Any person aggrieved by any decision of the Code Enforcement Officer relative to the provisions of these regulations may appeal such decision to the Planning Board of the Town of Bath. The Planning Board shall then submit to the Town Board of the Town of Bath, in writing, its recommendation in the granting of any variance from the provisions of this chapter. The Town Board must find that the variance is necessary for the reasonable use of the land or buildings and that granting the variance is in harmony with the general purposes in the chapter and that such use will not be injurious to the neighborhood character or otherwise detrimental to the public welfare and that denial of the variance would result in practical difficulty or unnecessary hardship to the applicant.

§ 41-13. Penalties for offenses.

Any owner, tenant, general agent, architect, builder, contractor or any other person who violates any provision of this chapter or any regulation adopted hereunder upon conviction shall be guilty of a violation and subject to a fine not exceeding \$250 or imprisonment for a term not exceeding 15 days, or to both such fine and imprisonment. Each week of continuous violation of this chapter shall constitute a separate additional violation. In case of a violation of this chapter, the municipality and its officers may, in addition to any other remedies specifically conferred by law or ordinance, institute any appropriate proceedings to prevent unlawful erection, construction, reconstruction, alteration or use of any sign not in compliance with this chapter.

§ 41-14. Enforcement.

The Code Enforcement Officer shall be empowered to enforce this chapter and the regulations

set forth herein.

§ 41-15. When effective.

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

Chapter 43

BUILDINGS, NUMBERING OF

[HISTORY: Adopted by the Town Board of the Town of Bath 12-8-2003 by L.L. No. 2-2003. Amendments noted where applicable.]

GENERAL REFERENCES

Mobile homes — See Ch. 82.

Street names and numbers — See Ch. 103, Art. II.

Subdivision of land — See Ch. 107.

§ 43-1. Identification required.

All structures within the Town of Bath shall be identified by an address assigned in accordance with the County of Steuben Addressing Plan for 9-1-1.

§ 43-2. Posting of assigned numbers.

The owner of each structure shall post the assigned number on the structure adjacent to the main entrance.

§ 43-3. Style and size of numbers.

The number shall be displayed on the structure in Arabic numerals, with any supplemental suffix in block English letters. Said number shall be in reflective material and shall be no less than four inches in height. The numbers shall be of a color that contrasts with the structure.

§ 43-4. Posting on mailbox.

Address numbers shall also be placed on the structure's mailbox or mailbox post. These shall be no less than three inches in height and shall be white reflective numbers/letters on a contrasting background. Where the mailbox is not located at the structure, the roadway name shall be included on the mailbox.

§ 43-5. Identification of structures distant from roadway.

If a structure is located more than 50 feet from the roadway, or if it is not clearly visible from the roadway, the number shall be installed on a post on the distant side of the driveway as it is approached from the same side of the roadway as the structure. This installation may be combined with the mailbox post, if the mailbox is located at the drive. The numbers shall be visible in both directions of travel on the roadway.

§ 43-6. Disposition of previous numbers.

Any previous numbers assigned to the structure shall be removed.

§ 43-7. Posting by Town.

Should the owner of the property fail to post the structure numbers, after being duly advised, the Town of Bath may post them and charge the owner. If such charge is not paid by the owner within 30 days, the Town of Bath may add the charge and expense to the property's tax bill.

§ 43-8. Enforcement.

Any police officer, code enforcement officer or other public official authorized to issue appearance tickets may enforce the provisions of this chapter.

Chapter 54

DOGS

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

ARTICLE I

Control, Regulation and Licensing

[Adopted 1-14-1980 by L.L. No. 1-1980; amended in its entirety 12-2-2010 by L.L. No. 3-2010¹]

§ 54-1. Purpose.

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

§ 54-2. Statutory authority.

This Article is enacted pursuant to the provisions of Article 7 of the Agriculture and Markets Law and the Municipal Home Rule Law of the State of New York.

§ 54-3. Title.

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

§ 54-4. Definitions.

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

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

DOG WARDEN — A dog control officer on or after January 1, 1980.

OWNER — The person entitled to claim lawful custody and possession of a dog and who is responsible for purchasing the license for such dog, unless the dog is or has been lost and such loss was promptly reported to the Dog Warden and a reasonable search has been made. If a dog is not licensed, the term "owner" shall designate and cover any person or persons, firm, association or corporation who or which, at any time, owns or has custody or control of, harbors or is otherwise responsible for any dog which is kept, brought or comes within the Town. Any person owning or harboring a dog for a period of one week prior to the filing of any complaint charging violation of this article shall be held and deemed to be the "owner" of such dog for the purpose of this article. In the event that the "owner" of any dog found to be in violation of this

1. Editor's Note: This local law also superseded former Art. II, License Fees, adopted 11-9-1981 by L.L. No. 1-1981, as amended.

article shall be under 18 years of age, the head of the household in which said minor resides shall be deemed to have custody and control of said dog and shall be responsible for any acts of said dog and violations of this article.

TOWN — The Town of Bath.

§ 54-5. Prohibited actions.

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

- A. Run at large unless the dog is accompanied by its owner or a responsible person and under the full control of such person. For the purpose of this article, a dog or dogs hunting in the company of a hunter or hunters shall be considered as accompanied by its owner.
- B. Engage in habitual loud howling, barking, crying or whining or conduct itself in such a manner so as to unreasonably and habitually disturb the comfort or repose of any person other than the owner of such dog.
- C. Uproot, dig or otherwise damage any vegetables, lawns, flowers, garden beds or other property without the consent or approval of the owner thereof.
- D. Chase, jump upon or at or otherwise harass any person in such a manner as to reasonably cause intimidation or fear or to put such person in reasonable apprehension of bodily harm or injury.
- E. Habitually chase, run along side of, bark at or jump on motor vehicles, motorcycles or bicycles while on a public street, highway or place or upon private property without the consent or approval of the owner of such property.
- F. Create a nuisance by defecating, urinating or digging on public property or on private property without the consent of the owner of such property.

§ 54-6. Licensing of dogs.

- A. All dogs in the Town of Bath must be licensed by the Town Clerk by the age of four months and are required to present a certificate of rabies at the time of licensing or the renewal of an existing license.
- B. All dogs must carry an identification tag.
- C. All dog licenses will be for a period of one year and will expire at the end of the month one year from the date of issue.
- D. Fees for licensing of dogs. The fee for a spayed or neutered dog will be \$8.50 (which will include the assessment of a surcharge of \$1 for the purpose of carrying out animal population control), and the fee for an unspayed or unneutered dog will be \$15.50 (which will include the assessment of a surcharge of \$3, for the purpose of carrying out animal population control) with such fees being reviewed by the Town Board periodically, and such fees may be changed by a resolution of the Town Board if deemed necessary.
- E. The fee for a replacement tag will be \$3 per tag.

- F. Enumeration fee. When the Town Board determines the need for a dog enumeration, a fee of \$5 will be assessed to owners of all dogs found to be unexpired or unlicensed at the time of the enumeration.
- G. The Town of Bath will issue purebred licenses with a fee of \$30, plus \$3 for each unspayed/unneutered dog and \$1 for each spayed or neutered dog to be assessed for the purpose of carrying out animal population control, for up to 10 dogs; \$60 for 11 to 25 dogs, plus \$3 for each unspayed/unneutered dog and \$1 for each spayed/neutered dog; and \$100 for 26 or more dogs with the fee of \$3 fee for each unspayed/unneutered dog and \$1 for each spayed/neutered dog.
- H. Service dogs. The Town of Bath will require a license for all guide dogs, service dogs, hearing dogs, therapy dogs and detection dogs, but at no charge.
- I. The Town of Bath does not allow the licensing of dogs by an animal shelter. The shelter must send the adoptive dog owner to the Clerk of the town or city in which the dog will be harbored for licensing or to the Town Clerk of the Town of Bath, where the shelter is located, for the purchase of a license.
- J. All dog licenses may be purchased by visiting the Town offices or by regular mail. If licensing or renewing by mail, the appropriate fee must accompany the forms. There will be no refund for fees.

§ 54-7. Enforcement.

The dog warden or any peace officer shall seize any unlicensed dog, whether on or off the owner's premises and any dog not wearing a tag and not identified and which is not on the owners' premises. Such dog shall be kept and disposed of in accordance with the provisions of Article 7 of the Agriculture and Markets Law. The dog warden or peace officer may also investigate and report to a Town Justice of the Town any dangerous dog, as described by Article 7 of the Agriculture and Markets Law, and see that the order of the Town Justice in such case is carried out.

§ 54-8. Penalties for offenses.

- A. Fees for seizure of dogs. The fee for seizure and impoundment of dogs in violation of this article or the laws of the New York State Department of Agriculture and Markets Law are as follows:
 - (1) First offense: the same impoundment and euthanasia fees per animal that are charged to the Town for such services;
 - (2) Second offense: \$60, plus the impoundment and euthanasia fees per animal;
 - (3) Subsequent offenses: \$100, plus the impoundment and euthanasia fees per animal.
- B. The dog warden or peace officer having reasonable cause to believe that a person has violated this article shall issue and serve upon such person an appearance ticket for such violation.
- C. Any person who observes a dog in violation of this article may file a complaint, under oath,

with a Town Justice of the Town, specifying the nature of the violation, the date thereof, a description of the dog and the name and residence, if known, of the owner of such dog. Such complaint may serve as the basis for enforcing the provisions of this article.

- D. Any person convicted of a violation of this article shall be liable to a civil penalty not to exceed \$50 for the first violation, not exceeding \$75 for the second violation and not exceeding \$100 for each subsequent violation.

§ 54-9. When effective.

This article shall take effect immediately upon filing-with the New York State Secretary of State.

Chapter 59

ENVIRONMENTAL QUALITY REVIEW

[HISTORY: Adopted by the Town Board of the Town of Bath 5-23-1977 by L.L. No. 1-1977. Amendments noted where applicable.]

GENERAL REFERENCES

Planning and Zoning Board — See Ch. 24.
Building construction — See Ch. 40.
Flood damage prevention — See Ch. 45.
Subdivision of land — See Ch. 107.

§ 59-1. Definitions.

A. Unless the context shall otherwise require, the terms, phrases, words and their derivatives used in this chapter shall have the same meaning as those defined in § 8-0105 of the Environmental Conservation Law and Part 617 of Title 6 of the New York Codes, Rules and Regulations.

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

AGENCY — The Town of Bath Planning Board.

TOWN — The Town of Bath.

§ 59-2. Compliance required.

No decision to carry out or approve an action, other than an action listed in § 59-3B hereof, shall be made by the Town Board or by any department thereof until there has been full compliance with all requirements of this chapter.

§ 59-3. Actions requiring environmental impact statement.

A. The actions listed in Section 617.12 of Title 6 of the New York Codes, Rules and Regulations as Type I actions are likely to have an effect on the environment and will, therefore, require the preparation of an environmental impact statement as provided for in this chapter.

B. The actions listed in Section 617.12 of Title 6 of the New York Codes, Rules and Regulations as Type II actions are deemed not to have a significant effect on the environment and will, therefore, not require the preparation of an environmental impact statement as provided for in this chapter.

§ 59-4. Statement required by applicants for permits and approvals.

For the purpose of assisting in the determination of whether an action may or will not have a significant effect on the environment, applicants for permits or other approvals shall file a

written statement with the agency, setting forth the name of the applicant, the location of the real property affected, if any, a description of the nature of the proposed action and the effect it may have on the environment. In addition, applicants may include a detailed statement of the reasons why, in their view, a proposed action may or will not have a significant effect on the environment. Where the action involves a permit application, the statement shall be filed simultaneously with the application for the action. The statement as provided herein shall be upon a form prescribed by the agency and shall contain such additional relevant information as shall be required in the prescribed form. Such statement shall be accompanied by drawings, sketches and maps, if any, together with any other relevant explanatory material required by the agency.

§ 59-5. Determination by agency.

The agency shall render a written determination on such application within 15 days following receipt of a complete application and statement; provided, however, that such period may be extended by mutual agreement of the applicant and the agency. The determination shall state whether such proposed action may or will not have significant effect on the environment. The agency may hold informal meetings with the applicant and may meet with and consult any other person for the purpose of aiding it in making a determination on the application.

§ 59-6. Procedure following determination.

- A. If the agency determines that the proposed action is an exempt action and that it will not have a significant effect on the environment, the agency shall prepare, file and circulate such determination as provided in Section 617.7(b) of Title 6 of the New York Codes, Rules and Regulations, and, thereafter, the proposed action may be processed without further regard to this chapter.
- B. If the agency determines that the proposed action may have a significant effect on the environment, the agency shall prepare, file and circulate such determination as provided in Section 617.7(b) of Title 6 of the New York Codes, Rules and Regulations, and, thereafter, the proposed action shall be reviewed and processed in accordance with the provisions of this chapter and Part 617 of Title 6 of the New York Codes, Rules and Regulations.

§ 59-7. Draft environmental impact statement.

- A. Following a determination that a proposed action may have a significant effect on the environment, the agency shall, in accordance with the provisions of Part 617 of Title 6 of the New York Codes, Rules and Regulations:
 - (1) In the case of an action involving an applicant, immediately notify the applicant of the determination and request the applicant to prepare an environmental impact report in the form of a draft environmental impact statement.
 - (2) In the case of an action not involving an applicant, prepare a draft environmental impact statement.
- B. If the applicant decides not to submit an environmental impact report, the agency shall prepare or cause to be prepared the draft environmental impact statement or, in its

discretion, shall notify the applicant that the processing of the application will cease and that no approval will be issued. The agency may require an applicant to submit a fee to defray the expense to it of preparing a draft environmental impact statement. Such fees shall be 0.5% of the total cost of the action.

§ 59-8. Notice of completion; public hearing.

- A. Upon completion of a draft environmental impact statement prepared by or at the request of the agency, a notice of completion containing the information specified in Section 617.7(d) of Title 6 of the New York Codes, Rules and Regulations shall be prepared, filed and circulated as provided in Section 617.7(e) and (f) of Title 6 of the New York Codes, Rules and Regulations. Copies of the draft environmental impact statement and the notice of completion shall be filed, sent and made available as provided in Section 617.7(e) and (f) of Title 6 of the New York Codes, Rules and Regulations.
- B. If the agency determines to hold a public hearing on a draft environmental impact statement, notice thereof shall be filed, circulated and sent in the same manner as the notice of completion and shall be published in the official newspaper of the town, if any, or, if none, in a newspaper having general circulation within the town, at least 10 days prior to such public hearing. Such notice shall also state the place where substantive written comments on the draft environmental impact statement may be sent and the date before which such comments shall be received. The hearing shall commence no fewer than 15 calendar days nor more than 60 calendar days of the filing of the draft environmental impact statement, except as otherwise provided where the agency determines that additional time is necessary for the public or other agency review of the draft environmental impact statement.

§ 59-9. Negative findings.

If, on the basis of a draft environmental impact statement or a public hearing thereon, the agency determines that an action will not have a significant effect on the environment, the proposed action may be processed without further regard to this chapter.

§ 59-10. Final environmental impact statement.

Except as otherwise provided herein, the agency shall prepare or cause to be prepared a final environmental impact statement in accordance with the provisions of Part 617 of Title 6 of the New York Codes, Rules and Regulations; provided, further, that if the action involves an application, the agency may direct the applicant to prepare the final environmental impact statement. Such final environmental impact statement shall be prepared within 45 days after the close of any hearing or within 60 days after the filing of the draft environmental impact statement, whichever last occurs; provided, however, that the agency may extend this time as necessary to complete the statement adequately or where problems identified with the proposed action require material reconsideration or modification. Where the action involves an application, such final environmental impact statement shall be accompanied by the fee specified in § 59-7 to defray the expenses of the agency in preparing and/or evaluating the same.

§ 59-11. Notice of completion.

A notice of completion of a final environmental impact statement shall be prepared, filed and sent in the same manner as provided in § 59-8 herein and shall be sent to all persons to whom the notice of completion of the draft environmental impact statement was sent. Copies of the final environmental impact statement shall be filed and made available for review in the same manner as the draft environmental impact statement.

§ 59-12. Time limit for decision.

The agency shall make a decision whether or not to approve the action within 30 days of the filing of the final environmental impact statement.

§ 59-13. Approval.

When the agency decides to carry out or approve an action which may have a significant effect on the environment, it shall make the following findings in a written determination:

- A. Consistent with social, economic and other essential considerations of state policy, to the maximum extent practicable, from among the reasonable alternatives thereto, the action to be carried out or approved is one which minimizes or avoids adverse environmental effects, including the effects disclosed in the relevant environmental impact statements.
- B. All practicable means will be taken in carrying out or approving the action to minimize or avoid adverse environmental effects.

§ 59-14. Filing of determination.

For public information purposes, a copy of the determination shall be filed in the same manner as a draft environmental impact statement.

§ 59-15. Files.

The agency shall maintain files, open for public inspection, of all notices of completion, draft and final environment impact statements and written determinations prepared or caused to be prepared by the agency.

§ 59-16. Involvement by more than one agency.

Where more than one agency is involved in an action, the procedures of Sections 617.4 and 617.8 of Part 617 of Title 6 of the New York Codes, Rules and Regulations shall be followed.

§ 59-17. Exemptions.

Actions undertaken or approved prior to the dates specified in Article 8 of the Environmental Conservation Law for local agencies shall be exempt from this chapter and the provisions of Article 8 of the Environmental Conservation Law and Part 617 of Title 6 of the New York Codes, Rules and Regulations, except in the cases provided in Section 617.5(a) and (b) of Part 617 of Title 6 of the New York Codes, Rules and Regulations.

Chapter 65

FLOOD DAMAGE PREVENTION

[HISTORY: Adopted by the Town Board of the Town of Bath 3-14-1983 by L.L. No. 1-1983; amended 3-9-1987 by L.L. No. 3-1987. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 40.
Environmental quality review — See Ch. 59.
Mobile homes — See Ch. 82.
Subdivision of land — See Ch. 107.

ARTICLE I General Provisions

§ 65-1. Title.

This chapter shall be known and cited as the "Bath Flood Damage Prevention Law."

§ 65-2. Statutory authority.

The Constitution of the State of New York and the Municipal Home Rule Law have delegated the power to local government units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry. Therefore, the Town Board of the Town of Bath has enacted this chapter.

§ 65-3. Findings.

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

§ 65-4. Statement of 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.

§ 65-5. 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.

ARTICLE II
Definitions

§ 65-6. Terms defined.

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

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

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

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a 1% 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 1% 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 — See "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 VI-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 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.

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 and Floodway Map and the water surface elevations of the base flood.

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 and structures and their contents.

FLOODWAY — See "regulatory floodway."

FLOOR — The top surface of an enclosed area in a building (including basement), i.e., the top of the slab in concrete slab construction or the top of the 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 — See "manufactured home."

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

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

ONE-HUNDRED-YEAR FLOOD — See "base flood."

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

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

increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 65-17B.

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 and 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 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 any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

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

ARTICLE III **Applicability and Enforcement**

§ 65-7. Territorial applicability.

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

§ 65-8. Basis for establishing areas of special flood hazard. [Amended 3-13-1989 by L.L. No. 3-1989]

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study Town of Bath, Steuben County, New York" dated November 2, 1982, with Flood Insurance Rate Maps enumerated on Map Index No. 360766-0001-0055, dated May 2, 1983, and with accompanying Flood Boundary and Floodway Maps enumerated on Map Index No. 360766-0001-0055, dated May 2, 1983. The above documents are hereby adopted and declared to be a part of this chapter and are filed at the

Town Clerk's Office, Municipal Building, Liberty Street, Bath, New York 14810.

§ 65-9. Interpretation; conflict with other laws.

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

§ 65-10. Severability.

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

§ 65-11. 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 Bath from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this chapter for which the developer and/or owner has not applied for and received an approved variance under Article VI will be declared noncompliant and notification shall be sent to the Federal Emergency Management Agency.

§ 65-12. 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 Bath, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

ARTICLE IV
Administration

§ 65-13. Designation of local administrator.

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

§ 65-14. Development permit.

A development permit shall be obtained before the start of construction or any other development within the areas of special flood hazard as established in § 65-8. 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.

§ 65-15. Required information.

The following information is required, where applicable:

- A. Elevation, in relation to mean sea level, of the proposed lowest floor (including basement or cellar) of all structures.
- B. Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed.
- C. When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 65-21C.
- D. Certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 65-22.
- E. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.

§ 65-16. Elevation certificate required.

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.

§ 65-17. Duties of local administrator.

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

- A. Permit application review. He 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 areas 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 § 65-21E, Encroachments.
- B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 65-8, 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 § 65-21D(4), in order to administer § 65-22, Specific standards and § 65-23, Floodways.
- C. Information to be obtained and maintained. He 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; and
 - (b) Maintain the floodproofing certifications required in §§ 65-21 and 65-22.
 - (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. He 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 FIRM 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 areas of special flood hazard and actual field conditions.
- (2) Base flood elevation data established pursuant to § 65-8 and/or Subsection B of this section, when available, shall be used to accurately delineate the areas 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 areas of special flood hazard when base flood elevations are not available.

§ 65-18. Stop-work orders.

- A. 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 § 65-11 of this chapter.
- B. 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 § 65-11 of this chapter.

§ 65-19. Inspections.

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

§ 65-20. Certificate of compliance.

- A. It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this chapter.
- B. All other development occurring within the designated flood hazard area will have, upon completion, a certificate of compliance issued by the Local Administrator.
- C. All certifications shall be based upon the inspections conducted subject to § 65-19 and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

ARTICLE V
Provisions for Flood Hazard Reduction

§ 65-21. 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. Manufactured homes shall be elevated to or above the base flood elevation or two feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include but are not to be limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

B. Construction materials and methods.

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

C. Utilities.

- (1) Electrical, heating, ventilation, plumbing and airconditioning 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 areas of special flood hazard set forth in § 65-17A(3). 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 § 65-17B or Subsection D(4) of this section 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 § 65-17B, the requirements of § 65-23, Floodways, shall apply.

§ 65-22. Specific standards.

In all areas of special flood hazard where base flood elevation data has been provided as set forth in § 65-8, Basis for establishing areas of special flood hazard and § 65-17B, Use of other base flood data, the following standards are required:

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

- (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation.
- (2) Have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
 - (b) The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
 - (c) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

B. Nonresidential construction.

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

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

[1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

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

[3] 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) If the structure is to be floodproofed:

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

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

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

C. Construction standards for areas of special flood hazard without base flood elevations. New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor including basement elevated to or above the base flood elevation as may be determined in § 65-17B or two feet above the highest adjacent grade where no elevation data is available.

(1) New construction or substantial improvements of structures, including manufactured homes, shall have the lowest floor (including basement) elevated at least two feet

above the highest adjacent grade next to the proposed foundation of the structure.

- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (a) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding 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 openings, provided that they permit the automatic entry and exit of floodwaters.

§ 65-23. Floodways.

Located within areas of special flood hazard are areas designated as "floodways" (see definition, § 65-6). 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 § 65-8 and § 65-17B, all encroachments, including fill, new construction, substantial improvements and other development, are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

**ARTICLE VI
Variances**

§ 65-24. Appeals; considerations; records.

