

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009

**CODE OF THE
TOWN OF ESOPUS
NEW YORK, v15**

Updated 04-01-2009

**OFFICIALS
OF THE
TOWN OF ESOPUS**

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2008

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**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 /
PREFACE**

PREFACE

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

Contents of Code

The various chapters of the Code contain all currently effective legislation (local laws, ordinances and certain resolutions) of a general and permanent nature enacted by the Town Board of the town, including revisions or amendments to existing legislation deemed necessary by the Town Board in the course of the codification.

Division of Code

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

Grouping of Legislation and Arrangement of Chapters

The various items of legislation are organized into chapters, their 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 streets and sidewalks may be found in Part II, in the chapter entitled "Streets and Sidewalks." 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 alphabetical arrangement of material by chapter as a means of identifying specific areas of legislation. Wherever two or more items of legislation have been combined by the editor into a single chapter, titles of the several articles are listed beneath the chapter title in order to facilitate the location of the individual item of legislation.

Reserved Chapters

Space has been provided in the Code for the convenient insertion, alphabetically, of later enactments. In the Table of Contents such space appears as chapters entitled "(Reserved)." In the body of the Code, reserved space is provided by breaks in the page-numbering sequence between chapters.

Pagination

A unique page-numbering system has been used, in which each chapter forms an autonomous unit. One hundred pages have been allotted to each chapter, and the first page of each is the number of that chapter followed by the numerals "01." Thus, Chapter 6 begins on page 601, Chapter 53 on page 5301, etc. By use of this system, it is possible to add or to change pages in any chapter without affecting the sequence of subsequent pages in other chapters, and to insert new chapters without affecting the existing organization.

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 is § 6-1, while the fourth section of Chapter 53 is § 53-4. New sections can then be added between existing sections using a decimal system. Thus, for example, if two sections were to be added between §§ 53-4 and 53-5, they would be numbered as §§ 53-4.1 and 53-4.2.

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.

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 enactment number (e.g., ordinance number, local law number, bylaw number, resolution number, etc.), if pertinent, and the date of adoption. In the case of chapters containing parts or articles derived from more than one item of legislation, the source of each part or article is indicated in the text, under its title. Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

General References; Editor's Notes

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

Appendix

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

Disposition List

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

Index

The Index is a guide to information. Since it is likely that this 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.

Instructions for Amending the Code

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

substantively altered should not be renumbered. Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between §§ 45-5 and 45-6 should be designated § 45-5.1). New chapters should be added in the proper alphabetical sequence in the appropriate division or part (e.g., Part I, Administrative Legislation, or Part II, General Legislation), utilizing the reserved chapter numbers. New chapter titles should begin with the key word for the alphabetical listing (e.g., new legislation on abandoned vehicles should be titled "Vehicles, Abandoned" under "V" in the table of contents, and a new enactment on coin-operated amusement devices should be "Amusement Devices" or "Amusement Devices, Coin-Operated" under "A" in the table of contents). Where a reserved number is not available, an "A" chapter should be used (e.g., a new chapter to be included between Chapters 45 and 46 should be designated Chapter 45A). New articles may be inserted between existing articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" articles (e.g., a new article to be included between Articles XVI and XVII should be designated Article XVIIA). The section numbers would be as indicated above (e.g., if the new Article XVIIA contains six sections and existing Article XVI ends with § 45-30 and Article XVII begins with § 45-31, Article XVIIA should contain §§ 45-30.1 through 45-30.6).

Supplementation

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

Acknowledgment

The preparation of this Code has required much time and effort on the part of town officials, particularly in the review and approval of proposed legislation. The assistance of the Supervisor, Joseph E. Sills, Jr., and the Attorney Norman Kellar, Esq., together with other town officials, is gratefully acknowledged. Their dedication to the tasks involved in the preparation of the Code -- the research necessary and the reviewing of the material -- has made it an outstanding achievement of the Town of Esopus.

The codification of the legislation of the Town of Esopus reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity and range in importance from everyday details to crucial areas of civic planning. It is the profound conviction of General Code Publishers Corp. that this 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."

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION**

**PART I
ADMINISTRATIVE LEGISLATION**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS**

Chapter 1, GENERAL PROVISIONS

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE
I, Adoption of Code [Adopted 11-11-1981 by L.L. No. 9-1981]**

ARTICLE I, Adoption of Code [Adopted 11-11-1981 by L.L. No. 9-1981]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE
I, Adoption of Code [Adopted 11-11-1981 by L.L. No. 9-1981] / § 1-1. Legislative
intent.**

§ 1-1. Legislative intent.

The local laws, ordinances and certain resolutions of the Town of Esopus referred to in § 1-2 of this local law shall be known collectively as the "Code of the Town of Esopus," and the various parts and sections of such local laws, ordinances and resolutions shall be distributed and designated as provided and set forth in § 1-2 of this local law.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I

ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE I, Adoption of Code [Adopted 11-11-1981 by L.L. No. 9-1981] / § 1-2. Distribution of local laws, ordinances and resolutions.

§ 1-2. Distribution of local laws, ordinances and resolutions.

Omitted sections pertain to repeal, severability or when effective provisions, which are covered by provisions of this local law. Certain sections are also omitted as their provisions, by their nature, are no longer effective.

Derivation Table

New Number (chapter, title, article, section)	Old Number (source)	Adoption or Amendment Date
Chapter 6, Continuity of Government		2-13-1963
§ 6-1	Sec. 1	
§ 6-2	Sec. 2	
§ 6-3	Sec. 3	
§ 6-4	Sec. 4	
§ 6-5	Sec. 5	
§ 6-6	Sec. 6	
Omitted	Sec. 7	
Omitted	Sec. 8	
Chapter 9, Environmental Commission	L.L. No. 1-1972	2-14-1972
§ 9-1	Section 1	

§ 9-2	Section 2	
§ 9-3	Section 3	
§ 9-4	Section 4	
§ 9-5	Section 5	
§ 9-6	Section 6	
§ 9-7	Section 7	
§ 9-8	Section 8	
Omitted	Section 9	
Chapter 11, Ethics, Code of	Resolution	11-11-1970
§ 11-1	Section I and Section II, first paragraph	
§ 11-2	Section II, Subsection A	
§ 11-3	Section II, Subsection B	
§ 11-4	Section II, Subsection C	
§ 11-5	Section II, Subsection D	Amended 4-16-1981
§ 11-6	Section II, Subsection E	
Chapter 23, Local Laws and Ordinances, Adoption of	L.L. No. 9-1980	6-12-1980

§ 23-1	Section 1	
§ 23-2	Section 2	
§ 23-3	Section 3	
Omitted	Section 4	
Chapter 25, Meetings	L.L. No. 1-1977	3-9-1977
§ 25-1	Section 1	
§ 25-2	Section 2	
§ 25-3	Section 3	
§ 25-4	Section 4	
§ 25-5	Section 5	
§ 25-6	Section 6	
§ 25-7	Section 7	
§ 25-8	Section 8	
§ 25-9	Section 9	
§ 25-10	Section 10	
Omitted	Section 11	
Omitted	Section 12	
Chapter 28, Officers and Employees		
Article 1, Superintendent of Highways	L.L. No. 1-1965	7-14-1965