- A. The Planning Board, as established by the Town of Bath, shall hear and make its recommendation to the Town Board to decide appeals and requests for variances from the requirements of this chapter. [Amended 12-8-1997 by L.L. No. 3-1997]
- B. The Planning Board shall hear and make its recommendation to the Town Board to decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Local Administrator in the enforcement or administration of this chapter. [Amended 12-8-1997 by L.L. No. 3-1997]
- C. Those aggrieved by the decision of the Town Board may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules. [Amended 12-8-1997 by L.L. No. 3-1997]
- D. In passing upon such applications, the Planning Board and Town Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and: [Amended 12-8-1997 by L.L. No. 3-1997]
 - (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 to the community of the services provided by the proposed facility.
 - (5) The necessity to the facility of a waterfront location, where applicable.
 - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - (7) The compatibility of the proposed use with existing and anticipated development.
 - (8) The relationship of the proposed use to the Comprehensive Plan and Floodplain Management Program of that area.
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (10) The costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding.
 - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 - (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.
- E. Upon consideration of the factors of Subsection D and the purposes of this chapter, the Town Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter. [Amended 12-8-1997 by L.L. No. 3-1997]
- 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.

§ 65-25. 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 items § 65-23D(1) through (12) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the contributing structures procedures set forth in the remainder of this section.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:

- (1) The criteria of Subsections A, D, E and F of this section are met.
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and creates 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:
- (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- G. Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

Chapter 70

GARBAGE, RUBBISH AND REFUSE

[**HISTORY: Adopted by the Town Board of the Town of Bath 2-13-1961. Section 70-6 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.**]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 103.

§ 70-1. Title.

This chapter shall be known and may be cited as the "Dump and Disposal Ordinance for the Town of Bath, Steuben County, New York."

§ 70-2. Definitions.

Whenever used in this chapter, unless otherwise expressly stated or unless the context or subject matter requires a different meaning, the following terms shall have the respective meanings hereinafter set forth or indicated:

DUMPING GROUND — Any premises heretofore or hereafter acquired by the Town of Bath by lease, purchase or otherwise for the purpose of carrying out thereon a landfill or other method for the disposal of garbage or rubbish.

GARBAGE — All putrescible or decaying wastes; every waste accumulation of vegetable, fruit, animal or similar organic matter that attends the preparation, use, cooking, dealing in or storage of meat, fish, fowl, fruit or vegetable; and also includes tin cans that have contained food material, but does not include sewage, body wastes or carcasses of dead animals.

PERSON — An individual, society, club, firm, partnership, corporation, group or association of persons, and the singular number includes the plural number.

RUBBISH — Waste material, tin cans, ashes, cinders, paper and other discarded substances, whether liquid or solid and/or combustible in nature. [Amended 6-14-1993 by L.L. No. 2-1993]

§ 70-3. Use of dumping grounds.

A. Authorized users.

- (1) Any resident of the Town of Bath may deposit or cause to be deposited on the dumping grounds his garbage or rubbish refuse pursuant to the provisions of this chapter.
- (2) Any authorized commercial garbage collector collecting garbage or rubbish in the Town of Bath, including any villages or hamlets located therein, is hereby authorized

to use said dumping ground pursuant to the provisions of this chapter.

B. Restrictions.

- (1) No person shall carry or leave or cause to be carried or left upon the dumping ground any automobile, vehicle, machine, refrigerator, stove, television, washing machine or other similar article or any part thereof, except under a written arrangement with the caretaker thereof.
- (2) No person who is not a resident of or conducting an established business in the Town of Bath shall deposit or leave his garbage or rubbish of any kind on the dumping grounds.
- (3) The dumping of potatoes and dead animals is hereby forbidden. Any and all other forms of garbage and rubbish may be dumped, except that the Town Board of the Town of Bath may, in its discretion and by resolution, restrict various kind or kinds of garbage or rubbish as it shall determine from time to time according to the condition of such dump or upon the recommendation of the Town Health Officer.
- (4) No person shall deposit or leave or cause to be deposited or left any garbage, rubbish or other articles of any kind on the dumping grounds, except during the hours specified for such purpose and at the places and in the manner directed by the caretaker of the dumping grounds, whether such direction is given personally or by another person by his authority or by a sign or signs erected upon the premises.
- (5) All trucks, trailers, automobiles or other vehicles used by persons or by authorized commercial garbage collectors for the collection and transportation of garbage or rubbish shall be covered to prevent the spilling or scattering or blowing of the garbage or rubbish from said truck, trailer or vehicle along the road and adjacent lands.
- (6) Combustible material shall be separated from garbage, rubbish and noncombustible material and deposited in the places designated as aforesaid by the caretaker of the dumping grounds.

§ 70-4. Disposal of garbage and rubbish prohibited.

- A. No person shall throw or deposit or cause or permit to be thrown or deposited any garbage, rubbish or abandoned vehicle or parts thereof in, upon or within the limits of any public highway, street or place within the Town of Bath.
- B. No explosives or articles of an explosive nature or content shall be deposited or left at the dumping grounds.
- C. No person shall suffer or permit garbage, rubbish or abandoned vehicles or parts thereof to collect and remain for a period in excess of 14 days upon any premises owned or occupied by said person, except where such collection is in such receptacle as to prevent its being visible from any public highway or neighboring residence and except where such collection does not create a public health hazard. [Amended 6-14-1993 by L.L. No. 2-1993]
- D. No person shall deposit any garbage or rubbish upon any premises in the Town of Bath

except as herein provided.

§ 70-5. Disposal on private property or along highways.

- A. Nothing herein shall prevent an owner from disposing of paper, ashes, rubbish, garbage or dead animals upon his land, provided that dead animals are buried under not less than six inches of soil material, and provided that the disposal of other rubbish and garbage is done in a recognized sanitary method approved by the Town Health Officer.
- B. No person shall burn, bury or otherwise dispose of such papers, ashes, rubbish, garbage or dead animals upon or along any highway nor upon the lands of another without the consent of such landowners.
- C. No person shall allow any portion of his land to be used as a dumping ground without first procuring permission of the Town Board and under such regulations as may be prescribed.

§ 70-6. Penalties for offenses. [Amended 12-8-1986 by L.L. No. 2-1987]

Any person violating any provision of this chapter shall, upon conviction thereof, be punishable by a fine not exceeding \$250 for each offense or by imprisonment in the county jail for a term not exceeding 15 days, or by both said fine and imprisonment, and, upon failure to pay such fine, to imprisonment in the county jail until such fine can be paid, not to exceed one day for each dollar of fine imposed and, in addition, may be subject to civil action brought in the name of the town under § 135 of the Town Law. In such civil action, the town may recover a penalty of \$250 for each violation.

§ 70-7. Revocation of privilege of using dumping grounds.

Any person who or whose servant, agent, employees or officers shall be convicted of violation hereof may hereafter 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.

§ 70-8. Severability; effect of amendment by state.

If any portion of this chapter shall be declared void or adjudged invalid by any court of competent jurisdiction, it shall not affect the validity of the remaining portion. If any act of the legislature or any rule of a state department having the effect of law shall amend or supersede any portion, this chapter shall be deemed so amended or superseded without the necessity of the Town Board to adopt another ordinance so amended or superseding.

§ 70-9. Liability of owner. [Added 6-14-1993 by L.L. No. 2-1993]

- A. If a violation of any provision of this chapter is found to exist, in addition to the penalties that may be levied under § 70-6, the town or its authorized agent may enter the premises to correct such violation.
- B. Where the town or its authorized agent corrects a violation of this chapter, the owner of the property shall be liable for all costs of such corrective measures, and said costs shall be a lien on the premises.

- C. The amount so charged shall forthwith become a lien upon such lands and shall be added to and become and form part of the taxes next to be assessed and levied upon such lands, the same to bear interest at the same rate as taxes, and shall be collected and enforced by the same officers and in the same manner as taxes.

§ 70-10. When effective. [Added 6-14-1993 by L.L. No. 2-1993]

This chapter shall become effective immediately upon filing with the Secretary of State.

Chapter 82

MOBILE HOMES

[HISTORY: Adopted by the Town Board of the Town of Bath 8-23-1971. Sections 82-5A, 82-6E and 82-17 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Planning and Zoning Board — See Ch. 24.
Building construction — See Ch. 40.
Flood damage prevention — See Ch. 65.
Garbage, rubbish and refuse — See Ch. 70.
Subdivision of land — See Ch. 107.

§ 82-1. Title.

This chapter shall be known and cited as the "Town of Bath Mobile Home Parks Ordinance."

§ 82-2. Purpose.

It is the purpose of this chapter to promote the health, safety, comfort, convenience and general welfare of the community and to protect and preserve the property of the Town of Bath and its inhabitants by regulating mobile home parks in the Town of Bath, New York.

§ 82-3. Definitions.

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

DEPENDENT MOBILE HOME — A mobile home without inside toilets and bath. Such mobile homes are prohibited in a mobile home park as defined in this chapter.

HEALTH AUTHORITY — The legally designated health authority, or its authorized representative, of the Town of Bath.

LICENSEE — Any person licensed to operate and maintain a mobile home park under the provisions of this chapter.

MOBILE HOME — Any vehicle or similar portable structure having been constructed with wheels, whether or not such wheels have been removed, and having no foundation other than wheels, jacks or skirtings and so designed or constructed as to permit occupancy for dwelling or sleeping purposes.

MOBILE HOME PARK — Any plot of ground upon which three or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation.

MOBILE HOME SPACE — A plot of ground within a mobile home park designed and reserved for the accommodation of one mobile home.

PARK — Mobile home park.

PERMITTEE — Any person to whom a temporary permit is issued to maintain or operate a mobile home park under the provisions of this chapter.

PERSON — Any natural individual, firm, trust, partnership, association or corporation.

§ 82-4. License required; temporary permit.

- A. It shall be unlawful for any person to maintain or operate a mobile home park within the limits of the Town of Bath unless such person shall first obtain a license therefor, except that the maintenance or operation of a mobile home park in existence on the effective date of this chapter may be continued under a temporary permit for such period of time and under such conditions as are hereinafter prescribed.
- B. A temporary permit, upon written request therefor, shall be issued by the designated official for every mobile home park in existence upon the effective date of this chapter, permitting the park to be maintained and operated during the period ending 180 days after the effective date of this chapter without being subject to the provisions of this chapter, except such of the provisions as are made expressly applicable to permittees.
- C. The term of the temporary permit shall be extended, upon written request, for not to exceed one additional period of 180 days if the permittee shall have filed application for a license in conformity with § 82-6 of this chapter within 90 days after the effective date of this chapter, if the permittee is of good moral character and the park plans and specifications accompanying the application for license comply with all provisions of this chapter and all other applicable ordinances and statutes, if the permittee shall have diligently endeavored to make the existing park conform fully to the plans and specifications submitted with the application and if failure to make the existing park conform fully to such plans and specifications shall have been due to causes beyond the control of the permittee.

§ 82-5. Fees.

- A. The annual license fee for each mobile home park shall be in an amount set by resolution of the Town Board.¹
- B. The temporary permit fee for each one-hundred-eighty-day period shall be 1/2 of the license fee described in Subsection A of this section.
- C. The transfer fee for a license shall be the same as designated in Subsection A of this section.

§ 82-6. Application for license.

- A. Application for initial license or licenses for addition to an existing mobile home park must be filed with the Town Clerk. A filing fee based upon the schedule above set forth in § 82-5 hereof will be paid by the applicant and retained by said Clerk.

1. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art I. The current fee resolution is on file in the office of the Town Clerk.

- B. The application shall be in writing, signed by the applicant and shall include the following:
- (1) The name and address of the applicant.
 - (2) The location and legal description of the mobile home park.
 - (3) A complete plan of the park in conformity with the requirements of § 82-8 of this chapter.
 - (4) Plans and specifications of all buildings, improvements and facilities constructed or to be constructed within the mobile home park.
 - (5) Certification that the plans for water and sewage facilities have been approved by the New York State Department of Health.
 - (6) Such further information as may be requested by the Town Supervisor, Town Board or officer designated by the Town Board to enable him to determine if the proposed park will comply with legal requirements.
- C. The application and all accompanying plans and specifications shall be filed in triplicate.
- D. The Town Board or designated official shall investigate the applicant and inspect the application and the proposed plans and specifications. If the applicant is of good moral character and the proposed mobile home park will, when constructed or altered in accordance with such plans and specifications, be in compliance with all provisions of this chapter and all other applicable ordinances and statutes, the Town Board or designated official shall approve the application and, upon completion of the park according to the plans, shall issue the license.
- E. A fee in an amount set by resolution of the Town Board will be paid by the applicant to cover costs to the Town Board or its designated official for the review of the application.²
- F. Application for renewal license. Upon application, in writing, by a licensee for renewal of a license and upon payment of the annual license fee, the Town Board or designated official shall issue a certificate renewing such license for another year.
- G. Application for transfer of license. Upon application, in writing, for transfer of a license and payment of the transfer fee, the Town Board or designated official shall issue a transfer if the transferee is of good moral character.

§ 82-7. Location.

Mobile home parks may be located on any site within the Town of Bath. Where any boundary of a park directly abuts property which is improved with a permanent residential building located within 25 feet of such boundary or directly abuts any such property which may, under existing laws and regulations, be used for residential construction, a fence, wall, hedge or green area 20 feet in width shall be provided along such boundary.

2. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. The current fee resolution is on file in the office of the Town Clerk.

§ 82-8. Mobile home park plan.

The mobile home park shall conform to the following requirements:

- A. The park shall be located on a well-drained site, properly graded to ensure rapid drainage and free from stagnant pools of water.
- B. Each park shall provide mobile home spaces, and each space shall be clearly defined and delineated. Each park shall have a minimum area of 90,000 square feet, including mobile home space, roads, service buildings and green area. Each space shall have a minimum area of not less than 4,500 square feet and a minimum width of 50 feet.
- C. Mobile homes shall be so located on each space that there shall be a thirty-foot clearance between mobile homes, provided that, with respect to mobile homes parked end to end, the end-to-end clearance may not be less than 20 feet. No mobile home shall be located closer than 20 feet to any building within the park or to any property line of the park.
- D. Walkways not less than 30 inches wide shall be provided from the mobile home spaces to the off-street parking space and from the roadway to service buildings.
- E. All driveways shall be constructed with a minimum width of 20 feet, shall be constructed of gravel or hard surface, minimum of six inches in depth, and shall be maintained in a dust-free condition. All walkways within the park shall be hard-surfaced and lighted at night.
- F. An electric outlet, supplying at least 100 to 115/220 to 250 volts, 100 amperes, shall be provided for each mobile home space. All electrical and telephone facilities shall be buried.
- G. Each mobile home space shall be provided with off-street parking space. Minimum size for such parking space shall be nine feet by 25 feet. The parking space shall be constructed of gravel, minimum depth six inches, and shall be maintained in a dust-free condition.
- H. All mobile homes shall have constructed suitable skirting of a permanent material.
- I. All mobile home parks which, at the time of the adoption of this chapter, existed lawfully with mobile home spaces which do not comply with the minimum for area, width, clearances and off-street parking space as listed in Subsections B, C and G of this section shall be excused from compliance with these subsections of this section.

§ 82-9. Water supply.

An adequate supply of pure water for drinking and domestic purposes shall be supplied by pipes to all buildings and mobile home spaces within the park to meet the requirements of the park. Each mobile home space shall be provided with a cold-water tap at least four inches above the ground.

§ 82-10. Service buildings.

- A. Service buildings, if provided, housing sanitation facilities, laundry facilities and recreation facilities shall be permanent structures complying with all applicable ordinances and statutes regulating building, electrical installations and plumbing and sanitation systems.

- B. The service buildings shall be well-lighted at all times of the day and night, shall be well-ventilated with screened openings, shall be constructed of such moistureproof material, which may be painted woodwork, as shall permit repeated cleaning and washing and shall be maintained at a temperature of at least 68° F. during the period from October 1 to May 1. The floors of the service buildings shall be of water impervious material.
- C. All service buildings and the grounds of the park shall be maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public or constitute a nuisance.

§ 82-11. Sewage and refuse disposal.

- A. Waste from showers, bathtubs, flush toilets, urinals, lavatories and slop sinks in service and other buildings within the park shall be discharged into a public sewer system in compliance with applicable ordinances or into a private sewer and disposal plant or septic tank system of such construction and in such manner as will present no health hazard. Construction of sewer systems shall be in accordance with plans approved by the New York State Health Department.
- B. Each mobile home space shall be provided with a sewer which shall be connected to receive the waste from the shower, bathtub, flush toilet, lavatory and kitchen sink of the mobile home harbored in such space and having any or all of such facilities. The sewer in each space shall be connected to discharge the mobile home waste into a public sewer system in compliance with applicable ordinances or into a private sewer and disposal plant or septic tank system of such construction and in such manner as will present no health hazard. Construction of sewer systems shall be in accordance with plans approved by the New York State Health Department.

§ 82-12. Garbage receptacles.

Metal and plastic garbage cans with tight-fitting covers shall be provided in quantities adequate to permit disposal of all garbage and rubbish. Garbage cans shall be located on the mobile home space. The cans shall be kept in sanitary condition at all times. Garbage and rubbish shall be collected and disposed of by the licensee as frequently as may be necessary to ensure that the garbage cans shall not overflow.

§ 82-13. Fire protection.

Every park shall be equipped at all times with dry-chemical fire-extinguishing equipment in good working order, of such size and number and so located within the park as to satisfy applicable reasonable regulations of the Fire Department. No open fires shall be permitted at any place which may endanger life or property. No fires shall be left unattended at any time. It is further suggested that the licensee recommend to the mobile home owners that they obtain suitable dry-chemical fire extinguishers to be kept in the mobile home.

§ 82-14. Supervision of park.

The licensee or permittee or a duly authorized attendant or caretaker shall be in charge at all times to keep the mobile home park, its facilities and equipment in a clean, orderly and sanitary

condition. The attendant or caretaker shall be answerable, with the licensee or permittee, for the violation of any provision of this chapter to which the licensee or permittee is subject.

§ 82-15. Revocation of license.

The Town Board or designated official may revoke any license to maintain and operate a park when the licensee has been found guilty, by a court of competent jurisdiction, of violating any provision of this chapter. After such conviction, the license shall be reissued if the circumstances leading to conviction have been remedial and the park is being maintained and operated in full compliance with law.

§ 82-16. Posting of license or temporary permit required.

The license certificate or temporary permit shall be conspicuously posted in the office or on the premises of the mobile home park at all times.

§ 82-17. Penalties for offenses.³

Any person violating this chapter shall be fined not less than \$250 or imprisoned for not more than 15 days, or both, for each offense. Each week that a violation is permitted to exist shall constitute a separate offense.

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

Chapter 93

RECORDS, PUBLIC ACCESS TO

[HISTORY: Adopted by the Town Board of the Town of Bath 12-16-1974. Section 93-6 amended at the time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

§ 93-1. Designation of town officers.

The following town officers are designated for the purposes of this chapter:

- A. Records Access Officer. The Records Access Officer shall be the Town Clerk, whose office is located in the Municipal Hall, Bath, New York.
- B. Fiscal Officer. The Fiscal Officer shall be the Supervisor.

§ 93-2. Location for requests for inspection and copies of records.

The following office of the town is designated to receive requests for inspection and copies of records of the town: Town Clerk's office. Municipal Hall, Bath, New York.

§ 93-3. Time when records are available.

Requests to inspect or secure copies of town records may be made at the office set forth in § 93-2 of this chapter on any town business day between the hours of 9:00 a.m. and 11:30 a.m. and the hours of 1:30 p.m. and 4:00 p.m.

§ 93-4. Procedures.

The following procedures shall be followed in connection with requests to inspect or secure copies of town records:

- A. Requests to Town Clerk.
 - (1) Requests to inspect or secure copies of records shall be submitted, in duplicate, to the Town Clerk on a form prescribed by the Supervisor, copies of which are available in the office of the Town Clerk.
 - (2) The Town Clerk will determine and advise the requester whether the records specified in the request are available for inspection and copying.
 - (3) With respect to records which are determined to be available, the Town Clerk will direct the requester to the place where the requested records may be inspected and will arrange for the preparation and certification of copies upon tender of the required fee.
 - (4) With respect to records which are determined not to be available, the Town Clerk will

note the reason for unavailability on the request form and return one copy of the form to the requester.

- B. Place of inspection. Records may be inspected only at the office or location where they are regularly maintained.
- C. Requests by mail. Requests by mail for copies of available records may be addressed to the Town Clerk and will be honored, upon payment of the required fee, provided that the requester and the record of which a copy is requested are sufficiently identified to make compliance practicable.

§ 93-5. Appeals.

- A. Appeals shall be directed to the Supervisor on forms prescribed by him, copies of which are available at the office of the Town Clerk.
- B. All such appeals shall be delivered to the Town Clerk within 30 days after the denial from which such appeal is taken.
- C. Appeals will be determined by the Supervisor or his authorized representative.

§ 93-6. Fees.¹

The fees for copies for available records shall be as follows:

- A. Pages not larger than 8 1/2 inches by 14 inches: \$0.25 per page.
- B. Any other record: the actual cost thereof to the town.
- C. Certification: no additional charge.

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

Chapter 96

SITE PLAN REVIEW

[HISTORY: Adopted by the Town Board of the Town of Bath 4-24-2006 by L.L. No. 2-2006. Amendments noted where applicable.]

GENERAL REFERENCES

Planning Board — See Ch. 24.
Building construction — See Ch. 40.
Environmental quality review — See Ch. 59.
Mobile homes — See Ch. 82.
Subdivision of land — See Ch. 107.

§ 96-1. Enactment.

The Town Board of the Town of Bath, Steuben County, New York, hereby enacts the Town of Bath Site Plan Review Law pursuant to the authority and provisions of § 10 of the Municipal Home Rule Law and the Statute of Local Government and New York State Town Law § 274-a.

§ 96-2. Short title.

This chapter shall be known as the "Town of Bath Site Plan Review Law." The Town of Bath is hereinafter referred to as the "Town."

§ 96-3. Planning Board power to review site plan; findings; statement of purpose.

- A. The Bath Planning Board is hereby empowered to review and approve, approve with modification or disapprove all site plans as required by § 96-5 of this chapter.
- B. The Town of Bath has a special quality of life that can create the potential for an uncontrolled increase in growth. Demand for vacant land suitable for housing, employment, commercial and industrial use may be expected to increase in response. As unplanned growth begins to overtake the Town, farm fields, scenic views and the century-old local character are disappearing.
- C. The Town, in response to these rapid changes, is adopting this chapter to control this growth and to plan for Bath's future, to protect its natural resources and to accommodate economic growth, so that future growth patterns are harmonious with the area's special characteristics and resources. The purpose of these site plan review and approval procedures is to:
 - (1) Ensure adequate adherence and conformance to the various provisions of this chapter;
 - (2) Ensure that uses of land affected by these provisions meet design, function and layout criteria established by this chapter that will culminate in development that will protect the health, safety and general welfare of Town residents;

- (3) Ensure adherence with the intent of the development plan and its proposals and recommendations;
- (4) Ensure the ability of the Town to accommodate the growth resulting from the proposed use without undue adverse effect on the Town and its citizens and taxpayers, and the protection of health, safety and welfare of the Town and its citizens;
- (5) Ensure protection of open space and natural resources and preserve rural characteristics of the Town;
- (6) Enhance public access and recreational opportunities within the community, especially along major waterways;
- (7) Ensure overall conservation, protection, development and use of the unique scenic, aesthetic, wildlife, recreational, historic, ecological and natural resources of the Town; and
- (8) Avoid adverse impacts and offset unavoidable impacts through mitigation.

§ 96-4. Authorization of Planning Board to approve and disapprove uses with site plan review.

The Town Planning Board is hereby authorized to review and approve, approve with modifications or disapprove site plans prepared to specifications set forth in this chapter and in regulations of the Planning Board promulgated under § 96-11 of this chapter, setting forth the arrangement, layout and design of the proposed use of the land shown on such plan.

§ 96-5. Site plan review and permit required; applicability of site plan review procedures; exemptions.

- A. A land use or development within the Town of Bath shall not be undertaken unless and until:
 - (1) The Planning Board has approved such use or development in accordance with the provisions of this chapter with such conditions as the Planning Board deems appropriate; and
 - (2) The appropriate governing official has issued a permit for such land use or development, unless it is exempt.
- B. Such reviewable land uses shall include proposals for:
 - (1) Commercial use.
 - (2) Industrial use.
 - (3) Commercial sand, gravel, clay, shale, mineral or topsoil extraction and commercial mining operations.
 - (4) Office use.
 - (5) Multiple-family dwellings.

- (6) Institutional, utility or recreational uses.
- (7) Resumption of any use which has been discontinued for more than six months (unless said use is exempt).
- (8) Wind farms' aesthetics and safety.
- (9) Solid waste management facilities, closure and reclamation and all other land uses and developments unless noted below.
- (10) Single-family dwellings that will require a curb cut on a state or county highway.

C. Site plan review shall not be required for:

- (1) Landscaping or grading which is not intended to be used in connection with a land use reviewable under the provisions of this chapter;
- (2) Ordinary repair, maintenance or interior alterations to existing structures or uses;
- (3) Single-family residential subdivisions, farm development, mobile homes and appropriate timber harvesting (under proper forest management plan) and noncommercial sand, gravel, shale, clay or topsoil extraction;
- (4) Land uses or development existing prior to the date this chapter takes effect.

§ 96-6. Sketch plan; application for site plan review; fees.

A. Sketch plan conference.

- (1) A sketch plan conference may be held between the Planning Board and the applicant prior to the preparation and submission of a formal application for site plan review. The purposes of such a conference are to enable the applicant to inform the Planning Board of his or her proposal prior to the preparation of a formal site plan review application and for the Planning Board to review the basic site concept, advise the applicant as to potential problems and concerns and to determine generally the information to be included on the site plan review application. In order to accomplish these objectives, the applicant should provide the following:
 - (a) A statement and rough sketch showing the location and dimensions of principal and any accessory structures, parking areas or access sign (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations within the Town and federal and state designated wetlands;
 - (b) An area map to a scale acceptable to the Planning Board showing the parcel under consideration for site plan review and all properties, subdivision, streets, rights-of-way, easements and other pertinent features within 200 feet of the boundaries of the parcel;
 - (c) A topographic or contour map of adequate scale and detail to show site topography; and

- (d) Environmental assessment form (EAF), short or long form, as appropriate.
 - (2) The sketch plan and materials submitted under this section do not constitute formal submission of the site plan application.
- B. Application.
- (1) An application for site plan review shall be made with the Planning Board on forms supplied by the Board. Every application shall include such information as the Board deems necessary to make findings under § 96-7 of the chapter.
 - (2) At least 10 days prior to the Planning Board meeting at which a site plan review application is to be considered, at least three copies of the sketch plan and three copies of such application shall be submitted to the Planning Board, together with the appropriate fee.
 - (3) The Planning Board may require different information for different classes or types of projects or uses, including any or all of the following:
 - (a) A detailed description of the natural features of the proposed development or use and its components, including all proposed roads and accesses, water supply and sewage disposal systems, and their relationship to natural features;
 - (b) An analysis with supporting data on the impact of the project or use on the environment, both during construction and thereafter;
 - (c) An analysis and supporting data of any benefits that might derive from the project or use; and
 - (d) The appropriate environmental assessment form pursuant to the State Environmental Quality Review Act.
- C. Charge-back fees for site plan review applications. In addition to the application fee and other fees listed on the schedule of fees adopted by the Town Board and on file with the Town Clerk, the Planning Board shall require an applicant to reimburse the Planning Board for any expenses it incurs necessary to review thoroughly the applicant's application and any additional submissions, such as legal, engineering and technical assistance to the Planning Board. The range of such expenses shall be estimated and agreed upon with the applicant before proceeding. Such reimbursement of expenses shall also be in addition to any fees or costs associated with the State Environmental Quality Review Act (SEQRA), which are separate and distinct costs assessed to the applicant.
- D. Material to be submitted. Upon receipt of the application for site plan review, as described in § 96-6B, the Planning Board may require the applicant to submit additional information, which the Planning Board may require to be prepared by a licensed engineer, architect, surveyor, landscape architect, or combination thereof:
- (1) A map of the applicant's entire holding at the scale of one inch equals 200 feet, unless the Planning Board determines a different scale more appropriate.
 - (2) An area map, at the scale of one inch equals 30 feet, showing all properties, subdivisions, streets, watercourses, and easements which pass through the property or

are known to about the applicant's property, unless the Planning Board determines a different scale more appropriate.

- (3) A topographic map, at the scale of one inch equals 30 feet, showing contours at two-foot intervals, unless the Planning Board determines a different scale more appropriate.
- (4) A site plan, including the following information:
 - (a) Title drawing, including names(s) and address(es), of the applicant or owner of record.
 - (b) North point, date, scale.
 - (c) Name and address of the person preparing the map.
 - (d) Boundaries of the property plotted to scale.
 - (e) The location and use of all existing and proposed buildings and structures within the development or use. Include all dimensions of height and floor area, and show all exterior entrances and all anticipated future additions and alterations.
 - (f) The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, paths, landscaping, walls, and fences. Location, type and screening details for all waste disposal containers shall also be shown.
 - (g) The location, height, intensity, and bulb 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.
 - (h) The location, height, size, materials, and design of all proposed signage.
 - (i) Utility systems.
 - [1] The locations of all present and proposed utility systems, including:
 - [a] Sewage or septic system;
 - [b] Water supply system;
 - [c] Telephone, cable and electrical systems; and
 - [d] Storm drainage system, including drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes, and drainage swales.
 - [2] The Planning Board may also request soil logs, percolation tests and storm runoff calculations where appropriate.
 - (j) Plans to prevent pollution of surface water or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable.

- (k) Existing and proposed topography at a two-foot contour interval. 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. Indicate areas within the proposed site and within 50 feet of the proposed site, where ground removal or filling is required, and give its approximate volume in cubic yards.
- (l) A landscape plan showing all existing natural land features, trees, forest cover and water sources, and all proposed changes to these features, including the size and type of plant material. Water sources include ponds, lakes, brooks, streams, wetlands, floodplains, and drainage retention areas.
- (m) Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within 100 feet of the site. The Planning Board may require a detailed traffic study for large developments or uses or for those in heavy traffic areas, including:
 - [1] The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak-hour traffic levels;
 - [2] The projected traffic pattern, including vehicular movements at all major intersections likely to be affected by the proposed use of the site; and
 - [3] 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.
- (n) For new construction or alterations to any existing building, a table containing the following information shall be included:
 - [1] Area of building to be used for a particular use, such as retail operation, office storage, etc.;
 - [2] The maximum number of employees;
 - [3] The maximum seating capacity, where applicable; and
 - [4] The number of existing parking spaces and the number required for the intended use.
- (o) Any other requirements which the Planning Board might deem necessary, including but not limited to a licensed survey.
- (p) For multiple-family dwellings, mobile home parks and trailer parks:
 - [1] The Planning Board may require adequate, convenient and suitable areas for parks and playgrounds, or other recreational purposes, to be reserved on the plat, but in no case more than 10% of the gross area of any such site plan. The area shall be shown and marked on the plat "Reserved for Park or Playground Purposes."

[2] If the Planning Board determines that a suitable park or parks of adequate size cannot be properly located in any such plat or are otherwise not practical, the Board may require as a condition to approval of any such plat a payment to the Town in the amount established pursuant to a fee schedule set by the Town Board and filed in the Town Clerk's office. Such money shall be used by the Town for park and recreational purposes, including the acquisition of property.

[3] When a park, playground or other recreation area shall have been shown on a plat, the approval of such plat shall not constitute an acceptance by the Town of such area. The Planning Board shall require the plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future deed and title, dedication and provision for the cost of grading, development, equipment and maintenance of any such recreation area.

(q) Reclamation plan, if applicable.

E. Notification. Upon receipt of an application, together with all applicable material required by it, the Planning Board shall notify the applicant in writing, by mail, of the place, date and time of the meeting of the Planning Board at which the application is to be considered and request the presence of the applicant to discuss the application.

§ 96-7. Review standards.

A. In considering the approval of the applicant's site plan review application, the Planning Board shall take into consideration the public health, safety and general welfare, and the comfort and convenience of the public in general and residents of the immediate neighborhood in particular, and shall determine whether the proposed development or use meets the requirements of this chapter. Recommendations and goals outlined in the Comprehensive Plan will be of paramount importance in all decisions.

B. In order to approve an application for site plan review, the Planning Board shall consider the following:

- (1) Conformance of the application with the provisions of this chapter, other laws and ordinances of the Town of Bath and applicable county, state and federal laws, rules and regulations.
- (2) Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, channelization, structures, and traffic controls, and the project's impact on the overall circulation system as it relates to adjacent uses.
- (3) Adequacy and arrangement of pedestrian traffic access and circulation, including, but not limited to, separation of pedestrian from vehicular traffic, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- (4) Location, arrangement, size and design of off-street parking and loading areas.
- (5) Location, arrangement, size and design of building lighting and signs.

- (6) Adequacy, type and arrangement of trees, shrubs, and other landscaping constituting a visual and/or a noise-deterring buffer between the project and adjoining properties.
 - (7) In the case of multifamily dwellings, mobile home parks and trailer parks, the adequacy of usable open space for recreation or parklands or, in the alternative, a recreational fee.
 - (8) Adequacy of provisions for the disposal of stormwater, sanitary wastes, water supply for both fire protection and general consumption, solid waste disposal, and snow removal storage areas.
 - (9) Adequacy of structures, roadways and landscaping in areas with moderate to high susceptibility features.
 - (10) Protection of adjacent properties against noise, glare, unsightliness or other objectionable features.
 - (11) Retention of existing trees for protection and control of soil erosion, drainage and natural beauty.
 - (12) Effects on air and water quality standards applicable primarily, but not exclusively, to industrial site development plans.
 - (13) A draft environmental impact statement (DEIS) and environmental impact statement (EIS) will be required if the reviewing agency deems the proposal to be significant pursuant to the State Environmental Quality Review Act (SEQRA).
 - (14) Visual compatibility with surroundings.
 - (15) Relationship to adjacent and nearby land uses, both private and public.
 - (16) Adequacy of plans in avoiding adverse impacts and corresponding mitigation effects.
- C. In its review, the Planning Board may consult with appropriate Town, county, state or federal agencies or officers.

§ 96-8. Planning board procedure; public hearing; decision on site plan.

- A. The Planning Board may conduct a public hearing on the site plan if considered desirable by a majority of its members. In determining whether a public hearing is necessary, the Planning Board shall be guided by the expected level of public interest in the project and the possibility of an eventual disapproval. Such hearing shall be held within 62 days of the receipt of an application deemed complete by the Planning Board and shall be advertised in the Town's official newspaper at least five days before the public hearing.
- B. Within 62 days of receipt of an application deemed complete by the Planning Board or, if a public hearing is held, within 62 days of the completed public hearing, the Planning Board shall render its decision. In its decision, the Planning Board may approve, approve with modifications, or disapprove the site plan. The decision of the Planning Board shall immediately be filed in the office of the Town Clerk and a copy thereof mailed to the applicant. The time period in which the Planning Board must render its decision can be extended by mutual consent of the applicant and the Planning Board.

- (1) Approval. Upon approval of the site plan application and payment by the applicant of all fees and reimbursable costs due the Town, the Chairman (or other duly designated officer) of the Planning Board shall endorse its approval on a copy of the application and shall immediately file it and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant and to the Steuben County Department of Planning.
 - (2) Approval with modifications. The Planning Board may conditionally approve the final site plan. A copy of the written statement containing the modifications required by the conditional approval will be mailed to the applicant. After adequate demonstration to the Planning Board that all conditions have been met and payment by the applicant of all fees and reimbursable costs due the Town, the Chairman (or other duly designated officer) of the Planning Board shall endorse its approval on a copy of the application and shall immediately file it and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant and the Steuben County Department of Planning.
 - (3) Disapproval. Upon disapproval of the site plan application, the decision of the Planning Board shall immediately be filed with the Town Clerk and a copy thereof mailed to the applicant, together with the Planning Board's reasons for disapproval.
- C. The Planning Board, in conjunction with its approval of any site plan review application, may impose such requirements and conditions as are allowable within the proper exercise of the police power, including the imposition of a performance bond or letter of credit; restrictions of land against further development of principal buildings, whether by deed restriction, restrictive covenant or other appropriate means, to insure that guidelines as to intensity or development as provided in this chapter shall be complied with; and the imposition of reasonable conditions to insure that the project will be adequately supported by services and improvements made necessary by the project to ensure that the project will be completed in accordance with the terms of the application and any permit and including, without limitation, the requirements and conditions authorized under this section.
- D. Unless otherwise indicated or extended by the Planning Board, a decision on any site plan review application shall expire if the applicant fails to undertake the proposed development or use, to obtain any necessary building permits to construct any proposed building or change any existing building, or to comply with the conditions of such approval within one year from the filing date of such approval in the Town Clerk's office.

§ 96-9. Modification and waivers of application requirements.

- A. In addition to the other requirements of this chapter, the Planning Board may require such additional provisions and conditions as are necessary to promote further understanding of the applicant's proposal or as are necessary to protect the health, safety, and general welfare of the Town's residents.
- B. Also, the Planning Board may, in its discretion, determine that certain requirements of this section are not applicable for its approval of a site plan application and may, therefore, allow the applicant to submit only those elements which it deems necessary to review and approve such application.

§ 96-10. Enforcement; recordkeeping; court review; forms; fees; building permit required.

- A. Planning Board. The Planning Board, together with duly authorized Town and county officials, shall have the power and duty to administer and enforce the provisions of this chapter.
- B. Recordkeeping. The original or a certified copy of all decisions, approvals, rulings, findings, permits and certificates issued under this chapter shall be promptly furnished by the appropriate governing official to the Town Clerk and retained as a permanent Town public record.
- C. Court review.
 - (1) Any action, omission, decision, approval or ruling of the Planning Board under this chapter may be reviewed at the instance of any aggrieved person in accordance with Article 78 of the Civil Practice Law and Rules, but application for such review shall be made no later than 30 days after the filing of the decision in the office of the Town Clerk.
 - (2) Costs shall not be allowed against the Planning Board unless it shall appear to the court that said Board acted with gross negligence or bad faith or with malice in making the decision appealed from.
- D. Petition, application and appeal forms. Unless otherwise stated, all petitions, applications and appeals provided for in this chapter shall be made on forms prescribed by the Planning Board. Completed forms shall be accompanied by any additional information, plans or specifications as are indicated by such forms.
- E. Fees. Fees provided for by the chapter shall be paid upon the submission of an application or appeal, in such amount or amounts as shall be established by the Town Board from time to time and as such schedule of fees is on file with the Town Clerk at the time the application is made or appeal is brought.
- F. Payment of fees.
 - (1) All fees shall be paid at the time of application to the Planning Board Secretary.
 - (2) No fee shall be allowed to be substituted for any other required fee.
- G. Building permits.
 - (1) Permits required. For all land uses and developments which require site plan review under this chapter:
 - (a) No building, structure, or sign shall be erected, added to, or structurally altered until Planning Board approval under § 96-8 and an appropriate permit had been issued by the Town of Bath Code Enforcement Officer.
 - (b) No new use of building or structure shall be undertaken until Planning Board approval under § 96-8 and an appropriate permit has been issued by the Town of Bath Code Enforcement Officer.
 - (c) No building permit shall be issued for any building, structure, use or sign where

said construction, addition, alteration or use would be in violation of any of the provisions of this chapter, or of any other local law for the Town of Bath, and state and county law.

- (2) Submittal requirements. There shall be submitted with all applications for building permits four signed copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings or signs to be erected and such other information as may be necessary to determine and provide for the enforcement of this chapter.
- (3) Permit Certification. Upon receipt of all appropriate information and fees, and after all requirements of this chapter have been met which show that the applicant is in compliance herein, the Town of Bath Code Enforcement Officer shall issue a building permit. One copy of the submitted layout or plot plan certified by the Town of Bath Code Enforcement Officer as to compliance with this chapter shall be returned to the applicant and to the Planning Board.

§ 96-11. Future regulation; amendments.

- A. Future regulation by Planning Board. The Planning Board may, after public hearing, adopt and amend such rules and regulations appropriate to carrying out the provisions of this chapter.
- B. Amendments.
 - (1) Residents of the Town may petition or recommend that the Town Board amend this chapter.
 - (2) Any proposed amendment originating by petition or recommendation by Town residents to the Town Board shall be referred to the Planning Board for a report and recommendation thereon. The Planning Board shall submit its report within 30 days after receiving such request from the Town Board. Failure of the Planning Board to report within the required time shall be deemed to constitute a recommendation for approval of the proposed amendment. The Town Board is not required to follow the Planning Board's recommendation.

§ 96-12. Compliance with other laws.

Whenever the circumstances of proposed development require compliance with this chapter or with any other local law, ordinance or requirement of the Town, the Planning Board shall attempt to integrate, so far as may be practical, site plan review as required by this chapter with the procedural and submission requirements of such other local law, ordinance or requirement.

§ 96-13. Penalties for offenses.

Any person who violates any of the provisions of this chapter, or any of the conditions imposed by a permit issued pursuant hereto, shall be guilty of an offense and subject to a fine of not more than \$500, to be recovered by the Town in a civil action. Every person shall be deemed guilty of a separate offense for each week, or part thereof, such violation, disobedience, omission, neglect or refusal shall continue.

§ 96-14. Severability.

The provisions of this chapter are severable. If any article, section, paragraph or provision of this chapter shall be invalid, such invalidity shall apply only to the article, section, paragraph or provision(s) adjudged invalid, and the rest of this chapter shall remain valid and effective.

§ 96-15. Statutory authority; supersession of conflicting provisions.

This chapter is adopted pursuant to the powers and authorities vested in the Town pursuant to Municipal Home Rule, and the provisions of this chapter are deemed to supersede conflicting provisions of New York State Town Law, specifically Town Law § 274-a. Where any provision of this chapter conflicts with any provision of New York State Town Law regarding site plan review, the provision of this chapter shall prevail.

§ 96-16. Definitions.

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

ACCESSORY USE — Any use of a structure or lot, or portion thereof, that is customarily incidental and subordinate to and does not change the character of a principal land use or development, including the use of a residential structure for professional, commercial or artisan activities carried on by the resident of such a structure.

ACCESSORY USE STRUCTURE — Any structure or portion of a main structure customarily incidental and subordinate to a principal land use or development, including a guest cottage not for rent or hire that is incidental and subordinate to and associated with a single-family dwelling or any movable structure in excess of 100 square feet that is located within a required shoreline setback.

AGRICULTURAL SERVICE USE — Any milk processing plant, feed storage supply facility, farm machinery and equipment sales or service facility, storage or processing facility for fruits, vegetables and other agricultural products or other similar use directly and customarily related to the supply or service of an agricultural use.

AGRICULTURAL USE — The production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; and fruits of all kinds, including grapes, nuts, berries and vegetables.

AGRICULTURAL USE STRUCTURE — Any barn, stable, shed, silo, garage, fruit and vegetable stand or other building or structure directly and customarily associated with agricultural use.

ALTERATION — As applied to a building or structure, a change or rearrangement in the structural parts or in the existing facilities; an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or position to another, of a building or

structure.

ANIMAL HUSBANDRY — A branch of agriculture concerned with the production and care of domestic animals, including veterinarian activities.

APPLICANT — A person who submits an application for site plan review under this chapter.

BUILDING — Any structure which is permanently affixed to the land, is covered by a roof supported by columns or by walls, and is intended for shelter, housing or enclosure for persons, animals or chattels.

BUILDING HEIGHT — The vertical distance measured from the lowest portion of the natural grade of the building site covered by the building, or finished grade of cut required to accommodate the building, to the highest point of the structure.

BUILDING LINE — The point from which all yard requirements are measured and which is determined by a line formed by the intersection of a horizontal plan of the lowest grade level and a vertical plan that extends from the most projected part of the building open to the sky.

BUILDING PERMIT — Written permission issued by proper municipal authority for the demolition, construction, repair, alteration or addition to a structure.

CLEARCUTTING — The cutting of more than 50% of any trees over six inches in diameter, 4.5 feet above ground level over the entire area of the cutting.

COMMERCIAL SAND, GRAVEL, CLAY, SHALE or TOPSOIL EXTRACTION — Any extracting from the land of more than 1,500 cubic yards in any two-year period of sand, gravel, clay, shale or topsoil:

- (1) For sale or use by persons other than the owner of the land; or
- (2) For use by any municipality.

COMMERCIAL USE — Any use involving the sale, rental or distribution of goods, services or commodities, either retail or wholesale, or the provision of recreation facilities or activities for a fee. The term shall include, but not be limited to, the following: drive-in restaurant; fast-food operation, filling station; public garage, restaurant; retail store, retail stand and tavern.

COMMON OPEN SPACE — A parcel or parcels of land or an area of water, or a combination of land and water, designated and intended for the private or public use or enjoyment of the space, and may include such appurtenant structures as are necessary to allow the enjoyment of the space.

COMMUNITY FACILITY — A building or structure owned and operated by a governmental agency or not-for-profit organization to provide a public or semipublic service, such as a library, museum, governmental building, firehouse or church.

DWELLING, MULTIFAMILY — An apartment, townhouse, condominium or similar building, including the conversion of an existing single-family dwelling, designed to be occupied in separate dwelling units therein by more than one family; any such building containing two or more separate dwelling units used on a time-sharing, lease time or other similar basis whereby more than one person, group of persons or family has legal right of occupancy at different times.

DWELLING, SINGLE-FAMILY — A detached building (not including a mobile home) of one or more stories in height, above main grade level, which is designed or used exclusively as living quarters for one family or household.

DWELLING, TWO-FAMILY — A structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

DWELLING UNIT — One or more rooms with provision for living, cooking, sanitary and sleeping facilities arranged for the use of one family or household for year-round or seasonal/temporary use.

EXCAVATION — Any extraction from the land of more than 20 cubic yards of sand, gravel, clay, shale, rock, topsoil or other natural soil or mineral deposits.

FAMILY — One or more persons related by blood, marriage or adoption, or no more than four unrelated persons occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a rooming house, lodging houses, club, fraternity or hotel.

FENCE — An artificial structure designed to or which, in fact, divides, encloses or screens a parcel of land or a portion thereof.

FOOD STORE — A self-service retail operation offering a variety of food goods for human consumption for sale to the general public.

FORESTRY USE — Any management, including logging, of a forest, woodland or plantation and related research and educational activities, including the construction, alteration or maintenance of woodroads, skidways, landings, fences and forest drainage systems.