§ 28-1	First unnumbered sentence	
Chapter 32, Personnel Policies	Resolution	9-13-1978
§ 32-1	First, second and third unnumbered paragraphs	
§ 32-2	Fourth unnumbered paragraph	
§ 32-3	Fifth unnumbered paragraph	
§ 32-4	Subsections 1, 2 and 3	
§ 32-5	Sixth unnumbered paragraph	
§ 32-6	Seventh unnumbered paragraph and Subsections 1 through 12	Amended 12-28-1979, effective 1-1-1980
§ 32-7	Subsections 1 through 12	
§ 32-8	Subsections 1 and 2 and eighth and ninth unnumbered paragraphs	
§ 32-9	Tenth through sixteenth unnumbered paragraphs	

§ 32-10	Subsections a and b	
Chapter 34, Planning Board	Resolution	8-9-1972
§ 34-1	Article I	
§ 34-2	Article II	
§ 34-3	Article III	
§ 34-4	Article IV	
§ 34-5	Article V	Amended 4-16-1981
§ 34-6	Article VI	
§ 34-7	Article VII	
§ 34-8	Article VIII	
Chapter 37, Records, Public Access to	Resolution	12-11-1974
§ 37-1	First unnumbered paragraph	
§ 37-2	Subsection A	
§ 37-3	Subsection B	
§ 37-4	Subsection C	
§ 37-5	Subsection D	
§ 37-6	Subsection E	
§ 37-7	Subsection F	
Chapter 46, Advertising Materials	L.L. No. 1-1976	5-12-1976

§ 46-1	Section 1	
§ 46-2	Section 2	
§ 46-3	Section 3	Amended 4-16-1981 by L.L. No. 6-1981
Omitted	Section 4	
Chapter 53, Bingo		6-25-1958; amended in its entirety 4-10-1963
§ 53-1	First unnumbered paragraph	
§ 53-2	1.	
§ 53-3	2.	
§ 53-4	3.	
§ 53-5	4.	
§ 53-6	5.	
§ 53-7	6.	
§ 53-8	7.	
§ 53-9	8.	
§ 53-10	9.	
Chapter 56, Building Construction		12-30-1959
§ 56-1	First unnumbered paragraph	
§ 56-2	Section 1	
§ 56-3	Section 2	
§ 56-4	Section 3	

§ 56-5	Section 4	
§ 56-6	Section 5	
§ 56-7	Section 6	
§ 56-8	Section 7	
§ 56-9	Section 8	
§ 56-10	Section 9	
§ 56-11	Section 10	
§ 56-12	Section 11	Amended 3-30-1960; 3-8-1961
§ 56-13	Section 12	
§ 56-14	Section 13a	Repealed 4-16-1981 by L.L. No. 3-1981
§ 56-15	Section 14	
§ 56-16	Section 15	
§ 56-17	Section 16	
§ 56-18	Section 17	
§ 56-19	Section 18	
§ 56-20	Section 19 Section 20	Repealed 6-12-1980 by L.L. No. 15-1980
§ 56-21	Section 21	
§ 56-22	Section 22	
Omitted	Section 23	
§ 56-23	Section 23a	3-30-1960
Omitted	Section 24	

Chapter 59, Buildings, Unsafe	L.L. No. 2-1973	2-28-1973
§ 59-1	Section 1	
§ 59-2	Section 2	
§ 59-3	Section 3	Amended 6-12-1980 by L.L. No. 14-1980
§ 59-4	Section 4	
§ 59-5	Section 5	
§ 59-6	Section 6	
§ 59-7	Section 7	
Omitted	Section 8	
Chapter 64, Curfew	L.L. No. 3-1973	8-2-1973
§ 64-1	1.	
§ 64-2	2. 3.	Repealed 4-16-1981 by L.L. No. 1-1981
§ 64-3	4.	Amended 4-16-1981 by L.L. No. 1-1981
Chapter 68, Dogs and Other Animals		
Article I, Swine		11-6-1963
§ 68-1	Section 1	
§ 68-2	Section 2	
§ 68-3	Section 3	
§ 68-4	Section 4	
§ 68-5	Section 5	
§ 68-6	Section 6	

§ 68-7	Section 7	
§ 68-8	Section 8	
§ 68-9	Section 9	
§ 68-10	Section 10	
§ 68-11	Section 11	
§ 68-12	Section 12	Amended 4-16-1981 by L.L. No. 6-1981
§ 68-13	Section 13	
Omitted	Section 14	
Omitted	Section 15	
Article II, Dogs		5-6-1970
§ 68-14	Section 1	
§ 68-15	Section 2	
§ 68-16	Section 3	
§ 68-17	Section 4	
§ 68-18	Section 5	
§ 68-19	Section 6	Amended 6-12-1980 by L.L. No. 8-1980
§ 68-20	Section 7	Amended 6-12-1980 by L.L. No. 8-1980
§ 68-21	Section 8	Amended 4-16-1981 by L.L. No. 2-1981
§ 68-22	Section 9	Amended 6-12-1980 by L.L. No. 8-1980; 4-16-1981 by L.L. No. 2-1981
§ 68-23	Section 10	Amended 6-12-1980 by L.L. No. 8-1980
§ 68-24	Section 11	Amended 6-12-1980 by L.L. No. 8-1980

§ 68-25	Section 12	
§ 68-26	Section 13	
Omitted	Section 14	
Omitted	Section 15	
Article III, Dog License Fees	L.L. No. 1-1979	10-24-1979
§ 68-27	Section 1	
§ 68-28	Section 2	
Chapter 74, Excavations	L.L. No. 10-1980	6-12-1980
§ 74-1	Section 1	
§ 74-2	Section 2	
§ 74-3	Section 3	
§ 74-4	Section 4	
§ 74-5	Section 5	
§ 74-6	Section 6	
Omitted	Section 7	
Omitted	Section 8	
Chapter 77, Fire Prevention	L.L. No. 7-1980	6-12-1980
Omitted	Section 1	
§ 77-1	Section 2	
Omitted	Section 3	

§ 77-2	Section 4	
§ 77-3	Section 5	
§ 77-4	Section 6	
§ 77-5	Section 7	
§ 77-6	Section 8	
§ 77-7	Section 9	
§ 77-8	Section 10	
Chapter 80, Floodplains	Resolution	5-8-1974
§ 80-1	1.	
§ 80-2	2.	
§ 80-3	3.	
Chapter 83, Games of Chance	L.L. No. 21-1980	9-5-1980
§ 83-1	Section 1	
§ 83-2	Section 2	
§ 83-3	Section 3	
§ 83-4	Section 4	
Chapter 85, Garbage, Rubbish and Refuse	L.L. No. 1-1967	8-9-1967; amended in its entirety 12-2-1970 by L.L. No. 1-1970; 3-23-1977 by L.L. No. 2-1977
§ 85-1	Section 1	
§ 85-2	Section 2	
§ 85-3	Section 3	