FOREST USE STRUCTURE — Any barn, shed, garage or research, educational or administrative building or cabin directly and customarily associated with forestry use.

GOVERNMENT OFFICE or AGENCY — Any department, commission, independent agency or instrumentality of the United States, of New York State, of Steuben County, or of the Town of Bath.

HOME OCCUPATION — Any use customarily conducted entirely within a dwelling or in an accessory structure and carried on by the inhabitants thereof and up to one employee not residing at the dwelling, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not materially change the character thereof.

HOTEL — A building or portion of it which is regularly used and kept open as such for the lodging of guests. "Hotel" includes an apartment hotel, boardinghouse or club, whether or not meals are served.

INDUSTRIAL USE — A manufacturing, production or assembly of goods or materials, including any one-site water disposal area directly associated with an industrial use. This term includes junkyards, not mineral extractions, sawmills, chipping mills, pallet mills and similar wood-using facilities.

JUNK AUTOMOBILE — An unregistered motor vehicle, no longer intended or in condition for

legal use on the public highways. For the purpose of this definition, "motor vehicle" shall mean any vehicle propelled or drawn by power, other than muscular power, originally intended for use on public highways or for use in agricultural or construction activity.

JUNKYARD — Any open lot or area for the dismantling, storage or sale of such items as parts, scrap or salvage of used or wrecked motor vehicles, machinery, scrap metals, waste papers, rags, used or salvaged building materials, household appliances or other discarded materials.

LAND CLEARING — The excavation, cutting, removal, alteration, destruction or clearing of perennial or annual vegetation, including trees or the disturbance of soil.

LANDSCAPE — All the natural features, such as fields, hills, forests, water, etc., that distinguish one part of the earth's surface from another part, usually that portion of land or territory which the eye can comprehend in a single view, including all of its natural characteristics.

LANDSCAPE PLAN — A plan of sufficient detail to describe proposed changes in topography, structures, vegetation and visual characteristics.

LANDSCAPING — The act of changing or enhancing the natural features, a plot, buffer zone, public open space or other area or portion of a lot (often as a beautifying feature of a building or land use) so as to make said area more attractive, to add visual screening and/or to provide safety features to assist in protecting life and property. This may be accomplished by adding lawns, trees, shrubs, etc., or through the sculpturing of the terrain (i.e., earth beams, ponds, walkways, retaining walls, rock outcrops, etc.) and/or installing lights, light poles, flagpoles, fences and traffic malls for the direction of traffic.

LAND USE or DEVELOPMENT or USE — Any construction or other activity which materially changes the use or appearance of land or a structure or the intensity of the use of land or a structure, but excluding:

- (1) Landscaping or grading which is not intended to be used in connection with another land use; and
- (2) Ordinary repairs, maintenance or interior alterations to existing structures or uses.

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

LOT COVERAGE — That portion of a lot that is covered by buildings and structures.

LOT DEPTH — The minimum contiguous distance measured from the front line to the rear lot line.

LOT WIDTH — The minimum contiguous distance between the side lines of a lot.

MINERAL EXTRACTION — Any excavation, other than of specimens or samples, from the land of stone, coal, silt, ore, talc, granite, petroleum products or other materials, except for commercial sand, gravel, clay, shale or topsoil mining, including the construction, alteration or maintenance of mine roads, mine tailing piles or dumps, and mine drainage.

MINERAL EXTRACTION STRUCTURE — Any mine hoist; ore reduction, concentrating,

sintering or similar facilities and equipment; administrative buildings, garages or other main buildings or structures associated with mining extraction.

MOBILE HOME — Any self-contained dwelling unit (not travel trailers) that is designed to be transported to its site on its own wheels or those of another vehicle, which may contain the same water supply, kitchen facilities and plumbing, sewage disposal and electric systems as immobile housing and is designed to be used exclusively for residential purposes; the structure must be certified by U.S. Department of Housing and Urban Development (HUD) and conform to the HUD Code. (A modular home which conforms to the New York State Building Code is not considered a mobile home.)

MODULAR HOME — Any building comprised of two or more sections with or without their own chassis, capable of being transported to their building site and permanently jointed into one integral unit which is indistinguishable in appearance from a conventionally built home, including but not limited to a sloped roof and permanent foundation and conforms with the New York State Building Code.

MOTEL — A commercial facility providing transient lodging containing six or more rental units with at least 25% of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building and where customary uses, such as, but not limited to, playgrounds, game rooms, recreation facilities, snack bars and restaurants, may be provided for use by the lodger and the general public.

OFFICE BUILDING — A building, more than 50% of the gross floor area of which is used for office space.

OPEN SPACE — Land not covered by buildings, pavement, open storage, mining operations or any other use that visually obscures the natural or improved landscape, except for recreational facilities.

OPEN SPACE RECREATION USE — Any recreation use particularly oriented to and utilizing the outdoor character of an area, including a snowmobile, bike, jeep, or all-terrain vehicle trail; cross-country ski trail; hiking and backpacking trail; bicycle trail and horse trail; playground; picnic area; public park; public beach; or similar use.

PARCEL OF PROPERTY — Any real property shown on the latest adopted county tax roll as a unit or as contiguous units under common ownership. Parcels separated by public highway and owned by the same owner shall be deemed to be separate parcels of real property.

PARKING AREA, PUBLIC — An open area, other than a road or other public right-of-way, used for the parking of automobiles and available to the public.

PARKING SPACE — An area of 200 square feet of such shape and vertical clearance so as to accommodate one automobile having an overall length not greater than 20 feet.

PARKING SPACE, HANDICAPPED — An oversized parking space designed to accommodate the handicapped, constituting an area of 240 square feet with a minimum width of 12 feet and having an overall length not greater than 20 feet.

PERSON — Any individual, firm, corporation, partnership or association, or any combination of the foregoing, or successor interest to any such parties.

PLANNING BOARD — Pursuant to § 271 of the Town Law, the Town of Bath has created a Planning Board. Said Board consists of seven members appointed by the Town Board in such manner and for such term as provided by Town Law. The Planning Board shall have all the powers and perform all the duties prescribed by statute and by this chapter. The Planning Board shall have original jurisdiction for all matters pertaining to this chapter.

PRIVATE SAND, GRAVEL, SHALE, CLAY or TOPSOIL EXTRACTION — Any extraction from the land of sand, gravel, shale, clay or topsoil for use, but not sale, by the owner of the land, or any extraction for the purpose of sale of less than 1,500 cubic yards in any two-year period.

PUBLIC UTILITY USE — Any public utility use, equipment or structure, but excluding any such use which is subject to the jurisdiction of the Public Service Commission pursuant to Article 7 or 8 of the Public Service Law.

RECREATIONAL FACILITIES, COMMERCIAL — Recreational facilities open to the general public for private gain.

RECREATIONAL FACILITIES, PRIVATE — Recreational facilities supplemental to a principal use, for the use of proprietors and guests, but excluding such use which is open to the general public for a charge.

RECREATION CENTER or LODGE — Any recreationoriented facility particularly oriented to and utilizing the outdoor character of an area which does not depend on amusement devices or rides. Such recreational uses may include a snowmobile trail, cross-country ski trail, hiking and backpacking trail, bicycle trail and horse trail, as well as a playground, picnic area, public park and public beach, for activities such as soccer, baseball, football, tennis and water-related activities.

RIGHT-OF-WAY, PUBLIC — A parcel of land open to the public for vehicular or pedestrian traffic.

SOLID WASTE MANAGEMENT FACILITY — Any facility employed beyond the initial solid waste collection process and managing solid waste, including but not limited to storage areas or facilities; transfer stations, rail-haul or barge-haul facilities; landfills; disposal facilities; solid waste incinerators; land-spreading facilities; composting facilities; surface impoundments; and waste oil storage, reprocessing, and refining facilities and waste tire storage facilities.

STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) — A process that introduces the consideration of environmental factors into the early planning stages of actions in order to avoid adverse impacts on the environment.

SUBDIVISION OF LAND or SUBDIVISION — Any division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy (including any grading, road construction, installation of utilities or other improvements or any other land use and development preparatory or incidental to any such division) by any person or by a common scheme or plan. Subdivision of land shall include any map, plat or other plan of the division of land, whether or not previously filed. Subdivision of land shall not include the lease of land for hunting and fishing and other open space recreation use.

TIMBER HARVESTING — The cutting of trees over six inches in diameter measured at 4.5

feet above the ground.

WASTE DISPOSAL AREA — Any area for the disposal of garbage, refuse and other waste, including sanitary landfills and dumps, but excluding an on-site disposal area directly associated with an industrial use.

B. Any term in this chapter which is not defined in this or another section of this chapter shall carry its customary meaning.

Chapter 99

SNOWMOBILES

[HISTORY: Adopted by the Town Board of the Town of Bath 12-11-1972. Sections 99-1 and 99-4 amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks — See Ch. 103.

§ 99-1. Definitions. ¹

All terms used in this chapter which are defined in § 21.05 of the Parks, Recreation and Historic Preservation Law of the State of New York shall have the meanings contained in such definitions.

§ 99-2. Permitted highways; exceptions.

All town highways within the Town of Bath are hereby designated as highways upon which snowmobile travel is permitted, with the exception of Robie Road between Kettle Road and Sonora Road; East Union Road between Windfall Road and Bonny Hill Road; and Culver Creek Road between Bonny Hill Road and Warner Hill Road.

§ 99-3. Determinations.

It is hereby determined that the outside banks and shoulders of a sufficient number of the foregoing highways are impassable or nonexistent by reasons of conditions of terrain and at certain times of the year by reason of prevailing snow conditions. Snowmobile operation is hereby permitted upon the roadways of all of the foregoing highways.

§ 99-4. Compliance with state law required. ²

Snowmobile operation upon the foregoing designated highways shall be in accordance with the provisions of Title D and Title E of the Parks, Recreation and Historic Preservation Law of the State of New York and of the rules and regulations promulgated thereunder of the Office of Parks and Recreation or the Commissioner of Parks and Recreation.

§ 99-5. When effective; highway markers.

This chapter shall take effect immediately except that no snowmobile may be operated upon any designated highway hereunder until after such highway or portion thereof shall have been

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

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

identified by signs or markers.

Chapter 103

STREETS AND SIDEWALKS

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

GENERAL REFERENCES

Garbage, rubbish and refuse — See Ch. 70.
Snowmobiles — See Ch. 99.
Subdivision of land — See Ch. 107.

ARTICLE I

Highway Construction and Dedication [Adopted 5-14-1962]

§ 103-1. Purpose.

The purpose of this Article is to regulate the laying out and construction of highways prior to their dedication to the Town of Bath as public highways.

§ 103-2. Definitions and word usage.

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

HIGHWAY — Includes any type of street or thoroughfare constructed or planned to be constructed for dedication to the Town of Bath as a public highway pursuant to law.

B. Wherever used in this Article, words in the singular number include the plural, and words in the plural number include the singular. The word "shall" is mandatory and not directory. Words in the present tense include the future.

§ 103-3. Applications for approval; warranty deed.

A. All applications for approval of plans shall be made as hereinafter specified in this Article.

B. All applications shall be accompanied by three copies of the highway plan and profiles of each highway showing existing and proposed grades as well as all the necessary detail required by the provisions of this Article.

C. All applications for the dedication of a highway to the Town of Bath shall be accompanied by a proposed warranty deed conveying said highway to the town, with all necessary releases from mortgages or other claimants. Such deed shall describe the street to be conveyed as shown on map and shall state the date on which said map was filed in the Steuben County Clerk's office and the number thereof.

§ 103-4. Survey of proposed highway required; boundary markers; installation of utility service.

- A. The owner or all the owners shall have had the land comprising the highway surveyed and mapped, and a map thereof shall have been filed in the Steuben County Clerk's office, and adequate metal or stone boundary markers shall be inserted in a permanent manner at intervals of not less than 500 feet on tangents and at point of curvature and point of tangency of curves along all boundary lines of such highways.
- B. If sewer, water, gas or other utility service is to be installed in such highway, it shall be installed prior to the final surfacing of such highway, and all laterals and other service connections shall be installed and brought to the outer street line prior to such final surfacing. Any utilities installed in a roadway to be dedicated to the town shall be installed in such a manner as to allow the normal maintenance of the roadway. Utility companies shall contact the Town Superintendent of Highways prior to installation and provide as-built maps of all installations. [Amended 2-8-1993 by L.L. No. 1-1993]

§ 103-5. Minimum width.

The minimum width of streets or highways hereinafter laid out shall be 50 feet. These widths shall be measured from lot line to lot line. Said widths shall be measured normal to the lot lines on tangents and on radial lines with curves. Approved turnarounds or T's are to be used on dead-end streets.

§ 103-6. Reserve strips.

There shall be no reserve strips controlling access to highways, except where control of such strips is definitely placed in the town under the offer to dedicate.

§ 103-7. Grade.

Highway grades shall not exceed 6% nor be less than 1% at the gutter. Changes may be made with approval of the Town Superintendent.

§ 103-8. Drainage of surface water.

- A. The highway shall be shaped and crowned so as to slope laterally in order to drain surface water off the carriageway onto sides of the highway, where shallow ditches or gutters shall be built to carry off said water. If the grade or pitch of the road is sharp so that the flow of surface water might wash out said ditches or gutters, the same shall be lined with stone and bound with hard topping to prevent such washing out. These ditches or gutters shall be connected at all intersections by piping of a size and length prescribed by the Superintendent of Highways of the Town of Bath, and he may require the installation of catch basins at such locations as he deems necessary to properly catch and carry off such surface water as he may estimate will accumulate along the highway or at said highway intersections. Project developers shall furnish and install driveway culverts (where required) of a size and type and at a line and grade to be determined by the Town Superintendent of Highways. Headwalls may be required by the Town Superintendent. Bridges having over a twenty-five-foot span are to be approved by the County Superintendent, and those under 25 feet are to be approved by the Town Superintendent. [Amended 2-8-1993 by L.L. No. 1-1993]

- B. Proper drainage shall be installed where required. Reinforced concrete pipe or corrugated iron pipe shall be used throughout for all culverts or surface drains. Said pipe is to conform to the standard usage adopted by the Town Superintendent of Highways. A profile map, in duplicate, shall be filed with the Town Board, showing the grade and fall of surface water to be not less than 1% and also showing the final disposition of flow, which must be to a live stream or well-established natural drainage ditch. If the grade and fall of surface water is shown to be less than the above prescribed, the Superintendent of Highways of the Town of Bath shall require the installation of a surface water drainage system consisting of piping and catch basins of such size as he deems necessary under the circumstances. In the case where access to a live stream or well-established natural drainage ditch is required, easements or rights-of-way leading thereto shall be secured and conveyed to the Town of Bath as below set forth.
- C. The developer or owner laying out said street or highway shall obtain all necessary easements or rights-of-way to take care of any surface water caused by reason of the development of said street or highway and by reason of the installation of culverts or surface drains. No street or highway will be taken over by the Town of Bath nor approved by the Town Superintendent of Highways before such necessary easements⁵ or rights-of-way have been obtained, and the legal sufficiency thereof shall be passed upon by the Attorney for the Town of Bath. Such easements or rights of way shall be at least 20 feet in width.

§ 103-9. Grading and surfacing requirements. [Amended 2-8-1993 by L.L. No. 1-1993]

- A. Prior to being offered for dedication to the town, all streets shall be graded and surfaced as follows:
 - (1) All highways or roads offered for dedication shall be suitably and properly graded and shall meet with the approval of the Town Superintendent of Highways.
 - (2) There shall be a carriageway of at least 28 feet in width located in the center of the proposed highway. All topsoil and unsuitable base material shall be removed, and said carriageway or roadway shall be covered with fill. Fill to be added shall be suitable run-of-bank gravel, a minimum of 10 inches deep, properly crowned and compacted, to be approved by the Town Superintendent of Highways. All boulder, organic materials, soft clay, spongy material and any other objectionable material shall be removed and replaced with suitable material. The subgrade shall be properly shaped, rolled and uniformly compacted to conform to the accepted cross-section and grades. Greater thickness of run-of-bank gravel, stabilization fabric, approved underdrains or a combination thereof where poor subsoil is encountered may be ordered by the Town Superintendent of Highways. The base course shall consist of crushed or screened gravel compressed in lifts of a maximum of eight inches to a total depth of 12 inches minimum. The first lift shall be two-inch gravel, and the second lift shall be one-and-one-half-inch gravel. Greater thicknesses of crushed or screened gravel may be required if the volume or weight of expected traffic warrants.
- B. Screened or crushed gravel shall consist of hard, durable particles of gravel and filler sand mixed at a ratio of 50% to 70% gravel and 30% to 50% sand. A maximum of 8% clay is

allowed. The gravel shall be free from organic matter and lumps or balls of clay. Shale, silt or crumbly rock will not be acceptable.

- C. Run-of-bank gravel shall consist of hard, durable particles of gravel and filler sand or other finely divided mineral matter. The gravel shall be free from organic matter and lumps or balls of clay. Shale, silt or crumbly rock will not be acceptable.
- D. The gravel base shall be covered with either three-inch minimum compacted hot-mix bituminous binder with one-inch minimum compacted top or three-inch minimum compacted cold mix bituminous with the chip seal top. The Town Superintendent of Highways will determine which type of surface and the exact type of mixes to be used based on proposed weight and volume of traffic. The minimum width of pavement shall be 20 feet. Where curbing is used, the pavement shall cover the shoulders to a width sufficient to extend under the curb. Where curbing is not used, four-foot minimum width compacted gravel shoulders shall be used. The Town Superintendent of Highways of the Town of Bath shall be required to inspect and approve the subbase, base and application of bituminous surface and shall be consulted as to the time of application and interval between treatments.
- E. All banks shall be set back and sloped in amounts sufficient to prevent interference with normal road operations and soil erosion. All banks, slopes, spoil areas and any other areas left stripped shall be stabilized if necessary and any other areas left stripped shall be stabilized if necessary and seeded and mulched.
- F. Street or highway regulatory and warning signs shall be erected by the owner or developer in the first instance, later to be maintained by the Town of Bath. Signs shall be placed in accordance with the latest New York State Manual of Uniform Traffic Control Devices. Signpost size and type and any variables in signage allows by MUTCD will be consistent with existing signage throughout the Town of Bath as determined by the Town Superintendent of Highways.

§ 103-10. Responsibility for maintenance.

When a street has been accepted by the town under conditions outlined in § 277 of the Town Law pending final surfacing and approval, the responsibility and liability for maintenance of the drainage system and surface carriageway shall rest with the owners and/or developers. The town shall have the responsibility and liability for snow removal and ice control.

§ 103-11. Final decision in cases of disagreement.

The County of Steuben Superintendent of Highways shall make the final decision on sizes and quantities of materials, methods of construction and other details outlined in §§ 103-7 through 103-10 if the Town Superintendent and the owners and/or developers are unable to agree.

§ 103-12. Naming streets; street signs.

- A. The use of proper names for street names is discouraged. The Town Board of the Town of Bath must, by law, approve street names and may change any chosen by the developer or owner to avoid duplication or for any other reason of its own.
- B. Street signs three inches wide and 18 inches long at the top of iron piles three inches in

diameter shall be erected by the owner or developer in the first instance, later to be maintained by the Town of Bath.

§ 103-13. Approval by Superintendent required.

No street or highway shall be taken over by the town unless it meets all of the above requirements and approval of the Town Superintendent of Highways. No special district improvements shall be placed or installed in any street or highway of the town until plans and construction have been approved by the Superintendent of Highways.

§ 103-14. Written approval by state and county.

- A. Approval, in writing, shall be obtained by the owners and/or developers from the New York State Department of Public Works regarding drainage where proposed streets or highways intersect state roads and its permission to connect said streets with such roads.
- B. Approval, in writing, shall be obtained by the owners and/or developers from the Steuben County Superintendent of Highways regarding drainage where proposed streets or highways intersect county roads and his permission to connect said streets with such roads.

§ 103-15. Repealer.

All previous regulations or resolutions affecting the acceptance of streets by the town are hereby rescinded.

§ 103-16. Refusal by town to accept title.

The Town Board may, in the exercise of its best judgment, refuse to accept title to any street, roadway or highway in said town, notwithstanding that all the foregoing rules and regulations have been performed and complied with.

§ 103-17. Radius at street corners.

The property at all street corners shall be rounded or otherwise set back sufficiently to allow a radius on the property line of 50 feet. The Town Superintendent of Highways may modify this requirement.

ARTICLE II
Street Names and Numbers
[Adopted 9-9-1963]

§ 103-18. Official system adopted.

Pursuant to Subdivision 9 of § 64 of the Town Law, the 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.

ARTICLE III
Prior Notice of Defects

[Adopted 3-31-1975 by L.L. No. 1-1975]

§ 103-19. Notification required for streets.

No civil action shall be maintained against the Town of Bath, hereinafter referred to as the "town," or the Town Superintendent of Highways of the town or against any improvement district in the town for damages or injuries to persons 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 that there was a failure or neglect, within a reasonable time after the giving of such notice, to repair or remove the defect, danger or obstruction complained of; 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.

§ 103-20. Notification required for 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 persons 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, nor shall any action be maintained for damages or injuries to persons 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 or 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.

§ 103-21. Written report to Clerk of notices required. [Amended 12-8-1986 by L.L. No. 2-1987]

The Town Superintendent of Highways of the town shall transmit, in writing, to the Town Clerk of the town, within 10 days after receipt thereof, all written notices received by him pursuant to this Article, and he shall take any and all corrective actions with respect thereto as soon as practicable.

§ 103-22. Record to be kept.

The Town Clerk of the town shall keep an index record, in a separate book, 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, which record shall state the date of the receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. The record of such notice shall be preserved for a period of five years from the date it is received. 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.

§ 103-23. Effect on other legislation.

Nothing contained in this Article shall be held to repeal or modify or waive any existing requirement or statute of limitations which is applicable to these causes of action but, on the contrary, shall be held to be additional requirements to the rights to maintain such action, nor shall anything herein contained 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.

ARTICLE IV
Highway Right-of-Way Permits
[Adopted 11-9-1992 by L.L. No. 1-1992]

§ 103-24. Permit required.

No person, firm, association, partnership or corporation shall engage in any excavation, construction or other operation within the highway right-of-way of the public highways of the Town of Bath without first applying for and being issued a permit to engage in such activities by the Town Highway Superintendent. Said permit shall be of such nature and form as promulgated by the Town Highway Superintendent and as approved by resolution of the Town Board.

§ 103-25. Application procedure; issuance; renewal.

- A. All applications to conduct operations within the Town of Bath highway right-of-way limits shall be submitted to the Town Highway Superintendent on the standard form approved by the Town Board available from the Town Highway Superintendent. Upon the filing of the completed application and the payment of the required fee, the Town Highway Superintendent shall examine the application and any other data submitted.
- B. If it shall appear that the operations of the applicant are in compliance with all of the requirements of the Town Highway Superintendent for operations conducted within the Town of Bath highway right-of-way limits, he shall then, within 15 days, issue a permit for the requested activities. The issuance of a permit shall not excuse the applicant from conforming to all other rules and regulations of the Town of Bath, State of New York or otherwise.
- C. If the work authorized under any such permit does not commence within six months from the date of issuance, the permit shall become null and void but may be renewed within 30

days prior to the expiration for good cause shown for an additional six months upon payment of 1/2 of the original fee.