§ 85-4	Section 4	
§ 85-5	Section 5	
Chapter 90, Junkyards	L.L. No. 1-1969	3-12-1969
§ 90-1	Section 1	
§ 90-2	Section 2	
§ 90-3	Section 3	
§ 90-4	Section 4	
§ 90-5	Section 5	
§ 90-6	Section 6	
§ 90-7	Section 7 and 8	
§ 90-8	Section 9	
§ 90-9	Section 10	
§ 90-10	Section 11	
§ 90-11	Section 12	
§ 90-12	Section 13	
Omitted	Section 14a	
§ 90-13	Section 14b	
§ 90-14	Section 15	
§ 90-15	Section 16	Amended 8-9-1978 by L.L. No. 1-1978; 4-16-1981 by L.L. No. 6-1981
Chapter 92, Landfills	L.L. No. 13-1980	6-12-1980
§ 92-1	Section 1	

§ 92-2	Section 2	
§ 92-3	Section 3	
§ 92-4	Section 4	
§ 92-5	Section 5	
§ 92-6	Section 6	
§ 92-7	Section 7	
§ 92-8	Section 8	
§ 92-9	Section 9	
§ 92-10	Section 10	
§ 92-11	Section 11	
§ 92-12	Section 12	
§ 92-13	Section 13	
§ 92-14	Section 14	
Omitted	Section 15	
Chapter 98, Park Rules and Regulations	L.L. No. 1-1975	3-5-1975
§ 98-1	Section 1	
§ 98-2	Section 2	
§ 98-3	Section 3	
§ 98-4	Section 5	
§ 98-5	Section 5	
§ 98-6	Section 6	

§ 98-7	Section 7	
§ 98-8	Section 8	
§ 98-9	Section 9	
§ 98-10	Section 10	
§ 98-11	Section 11	
§ 98-12	Section 12	
§ 98-13	Section 13	
§ 98-14	Section 14	
§ 98-15	Section 15	
§ 98-16	Section 16	
§ 98-17	Section 17	
§ 98-18	Section 18	
§ 98-19	Section 19	
§ 98-20	Section 20	
§ 98-21	Section 21	
§ 98-22	Section 22	Amended 7-8-1981 by L.L. No. 8-1981
Omitted	Section 23	
Omitted	Section 24	
Chapter 100, Peddling and Soliciting	L.L. No. 12-1980	6-12-1980
§ 100-1	Section 1	
§ 100-2	Section 2	

§ 100-3	Section 3	
§ 100-4	Section 4	
§ 100-5	Section 5	
§ 100-6	Section 6	
§ 100-7	Section 7	
§ 100-8	Section 8	
§ 100-9	Section 9	
§ 100-10	Section 10	
§ 100-11	Section 11	
§ 100-12	Section 12	
§ 100-13	Section 13	Amended 4-16-1981 by L.L. No. 6-1981
Omitted	Section 14	
Chapter 107, Subdivision of Land	L.L. No. 18-1980	8-20-1980
§ 107-1	Section I	
§ 107-2	Section II	
§ 107-3	Section III	
§ 107-4	Section IV	
§ 107-5	Section V	
§ 107-6	Section VI	
Omitted	Section VII	
Omitted	Section VIII	

§ 107-7	Section IX	
Chapter 109, Taxation		
Article I, Senior Citizens Tax Exemption	Resolution	12-2-1970
§ 109-1	1	Amended 9-14-1977; 11-14-1979
§ 109-2	2 and 4	
§ 109-3	3	Amended 9-14-1977; 11-14-1979
§ 109-4	5	Amended 4-16-1981 by L.L. No. 4-1981
§ 109-5	5	
§ 109-6	6	
§ 109-7	7	
§ 109-8	8	
§ 109-9	9	
§ 109-10	10	
Chapter 113, Vehicles, Abandoned	L.L. No. 7-1981	5-28-1981
§ 113-1	First unnumbered paragraph	
§ 113-2	Second unnumbered paragraph	
§ 113-3	Third unnumbered paragraph	

§ 113-4	Fourth unnumbered paragraph		
§ 113-5	Fifth unnumbered paragraph		
Chapter 115, Vehicles and Traffic			
Article I, Stop Intersections	L.L. No. 6-1980	6-12-1980	
§ 115-1	Section 1		
Omitted	Section 2		
Article II, Removal of Vehicles; Winter Parking	L.L. No. 20-1980	8-20-1980	
§ 115-2	Section 1		
§ 115-3	Section 2		
§ 115-4	Section 3		
§ 115-5	Section 4		
Omitted	Section 5		
Chapter 120, Water		10-7-1959; amended in its entirety 2-14-1973	
§ 120-1	Section 1		
§ 120-2	Section 2		
§ 120-3	Section 3		
§ 120-4	Section 4		
§ 120-5	Section 5	Amended 4-16-1981 by L.L. No. 5-1981	

§ 120-6	Section 6	Amended 4-16-1981 by L.L. No. 5-1981
§ 120-7	Section 7	
§ 120-8	Section 8	
§ 120-9	Section 9	
§ 120-10	Section 10	
§ 120-11	Section 11	Amended 4-16-1981 by L.L. No. 5-1981
§ 120-12	Section 12	
§ 120-13	Section 13	
§ 120-14	Section 14	
§ 120-15	Section 15	
§ 120-16	Section 16	
§ 120-17	Section 17	Amended 7-9-1975; 1-9-1980
§ 120-18	Section 18	
§ 120-19	Section 19	
§ 120-20	Section 20	Amended 7-9-1975
§ 120-21	Section 21	
§ 120-22	Section 22	
§ 120-23	Section 23	
§ 120-24	Section 24	
§ 120-25	Section 25	
§ 120-26	Section 26	
§ 120-27	Section 27	

§ 120-28	Section 28	Amended 4-16-1981 by L.L. No. 5-1981
§ 120-29	Section 29	
Omitted	Section 30	
Ch. 123, Zoning	L.L. No. 19-1980	8-20-1980
Article I	Article I	
§ 123-1	Section 1.1	
Article II	Article II	
§ 123-2	Section 2.1	
§ 123-3	Section 2.2	
§ 123-4	Section 2.3	
§ 123-5	Section 2.4	
Article III	Article III	
§ 123-6	Section 3.1	
§ 123-7	Section 3.2	
§ 123-8	Section 3.3	
§ 123-9	Section 3.4	
§ 123-10	Section 3.5	
§ 123-11	Section 3.6	
§ 123-12	Section 3.7	
§ 123-13	Section 3.8	
§ 123-14	Section 3.9	
Article IV	Article IV	