- D. All work performed by the applicant shall be in accordance with the permit issued by the Town Highway Superintendent.

§ 103-26. Fees.

Fees for permits required hereunder shall be due and payable upon submission of the application and shall be in such an amount as determined by resolution of the Town Board.¹

§ 103-27. Penalties for offenses.

Any person, firm, association, partnership or corporation, contractor, builder or other person who violates any provision of this Article or any regulation adopted hereunder, upon conviction, shall be guilty of a violation subject to a fine not exceeding \$250 or imprisonment for a term not exceeding 15 days, or both such fine and imprisonment. Each day of continuous violation of this Article shall constitute a separate, additional violation. In case of a violation of this Article, the municipality and its officers may, in addition to any other remedies specifically conferred by law or ordinance, institute any appropriate proceedings to prevent any unlawful activities to be conducted within the Town of Bath public highway rights-of-way.

§ 103-28. Enforcement.

The Town Highway Superintendent shall be empowered to enforce this Article and the regulations set forth herein.

ARTICLE V

High-Frequency, High-Impact Truck Traffic

[Adopted 4-9-2012 by L.L. No. 1-2012]

§ 103-29. Findings and purpose.

The Town Board of the Town of Bath has determined that it is in the best interest of taxpayers and the general public to assign responsibility for the repair of damage to Town roads attributable to high-intensity use and, where necessary, for the improvement of Town roads to a standard appropriate for high-intensity use prior to the commencement of any activity, to those responsible for the damage rather than to all Town taxpayers. The purpose of this article is to maintain the safety and general welfare of Town residents by regulating heavy uses of Town roads that have the potential to adversely affect such roads. Well-maintained roads are important to the safety and economic well-being of the Town and its residents. Endeavors such as construction, timber harvesting, mining, natural gas drilling, and wind farms are also of economic interest. This article is not intended to regulate such businesses; the intent is to protect the public roads from damage.

§ 103-30. Definitions.

1. Editor's Note: The current resolution is on file in the office of the Town Clerk.

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

BOND — A commercial bond to ensure that the condition of the Town roads is not adversely impacted by high-frequency, high-impact truck traffic. The Town may accept an equivalent financial guarantee in lieu of bond.

BOND RELEASE — A bond release given by the Town Highway Superintendent based on satisfactory road conditions at completion of the high-frequency, high-impact truck traffic.

HIGH-FREQUENCY, HIGH-IMPACT TRUCK TRAFFIC — Traffic to and from a project site that generates more than 500 truck trips. For purposes of this article, a truck trip is a trip to or from the project site involving a truck with a gross weight of 20 or more tons (truck and load combined). A single truck makes two truck trips if it meets the weight limit traveling to the project site and meets the weight limit traveling from the project site.

PERMITTEE — The person responsible under this article to obtain a permit regardless of whether the person in fact obtains a permit. The permittee is the person responsible for the project generating the truck traffic. In any instance in which another permit is required, such as a building, drilling, or mining permit, any person who obtained any such permit or was required to obtain such other permit shall be deemed the permittee for purposes of this article. In the event that no other permit is required, the owner of any property on which the activity is taking place shall be deemed the permittee for purposes of this article.

PERSON — Any individual, public or private corporation, political subdivision, government agency, municipality, industry, copartnership, association, firm, trust, estate or any other legal entity whatsoever.

TEMPORARY PROJECT — Any nonpermanent activity that generates high-frequency, high-impact truck traffic on Town roads, whether or not the project itself is located in the Town.

- A. Projects include, but are not limited to, construction projects, mining, drilling activities and wind farms. With regard to projects that require another permit, such as a building, drilling, or mining permit, all activities covered by that other permit are considered part of the temporary project for purposes of this article.
- B. Agricultural operations, as defined by New York State's Agricultural Districts Law,² and the movement of agricultural products are excluded. Also excluded are school buses, law enforcement vehicles, fire-fighting vehicles, military vehicles, and municipal vehicles engaging in road work on behalf of municipalities.

§ 103-31. Notice of truck exclusions; exemption for temporary projects; permit; bond.

- A. The Town determines that high-frequency, high-impact truck traffic associated with temporary projects would materially injure Town roads.
- B. Upon determination by the Town Highway Superintendent that a temporary project may generate high-frequency truck traffic, the Town Highway Superintendent shall erect signs on the appropriate sections of Town highways setting forth the notice that such vehicles are

2. Editor's Note: See Article 25-AA of the New York State Agriculture and Markets Law.

excluded, and the notice shall also be published in the official newspaper for the Town of Bath.

- C. Any permittee may apply to the Town Highway Department for a permit providing for an appropriate exemption for the vehicles serving the temporary project. Such permit shall be granted, upon appropriate terms and conditions, if the vehicles are performing essential local pickup or delivery. For purposes of this article, pickup and delivery associated with New-York-State-permitted mining or gas drilling operations shall be deemed essential local pickup or delivery.
- D. Any such permit shall designate the route(s) to be traversed and contain other reasonable restrictions or conditions deemed necessary by the Town Highway Superintendent. The conditions may include, but not be limited to, requiring the permittee to make road improvements to ensure that the roads have the strength and capacity to handle the anticipated traffic. The permit shall be carried on all vehicles serving the project and shall be open to inspection by any peace officer acting pursuant to his or her special duties, or police officer. Such permit shall be for the duration of the temporary project.
- E. In order to obtain a permit, the permittee must submit a permit application to the Town Highway Department, which shall include all information required by the Town Highway Superintendent, including, but not limited to, vehicle identification and owners/operators, vehicle weights, load weights, materials carried, route(s) to be followed from Town Highway to site, duration of activity (beginning date and end date), frequency of trips and times of operation. The applicant shall pay a permit fee to be established by the Town Board, but in no event shall the fee be less than \$50.
- F. The Town Highway Superintendent may require the permittee to submit documentation (including, but not limited to, photographs and videos) of the condition of the roads, shoulders and all structures (culverts, bridges, etc.) that will be traversed by the permitted traffic as a condition of the permit.
- G. In addition to the restrictions on routes and other reasonable restrictions, the Town Highway Superintendent will decide if the scope of work is such that a bond is required and the amount of any such bond. The determination of the need and amount of any bond shall be based on a determination of potential damage to Town roads based on the truck route(s), weight of the vehicles, frequency of travel, seasonal conditions and the type category (classification) of the roads on the approved route(s).
- H. A permittee aggrieved by a determination of the Town Highway Superintendent regarding the need for or conditions of a permit may, within 10 days of the determination, appeal to the Town Board. No action inconsistent with the determination of the Town Highway Superintendent shall take place pending the determination of the Town Board.
- I. The permittee shall be responsible for assuring that the high-frequency, high-impact truck traffic does not prevent any impacted Town road from remaining in safe and usable condition for all legal uses of the road throughout the duration of the temporary project.
- J. Upon completion of the high-frequency, high-impact truck traffic project, the permittee will apply to the Town Highway Superintendent for a bond release. Upon inspection of the traveled roads, as necessary, the Town Highway Superintendent may approve the release of

the bond. If the release is not approved, the Town Highway Superintendent will specifically document the tasks that must be accomplished in order for the bond to be released, which may include, but not be limited to, the payment of money for the repair of damaged roads. The permittee must remedy the specified problems before the bond may be released.

- K. If the permittee does not comply with this article and all of the terms and conditions of the permit and operate within the parameters specified on the permit, the permit may be revoked at the discretion of the Town Highway Superintendent.
- L. In the event that high-frequency, high-impact truck traffic uses any Town roads without the required valid permit, the Town Highway Superintendent, and any law enforcement officer or code enforcement officer, has the authority to deny access to the roads and, in cases where the Town permit was required, to shut down the project. This relief is in addition to any and all damages and penalties.
- M. The permittee will be responsible for the repair of any damages that occur to any Town road when a project proceeds with or without a proper permit, as well as for all fines and penalties specified in this article.
- N. In lieu of obtaining a permit, any person who may be responsible for obtaining a permit may enter into a road use agreement with the Town, although the Town has no obligation to enter into a road use agreement. In such case, the requirements shall be governed by the agreement rather than by permit conditions.

§ 103-32. Enforcement.

The Town Highway Superintendent, in consultation with the Town Attorney, shall enforce the provisions of this article and all rules, regulations and designations made pursuant thereto. Such enforcement shall include, but not be limited to, legal or equitable proceedings, including, without limitation, an action for specific performance brought in the name of the Town.

§ 103-33. Penalties for offenses.

- A. Any person who violates this article shall be guilty of a violation and subject to a fine of not more than \$500 and/or imprisonment for not more than 15 days. Each and every act committed that is prohibited by this article shall constitute a separate violation. Each time a vehicle travels on a Town road without a permit, as required by this article, shall constitute a separate violation. Violations may be prosecuted by the Town Attorney or any other person with authority to prosecute violations within the Town.
- B. Upon failure of any permittee to comply with the requirements of this article, the permit shall be subject to suspension or revocation, or to the imposition of conditions.

Chapter 107

SUBDIVISION OF LAND

[**HISTORY:** Adopted by the Planning Board of the Town of Bath 6-21-1967, approved by the Town Board 8-14-1967. Sections 107-7C(1), 107-8A(6) and 107-9G amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

Planning and Zoning Board — See Ch. 24.
Building construction — See Ch. 40.
Environmental quality review — See Ch. 59.
Flood damage prevention — See Ch. 65.

ARTICLE I

General Provisions

§ 107-1. Authority to approve plats. [Amended 2-9-1987 by L.L. No. 1-1987]

The Town Board of the Town of Bath, after considering the recommendations of the Town of Bath Planning Board, shall approve or disapprove plats for subdivision within the unincorporated area of the Town of Bath.

§ 107-2. Enactment and effective date.

- A. In order that land in the Town of Bath may be subdivided in accordance with the policy set forth herein, this chapter is hereby adopted and shall be known and may be cited as the "Town of Bath Land Subdivision Regulations."
- B. These Land Subdivision Regulations were adopted by the Planning Board after a duly advertised public hearing. They were then approved by the Town Board on August 14, 1967, at which time they went into effect.

§ 107-3. Statement of policy.

It is declared to be the policy of the Town of Bath Planning Board to consider land subdivision plats as part of a plan for the orderly, efficient and economical development of the town. This shall be interpreted to include the following objectives which shall guide the Planning Board's decisions:

- A. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace.
- B. Proper provision shall be made for drainage, water supply, sewerage and other needed improvements and utilities.
- C. Proposed streets shall compose a convenient system conforming to the Official Map (as it may be adopted) and shall be properly related to the proposals shown on the Town Plan (as

it may be adopted).

- D. Streets shall be of such width, grade and location as to accommodate prospective traffic, to afford adequate light and air and to facilitate fire protection.
- E. Park areas of suitable location, size and character for playground or other recreational purposes shall be shown on the subdivision plat, wherever appropriate.

§ 107-4. Town Law to take precedence.

Should any provision of this chapter conflict or be inconsistent with any provision of the Town Law, such provision of the Town Law shall apply.

§ 107-5. Self-imposed regulations.

Nothing in this chapter shall prohibit the subdivider from placing self-imposed restrictions not in violation of this chapter on the development. Such restrictions, however, shall be indicated on the plat.

**ARTICLE II
Procedure**

§ 107-6. Approval required.

Whenever any subdivision or resubdivision of land in the Town of Bath is proposed, the subdividing owner or his authorized agent shall apply for and secure approval of such proposed subdivision before any contract for the sale of any part thereof is made and before any permit for the erection of a structure in such proposed subdivision shall be granted. Approval of a proposed subdivision shall be obtained in accordance with the procedure specified in this Article.

§ 107-7. Preapplication discussion and classification.

Before filing an application and before preparing a preliminary layout pursuant to § 107-8, the applicant should:

- A. Meet with the Planning Board to discuss his intentions and to determine the Board's requirements; he should present a vicinity map, sketch plan and general information as specified in § 107-17.
- B. Determine the requirements of the State Health Department, whose approval is required by this chapter, and which must eventually approve any subdivision plat coming within its jurisdiction.
- C. Determine the classification of the subdivision as a minor or major subdivision.
 - (1) If the subdivision is classified and approved by the Planning Board as a minor subdivision, a notation to that effect will be made on the sketch plan. No further submissions of documents to the Planning Board shall be required by the subdivider. The minor subdivision shall be filed with the County Clerk within 60 days of such

classification or the approval shall be null and void.¹

- (2) If the minor subdivision has frontage on, access to or is otherwise directly related to any county road, existing or proposed, as shown on the County Official Map, the Planning Board shall take appropriate action in accord with § 239-k of the General Municipal Law.
- (3) If the subdivision is classified as a major subdivision, the subdivider shall comply with all the other applicable sections of this chapter.

§ 107-8. Preliminary layout.

- A. Application procedure. Prior to filing an application for the approval of a subdivision plat, the applicant shall file an application for the approval of a preliminary layout. The application shall:
 - (1) Be made on forms available at the office of the Town Clerk.
 - (2) Include all land which the applicant proposes to subdivide.
 - (3) Be accompanied by three copies of the preliminary layout and supplementary material described in Article IV, § 107-17, of this chapter.
 - (4) Comply in all respects with the requirements specified in Article III of this chapter and with the provisions of §§ 276 and 277 of the Town Law.
 - (5) Be submitted to the Chairman of the Planning Board or the Town Clerk.
 - (6) Be accompanied by a fee in an amount set by resolution of the Town Board, payable to the Town of Bath.²
- B. Study of preliminary layout. The Planning Board will carefully study the practicability of the preliminary layout, taking into consideration the requirements of the community, the best use of the land being subdivided and the policy set forth in § 107-3. Particular attention will be given to the proposed arrangement, location and width of streets; the relation of proposed streets to the topography of the land; sewage disposal; drainage; proposed lot sizes, shape and layout; future development of adjoining lands as yet unsubdivided; the requirements of the Town Plan (as it may be adopted) and the Official Map (as it may be adopted); and matters enumerated in § 277 of the Town Law.
- C. Applicant to attend Planning Board meeting. The applicant should be prepared to attend a regular meeting of the Planning Board to discuss the preliminary layout and the Board's tentative conclusions.
- D. Required changes for tentative approval. After discussion of the preliminary layout, the Planning Board shall, within 45 days, advise the applicant, in writing, of the specific changes it will require in the layout and the character and extent of improvements and

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

2. Editor's Note: Amended at time of adoption of Code; see Ch. 1, General Provisions, Art. I. The current fee resolution is on file in the office of the Town Clerk.

reservations which it will require as a prerequisite to approval of the subdivision plat to be submitted subsequently. This shall constitute tentative approval of the preliminary layout. Such tentative approval shall automatically expire after six months, unless extended by formal action of the Planning Board.

§ 107-9. Subdivision plat and final approval.

- A. Application procedure. Within six months after tentative approval of the preliminary layout was granted, the applicant shall file with the Planning Board an application for approval of a subdivision plat. The application shall:
 - (1) Be made on forms provided by the Planning Board at the time tentative approval of the preliminary layout was granted.
 - (2) Include the entire subdivision or a section thereof which derives access from a street improved to town standards or for which street a bond covering such improvement is held by the town.
 - (3) Be accompanied by three copies of the subdivision plat, as described in Article IV, § 107-19, of this chapter.
 - (4) Comply in all respects with the preliminary layout as tentatively approved.
 - (5) Comply with the improvement requirements of Article V of this chapter.
 - (6) Be presented to the Chairman of the Planning Board at least two weeks prior to a regular meeting of the Board.
- B. Public hearing. Before the Planning Board acts on any subdivision plat, it shall hold a public hearing thereon in accordance with § 276 of the Town Law. The plat shall be in final and complete form before such public hearing shall be scheduled. Such hearing shall be held within 30 days after the time of submission of such plat for approval. The hearing shall be advertised in a newspaper of general circulation in the town at least five days before such hearing.
- C. Endorsement of State Health Department. The proposed subdivision plat shall be properly endorsed by the State Health Department as meeting the standards of the State Sanitary Code before any public hearing is scheduled.
- D. Action on proposed subdivision plat. After careful study, the Planning Board shall, within 45 days from the date of public hearing on the subdivision plat, approve, modify or disapprove such plat and shall advise the applicant, in writing, of its decision. The grounds for disapproval of any plat shall be stated on the records of the Planning Board.
- E. Signing of plat.
 - (1) Every subdivision plat approved by the Board shall carry a written endorsement of the Planning Board signed by the Chairman. In the absence of the Chairman or Secretary, the Acting Chairman or Acting Secretary, respectively, may sign in his place.
 - (2) A subdivision plat shall not be signed by the authorized officers of the Board until the

applicant has met all the conditions of the action granting approval of such plat.

- F. Plat void if revised after approval. No changes, erasures, modifications or revisions shall be made on any subdivision plat after approval has been given by the Board. In the event that any subdivision plat, when recorded, contains any such changes, the plat shall be considered null and void, and the Board shall institute proceedings to have said plat stricken from the records of the County Clerk.
- G. Filing of approved subdivision plat. Within 60 days of the signing, the approved plat shall be filed with the County Clerk's office or become null and void.³
- H. Public acceptance of proposed streets and park areas. The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or imply the acceptance by the town of any street, park, playground or other open space shown on said plat. The Planning Board may require said plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town Board covering future title, dedication and provision for the cost of grading, development, equipment and maintenance of any park or playground area.

ARTICLE III

General Requirements and Design Standards

§ 107-10. Consideration by Planning Board.

The Planning Board, in considering an application for the subdivision of land, shall be guided by the policy considerations specified in § 107-3 of this chapter and the following standards.

§ 107-11. Preservation of existing features.

Existing features which would add value to residential development, such as large trees, watercourses, historic spots and similar irreplaceable assets, should be preserved, insofar as possible, through harmonious design of the subdivision.

§ 107-12. Streets.

- A. Relation to topography. Streets shall be logically related and shall conform insofar as possible, to the original topography. They shall be arranged so as to obtain as many as possible of the building sites at or above the grades of the streets. A combination of steep grades and sharp curves shall be avoided.
- B. Block size. Block dimensions shall be at least twice the minimum lot depth and generally not more than 12 times the minimum lot width required by this section. In long blocks, the Planning Board may require the reservation through the block of a twenty-five-foot-wide easement to accommodate utilities or pedestrian traffic. Blocks at least 900 feet long are recommended, with an easement in blocks exceeding 1,200 feet.
- C. Intersections. Intersections of major streets by other streets shall be at least 800 feet apart, if possible. Cross (four-cornered) street intersections shall be avoided, except at important

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

traffic intersections. A distance of at least 150 feet shall be maintained between offset intersections. Within 40 feet of an intersection, streets shall be approximately at right angles [but in no instance shall the angle be less than 70°] and grades shall be limited to 1 1/2%. All street intersection corners shall be rounded by curves of at least 25 feet in radius at the property line.

- D. Visibility at intersections. Within the triangular area formed at corners by the intersecting street lines, for a distance of 40 feet from their intersection, and the diagonal connecting the end points of these lines, visibility for traffic safety shall be provided by excavating, if necessary. Nothing in the way of fences, walls, hedges or other landscaping shall be permitted to obstruct such visibility.
- E. Design standards. Streets shall meet the following standards, unless otherwise indicated on the Town Plan (as it may be adopted)⁴:

Design Standard	Street Classification	
	Minor	Collector and Secondary
Minimum width of right-of-way	55 feet	65 feet
Minimum width of pavement	28 feet	36 feet
Minimum radius of horizontal curves	150 feet, except for street intersection corners	400 feet
Minimum length of vertical curves as measured from center line of right-of-way	100 feet, but not less than 20 feet for each 1% algebraic difference of grade	200 feet, but not less than 60 feet for each 1% algebraic difference of grade
Minimum length of tangent between reverse curves	100 feet, except where excessive grades may be reduced to reasonable grades by shortening tangent	200 feet
Maximum grade	10%	8%
Minimum grade	1%	1%
Minimum sight distance (vertical)	150 feet	250 feet

- F. Continuation of streets into adjacent property. Streets shall be arranged to provide for the continuation of principal streets between adjacent properties where such continuation is necessary for convenient movement of traffic, effective fire protection, efficient provision of utilities and particularly where such continuation is in accordance with the Town Plan (as it may be adopted). If the adjacent property is undeveloped and the street must be a

4. NOTE: Standards are not shown for arterial streets, as they would, in all probability, be built by the state or county.

dead-end street temporarily, the right-of-way and improvements shall be extended to the property line. A temporary circular turnaround a minimum of 50 feet in radius shall be provided on all temporary dead-end streets, with the notation on the plat that land outside the street right-of-way shall revert to abutters whenever the street is continued.

- G. Permanent dead-end streets (culs-de-sac). Where a street does not extend to the boundary of the subdivision and its continuation is not needed for access to adjoining property, it shall be separated from such boundary by a distance of not less than 100 feet. Reserve strips of land shall not be left between the end of a proposed street and an adjacent piece of property; however, the Planning Board may require the reservation of a twenty-foot-wide easement to accommodate pedestrian traffic or utilities. A circular turnaround with a minimum right-of-way radius of 65 feet shall be provided at the end of a permanent dead-end street. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall, in general, be limited in length to 800 feet.
- H. Street names. All streets shall be named, and such names shall be subject to the approval of the Town Planning Board. Names shall be sufficiently different in sound and spelling from other street names in the town so as not to cause confusion. A street which is a continuation of an existing street shall bear the same name.
- I. Improvements.
 - (1) Streets shall be graded and improved with pavement, street signs, sidewalks, streetlighting standards, curbs, gutters, trees, water mains, sanitary sewers, storm drains and fire hydrants, except where the Planning Board may waive, subject to appropriate conditions, such improvements as it considers are not requisite in the interest of public health, safety and general welfare.
 - (2) Underground utilities required by the Planning Board shall be placed between the paved roadway and street line to simplify location and repair of the lines, and the subdivider shall install underground service connections to the property line of each lot before the street is paved.
 - (3) Grading and improvements shall conform to the town minimum road specifications and other town standards and shall be approved as to design and specifications by the Superintendent of Highways.
 - (4) The subdivider or his representative shall meet with the Town Superintendent of Highways to discuss specifications and requirements. The Town Superintendent may elect to build the road and certain other improvements with town equipment and town personnel but at the subdivider's expense. If the Town Superintendent elects to build improvements, the cost, method of payment and scheduling of work shall be determined by the Superintendent. If the Town Superintendent authorizes the subdivider to proceed with his own construction, the subdivider shall comply with requirements for performance and assurance bond as specified in this chapter.

§ 107-13. Lots.

- A. Arrangement. The arrangement of lots shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in locating a building on each lot

and in providing access to buildings on such lots from an approved street.

- B. Access across a watercourse. Where a watercourse separates the buildable area of a lot from the access street, provision shall be made for the installation of a culvert or other structure of a design approved by the Superintendent of Highways.
- C. Lot dimensions and area. Lots shall have a minimum width at the building line of 175 feet and a minimum depth of 200 feet. Minimum setback shall be 40 feet from the highway right-of-way line.
- D. Side lot lines. Side lot lines shall be at right angles to street lines, unless a variation from this rule will give a better street or lot plan.
- E. Access from major streets. Lots shall not, in general, derive access exclusively from a major street. Where driveway access from a major street may be necessary for several adjoining lots, the Planning Board may require that such lots are served by a combined access drive in order to limit possible traffic hazard on such street.

§ 107-14. Reservations and easements.