§ 123-15	Section 4.1
§ 123-16	Section 4.1.1
§ 123-17	Section 4.1.2
§ 123-18	Section 4.1.3
§ 123-19	Section 4.1.4
§ 123-20	Section 4.1.5
Article V	Article V
§ 123-21	Section 5.1
§ 123-22	Section 5.2
§ 123-23	Section 5.3
§ 123-24	Section 5.4
§ 123-25	Section 5.5
Article VI	Article VI
§ 123-26	Section 6.1
§ 123-27	Section 6.2
§ 123-28	Section 6.3
§ 123-29	Section 6.4
§ 123-30	Section 6.5
Article VII	Article VII
§ 123-31	Section 7.1
§ 123-32	Section 7.2
§ 123-33	Section 7.3

§ 123-34	Section 7.4
§ 123-35	Section 7.5
§ 123-36	Section 7.6
§ 123-37	Section 7.7
§ 123-38	Section 7.8
§ 123-39	Section 7.9
§ 123-40	Section 7.10
§ 123-41	Section 7.11
§ 123-42	Section 7.12
§ 123-43	Section 7.13
§ 123-44	Section 7.14
§ 123-45	Section 7.15
§ 123-46	Section 7.16
Omitted	Section 7.18
§ 123-47	Section 7.19
Article VIII	Article VIII
§ 123-48	Section 8.1
§ 123-49	Section 8.2
§ 123-50	Section 8.3
§ 123-51	Section 8.4
§ 123-52	Section 8.5
Article IX	Article IX

§ 123-53	Section 9.1
§ 123-54	Section 9.2
§ 123-55	Section 9.3
Article X	Article X
§ 123-56	Section 10.1
§ 123-57	Section 10.2
Article XI	Article XI
§ 123-58	Section 11.1
§ 123-59	Section 11.1.1
§ 123-60	Section 11.1.2
§ 123-61	Section 11.1.3
§ 123-62	Section 11.1.4
§ 123-63	Section 11.1.5
§ 123-64	Section 11.1.6
Article XII	Article XII
§ 123-65	Section 12.1
Article XIII	Article XIII
§ 123-66	Section 13.1
Omitted	Article XIV, Section 14.1
Article XIV § 123-67	Section 7.17

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE
I, Adoption of Code [Adopted 11-11-1981 by L.L. No. 9-1981] / § 1-3.
Continuation of existing provisions.**

§ 1-3. Continuation of existing provisions.

- A. 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 § 1-2 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 Esopus, 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, ordinances and resolutions as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-4 below.
- B. In compiling and preparing the local laws, ordinances and certain resolutions of the town for publication as the Code of the Town of Esopus, as distributed and designated in the table in § 1-2 hereof, no changes in the meaning or intent of such local laws, ordinances and resolutions have been made.

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ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE
I, Adoption of Code [Adopted 11-11-1981 by L.L. No. 9-1981] / § 1-4. Repeal of
enactments not included in Code.**

§ 1-4. Repeal of enactments not included in Code.

All local laws and ordinances of a general and permanent nature of the Town of Esopus, 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 herein, are hereby repealed as of the effective date of this local law, except as hereinafter provided.

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ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE
I, Adoption of Code [Adopted 11-11-1981 by L.L. No. 9-1981] / § 1-5. Enactments**

saved from repeal; matters not affected.

§ 1-5. Enactments saved from repeal; matters not affected.

The repeal of local laws and ordinances provided for in § 1-4 of this local law shall not affect the following classes of local laws, ordinances, resolutions, 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 Esopus 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 Esopus 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 Esopus.
- D. Any franchise, license, permit, right, entitlement, easement or privilege heretofore granted or conferred by the Town of Esopus.
- E. Any local law, ordinance or resolution of the Town of Esopus 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 Esopus or any portion thereof.
- F. Any local laws, ordinances or resolutions of the Town of Esopus appropriating money or authorizing the issuance and delivery of any bond of the Town of Esopus or other instruments or evidence of the town's indebtedness.
- G. Local laws, ordinances or resolutions authorizing the purchase, sale, lease or transfer of property.
- H. Any lawful contract or obligation.
- I. The levy or imposition of special assessments or charges or the the establishment of any fee, charge or rate for a permit, license, application or service.
- J. The dedication of property.
- K. Any local law, ordinance or resolution pertaining to any water, sewer, fire, lighting or other special purpose district.

- L. Any rules, regulations, standards or specifications referred to or authorized to be adopted by any local law, ordinance or resolution included in the Code.
- M. Any local law, ordinance or resolution pertaining to the appointment of town personnel or to the compensation, conditions of employment or benefits of town personnel or any other type of regulation or policy pertaining to personnel.
- N. Any local law, ordinance or resolution adopted subsequent to July 8, 1981. Local laws, ordinances and resolutions adopted subsequent to July 8, 1981, but prior to the effective date of this local law are hereby specifically continued in effect to the same extent as if referred to in § 1-2 of this local law, and such local laws, ordinances and resolutions of a Code nature shall hereafter be incorporated into the Code in such manner as is most appropriate.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE I, Adoption of Code [Adopted 11-11-1981 by L.L. No. 9-1981] / § 1-6. Filing of copies of Code.

§ 1-6. Filing of copies of Code.

A copy of the Code, in loose-leaf form, has been filed in the office of the Town Clerk of the Town of Esopus and shall remain there for use and examination by the public until final action is taken on this local law, and upon adoption of this local law, such copy shall be certified to by the Town Clerk of the Town of Esopus, and such certified copy shall remain on file in the office of said Town Clerk to be made available to persons desiring to examine the same during all times while said Code is in effect.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE I, Adoption of Code [Adopted 11-11-1981 by L.L. No. 9-1981] / § 1-7. Amendments to Code.

§ 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 Esopus," or any new local laws, ordinances or resolutions of a general and permanent nature, 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 of the Town of Esopus 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 in such manner as is provided by law generally for the amendment of local laws, ordinances and resolutions.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE I, Adoption of Code [Adopted 11-11-1981 by L.L. No. 9-1981] / § 1-8. Code book to be kept up-to-date.

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

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE I, Adoption of Code [Adopted 11-11-1981 by L.L. No. 9-1981] / § 1-9. Sale of Code book; supplementation.

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

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

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE I, Adoption of Code [Adopted 11-11-1981 by L.L. No. 9-1981] / § 1-10. Publication; filing.

§ 1-10. Publication; filing.

The Town Clerk of the Town of Esopus, pursuant to law, shall cause to be published, in the manner required, a notice of the introduction and enactment of this local law in the official newspaper of the town. A copy of the Code of the Town of Esopus shall be maintained in the office of the Town Clerk for inspection by the public at all times during regular office hours. The enactment and application 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.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE I, Adoption of Code [Adopted 11-11-1981 by L.L. No. 9-1981] / § 1-11. Penalties for tampering with Code.