- A. Parks and playgrounds.
 - (1) The Planning Board may require adequate, convenient and suitable areas for parks and playgrounds or other recreational purposes to be reserved on the plat, but in no case more than 10% of the gross area of any subdivision. The area shall be shown and marked on the plat "Reserved for park or playground purpose."
 - (2) If the Planning Board determines that a suitable park or parks of adequate size can not be properly located in any such plat or is otherwise not practical, the Board may require, as a condition to approval of any such plat, a payment to the town in the amount of 10% of the appraised market value of the land to be subdivided. Such money shall be used by the town for park and recreation purposes, including the acquisition of property.
- B. Realignment or widening of existing streets. Where the subdivision borders an existing street and the Official Map or Town Plan (as it may be adopted) indicates plans for realignment or widening of the street that would require reservation of some land of the subdivision, the Planning Board may require that such areas are shown and marked on the plan "Reserved for street alignment (or widening) purposes."
- C. Utility and drainage easements. Where topography or other conditions are such as to make impractical the inclusion of utilities or drainage facilities within street rights-of-way, perpetual unobstructed easements at least 20 feet in width for such utilities shall be provided across property outside the street lines and with satisfactory access to the street.
- D. Easements for pedestrian access. The Planning Board may require, in order to facilitate pedestrian access from streets to schools, parks, playgrounds or other nearby streets, perpetual unobstructed easements at least 20 feet in width.
- E. Responsibility for ownership of reservations. Ownership shall be clearly marked on all reservations.

ARTICLE IV
Required Data and Plats

§ 107-15. Responsibility of subdivider.

Any subdivider who proposes to develop a subdivision in the Town of Bath shall submit plats and documents as provided in this Article.

§ 107-16. General requirements.

The following general requirements are applicable to both the preliminary layout and the subdivision plat submittal:

- A. Layouts and plats shall be clearly and legibly drawn on transparent linen tracing cloth with black waterproof ink at a convenient scale of not more than 100 feet to the inch.
- B. Drawings shall be submitted on uniform size sheets not larger than 36 inches by 48 inches. When more than one sheet is required to show the plat, an index map of the same size shall be submitted.
- C. All submissions shall indicate the proposed subdivision name or identifying title; the words "Town of Bath, Steuben County, New York"; the name and address of the record owner and/or subdivider; the name, address and seal of the licensed engineer or land surveyor responsible for the plat; the date; the approximate true North point, and the graphic scale.

§ 107-17. Preapplication discussion.

All parties concerned with a proposed subdivision of land will benefit from a preapplication discussion at which the applicant should present the following information:

- A. A vicinity map, sketched at a scale of 2,000 feet to the inch, indicating the relationship of the proposed subdivision to existing community facilities which serve it, such as roads, shopping and schools. Such a sketch may be superimposed upon a United States Geological Survey map of the area.
- B. A sketch plan on a topographic survey of the proposed area to be subdivided, showing, in simple sketch form the proposed layout of streets, lots and other features. The sketch plan shall be at a scale of not more than 100 feet to the inch.
- C. General subdivision information necessary to explain and/or supplement the vicinity map and sketch plan.

§ 107-18. Preliminary layout.

The preliminary layout submitted to the Planning Board shall show or be accompanied by the following information, except where requirements have been waived:

- A. Data required by § 107-16C.
- B. The location, bearings and distances of the tract boundary.
- C. Topography at a contour interval of not more than five feet, unless waived by the Planning

Board, and referred to a datum satisfactory to the Board.

- D. The names of all adjoining property owners of record or the names of adjacent developments.
- E. The location, name and dimensions of existing streets, easements, property lines, buildings and parks and public properties.
- F. The location of existing sewers, water mains, culverts and storm drains, if any, including pipe sizes, grades and directions of flow.
- G. The location of pertinent natural features that may influence the design of the subdivision, such as watercourses, swamps, rock outcrops and single trees eight or more inches in diameter.
- H. A vicinity map as described in § 107-17A.
- I. An area map, at a scale of one inch equals 400 feet, showing the location of the proposed subdivision with respect to all streets and property within 1,000 feet of the applicant's tract and identifying all property in the area by the applicant.
- J. The location, width and approximate grade of all proposed streets, with approximate elevations shown at the beginning and end of each street, at street intersections and at all points where there is a decided change in the slope or direction.
- K. The proposed provision of water supply, fire protection, sanitary waste disposal, stormwater drainage, street trees, streetlight fixtures, street signs and sidewalks.
- L. The approximate shape, dimensions and area of all proposed or existing lots and the suggested location of buildings.
- M. The approximate location and dimensions of all property proposed to be reserved for park or public use.
- N. Data which must be available for consideration of the subdivision at this stage.

§ 107-19. Subdivision plat.

The subdivision plat submitted to the Board shall show or be accompanied by the following information.

- A. Data required by § 107-16C and § 107-18B through G.
- B. The location, width and name of each proposed street and a typical cross section showing street pavement and, where required, curbs, gutters and sidewalks.
- C. The lengths and deflection angles of all straight lines and radii, length, central angles, chords and tangent distances of all curves for each street proposed.
- D. Profiles showing existing and proposed elevations along the center lines of all proposed streets and the elevations of existing streets for a distance of 100 feet either side of their intersection with a proposed street.
- E. Present elevations of all proposed streets shown every 100 feet at five points on a line at

right angles to the center line of the street, said elevation points being indicated at the center line of the street, each property line and points 30 feet inside each property line (only when required by the Board because of the existence of steep slopes).

- F. Setback lines.
- G. The location, size and invert elevations of existing and proposed stormwater drains and sanitary sewers and the exact location of utilities and fire hydrants.
- H. The location of street trees, streetlighting standards and street signs.
- I. The area of all lots, in hundredths of an acre; lot numbers as directed by the Town Assessor; and the location of all permanent monuments.
- J. The accurate location of all property to be offered for dedication for public use, with the purpose indicated thereon, and of all property to be reserved by deed covenant for the common use of the property owners of the subdivision.
- K. Sufficient data, acceptable to the Superintendent, to readily determine the location, bearing and length of all street, lot and boundary lines and to reproduce such lines upon the ground.
- L. Necessary agreements in connection with required easements or releases.
- M. Formal offers of cession to the town of all streets and public parks.
- N. A key map showing the location of the subdivision.

ARTICLE V

Required Improvements and Agreements

§ 107-20. Applicant to complete improvements.

Prior to an action by the Planning Board approving a subdivision plat, as specified in § 107-9D of this chapter, the applicant shall be required to complete, in accordance with the Planning Board's decision and to the satisfaction of the appropriate town departments, all the street, sanitary and other improvements specified in the action approving said plat or, as an alternative, to file with the Town Board a bond in an amount estimated by the Planning Board to secure to the town the satisfactory construction and installation of the incompleting portion of the required improvements. All required improvements shall be made by the applicant, at his expense, without reimbursement by the town or any district therein.

§ 107-21. Performance bonds.

Performance bonds shall comply with the requirements of § 277 of the Town Law and shall be satisfactory to the Town Board as to form, sufficiency and manner of execution. A period of one year or such other period as the Planning Board may determine appropriate, within which required improvements must be completed, shall be specified by the Planning Board and expressed in the bond. The bond shall also provide that an amount determined adequate by the Planning Board shall be retained for a period of one year after the date of completion of the required improvements to assure their satisfactory condition.

§ 107-22. Improvements.

- A. Inspection. The town may employ an inspector to act as agent of the Planning Board for the purposes of assuring the satisfactory completion of improvements required by the Planning Board and shall determine an amount sufficient to defray costs of inspection. The applicant shall pay the town costs of inspection before the subdivision plat is signed for filing. If the Planning Board or its agent finds, upon inspection, that any of the required improvements have not been constructed in accordance with the approved drawings, the applicant and the bonding company will be severally and jointly liable for the costs of completing said improvements according to specifications.
- B. Utilities. The Board may accept assurance from each public utility company whose facilities are proposed to be installed. Such assurance shall be in writing, addressed to the Board, stating that such public utility company will make the installations necessary for the furnishing of its services within a specified time in accordance with the approved subdivision plat.
- C. Monuments. Permanent monuments shall be set at block corners and at the beginning and end of all curves and at such other points as are necessary to establish definitely all lines of the plat, except those outlining individual lots. In general, permanent monuments shall be placed at all critical points necessary to correctly lay out any lot in the subdivision. Permanent monuments shall be constructed of concrete with a three-fourths-inch iron rod insert, having ground level dimensions at five inches square and 36 inches long, tapering to six inches square at the subsurface level. Four such monuments at the periphery of the plat shall have a brass cap accurately set and identified as a bench mark, with the elevation labeled thereon. At the corners of each lot, an iron pin one inch in diameter and 36 inches long shall be placed into the ground to grade.

ARTICLE VI

Definitions and Word Usage

§ 107-23. Use and interpretation of words.

- A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense shall include the future. Words used in the singular number shall include the plural, and words used in the plural number shall include the singular, unless the context clearly indicates the contrary.
- B. The word "shall" is always mandatory. The word "may" is permissive. "Building" or "structure" includes any part thereof. A "building" includes all other structures of every description, except fences and walls, regardless of dissimilarity to conventional building forms. The word "lot" includes the word "plot" or "parcel." The word "person" includes a corporation as well as an individual.
- C. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

§ 107-24. Terms defined.

For the purpose of this chapter, certain words used herein are defined as follows:

ARTERIAL STREET — A street which serves or is designed to be used primarily for fast or heavy traffic.

COLLECTOR STREET — A street which carries traffic from minor streets to the major system of secondary or arterial streets; the principal entrance and circulation streets within a development.

DEAD-END STREET or CUL-DE-SAC — A street or a portion of a street with only one vehicular outlet and with a turnaround at its terminus.

EASEMENT — Authorization by a property owner for the use by another and for a specified purpose of any designated part of his property.

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

OFFICIAL MAP — The map and any amendments thereto adopted by the Town Board under § 270 of the Town Law.

OFFICIAL SUBMITTAL DATE — The date when a subdivision plat shall be considered submitted to the Planning Board, as provided in § 276 of the Town Law, hereby defined to be the date of the meeting of the Planning Board at which all required surveys, plans and data described in Article IV are submitted.

PLANNING BOARD; BOARD — The Town of Bath Planning Board.

PRELIMINARY LAYOUT — The preliminary map or drawing on which the subdivider's proposed layout of the subdivision is presented to the Planning Board for consideration and tentative approval.

RESUBDIVISION — A change in a subdivision plat or resubdivision plat filed in the office of the Steuben County Clerk, which change affects any street layout shown on such plat, affects any area reserved thereon for public use or diminishes the size of any lot shown thereon.

SECONDARY STREET — A street which serves or is designed to serve as a route connecting different parts of the town.

SKETCH PLAN — A freehand sketch made on a topographic survey map showing the proposed subdivision in relation to existing conditions.

STREET — A right-of-way for vehicular traffic, including road, avenue, lane, highway or other way.

STREET PAVEMENT — The wearing or exposed surface of the roadway used by vehicular traffic.

STREET WIDTH — The distance between property lines.

SUBDIVIDER — Any person, firm, corporation, partnership or association who shall lay out, for the purpose of sale or development, any subdivision or part thereof, as defined herein, either for himself or others.

SUBDIVISION — The division of any parcel of land into two or more lots, plots, sites or other

divisions of land, with or without streets, for the purpose of immediate or future sale or building development. Such division shall include resubdivision of plats already filed in the office of the County Clerk if such plats are entirely or partially undeveloped.

- A. MINOR SUBDIVISION — Any subdivision containing not more than three lots, each of at least the minimum size as permitted by the Zoning Ordinance (as it may be adopted), each fronting on an existing public 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 properties and not in conflict with any provision or portion of the Master Plan (as it may be adopted).
- B. MAJOR SUBDIVISION — Any subdivision not classified as a minor subdivision.

SUBDIVISION PLAT — The final map or drawing on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, will be submitted to the County Clerk for recording.

SUPERINTENDENT — The duly elected Town Superintendent of Highways or other such authorized official.

TOWN PLAN; MASTER PLAN — A comprehensive plan for development of the town prepared by the Planning Board pursuant to § 272-a of the Town Law, which indicates the general locations recommended for various public works and reservations and for the general physical development of the town, and includes any part of such plan separately adopted and any amendment to such plan or parts thereof.

Chapter 111

TAXATION

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

ARTICLE I

Senior Citizens Tax Exemption

[Adopted 10-25-1966 by L.L. No. 1-1966]

§ 111-1. Purpose.

The purpose of this article is to grant a partial exemption from taxation to the extent of 50% 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.

§ 111-2. 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 on or before the appropriate taxable status date. [Amended 12-8-1986 by L.L. No. 2-1987]
- B. The income of the owner or the combined income of the owners must not exceed \$22,500 for the income tax year immediately preceding the date of making application for exemption. [Amended 4-22-1985 by L.L. No. 3-1985; 2-14-1989 by L.L. No. 1-1989; 11-12-1991 by L.L. No. 2-1991; 8-9-1993 by L.L. No. 3-1993; 11-13-1995 by L.L. No. 1-1995; 2-10-2003 by L.L. No. 1-2003; 2-13-2007 by L.L. No. 1-2007]
- C. Title to the property must be vested in the owner or one of the owners of the property for at least 24 consecutive months prior to the date of making application for exemption, except as provided in Subdivision 3(b) of § 467 of the Real Property Tax Law. [Amended 12-8-1986 by L.L. No. 2-1987]
- 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.

§ 111-3. Application for renewal. [Added 4-22-1985 by L.L. No. 3-1985]

Should the owner or owners of property which have received an exemption pursuant to said § 467 fail to file application for renewal of such exemption on or before the taxable status date of any year, such application may be filed with the Assessor on or before the date for hearing of complaints that year.

ARTICLE II

Exemption for the Physically Disabled
[Adopted 4-26-1984 by L.L. No. 1-1984]

§ 111-4. Purpose.

The purpose of this article is to exempt from real property taxes property owned by certain physically disabled persons, as authorized by § 459 of the Real Property Tax Law.

§ 111-5. Exemption granted.

An improvement to any real property used solely for residential purposes as a one-, two- or three-family residence shall be exempt from taxation to the extent of any increase in value attributable to such improvement if such improvement is used for the purpose of facilitating and accommodating the use and accessibility of such real property by a resident owner of the real property who is physically disabled or a member of the resident owner's household who is physically disabled if such member resides in the real property.

§ 111-6. Effective date.

Any such real property tax exemption will apply to improvements constructed on or after January 2, 1984.

§ 111-7. Applicability.

This article shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after January 2, 1984.

ARTICLE III
Alternative Veterans Exemption
[Adopted 7-14-1986 by L.L. No. 2-1986]

§ 111-8. Purpose.

The purpose of this article is to reduce the maximum veterans exemption allowable pursuant to 458-a of the Real Property Tax Law of the State of New York.

§ 111-9. Exemption granted.

Pursuant to the provisions of Subdivision 2(d) of § 458-a of the Real Property Tax Law of the State of New York, the maximum veterans exemption from real property taxes allowable pursuant to § 458-a of the Real Property Tax Law is established as follows:

- A. Qualifying residential property shall be exempt from taxation to the extent of 15% of the assessed value of such property; provided, however, that such exemption shall not exceed the lesser of \$6,000 or the product of \$6,000 multiplied by the latest state equalization rate for the Town of Bath.
- B. In addition to the exemption provided by Subsection A of this section, where the veteran served in a combat theater or combat zone of operations, as documented by the award of a United States campaign ribbon or service medal, qualifying residential real property also shall be exempt from taxation to the extent of 10% of the assessed value of such property;

provided, however, that such exemption shall not exceed the lesser of \$4,000 or the product of \$4,000 multiplied by the latest state equalization rate for the Town of Bath.

- C. In addition to the exemptions provided by Subsections A and B of this section, where the veteran received a compensation rating from the United States Veterans' Administration because of a service-connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property multiplied by 50% of the veteran's disability rating; provided, however, that such exemption shall not exceed the lesser of \$20,000 or the product of \$20,000 multiplied by the latest state equalization rate for the Town of Bath.

ARTICLE IV

Exemption for Persons with Disabilities and Limited Incomes

[Adopted 8-14-2000 by L.L. No. 4-2000]

§ 111-10. Purpose.

The purpose of this article is to provide real estate tax relief to persons with disabilities and limited incomes pursuant to the provisions of § 459-c of the Real Property Tax Law of the State of New York.

§ 111-11. Exemption granted.

A. Real property exemption.

- (1) Real property owned by one or more persons with disabilities, or real property owned by a husband, wife, or both, or by siblings, at least one of whom has a disability, and whose income, as hereafter defined, is limited by reason of such disability, shall be exempt from taxation by the Town of Bath to the extent of 50% of the assessed valuation thereof as hereinafter provided.
- (2) For purposes of this article:
 - (a) "Sibling" shall mean a brother or a sister, whether related through half blood, whole blood or adoption.
 - (b) A "person with a disability" is one who has a physical or mental impairment, not due to current use of alcohol or illegal drug use, which substantially limits such person's ability to engage in one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working, and who is certified to receive social security disability insurance (SSDI) or supplemental security income (SSI) benefits under the federal Social Security Act, or is certified to receive Railroad Retirement Disability benefits under the federal Railroad Retirement Act or has received a certificate from the State Commission for the Blind and Visually Handicapped stating that such person is legally blind. An award letter from the Social Security Administration or the Railroad Retirement Board or a certificate from the State Commission for the Blind and Visually Handicapped shall be submitted as proof of disability.

- (3) Any exemption provided by this section shall be computed after all other partial exemptions allowed by law have been subtracted from the total amount assessed; provided, however, that no parcel may receive an exemption for the same municipal tax purpose pursuant to both this section and § 467 of this title.¹
- (4) No exemption shall be granted:
 - (a) If the income of the owner or the combined income of the owners of the property for the income tax year immediately preceding the date of making application for exemption exceeds the sum of \$22,500. "Income tax year" shall mean the twelve-month period for which the owner or owners filed a federal personal income tax return or, if no such return is filed, the calendar year. Where title is vested in either the husband or the wife, their combined income may not exceed such sum, except where the husband or wife or ex-husband or ex-wife is absent from the property due to divorce, legal separation or abandonment, then only the income of the spouse or ex-spouse residing on the property shall be considered and may not exceed such sum. Such income shall include social security and retirement benefits, interest, dividends, total gain from the sale or exchange of a capital asset, which may be offset by a loss from the sale or exchange of a capital asset in the same income tax year, net rental income, salary or earnings and net income from selfemployment, but shall not include a return of capital, gifts, inheritances or moneys earned through employment in the federal foster grandparent program, and any such income shall be offset by all medical and prescription drug expenses actually paid which were not reimbursed or paid for by insurance. In computing net rental income and net income from self-employment, no depreciation deduction shall be allowed for the exhaustion, wear and tear of real or personal property held for the production of income. [Amended 2-10-2003 by L.L. No. 1-2003; 2-13-2007 by L.L. No. 1-2007]
 - (b) Unless the property is used exclusively for residential purposes; provided, however, that in the event that any portion of such property is not so used exclusively for residential purposes but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this section.
 - (c) Unless the real property is the legal residence of and is occupied in whole or in part by the disabled person, except where the disabled person is absent from the residence while receiving health-related care as an inpatient of a residential health care facility, as defined in § 2801 of the Public Health Law, provided that any income accruing to that person shall be considered income for purposes of this section only to the extent that it exceeds the amount paid by such person or spouse or sibling of such person for care in the facility.

B. Cooperative apartments.

- (1) Title to that portion of real property owned by a cooperative apartment corporation in

1. Editor's Note: "This title" refers to the Real Property Tax Law.

which a tenant-stockholder of such corporation resides, and which is represented by his/her share or shares of stock in such corporation as determined by its or their proportional relationship to the total outstanding stock of the corporation, including that owned by the corporation, shall be deemed to be vested in such tenant-stockholder.

- (2) That proportion of the assessment of such real property owned by a cooperative apartment corporation determined by the relationship of such real property vested in such tenant-stockholder to such entire parcel and the buildings thereon owned by such cooperative apartment corporation in which such tenant-stockholder resides shall be subject to exemption from taxation pursuant to this section, and any exemption so granted shall be credited by the appropriate taxing authority against the assessed valuation of such real property; the reduction in real property taxes realized thereby shall be credited by the cooperative apartment corporation against the amount of such taxes otherwise payable by or chargeable to such tenant-stockholder.

C. Application process.

- (1) Application for such exemption must be made annually by the owner or all of the owners of the property on forms prescribed by the State Board and shall be filed in such Assessor's office on or before the appropriate taxable status date; provided, however, proof of a permanent disability need be submitted only in the year exemption pursuant to this section is first sought or the disability is first determined to be permanent.
- (2) At least 60 days prior to the appropriate taxable status date, the Assessor shall mail to each person who was granted exemption pursuant to this section on the latest completed assessment roll an application form and a notice that such application must be filed on or before taxable status date and be approved in order for the exemption to continue to be granted. Failure to mail such application form or the failure of such person to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on property owned by such person.

D. Trusts. Notwithstanding any other provision of law to the contrary, the provisions of this section shall apply to real property held in trust solely for the benefit of a person or persons who would otherwise be eligible for a real property tax exemption, pursuant to Subsection A(1) of this section, were such person or persons the owner or owners of such real property.

E. Penalty for false statement. In addition to any other penalty provided by law, any conviction of having made any willful false statement in any application for real property exemption under this article shall be punishable by a fine of not more than \$100 and shall disqualify the applicant or applicants from further exemption for a period of five years.

F. Validity. If any section, subsection, paragraph, clause, sentence or phrase of this article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such decision shall not affect the validity of the remaining portion thereof.

ARTICLE V
Exemption for Historic Barns
[Adopted 8-14-2000 by L.L. No. 4-2000]

§ 111-12. Purpose.

The purpose of this article to provide real estate tax relief for historic barns which are reconstructed or rehabilitated pursuant to the provisions of § 483-b of the Real Property Tax Law of the State of New York.

§ 111-13. Exemption granted.

- A. Historic barn defined. An "historic barn" shall mean a structure that was at least partially constructed before 1936 and that was originally designed and used for storing farm equipment or agricultural products or for housing livestock.
- B. Exemption.
- (1) Historic barns which are reconstructed or rehabilitated shall be exempt from taxation to the extent provided hereinafter.
 - (2) Period of exemption; ineligibility.
 - (a) Such barns shall be exempt for a period of one year to the extent of 100% of the increase in assessed value thereof attributable to such reconstruction or rehabilitation and for an additional period of nine years subject to the following:
 - [1] The extent of such exemption shall be decreased by 10% of the exemption base each year during such additional period. The exemption base shall be the increase in assessed value as determined in the initial year of the term of the exemption, except as provided in Subsection B(2)(a)[2] of this subsection.
 - [2] In any year in which a change in level of assessment of 15% or more is certified for a final assessment roll pursuant to the rules of the State Board, the exemption base shall be multiplied by a fraction, the numerator of which shall be the total assessed value of the parcel on such final assessment roll (after accounting for any physical or quantity changes to the parcel since the immediately preceding assessment roll), and the denominator of which shall be the total assessed value of the parcel on the immediately preceding final assessment roll. The result shall be the new exemption base. The exemption shall thereupon be recomputed to take into account the new exemption base, notwithstanding the fact that the Assessor receives certification of the change in level of assessment after the completion, verification and filing of the final assessment roll. In the event that 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. The Assessor

shall give written notice of such recomputed exemption to the property owner, who may, if he or she believes that the exemption was recomputed incorrectly, apply for a correction in the manner provided by title three of article five of Chapter 30 of the Laws of 1996 for the correction of clerical errors.

- (b) No such exemption shall be granted for reconstruction or rehabilitation unless such reconstruction or rehabilitation was commenced subsequent to the effective date of this article.
 - (c) No such exemption shall be granted to a historic barn which is receiving an exemption pursuant to § 483 of the Real Property Tax Law or which has received an exemption pursuant to that section within 10 years of the date of the application for exemption filed pursuant to this section.
 - (d) No such exemption shall be granted to an historic barn which is used for residential purposes.
 - (e) No such exemption shall be granted for reconstruction and rehabilitation expenses that materially alter the historic appearance of the barn.
- (3) Such exemption shall be granted only upon application by the owner of such barn on a form prescribed by the State of New York. The application shall be filed with the Assessor of the city, town, village or county having the power to assess property for taxation on or before the appropriate taxable status date of such city, town, village or county.
- (4) If satisfied that the barn is entitled to an exemption pursuant to this section, the Assessor shall approve the application, and such barn shall thereafter be exempt from taxation as herein provided commencing with the assessment roll prepared on the basis of the taxable status date referred to in Subsection B(2)(c) of this section. The assessed value of any exemption granted pursuant to this section shall be entered by the Assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

ARTICLE VI

Exemption for Volunteer Firefighters or Ambulance Workers

[Adopted 2-23-2004 by L.L. No. 1-2004]

§ 111-14. Purpose.

The Town Board of the Town of Bath recognizes the role of the volunteer firefighters and ambulance workers in securing the safety and well being of our communities. The Town Board hereby finds that it is in the best social and economic interests of the Town of Bath to encourage volunteerism for said purposes. To that end, by providing the following exemption it is the intent to so encourage volunteerism for our various fire and ambulance companies.

§ 111-15. Exemption granted.

A. Real property owned by an enrolled member of an incorporated volunteer fire company,

fire department or incorporated voluntary ambulance service or such enrolled member and spouse residing in Steuben County shall be exempt from taxation to the extent of 10% of the assessed value of such property for Town purposes, exclusive of special assessments; provided, however, that such exemption shall in no event exceed \$3,000 multiplied by the latest state equalization rate for the assessing unit in which such real property is located.

- B. Such exemption shall not be granted to an enrolled member of an incorporated volunteer fire company, fire department or incorporated voluntary ambulance service residing in such county unless:
- (1) The applicant resides in the city, town or village which is served by such incorporated volunteer fire company or fire department or incorporated voluntary ambulance service;
 - (2) The property is the primary residence of the applicant;
 - (3) The property is used exclusively for residential purposes; provided, however, that in the event any portion of such property is not used exclusively for the applicant's residence but is used for other purposes, such portion shall be subject to taxation and the remaining portion only shall be entitled to the exemption provided by this section; and
 - (4) The applicant has been certified by the authority having jurisdiction for the incorporated volunteer fire company or fire department as an enrolled member of such incorporated volunteer fire company or fire department for at least five years or the applicant has been certified by the authority having jurisdiction for the incorporated voluntary ambulance service as an enrolled member of such incorporated voluntary ambulance service for at least five years. Said certification shall be made to the Steuben County Director of Office of Emergency Services.
- C. Application for such exemption shall be filed with the assessor on or before the taxable status date on a form as prescribed by the state board.
- D. No applicant who is a volunteer firefighter or volunteer ambulance worker who by reason of such status is receiving any benefit under the provisions of this article on the effective date of this section shall suffer any diminution of such benefit because of the provisions of this section.

§ 111-16. Effective date.

This article shall take effect immediately and shall apply to real property having a taxable status date on or after the first day of January next succeeding the date on which this article shall have become a law.

ARTICLE VII
Cold War Veterans Exemption
[Adopted 2-9-2009 by L.L. No. 1-2009]

§ 111-17. Legislative intent.

It is the intent of the Town of Bath to adopt an article to provide a qualified owner of qualifying

residential real property an exemption from taxation to the extent of 15% of the assessed value of such property, which exemption shall not exceed \$6,000 and, in addition, to provide a disability exemption to the multiple of 50% of the disability rating, not to exceed \$20,000, all as set forth in § 458-b of the Real Property Tax Law.

§ 111-18. Exemption granted.

- A. As is authorized by § 458-b of the Real Property Tax Law, the Town of Bath does hereby provide that qualifying residential real property shall be exempt from taxation to the extent of 15% of the assessed value of such property; provided, however, that such exemption shall not exceed \$6,000 or the product of \$6,000 multiplied by the latest state equalization rate of the assessing unit, or, in the case of a special assessing unit, the latest class ratio, whichever is less.
- B. As is authorized by § 458-b of the Real Property Tax Law, in addition to the exemption provided by Subsection A of this subsection, where the Cold War veteran received a compensation rating from the United States Department of Veterans Affairs or from the United States Department of Defense because of a service-connected disability, qualifying residential real property shall be exempt from taxation to the extent of the product of the assessed value of such property multiplied by 50% of the Cold War veteran disability rating; provided, however, that such exemption shall not exceed \$20,000 or the product of \$20,000 multiplied by the latest state equalization rate for the assessing unit, or, in the case of a special assessing unit, the latest class ratio, whichever is less.

Chapter 116

WATER

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

GENERAL REFERENCES

Flood damage prevention — See Ch. 65.

ARTICLE I

Control of Backflow and Cross-Connections

[Adopted 2-9-2009 by L.L. No. 2-2009]

§ 116-1. Purpose and intent.

- A. The purpose of this article is to safeguard potable water supplies from potential contamination by preventing backflow from a water user's system into the public water system.
- B. The intent of this article is to recognize that there are varying degrees of hazard and to apply the principal that the degrees of protection should be commensurate with the degrees of hazard. Further, it is the intent of the Town of Bath, New York, to comply with the requirements of the New York State Sanitary Code, Part 5, Section 5-1.31, which said section mandates the requirement that the suppliers of water protect their water system in accordance with mandated requirements as set forth in the Cross-Connection Control Manual published by the New York State Department of Health (NYSDOH), and to that extent, the terms, conditions and provisions of the New York State Sanitary Code, Part 5, Section 5-1.31, and the Cross-Connection Control Manual are incorporated in this article by reference as if more fully stated.

§ 116-2. Definitions.

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

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

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

APPROVED DOUBLE-CHECK-VALVE ASSEMBLY — Two single, independently acting check valves, including tightly closing shutoff valves located at each end of the assembly and suitable test connections. This device must be approved as a complete assembly by Bath Electric, Gas and Water Systems and the New York State Department of Health.

APPROVED REDUCED-PRESSURE-ZONE DEVICE — A minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two check valves. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the checks at less than the supply pressure. The unit must include tightly closing shutoff valves, located at each end of the device, and each device shall be fitted with properly located test cocks. This device must be approved as a complete assembly by Bath Electric, Gas and Water Systems and the New York State Department of Health.

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

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

CERTIFIED BACKFLOW-PREVENTION DEVICE TESTER — An individual who has successfully completed a course approved by the New York State Department of Health in the testing of backflow-prevention devices and has been issued a certificate by the New York State Department of Health.

CROSS-CONNECTIONS — Any unprotected connection between any part of a water system used or intended to be used as a supply of water for drinking purposes and a source or system containing water or substances that are not or cannot be approved as equally safe, wholesome and potable for human consumption.

VACUUM BREAKER, PRESSURE-TYPE AND NONPRESSURE-TYPE — A vacuum breaker which can only be used for internal plumbing control and is therefore not acceptable as a containment device.

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

§ 116-3. Responsibilities of Director of Municipal Utilities.

The Director of Municipal Utilities for the Village of Bath or his/her properly trained representative shall be responsible for the protection of the public potable water distribution system from contamination or pollution due to the backflow of contaminants or pollutants through the water service connection. If, in the judgment of the Director of Municipal Utilities, an approved backflow-prevention assembly is required (at the customer's water service connection or within the customer's private water system) for the safety of the water system, the Director of Municipal Utilities or his/her properly trained representative shall give notice, in writing, to said customer to install such an approved backflow-prevention assembly(s) at specific location(s) on his/her premises.

§ 116-4. Where protection required; type of protection.

- A. Where protection is required. The water system shall be required to maintain a degree of protection commensurate with the degree of hazard regardless of whether the hazard is immediate or potential. To that extent, the Cross-Connection Control Manual published by NYSDOH shall be used as a guide to determine where protection is required. It shall be the responsibility of the water user to provide and maintain such required protection devices, and such devices shall be of a type acceptable to the New York State Department of Health.
- B. Type of protection. The protective device required shall depend on the degree of hazard as tabulated below:
- (1) At the service connection to any premises where there is an auxiliary water supply handled in a separate piping system with no known cross-connection, the public water supply shall be protected by an approved reduced-pressure-zone device.
 - (2) At the service connection to any premises on which a substance that would be objectionable (but not necessarily hazardous to health if introduced into the public water supply) is handled so as to constitute a cross-connection, the public water supply shall be protected by an approved double-check-valve assembly.
 - (3) At the service connection to any premises on which a substance of unusual toxic concentration or danger to health is or may be handled, but not under pressure, the public water supply shall be protected by an air-gap separation or an approved reduced-pressure-zone backflow-prevention device. If an air gap is installed, it shall be located as close as practical to the water meter, and all piping between the water meter and receiving tanks shall be entirely visible. A reduced-pressure-zone device, when installed, shall be located as close as possible to the property line.
 - (4) At the service connection to any premises on which any material dangerous to health, or toxic substance in toxic concentration, is or may be handled under pressure, the public water supply shall be protected by an air-gap separation. The air gap shall be located as close as practical to the water meter, and any piping between the water meter and receiving tanks shall be entirely visible. If these conditions cannot reasonably be met, the public water supply shall be protected with an approved reduced-pressure zone backflow-prevention device.
 - (5) At the service connection to any sewage treatment plant or sewage pumping station, the public water supply shall be protected by an air-gap separation. The air gap shall be located as close as practical to the water meter, and all piping between the water meter and receiving tanks shall be entirely visible. If these conditions cannot be reasonably met, the public water supply shall be protected by an approved reduced-pressure-zone backflow-prevention device.

§ 116-5. Inspection of protective devices.

- A. It shall be the duty of the water user on any premises on account of which backflow-protective devices are installed to have competent inspections made at least once a year, or more often in instances where successive inspections indicate repeated failure.

Devices shall be repaired, overhauled or replaced at the expense of the water user whenever they are found to be defective. These tests shall be performed by a qualified backflow-prevention device tester, and all test results will be provided to the water purveyor within 72 hours after the test is made. Records of such tests, repairs and overhaul shall also be kept and made available to the water purveyor and the local Health Department upon request.

§ 116-6. Compliance required prior to connection.

No water service connection to any premises shall be installed or maintained by the water user unless the water supply is protected as required by this article and such other applicable local, state and federal laws, rules and regulations.

§ 116-7. Denial of access to premises.

If any facility served by a water system denies a Water Department person access to the premises for the purposes of determining if protection to the public water system is necessary, then the maximum protection condition shall be imposed, with the requirement that the number of devices shall equal the number of service lines.

§ 116-8. Penalties for offenses.

The following penalties shall be applicable for a violation of this article:

- A. Failure to install the appropriate backflow-prevention device within the prescribed time frame after first notice: \$250.
- B. Failure to install the appropriate backflow-prevention device within prescribed time frames after second notice: termination of service.
- C. Failure to at least annually test the backflow-prevention device: \$200 and/or termination of water service.
- D. Failure to replace or repair a backflow-prevention device as required: \$1,000 and/or termination of water service.

Chapter 118

WIND ENERGY FACILITIES

[HISTORY: Adopted by the Town Board of the Town of Bath 7-12-2010 by L.L. No. 1-2010. Amendments noted where applicable.]

GENERAL REFERENCES

Site plan review — See Ch. 96.
Subdivision of land — See Ch. 107.

ARTICLE I

Purpose, Authority and Definitions

§ 118-1. Title.

This chapter may be cited as the "Wind Energy Facility Law of the Town of Bath, New York."

§ 118-2. Purpose.

The Town Board of the Town of Bath adopts this chapter to promote the effective and efficient use of the Town's wind energy resources through wind turbine generators (WTGs), and to regulate the placement of such systems so that the public health, safety and welfare will not be jeopardized.

§ 118-3. Authority.

The Town Board of the Town of Bath enacts this chapter under the authority granted by:

- A. Article IX of the New York State Constitution, Section 2(c)(6) and (10).
- B. New York Statute of Local Governments, Section 10(1) and (7).
- C. New York Municipal Home Rule Law, § 10, Subdivision 1(i) and (ii), and § 10, Subdivision 1(ii)a(6), (11), (12) and (14).
- D. New York Town Law, § 130, Subdivision 1 (building code), Subdivision 3 (electrical code), Subdivision 5 (fire prevention), Subdivision 7 (use of streets and highways), Subdivision 7-a (location of driveways), Subdivision 11 (peace, good order and safety), Subdivision 15 (promotion of public welfare), Subdivision 15-a (excavated lands), Subdivision 16 (unsafe buildings), Subdivision 19 (trespass) and Subdivision 25 (building lines).
- E. New York Town Law, § 64, Subdivision 17-a (protection of aesthetic interests) and Subdivision 23 (general powers).

§ 118-4. Findings.

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

- A. Wind energy is an abundant, renewable and nonpolluting energy resource of the Town and its conversion to electricity may reduce dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources.
- B. The generation of electricity from properly sited wind turbines, including small systems, can be cost effective, and in many cases existing power distribution systems can be used to transmit electricity from wind-generating stations to utilities or other users, or energy consumption at that location can be reduced.
- C. Regulation of the siting and installation of wind turbines is necessary for the purpose of protecting the health, safety and welfare of neighboring property owners and the general public.
- D. Wind turbines represent significant potential aesthetic impacts because of their large size, lighting and shadow effects, if not properly sited.
- E. If not properly regulated, installation of wind energy facilities can create drainage problems through erosion and lack of sediment control for facility and access road sites, and harm farmlands through improper construction methods.
- F. Wind turbines may present a risk to bird and bat populations if not properly sited.
- G. Wind turbines may be significant sources of noise, which, if unregulated, can negatively impact adjoining properties.
- H. Without proper planning, construction of wind energy facilities can create traffic problems and damage local roads.
- I. If improperly sited, wind turbines can interfere with certain types of communications.

§ 118-5. Permits required; transfer; modifications.

- A. Permit requirements.
 - (1) No wind energy facility shall be constructed or operated in the Town of Bath except in compliance with this chapter.
 - (2) No WTG shall be constructed or operated in the Town of Bath except with a wind energy facility permit approved pursuant to this chapter.
 - (3) No wind measurement tower shall be constructed in the Town of Bath except pursuant to a wind energy facility permit issued pursuant to this chapter.
 - (4) No small WTG shall be constructed or operated in the Town of Bath except pursuant to a wind energy permit issued pursuant to this chapter.
- B. Applicability. This chapter shall apply to all areas of the Town of Bath.
- C. Agricultural use exemption. No permit or other approval shall be required under this chapter for a WTG utilized solely for agricultural operations in a state or county

agricultural district, as long as the facility is set back at least one time its total height from a property line and two times its total height from any permanent structure on property not owned by the applicant, and does not exceed 120 feet in height. Towers over 120 feet in total height utilized solely for agricultural operations in a state or county agricultural district shall apply for a special use permit in accordance with Article II of this chapter, but shall not require a height variance. Prior to the construction of a WTG under this exemption, the property owner or a designated agent shall submit a sketch plan or building permit application to the Town to demonstrate compliance with the setback requirements.

- D. Transfer. Transfer of any wind energy facility or wind energy permit to an entity other than the applicant to whom the permit was issued shall require approval of the Town, which approval shall be granted upon written acceptance of a duly qualified transferee of the obligations of the transferor under this chapter. No transfer shall eliminate the liability neither of an applicant nor of any other party under this chapter.
- E. Facility modifications. Notwithstanding the requirements of this section, replacement in kind or modification of a wind energy facility may occur without Town Board approval when there will be:
 - (1) No increase in total height;
 - (2) No change in the location of the WTG;
 - (3) No additional lighting or change in facility color; and
 - (4) No increase in noise produced by the WTG.

§ 118-6. Definitions.

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

AGRICULTURAL OR FARM OPERATIONS — The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and market of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in Agriculture and Markets Law § 301, Subdivision 13, and "timber processing" as defined in Agriculture and Markets Law § 301, Subdivision 14. Such farm operation may consist of one or more parcels of owned and rented land, which parcels may be contiguous or noncontiguous to each other.

EAF — Environmental assessment form used in the implementation of the SEQRA as that term is defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

RESIDENCE — Any dwelling suitable for year-round habitation existing in the Town of Bath on the date an application is received. A residence may be part of a multi-dwelling or multipurpose building, but shall not include buildings such as hunting camps, hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools or other buildings used for educational purposes, or correctional institutions.

SEQRA — The New York State Environmental Quality Review Act and its implementing regulations in Title 6 of the New York Codes, Rules and Regulations, Part 617.

SITE — The parcel(s) of land where a wind energy facility is to be placed. The site can be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots shall be considered as one for purposes of applying setback requirements. Any property which has a wind energy facility or has entered an agreement for said facility or a setback agreement shall not be considered off-site.

SMALL WIND TURBINE GENERATOR (SMALL WTG) — A wind turbine generator consisting of a wind turbine, a tower and associated control or conversion electronics, which has a rated capacity of not more than 100 kW and which is intended to primarily reduce consumption of utility power at that location.

SOUND PRESSURE LEVEL — The level which is equaled or exceeded a stated percentage of time. An L10-50 dBA indicates that in any hour of the day 50 dBA can be equaled or exceeded only 10% of the time, or for six minutes. The measurement of the sound pressure level can be done according to the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11), or other accepted procedures.

TOTAL HEIGHT — The height of the tower and the furthest vertical extension of the WTG.

WIND ENERGY FACILITY — Any WTG, small WTG or wind measurement tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures.

WIND ENERGY PERMIT — A permit granted pursuant to this chapter granting the holder the right to construct, maintain and operate a wind energy facility.

WIND MEASUREMENT TOWER — A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction.

WIND TURBINE GENERATOR (WTG) — A machine that converts the kinetic energy of the wind into electricity available for use beyond that used by the machine (commonly known as a "wind turbine" or "windmill").

§ 118-7. Applicability.

- A. The requirements of this chapter shall apply to all wind energy facilities proposed after the effective date of this chapter.
- B. Wind energy facilities for which a required permit has been properly issued and upon which construction has commenced prior to the effective date of this chapter shall not be required to meet the requirements of this chapter; provided, however, that:
 - (1) Any such preexisting wind energy facility which does not provide energy for a continuous period of 12 months shall meet the requirements of this chapter prior to recommencing production of energy.
 - (2) No modification or alteration to an existing wind energy facility shall be allowed without full compliance with this chapter.

§ 118-8. (Reserved)

§ 118-9. (Reserved)

ARTICLE II
Wind Turbine Generators

§ 118-10. Applications for wind energy permits for wind turbine generators.

A. Application contents. An application for a wind energy permit for individual wind turbine generators (WTGs) shall include the following:

- (1) Applicant information. Name, address and telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
- (2) Property owner information and authorization. Name, address and telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner:
 - (a) Confirming that the property owner is familiar with the proposed applications; and
 - (b) Authorizing the submission of the application.
- (3) Adjacent owners. A list of property owners, with their mailing address, within 1,000 feet of the boundaries of the proposed site.
- (4) Parcel information. Address, or other property identification, of each proposed tower location, including tax map section, block and lot number.
- (5) Project description. A description of the project, including the number and maximum rated capacity of each WTG.
- (6) Plot plans. A set of plot plans containing sufficient detail to clearly describe the following:
 - (a) Property lines and physical dimensions of the site.
 - (b) Locations of all proposed facilities, including WTG, access roads, electrical lines, substations, storage or maintenance units, and fencing.
 - (c) Locations of residences and other major existing structures on the site and within 1,000 feet of the site boundaries.
 - (d) Locations of parcels adjoining the site.
 - (e) Locations of public roads on the site.
 - (f) Locations of all utility lines on the site.
 - (g) To demonstrate compliance with the setback requirements of this article, circles drawn around each proposed WTG location equal to:

[1] One times the tower height.

- [2] Five-hundred-foot perimeter.
 - [3] One-thousand-foot perimeter.
 - [4] Mapping of the nearest structures not on the applicant's property.
- (7) Wind turbine information. One drawing or other set of information may be submitted for each WTG of the same type and total height. For each type of WTG proposed, the application shall include:
- (a) A vertical drawing of the WTG showing total height, turbine dimensions, tower and turbine colors, distance between ground and lowest point of any blade, location of climbing pegs, and access doors.
 - (b) Make, model, picture and manufacturer's specifications, including information on noise levels during WTG operation.
 - (c) Manufacturers' Material Safety Data Sheet documentation for the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
- (8) Landscaping plan. A plan depicting existing vegetation and describing any areas to be cleared and the specimens proposed to be added.
- (9) Lighting plan. A plan showing any FAA-required lighting and other proposed lighting.
- (10) Decommissioning plan. The applicant shall submit a decommissioning plan, which shall include:
- (a) The anticipated life of the WTG;
 - (b) The estimated decommissioning costs in current dollars;
 - (c) How said estimate was determined;
 - (d) The method of ensuring that funds will be available for decommissioning and restoration;
 - (e) The method that the decommissioning cost will be kept current; and
 - (f) The manner in which the WTG will be decommissioned and the site restored.
- (11) Complaint resolution plan. The application will include a complaint resolution process to address complaints from nearby residents. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The applicant shall make every reasonable effort to resolve any complaint.
- (12) Construction information. An application shall include information relating to the construction/installation of the wind energy conversion facility as follows:
- (a) A construction schedule describing commencement and completion dates; and
 - (b) A description of the routes to be used by construction and delivery vehicles, the

gross weights and heights of those loaded vehicles.

- (13) EAF. Completed Part 1 of the Full EAF as required by SEQRA.
 - (14) Signed statement. A statement, signed under penalties of perjury, that the information contained in the application is true and accurate.
- B. Positive declaration. If the applicant agrees in writing in the application that the proposed WTG may have a significant adverse impact on the environment, the Town Board may issue a positive declaration of environmental significance.
- C. Environmental studies. If a positive declaration of environmental significance is determined by the SEQRA lead agency, the following information shall be included in the draft environmental impact statement (DEIS) prepared for a wind energy facility. Otherwise, the following studies shall be submitted to the Town Board for its use in reviewing the application:
- (1) Visual impact assessment. A visual impact assessment (VIA) of the proposed WTG as installed, which may include a computerized photographic simulation, demonstrating any visual impacts from strategic vantage points. The VIA shall include:
 - (a) Color photographs of the proposed site from at least two locations accurately depicting the existing and proposed conditions; and
 - (b) A map showing locations where proposed WTG could be visible.
 - (2) Noise study. A noise analysis documenting the noise levels associated with the proposed WTG.
 - (3) Shadow study. A study on potential shadows from the WTG. The study shall identify locations where shadows could be caused by the WTG and the expected durations of the shadows at these locations.
 - (4) Communications impacts. An assessment of potential interference of the proposed WTG with microwave, radio, television, personal communication systems and other wireless communication.
 - (5) Fire protection plan. A fire protection and emergency response plan, created in consultation with the fire department(s) having jurisdiction over the proposed site.