§ 1-11. 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 Esopus, or who alters or tampers with such Code in any manner whatsoever which will cause the legislation of the Town of Esopus to be misrepresented thereby, or who violates any other provision of this local law, shall be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine of not more than \$250 or by imprisonment for a term of not more than 15 days, or by both such fine and imprisonment.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE I, Adoption of Code [Adopted 11-11-1981 by L.L. No. 9-1981] / § 1-12. Severability.

§ 1-12. Severability.

If any clause, sentence, paragraph, section, article or part of this local law or of any local law or ordinance cited in the table in § 1-2 hereof or of any local law, ordinance or resolution incorporated into the Code hereafter 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.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE
I, Adoption of Code [Adopted 11-11-1981 by L.L. No. 9-1981] / § 1-13.
Incorporation of provisions into Code.**

§ 1-13. 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 Esopus, to be entitled "Chapter 1, General Provisions, Article I, Adoption of Code," and the sections of this local law shall be numbered §§ 1-1 to 1-14, inclusive.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 1, GENERAL PROVISIONS / ARTICLE
I, Adoption of Code [Adopted 11-11-1981 by L.L. No. 9-1981] / § 1-14. When
effective.**

§ 1-14. When effective.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 6, CONTINUITY OF GOVERNMENT**

Chapter 6, CONTINUITY OF GOVERNMENT

[HISTORY: Adopted by the Town Board of the Town of Esopus 2-13-1963. Amendments noted where applicable.]

GENERAL REFERENCES

Local laws and ordinances, adoption of -- See Ch. 23.

Meetings -- See Ch. 25.

Officers and employees -- See Ch. 28.

Personnel policies -- employee handbook -- See Ch. 32.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 6, CONTINUITY OF GOVERNMENT / §
6-1. Definitions.**

§ 6-1. Definitions.

As used in this chapter, the following terms shall mean and include:

ATTACK -- Any attack, actual or imminent, or series of attacks by an enemy or foreign nation upon the United States causing, or which may cause, substantial damage or injury to civilian property or persons in the United States in any manner by sabotage or by the use of bombs, shellfire or nuclear, radiological, chemical, bacteriological or biological means or other weapons or processes.

DULY AUTHORIZED DEPUTY -- A person authorized to perform all the powers and duties of a public office in the event that the office is vacant or at such times as it lacks administration due to the death, absence or disability of the incumbent officer, where such authorization is provided pursuant to the provisions of any general or special law other than the sections of law pursuant to which this chapter is adopted.

EMERGENCY INTERIM SUCCESSOR -- A person designated pursuant to this chapter for possible temporary succession to the powers and duties, but not the office, of a town officer in the event that neither such officer nor any duly authorized deputy is able, due to death, absence from the town or other physical, mental or legal reasons, to perform the powers and duties of the office.

PUBLIC DISASTER -- A disaster, catastrophe or emergency, actual or imminent, of such unusual proportions or extent that a substantial number of the residents of the Town of Esopus either sustain injury, become ill, are infected with disease, have their lives imperiled or are killed or die as the result of injury, disease or exposure, or that the property of a substantial number of such residents is imperiled, damaged or destroyed; and that it is necessary and essential in the interest of public safety, health and welfare that the continuity of the government of the Town of Esopus be assured in order that it be enabled to function properly and efficiently and to exercise its essential powers in meeting emergency conditions. Such disasters, catastrophes and emergencies may include, but shall not be limited to, conflagrations, explosions, earthquakes or other convulsions of nature, floods, tidal waves, pestilence, riots, insurrections, storms, prolonged failure of electric power or essential transportation services or any incident or occurrence which causes or threatens to cause danger to life, health or property from exposure to noxious materials or radiation.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 6, CONTINUITY OF GOVERNMENT / §
6-2. Designation, status and compensation of emergency interim successors.**

§ 6-2. Designation, status and compensation of emergency interim successors.

- A. Elective officers. Within 30 days following the effective date of this chapter and, thereafter, within 30 days after first entering upon the duties of his office, each elective officer shall, in addition to any duly authorized deputy, designate such number of emergency interim successors to the powers and duties of his office and specify their rank in order of succession after any duly authorized deputy, so that there will be not fewer than three duly authorized deputies or emergency interim successors, or combination thereof, to perform the powers and duties of the office.
- B. Appointive officers. Each officer or body of officers empowered by law to appoint officers shall, within the time specified in Subsection A of this section, in addition to any duly authorized deputy, designate for each such appointive officer such number of emergency interim successors to such officers and specify their rank in order of succession after any duly authorized deputy, so that there will be not fewer than three duly authorized deputies or emergency interim successors, or combination thereof, for each such officer. Where such a body of officers consists of members having overlapping terms, such body of officers shall review and, as necessary, revise the previous designations of emergency interim successors by such board within 30 days after a new member elected or appointed to such body of officers first enters upon the duties of his office as a member of such body of officers.
- C. Review of designations. The incumbent in the case of those elective officers specified in Subsection A of this section and the appointing officer or body of officers specified in Subsection B of this section shall from, time to time, review and, as necessary, promptly revise the designations of emergency interim successors to ensure that at all times there are at least three duly authorized deputies or emergency interim successors, or combination thereof, for each elective and appointive officer of the town.
- D. Qualifications. No person shall be designated to be, nor serve as, an emergency interim successor unless he is legally qualified to hold the office of the person to whose powers and duties he is designated to succeed.
- E. Status of emergency interim successor. A person designated as an emergency interim successor shall hold that designation at the pleasure of the designator, and such a designation shall remain effective until replaced by another by the authorized designator.
- F. Compensation. An emergency interim successor shall serve without salary, unless otherwise provided by ordinance or resolution. He shall, however, be entitled to reimbursement for actual expenses necessarily incurred in the performance of his powers and duties.

**ADMINISTRATIVE LEGISLATION / Chapter 6, CONTINUITY OF GOVERNMENT / §
6-3. Assumption of powers and duties by emergency interim successors.**

§ 6-3. Assumption of powers and duties by emergency interim successors.

If, in the event of an attack or a public disaster, an officer described in § 6-2A or B of this chapter or his duly authorized deputy, if any, is unable, due to death, absence from the town or other physical, mental or legal reasons, to perform the powers and duties of the office, the emergency interim successor of such officer highest in rank in order of succession who is able to perform the powers and duties of the office shall, except for the power and duty to discharge or replace duly authorized deputies and emergency interim successors of such officer, perform the powers and duties of such officer. An emergency interim successor shall perform such powers and duties only until such time as the lawful incumbent officer or his duly authorized deputy, if any, resumes the office or undertakes the performance of the powers and duties of the office, as the case may be, or until, where an actual vacancy exists, a successor is duly elected or appointed to fill such vacancy and qualifies as provided by law.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 6, CONTINUITY OF GOVERNMENT / §
6-4. Record of designations; notification of filing.**

§ 6-4. Record of designations; notification of filing.

The name, address and rank in order of succession of each duly authorized deputy and emergency interim successor shall be filed with the Town Clerk, and each designation, replacement or change in order of succession of any emergency interim successor shall become effective when the designator files with such Clerk the successor's name, address and rank in order of succession. Such Clerk shall keep an up-to-date file of all such data regarding duly authorized deputies and emergency interim successors, and the same shall be open to public inspection. The Clerk shall notify, in writing, each designated person of the filing of his name as an emergency interim successor and his rank in order of succession and also shall notify, in writing, any person previously designated who is replaced or whose place in order of succession is changed.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 6, CONTINUITY OF GOVERNMENT / §
6-5. Qualification for taking office.**

§ 6-5. Qualification for taking office.

At the time of their designation, or as soon thereafter as possible, emergency interim successors shall take such oath and do such other things, if any, as may be required to qualify them to perform the powers and duties of the office to which they may succeed.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 6, CONTINUITY OF GOVERNMENT / §
6-6. Quorum requirements.**

§ 6-6. Quorum requirements.

In the event of an attack or a public disaster, the Supervisor, or his duly authorized deputy or emergency interim successor performing his powers and duties, may suspend quorum requirements for the Town Board. If quorum requirements are suspended, any ordinance, resolution or other action requiring enactment, adoption or approval of an affirmative vote of a specified proportion of members may be enacted, adopted or approved by the affirmative vote of the specified proportion of those voting thereon.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 7, DEFENSE AND INDEMNIFICATION**

Chapter 7, DEFENSE AND INDEMNIFICATION

[HISTORY: Adopted by the Town Board of the Town of Esopus 8-11-1993 by L.L. No. 8-1993. Amendments noted where applicable.]

GENERAL REFERENCES

**Officers and employees -- See Ch. 28.
Personnel policies -- employee handbook -- See Ch. 32.**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 7, DEFENSE AND INDEMNIFICATION /
§ 7-1. Definitions.**

§ 7-1. Definitions.

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

meanings indicated:

EMPLOYEE -- Any person holding a position by election, appointment by the Town Board or full- or part-time employment in the service of the town, but shall not include a volunteer or an independent contractor. The term "employee" shall include a former employee, his estate or judicially appointed personal representative.

TOWN -- The Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 7, DEFENSE AND INDEMNIFICATION /
§ 7-2. Duty of town.**

§ 7-2. Duty of town.

- A. Upon compliance by the employee with the provisions of § 7-3, the town shall provide for the defense of the employee in any civil action or civil proceeding in any state or federal court arising out of any alleged act or omission which occurred or is alleged in the complaint to have occurred while the employee was acting or in good faith purporting to act within the scope of his public employment or duties or which is brought to enforce a provision of Title 42 of the United States Code. Such defense shall not be provided where such civil action or civil proceeding is brought by or on behalf of the town against the employee. No defense shall be provided for defense of any criminal action or criminal proceeding against an employee, except for Title 42 of the United States Code.
- B. Subject to the conditions set forth in this chapter, the employee shall be represented by an attorney employed or retained by the town for the defense of the employee. Reasonable attorney's fees and litigation expenses shall be paid by the town to such attorney employed or retained, from time to time, during the pendency of the civil action or civil proceeding, subject to certification by the Town Board that the employee is entitled to representation under the terms and conditions of this chapter. Payment of such fees and expenses shall be made in the same manner as payment of other claims and expenses of the town. Any dispute with respect to representation of multiple employees or by an attorney employed or retained for such purposes or with respect to the amount of the fees or expenses shall be resolved by the court.
- C. Where the employee delivers process and a request for a defense to the Town Supervisor as required by § 7-3, the Town Board shall take the necessary action, including the retention of an attorney under the terms and conditions provided in Subsection B, on behalf of the employee to avoid entry of a default judgment, pending resolution of any question relating to the obligation of the town to provide a defense.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 7, DEFENSE AND INDEMNIFICATION /
§ 7-3. Duty of employee.**

§ 7-3. Duty of employee.

The duties to defend provided in this chapter shall be contingent upon delivery to the Town Supervisor of the original or a copy of any summons, complaint, process, notice, demand or pleading within five days after the employee is served with such document (or within one day if the legal document demands a response earlier than five days) and the full cooperation of the employee in the defense of such action or proceeding and defense of any action or proceeding against the town based upon the same act or omission and in the prosecution of any appeal. Such delivery shall be deemed a request by the employee that the town provide for his or her defense pursuant to this chapter unless the employee shall state, in writing, that a defense is not requested.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 7, DEFENSE AND INDEMNIFICATION /
§ 7-4. Limitations.**

§ 7-4. Limitations.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 7, DEFENSE AND INDEMNIFICATION /
§ 7-5. No duty to defend; reimbursement.**

§ 7-5. No duty to defend; reimbursement.

- A. There shall be no duty of the town to defend or indemnify any employee unless the Town Board finds:
- (1) The employee was acting in the course of his normal employment in a matter in which the municipality had an interest.
 - (2) The employee was acting in discharge of a duty imposed or authorized by law.

- (3) The employee acted in good faith and without malice.
- B. In the event that the town assumes the duty of defense and in the event that a court of law determines that the employee acted in bad faith or with malice or in a wanton or willful manner so as to cause the claim or was not acting in the bona fide discharge of his or her municipal duties, the employee shall reimburse the town for all expenses incurred for defense of claims arising out of the alleged civil action or civil proceeding. Upon such finding by a court of law, the town shall have no duty to satisfy any judgment or claim against the employee, and in the event that the town has satisfied or is ordered to satisfy said judgment or claim, the employee must reimburse the town for any sum paid for said satisfaction.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 7, DEFENSE AND INDEMNIFICATION /
§ 7-6. Insurance policies not affected.**

§ 7-6. Insurance policies not affected.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 7, DEFENSE AND INDEMNIFICATION /
§ 7-7. Existing rights or immunities under other provisions.**

§ 7-7. Existing rights or immunities under other provisions.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 9, ENVIRONMENTAL BOARD**

Chapter 9, ENVIRONMENTAL BOARD

[HISTORY: Adopted by the Town Board of the Town of Esopus 2-14-1972 by L.L. No. 1-1972. Amendments noted where applicable.]

GENERAL REFERENCES

Meetings -- See Ch. 25.

Planning Board -- See Ch. 34.

Waterfront Advisory Board -- See Ch. 43.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 9, ENVIRONMENTAL BOARD / § 9-1.
Legislative intent.**

§ 9-1. Legislative intent.

The preservation and improvement of the quality of the natural and man-made environment within the Town of Esopus, in the face of population growth, urbanization and technologic change with their accompanying demands on natural resources, are found to be of increasing and vital importance to the health, welfare and economic well-being of present and future inhabitants and to require forthright action by the governing body of the Town of Esopus. It is recognized that the biologic integrity of the natural environment on which man is dependent for survival and the natural and functional beauty of our surroundings which condition the quality of our life experience cannot be protected without the full cooperation and participation of all the people of the town working in partnership with local and state officials and with various public and private institutions, agencies and organizations. Establishment of a commission for conservation of the environment is a necessary step in fostering unified action on environmental problems.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 9, ENVIRONMENTAL BOARD / § 9-2.
Creation.**

§ 9-2. Creation.