§ 118-11. Application review process.

- A. Preapplication meeting. Applicants may request a preapplication meeting with the Town Board or with any consultants retained by the Town Board for application review. Meetings with the Town Board shall be conducted in accordance with the Open Meetings Law.¹
- B. Escrow agreement. The Town may require the applicant to fund an escrow agreement to cover the amount by which the Town's cost to review the applicant's applications exceed

1. Editor's Note: See Article 7 of the Public Officers Law.

the application fees paid by the applicant.

- C. Application submittal. Six copies of the application shall be submitted to the Town Clerk. Payment of all application fees shall be made at the time of application submission.
- D. Application completeness review. Town staff or Town-designated consultants shall, within 30 days of receipt, or such longer time if agreed to by the applicant, determine if all information required under this article is included in the application.
 - (1) Unless the Town Board waives any application requirement, no application shall be considered until deemed complete.
 - (2) If the application is deemed incomplete, the Town Board or its designated reviewer shall provide the applicant with a written statement listing the missing information. No refund of application fees shall be made, but no additional fees shall be required upon submittal of the additional information unless the number of WTGs proposed is increased.
- E. Board receipt of applications. Upon submission of a complete application, including the grant of any application waiver by the Town Board, the Town Clerk shall transmit the application to the Town Board.
- F. Public hearing. The Town Board shall hold at least one public hearing on the application.
 - (1) Notice of the public hearing shall be given by first class mail to property owners within 1,000 feet of the boundaries of the proposed WTG by the applicant, and a notice of public hearing shall be posted and published in the Town's official newspaper no less than 10 nor more than 20 days before any hearing. Where any hearing is adjourned by the Town Board to hear additional comments there shall be further posting of notice and news release of such adjournment. The applicant shall prepare and submit to the Town such notices and mail the notice of public hearing as approved by the Town, and shall submit a combined affidavit of service listing each mailing. An affidavit of publication is to be provided by the official newspaper for the Town. The assessment roll of the Town shall be used to determine mailing addresses.
 - (2) The public hearing may be combined with public hearings on any environmental impact statement or requested waivers.
- G. County Planning Board notice. Notice of the project shall also be given, when applicable, to the Steuben County Planning Board, if required by General Municipal Law §§ 239-l and 239-m.
- H. SEQRA review. WTG applications shall be deemed Type I projects under SEQRA. The Town may conduct the SEQRA review in conjunction with other agencies, in which case the records of review by said communities shall be part of the record of the Town's proceedings.
- I. SEQRA findings. At the completion of the SEQRA review process, if a positive declaration of environmental significance has been issued and an environmental impact statement is prepared, there shall be issued a statement of findings, which statement may also serve as the Town's decision on the applications if adopted as such by the Town.

- J. Application decision. Upon receipt of the recommendation of the County Planning Board (where applicable), the holding of the public hearing and the completion of the SEQRA process, the Town Board may approve, approve with conditions or deny the applications, in accordance with the standards in this article.

§ 118-12. Standards for wind energy facilities.

The following standards shall apply to all wind energy facilities, unless specifically waived by the Town Board as part of a wind energy permit:

- A. Transmission lines. All power transmission lines from the tower to any building or other structure shall be located underground to the maximum extent practicable.
- B. WTG height. The maximum total height of any WTG shall be 450 feet.
- C. Antenna co-location. No television, radio or other communication antennas may be affixed or otherwise made part of any WTG, except pursuant to the Town Code. Applications may be jointly submitted for WTG and telecommunications facilities.
- D. Advertising. No advertising signs are allowed on any part of the wind energy facility, including fencing and support structures.
- E. WTG lighting. No WTG shall be lit except to comply with FAA requirements.
- F. Visual impact mitigation. Applicants shall use measures to reduce the visual impact of WTG to the extent possible.
- (1) WTGs shall use tubular towers.
 - (2) WTGs shall be finished in a single, nonreflective matte finished color.
 - (3) WTGs within a multiple WTG project shall be constructed using WTGs whose appearance, with respect to one another, are similar within and throughout the project, to provide reasonable uniformity in overall size, geometry and rotational speeds.
- G. Guy wires. The use of guy wires for WTGs is disfavored. A WTG using guy wires for tower support shall incorporate appropriate measures to protect the guy wires from damage which could cause tower failure.
- H. Microwave links. No WTG shall be installed in any location along the major axis of an existing microwave or other communications link where its operation is likely to interfere in the link's operation. If it is determined that a WTG is interfering with a microwave or other communications path, the WTG operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, or resolution of the issue with the impacted parties. Failure to remedy interference with existing microwave or other communications links is grounds for revocation of the wind energy permit for the specific WTG causing the interference.
- I. Waste removal. Solid waste, hazardous waste and construction debris shall be removed from the site and managed in a manner consistent with all appropriate rules and regulations.

- J. Clearing. Wind energy facilities shall be designed to minimize the impacts of land clearing and the loss of open space areas. Land protected by conservation easements shall be avoided when feasible. The use of previously developed areas will be given priority wherever possible.
- K. Wildlife. WTGs shall be located in a manner that minimizes significant negative impacts on rare animal species in the vicinity, particularly bird and bat species.
- L. Wetlands. Wind energy facilities shall be located in a manner consistent with all applicable state and federal wetlands laws and regulations.
- M. Stormwater. Stormwater runoff and erosion control shall be managed in a manner consistent with all applicable state and federal laws and regulations.
- N. Construction times. Construction of the wind energy facilities shall be limited to the hours of 7:00 a.m. to 7:00 p.m. except for certain activities that require cooler temperatures than possible during the day, subject to approval from the Town.

§ 118-13. Required safety measures.

- A. Controls. Each WTG shall be equipped with both manual and automatic controls to limit the rotational speed of the rotor blade so it does not exceed the design limits of the rotor.
- B. Minimum blade height. The minimum distance between the ground and any part of the rotor or blade system shall be 20 feet.
- C. Signs. Appropriate warning signs shall be posted. At least one sign shall be posted at the base of the tower warning of electrical shock or high voltage. The Town Board may require additional signs based on safety needs.
- D. Climbing pegs. No climbing pegs or tower ladders shall be located closer than 12 feet to the ground level at the base of the structure for freestanding single pole or guyed towers.
- E. Access control. WTGs shall be designed to prevent unauthorized external access to electrical and mechanical components and shall have access doors that are kept securely locked at all times.

§ 118-14. Roads and traffic.

- A. Traffic routes.
 - (1) Construction and delivery vehicles for WTGs and wind energy facilities shall use traffic routes established as part of the application review process. Factors in establishing such corridors shall include:
 - (a) Minimizing traffic impacts from construction and delivery vehicles;
 - (b) Minimizing WTG-related traffic during times of school bus activity;
 - (c) Minimizing wear and tear on local roads; and
 - (d) Minimizing impacts on local business operations.

- (2) Wind energy permit conditions may limit WTG-related traffic to specified routes, and include a plan for disseminating traffic route information to the public.
- B. Road remediation. The applicant shall be responsible for remediation of damaged roads upon or if necessary during the construction of or completion of the installation of WTG. A public improvement bond shall be posted prior to the issuance of any building permit in an amount, determined by the Town Board, sufficient to compensate the Town for any damage to local roads that is not corrected by the applicant.

§ 118-15. Sound levels and WTG setbacks.

- A. Sound levels. The statistical sound pressure level generated by a WTG shall not exceed L10 - 50 dBA measured at the nearest residence located off the site. Sites can include more than one piece of property and the requirement shall apply to the combined properties. If the ambient sound pressure level exceeds 50 dBA, the standard shall be ambient dBA plus 6 dBA.
- B. Setbacks. Each WTG shall be located with the following minimum setbacks, as measured from the center of the WTG:
- (1) From off-site residences, measured from the exterior of such residence: 1,000 feet.
 - (2) From the nearest site boundary property line: 1.1 times the WTG total height.
 - (3) From the right-of-way of all public roads: 1.1 times the WTG total height.
 - (4) From aboveground utilities: 1.1 times the WTG total height unless waived by the utility companies.
 - (5) From off-site permanent structures: 1.5 times the WTG total height.
 - (6) From state-identified wetlands as measured from any part of the base or foundation: 100 feet.

§ 118-16. Noise and setback easements.

- A. In the event a wind energy facility does not meet a setback requirement or exceeds noise or other criteria established in this chapter as it existed at the time the wind energy permit is granted, a waiver will be granted from such requirement by the Town Board in the following circumstances:
- (1) Written consent from the affected property owners has been obtained stating that they are aware of the wind energy facility and the noise and/or setback limitations imposed by this chapter, and that consent is granted to i) allow noise levels to exceed the maximum limits otherwise allowed, or ii) allow setbacks less than required; and
 - (2) In order to advise all subsequent owners of the burdened property, the consent, in the form required for an easement, has been recorded in the County Clerk's office describing the benefited and burdened properties. Such easements shall be permanent and shall state that they may not be revoked without the consent of the Town Board, which consent shall be granted upon either the completion of the decommissioning of

the benefited WTG in accordance with this article, or the acquisition of the burdened parcel by the owner of the benefited parcel or the WTG.

- B. Waivers granted under this section differ from waiver requests under Article IV of this chapter in that no Article IV waiver is required if a waiver is given under this section, and an Article IV waiver must be sought rather than a waiver under this section if the adjoining property owner will not grant an easement pursuant to this section.

§ 118-17. Issuance of wind energy permits.

- A. Upon completion of the review process, the Town Board shall, upon consideration of the standards in this chapter and the record of the SEQRA review, issue a written decision with the reasons for approval, conditions of approval, or disapproval fully stated.
- B. If approved, the Town Board will direct the Town Clerk to issue a wind energy permit upon satisfaction of all conditions for said permit, and direct the Building Inspector to issue a building permit, upon compliance with the Uniform Fire Prevention and Building Code and the other preconstruction conditions of this chapter.
- C. The decision of the Town Board shall be filed within five days in the office of the Town Clerk and a copy mailed to the applicant by first class mail.

§ 118-18. Limitations on approvals; easements on Town property.

- A. Wind flow. Nothing in this chapter shall be deemed to give any applicant the right to cut down surrounding trees and vegetation on any property to reduce turbulence and increase wind flow to the wind energy facility. Nothing in this chapter shall be deemed a guarantee against any future construction or Town approvals of future construction that may in any way impact the wind flow to any wind energy facility. It shall be the sole responsibility of the facility operator or owner to acquire any necessary wind flow or turbulence easements, or rights to remove vegetation.
- B. Easements on Town property. Pursuant to the powers granted to the Town to manage its own property, the Town may enter into noise, setback or wind flow easements on such terms as the Town Board deems appropriate, as long as said agreements are not otherwise prohibited by state or local law.

§ 118-19. Permit revocation; abatement.

- A. Operation. A WTG shall be maintained in operational condition at all times, subject to reasonable maintenance and repair outages. Operational condition includes meeting all noise requirements and other permit conditions.
- B. Violations of permit conditions. Should a WTG violate a permit condition, the owner or operator shall remedy the situation within 90 days after written notice from the Town Board. The applicant shall have 90 days after written notice from the Town Board to cure any deficiency, and the Town Board may grant extensions of the ninety-day cure period.
- C. Public hearing and remedial action. Notwithstanding any other abatement provision under this chapter, if the WTG is not brought into permit compliance after said notice, the Town

Board may, after a public meeting at which the operator or owner shall be given opportunity to be heard and present evidence, including a plan to come into compliance, i) order either remedial action within a particular time frame, or ii) order revocation of the wind energy permit for the WTG and require the removal of the WTG within 90 days. If the WTG is not removed, the Town Board shall have the right to use the security posted as part of the decommission fund to remove the WTG.

- D. Inoperative WTG. If any WTG remains nonfunctional or inoperative for a continuous period of one year, the applicant agrees that, without any further action by the Town Board, the applicant shall remove said WTG.
- (1) This provision shall not apply if the applicant demonstrates to the Town that it has been making good-faith efforts to restore the WTG to an operable condition, but nothing in this provision shall limit the Town's ability to order a remedial action plan after public hearing.
 - (2) WTG nonfunction or lack of operation may be proven by reports to the Public Service Commission, NYSEERDA, New York Independent System Operator, or by lack of income generation. Upon request of the Town Board, the applicant shall make available (subject to a nondisclosure agreement) to the Town Board all reports to and from the purchaser of energy from individual WTG necessary to prove the WTG is functioning, which reports may be redacted as necessary to protect proprietary information.
- E. WTG removal and remediation. WTG removal shall include removal of all aboveground equipment, removal of foundations to a depth of three feet below grade, restoration of soil conditions and restoration of vegetation to be consistent and compatible with surrounding vegetation.
- F. Decommissioning fund. The applicant, or successors, shall continuously maintain a fund or bond payable to the Town, in a form approved by the Town for the removal of inoperative WTGs, in an amount to be determined by the Town, for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York licensed financial institution.

ARTICLE III Wind Measurement Towers

§ 118-20. Wind site assessment.

The Town Board acknowledges that, prior to construction of a WTG, a wind site assessment is conducted to determine the wind speeds and the feasibility of using particular sites. Installation of wind measurement towers, also known as meteorological ("met") towers, shall be permitted on the issuance of a wind energy permit in accordance with this article.

§ 118-21. Applications for wind measurement towers.

An application for a wind measurement tower shall include:

- A. Applicant information. Name, address and telephone number of the applicant. If the

applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.

- B. Property owner information and authorization. Name, address and telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner:
 - (1) Confirming that the property owner is familiar with the proposed applications; and
 - (2) Authorizing the submission of the application.
- C. Site information. Address of each proposed tower location, including tax map section, block and lot number.
- D. Map. A map showing proposed location of the wind measurement tower and any roads, parcel boundaries or structures within one times the height of the wind measurement tower.

§ 118-22. Standards for wind measurement towers.

- A. Setback. The distance between a wind measurement tower and the property line shall be at least one times the height of the wind measurement tower. Sites for a wind measurement tower can include more than one piece of property and the requirement shall apply to the combined properties. Exceptions for neighboring property are also allowed with the consent of those property owners.
- B. Permit duration. Wind energy permits for wind measurement towers may be issued for a period of up to two years. Permits shall be renewable upon application to the Town Board.

ARTICLE IV
Small Wind Turbine Generators

§ 118-23. Purpose and intent.

The purpose of this article is to provide standards for small WTGs designed for home, farm and small commercial use on the same parcel, and that are primarily used to reduce consumption of utility power at that location. The intent of this article is to encourage the development of small wind energy systems and to protect the public health, safety and community welfare.

§ 118-24. Applications.

Applications for small WTG wind energy permits shall include:

- A. Applicant information. Name, address and telephone number of the applicant. If the applicant is represented by an agent, the application shall include the name, address and telephone number of the agent as well as an original signature of the applicant authorizing the representation.
- B. Property owner information and authorization. Name, address and telephone number of the property owner. If the property owner is not the applicant, the application shall include a letter or other written permission signed by the property owner:

- (1) Confirming that the property owner is familiar with the proposed applications; and
 - (2) Authorizing the submission of the application.
- C. Site information. Address of each proposed tower location, including tax map section, block and lot number.
- D. Height information. Evidence that the proposed tower height does not exceed the height recommended by the manufacturer or distributor of the system.
- E. Electrical drawing. A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Uniform Fire Prevention and Building Code.
- F. Electric use. Sufficient information demonstrating that the system will be used primarily to reduce consumption of electricity at that location.
- G. Utility notice. Written evidence that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan, and so states so in the application, to connect the system to the electricity grid.
- H. Visual analysis. A visual analysis of the small WTG as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis shall also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

§ 118-25. Development standards.

All small WTGs shall comply with the following standards. Additionally, such systems shall also comply with all the requirements established by other sections of this article that are not in conflict with the requirements contained in this section.

- A. Lot size. A system shall be located on a lot a minimum of 0.8 acre in size; however, this requirement can be met by multiple owners submitting a joint application.
- B. Number. Two small wind energy system towers per legal lot shall be allowed, unless there are multiple applicants, in which case their joint lots shall be treated as one lot for purposes of this article.
- C. Use. Small wind energy systems shall be used primarily to reduce the on-site consumption of electricity.
- D. Height. Tower heights may be allowed as follows:
- (1) Sixty-five feet or less on parcels between one and five acres.
 - (2) Eighty feet or less on parcels of five or more acres.
 - (3) The allowed height shall be reduced if necessary to comply with all applicable federal aviation requirements, including Subpart B (commencing with Section 77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to

airports.

- E. Output. The maximum turbine power output is limited to 10 kW.
- F. Color. The system's tower and blades shall be painted a nonreflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate nonreflective surfaces to minimize any visual disruption.
- G. Visual impact. The system shall be designed and located in such a manner to minimize adverse visual impacts from public viewing areas.
- H. Lighting. Exterior lighting on any structure associated with the system shall not be allowed except that which is specifically required by the Federal Aviation Administration.
- I. Electric lines. All on-site electrical wires associated with the system shall be installed underground except for "tie-ins" to a public utility company and the public utility company transmission poles, towers and lines. This standard may be modified by the decision maker if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts or similar factors.
- J. Electromagnetic interference. The system shall be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator shall promptly mitigate the harmful interference or cease operation of the system.
- K. Signs. At least one sign shall be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising shall be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner.
- L. Access control. Towers shall be constructed to provide one of the following means of access control, or other appropriate method of access:
 - (1) Tower climbing apparatus located no closer than 12 feet from the ground.
 - (2) A locked anti-climb device installed on the tower.
 - (3) A locked, protective fence at least six feet in height that encloses the tower.
- M. Anchors. Anchor points for any guy wires for a system tower shall be located within the property that the system is located on and not on or across any aboveground electric transmission or distribution lines. The point of attachment for the guy wires shall be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three feet to eight feet above the ground.
- N. Code compliance. All small wind energy system tower structures shall be designed and constructed to be in compliance with pertinent provisions of the Uniform Fire Prevention and Building Code.
- O. Controls. All small wind energy systems shall be equipped with manual and automatic overspeed controls. The conformance of rotor and overspeed control design and fabrication

with good engineering practices shall be certified by the manufacturer.

§ 118-26. Setback and noise standards.

A small wind energy system shall comply with the following standards:

- A. Setbacks. A small WTG shall not be located closer to a property line than 1.1 times the total height of the small WTG and 1.5 times to the nearest off-site permanent structure.
- B. Noise. Except during short-term events, including utility outages and severe wind storms, a small WTG shall be designed, installed and operated so that noise generated by the system shall not exceed 50 decibels (dBA), as measured at the closest neighboring inhabited dwelling.

§ 118-27. Operation and maintenance.

All small WTG shall be maintained in good condition and in accordance with all requirements of this section.

ARTICLE V
Waivers

§ 118-28. Authority to grant waivers.

- A. The Town Board may, after a public hearing (which may be combined with other public hearings on wind energy facilities, so long as the waiver request is detailed in the public notice), grant a waiver from the strict application of the provisions of this chapter if, in the opinion of the Town Board, the grant of said waiver is in the best interests of the Town. The Town Board may consider reasonable factors in evaluating the request, which may include, when applicable, the impact of the waiver on the neighborhood, including the potential detriment to nearby properties; the benefit to the applicant; feasible alternatives; and the scope of the request.
- B. The Town Board may attach such conditions as it deems appropriate to waiver approvals as it deems necessary to minimize the impact of the waiver.

ARTICLE VI
Fees; Enforcement and Penalties

§ 118-29. Fees.

- A. Wind energy permits. Nonrefundable application fees shall be as follows:
 - (1) WTG wind energy permit: \$3,000 per megawatt of rated maximum capacity.
 - (2) Wind measurement towers wind energy permit: \$200 per tower.
 - (3) Small WTG wind energy permit: \$150 per WTG.
 - (4) Wind measurement tower wind energy permit renewals: \$200 per tower.
- B. Building permits. The Town believes the review of building and electrical permits for wind

energy facilities requires specific expertise for those facilities. Accordingly, the permit fees for such facilities shall be pursuant to the Board resolution for implementation of the Construction Code, plus the amount charged to the Town by the outside consultant hired by the Town to review the plans and inspect the work. In the alternative, the Town and the applicant may enter into an agreement for an inspection and/or certification procedure for these unique facilities. In such case, the Town and the applicant will agree to a fee arrangement and escrow agreement to pay for the costs of the review of the plans, certifications or conduct inspections as agreed by the parties.

- C. Host community agreements. Nothing in this chapter shall be read as limiting the ability of the Town to enter into host community agreements with any applicant to compensate the Town for expenses or impacts on the community.

§ 118-30. Enforcement; penalties for offenses; remedies for violations.

- A. Staff. The Town Board shall appoint such Town staff or outside consultants as it sees fit to enforce this chapter.
- B. Penalties. Any person owning, controlling or managing any building, structure or land who shall undertake a wind energy facility in violation of this chapter, or in noncompliance with the terms and conditions of any permit issued pursuant to this chapter, or any order of the enforcement officer, and any person who shall knowingly assist in so doing, shall be guilty of an offense and subject to a fine of not more than \$500 per week per violation up to four weeks; and then, if continuing, up to \$1,000 per week per violation. Every such person shall be deemed guilty of a separate offense for each week such violation shall continue. In addition to fines, the Town may institute a civil proceeding to collect civil penalties in the amount of \$500 for each violation and each week said violation continues shall be deemed a separate violation.
- C. Other remedies. In case of any violation or threatened violation of any of the provisions of this chapter, including the terms and conditions imposed by any permit issued pursuant to this chapter, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, to prevent the illegal act.

Chapter DL

DISPOSITION LIST

The following is a chronological listing of legislation of the Town of Bath adopted since January 1, 2006, 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).] Consult municipal records for disposition of prior legislation.

§ DL-1. Disposition of legislation.

Local Law No.	Adoption Date	Subject	Disposition
1-2006	1-23-2006	Moratorium	NCM
2-2006	4-24-2006	Site plan review	Ch. 96
3-2006	11-27-2006	Building construction	Ch. 40
1-2007	2-13-2007	Senior citizens tax exemption amendment; tax exemption for persons with disabilities and limited incomes amendment	Ch. 111, Arts. I and IV
1-2008	12-8-2008	Adult uses	Ch. 31
1-2009	2-9-2009	Cold War veterans tax exemption	Ch. 111, Art. VII
2-2009	2-9-2009	Water: control of backflow and cross-connections	Ch. 116, Art. I
1-2010	7-12-2010	Wind energy facilities	Ch. 118
2-2010	8-18-2010	2010 Retirement Incentive Program	NCM
3-2010	12-2-2010	Dogs amendment	Ch. 54
1-2011	5-26-2011	Moratorium on racetracks	NCM
2-2011	6-23-2011	Receiver of Taxes	Ch. 26
3-2011	10-20-2011	2012 tax levy limit override	NCM
1-2012	4-9-2012	Streets and sidewalks: high-frequency, high-impact truck traffic	Ch. 103, Art. V
2-2012	8-13-2012	Purchasing: best value bidding procedure	Ch. 25, Art. I