The Town Board of the Town of Esopus hereby creates a commission which shall be known as the "Town of Esopus Environmental Board."^{EN(1)}

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 9, ENVIRONMENTAL BOARD / § 9-3.
Membership; terms.**

§ 9-3. Membership; terms.

- A. The Board shall consist of nine members, each of whom shall be appointed by the Town Board for the terms of office hereinafter set forth. The first four members appointed shall serve for a period of one year; the remaining five members initially appointed to said Board shall serve for a period of two years; upon the termination of the terms of office of those persons initially appointed, each person thereafter appointed shall serve for a period of two years. Persons residing within the Town of Esopus who are interested in the improvement and preservation of the environmental quality shall be eligible for appointment to the Board.
- B. It is the intention of the Town Board to encourage membership and representation on this Board among the youth of our community. Therefore, the Board at all times may contain among its members at least one individual between the ages of 16 and 21 years. However, not more than two persons between the ages of 16 and 21 years may be appointed to serve at the same time. [Added 12-10-1986 by L.L. No. 9-1986]
- C. Vacancies on the Board shall be filled in the same manner as the original appointment, except that a vacancy occurring other than by the expiration of the term of office shall be filled only for the remainder of the unexpired term.
- D. The Town Supervisor, the Chairman of the Planning Board, the Chairman of the Town of Esopus Recreation Commission, the Attorney for the Town and other officials that may be hereafter designated by the Town Board shall be ex officio members of the Board. [Amended 9-20-2007 by L.L. No. 3-2007]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 9, ENVIRONMENTAL BOARD / § 9-4.
Officers; rules and procedures; annual report.**

§ 9-4. Officers; rules and procedures; annual report.

The Town Board shall designate a member of the Board to act as Chairman thereof. At the first meeting of the Board, its members shall elect from among themselves a Recording Secretary. The Board shall adopt rules and procedures for its meetings. It shall keep accurate records of its meetings and activities and shall file an annual report as provided in § 9-6 of this chapter.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 9, ENVIRONMENTAL BOARD / § 9-5.
Powers and duties.**

§ 9-5. Powers and duties.

A. The powers and duties of the Board shall be to:

- (1) Advise the Town Board on matters affecting the preservation, development and use of the natural and man-made features and conditions of the town insofar as beauty, quality, biologic integrity and other environmental factors are concerned and, in the case of man's activities and developments, with regard to any major threats posed to environmental quality, so as to enhance the long-range value of the environment to the people of the Town of Esopus.
- (2) Develop and, after receiving general approval by resolution of the Town Board, conduct a program of public information in the community which shall be designed to foster increased understanding of the nature of environmental problems and issues and support for their solutions.
- (3) Conduct studies, surveys and inventories of the natural and man-made features within the Town of Esopus and such other studies and surveys as may be necessary to carry out the general purposes of this chapter.
- (4) Maintain an up-to-date inventory or index of all open spaces in public or private ownership within the municipality, including, but not limited to, natural landmarks, glacial and other geomorphic or physiographic features; streams and their floodplains, swamps, marshlands and other wetlands; unique biotic communities; scenic and other open areas of natural or ecological value; and of the ownership, present use and proposed use of such open areas, so as to provide a base of information for recommendations by the Board for their preservation and/or use.
- (5) Seek to coordinate, assist and unify the efforts of private groups, institutions and individuals within the Town of Esopus in accord with the purposes of this chapter.
- (6) Maintain liaison and communications with public and private agencies and organizations of local, state and national scope whose programs and activities have an impact on the quality of the environment or who can be of assistance to the Board.
- (7) Working in cooperation with the Planning Board, recommend from time to time to the Town Board features, plans and programs relating to environmental improvement for inclusion in the Master Plan of the Town of Esopus and, similarly, recommend to the Town Board appropriate and desirable changes in existing local laws and ordinances relating to environmental control or recommend new local laws and ordinances.
- (8) Prepare, print and distribute books, maps, charts and pamphlets in accord with the purposes of this chapter.
- (9) Obtain and maintain in orderly fashion maps, reports, books and other publications to

support the necessary researches of the Board into local environmental conditions.

(10) Carry out such other duties as may be assigned from time to time by the Town Board.

- B. When authorized by resolution of the Town Board of the Town of Esopus, the Board may accept by gift, grant, devise, bequest or otherwise such property, both real and personal, in the name of the Town of Esopus as may be necessary to conserve and otherwise properly utilize open spaces and other land and water resources within the boundaries of the Town of Esopus. Such real property may be accepted in fee for land and water rights or as any lesser interest, development right or easement, including conservation easement, covenant or other contractual right, including conveyance with limitations or reversions.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 9, ENVIRONMENTAL BOARD / § 9-6.
Reports and recommendations.**

§ 9-6. Reports and recommendations.

The Board shall submit an annual report to the Town Board, not later than the first day of April of each year, concerning the activities and work of the Board and, from time to time, shall submit such reports and recommendations as may be necessary to fulfill the purposes of this chapter.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 9, ENVIRONMENTAL BOARD / § 9-7.
Compensation.**

§ 9-7. Compensation.

The members of the Board, including ex officio members, shall receive no compensation for their services as members thereof but may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties within the appropriations made available therefor.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 9, ENVIRONMENTAL BOARD / § 9-8.
Interpretation of provisions.**

§ 9-8. Interpretation of provisions.

This chapter shall be deemed an exercise of the powers of the Town of Esopus to preserve and

improve the quality of the natural and man-made environment on behalf of the present and future inhabitants thereof. This chapter is not intended and shall not be deemed to impair the powers of any other public corporation.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 11, (RESERVED)**

Chapter 11, (RESERVED)

[Former Chapter 11, Ethics, Code of, adopted 11-11-1970, was superseded 4-16-1998 by L.L. No. 2-1998. For current provisions, see Ch. 32, Personnel Policies -- Employee Handbook.]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 23, LOCAL LAWS AND ORDINANCES,
ADOPTION OF**

Chapter 23, LOCAL LAWS AND ORDINANCES, ADOPTION OF

[HISTORY: Adopted by the Town Board of the Town of Esopus 6-12-1980 by L.L. No. 9-1980. Amendments noted where applicable.]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 23, LOCAL LAWS AND ORDINANCES,
ADOPTION OF / § 23-1. Synopsis may be published in lieu of text.**

§ 23-1. Synopsis may be published in lieu of text.

It shall hereafter be lawful for the Town Clerk of the Town of Esopus to publish a synopsis of any proposed ordinance or local law in the official town newspaper in lieu of the entire text of said proposed ordinance or local law.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 23, LOCAL LAWS AND ORDINANCES,
ADOPTION OF / § 23-2. Hearing required before adoption; notice.**

§ 23-2. Hearing required before adoption; notice.

No such ordinance or local law shall be adopted by the Town Board of the Town of Esopus until a public hearing shall be held thereon in its final form, pursuant to the requirements of the Town

Law, after due public notice. Such public notice shall contain the title of the proposed ordinance or local law and a brief explanatory statement thereof.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 23, LOCAL LAWS AND ORDINANCES,
ADOPTION OF / § 23-3. Publication of adopted ordinance or summary required.**

§ 23-3. Publication of adopted ordinance or summary required.

Following the adoption of any ordinance, the Town Clerk shall cause the adopted ordinance or a summary thereof, describing same in general terms, to be published in the official town newspaper.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 25, MEETINGS**

Chapter 25, MEETINGS

[HISTORY: Adopted by the Town Board of the Town of Esopus 3-9-1977 by L.L. No. 1-1977. Amendments noted where applicable.]

GENERAL REFERENCES

Environmental Board -- See Ch. 9.

Planning Board -- See Ch. 34.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 25, MEETINGS / § 25-1. Legislative
intent.**

§ 25-1. Legislative intent.

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

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I

ADMINISTRATIVE LEGISLATION / Chapter 25, MEETINGS / § 25-2. Definitions.

§ 25-2. Definitions.

A. The terms, words and phrases used in this chapter shall have the same meanings as such terms, words and phrases are defined in § 92 of the Public Officers Law.^{EN(3)}

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

NEWS MEDIA -- A newspaper that is printed not less frequently than once a week in which legal notices may be published, or a radio or television station that regularly broadcasts news.

NOTICE -- Includes, but shall not be limited to, written or oral information relating to the date, time and place where a meeting is to be held.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 25, MEETINGS / § 25-3. Notice to be
posted at certain locations.**

§ 25-3. Notice to be posted at certain locations.

The following locations are hereby designated as the sites where notice of all meetings held by the Town Board shall be posted:

- A. Official bulletin board.
- B. Meeting room.
- C. Administrative offices.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 25, MEETINGS / § 25-4. News media
to receive notice.**

§ 25-4. News media to receive notice.

Any or all of the following officially designated newspapers or newspapers of general circulation within the Town of Esopus and television or radio stations are hereby designated as the news media that shall receive notice of the meetings of the Town Board:

- A. The Kingston Daily Freeman.

- B. WKNY Radio.
- C. WGHQ Radio.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 25, MEETINGS / § 25-5. Town Clerk to
provide notice.**

§ 25-5. Town Clerk to provide notice.

- A. The Town Clerk shall be responsible for providing notice to the public and the news media as provided in this chapter.
- B. The Town Clerk shall, upon request, whenever possible, provide notice to any person of the date, time and place of a meeting of the Town Board, whether the request for such information is made in person, in writing or by telephone; provided, however, that a written request requiring a written notice shall be accompanied by a properly stamped self-addressed envelope and a telephone request requiring the Town Clerk to return a long-distance call shall not be honored, unless the requester accepts the charges for such call.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 25, MEETINGS / § 25-6. Notice of
meetings scheduled at least one week in advance.**

§ 25-6. Notice of meetings scheduled at least one week in advance.

- A. The public shall be informed of meetings scheduled at least one week in advance by the posting of a notice at least 72 hours in advance of such meetings in locations designated in § 25-3 herein.
- B. The newspaper(s) or radio or television station(s) designated in § 25-4 herein shall be informed of a meeting scheduled at least one week in advance at least 72 hours in advance of such meeting by mail or by telephone or by personal delivery of the notice to an officer or employee of the news media, as follows:
 - (1) Notice provided by mail to the news media shall be sent by certified return receipt mail at least one week in advance of such meetings to ensure that notice will be provided to the news media at least 72 hours in advance of a meeting.
 - (2) When notice to the news media is personally delivered, the person delivering the notice shall obtain a receipt signed by an officer or employee of the news media, which receipt

shall also show the time and date thereof and the title of such officer or employee and shall state that notice has been provided in compliance with § 94 of the Public Officers Law.^{EN(4)}

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

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 25, MEETINGS / § 25-7. Notice of meetings scheduled less than one week in advance.

§ 25-7. Notice of meetings scheduled less than one week in advance.

- A. The public shall be informed of meetings scheduled less than a week in advance as soon as practicable by the posting of notices in locations designated by § 25-3 herein.
- B. Notice to the news media shall be delivered personally or by telephone in accordance with the requirements set forth in § 25-6B(2) or (3) herein, respectively.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 25, MEETINGS / § 25-8. Notice of regularly scheduled meetings.

§ 25-8. Notice of regularly scheduled meetings.

- A. When the Town Board schedules meetings in advance that are to be held at specific times and locations and on specific dates, a single notice may be provided to the public and the news media.
- B. Notice specifying the time, location and dates of regularly scheduled meetings shall be posted in locations designated in § 25-3 herein.
- C. Notice specifying the time, location and dates of regularly scheduled meetings shall be provided to the news media designated in § 25-4 herein. Such notice shall be provided in accordance with the requirements set forth in § 25-6B(1) or (2) of this chapter.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 25, MEETINGS / § 25-9. Notice of

changes in time, date or location of meetings.

§ 25-9. Notice of changes in time, date or location of meetings.

When the time, date or location of a scheduled meeting is changed, the Town Clerk shall, as soon as practicable, post notices showing the change in date, time or location of a meeting at the sites designated by § 25-3 herein and provide notice to the news media designated to receive notice by § 25-4 herein, as provided in § 25-6 or 25-7, as the case may be, of this chapter.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 25, MEETINGS / § 25-10. Record of notices.

§ 25-10. Record of notices.

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

- A. The date of posting of the public notice, the date or descriptive schedule of the meeting or meetings for which notice was given and the name and title of the person who posted the notice.
- B. If notice is given to the news media by mail, the date of mailing of the same, the date or descriptive schedule of the meeting or meetings for which the notice has been mailed and the name and title of the person who mailed such notice.
- C. If notice to the news media is given by personal delivery, the time and date of delivery of the same, the date or descriptive schedule of the meeting or meetings for which the notice was delivered, the name and title of the officer or employee to whom it was delivered and the name and title of the person who delivered the notice.
- D. If notice to the news media is given by telephone, the time and date of such telephone call, the date or descriptive schedule of the meeting or meetings for which such notice is given, the name and title of the officer or employee to whom it was given and the name and title of the person who gave such notice.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 25, MEETINGS / § 25-11. Attendance at meetings.

§ 25-11. Attendance at meetings.

- A. All members of the Port Ewen Water and Sewer Board, Town Zoning Board of Appeals, Town Planning Board, Town Environmental Board and the Town Waterfront Advisory Board must attend at least 75% of all meetings in any given year.
- B. In the event that a member misses three consecutive meetings duly called by the Chairman or Secretary, without just cause (or 25% of the meetings in any given year), that member's term shall automatically expire, and the Town Board shall appoint another person to fill the vacancy created for the remainder of the deposed person's term.
- C. Any person may appeal the automatic termination to the Town Board within 15 days of his/her termination.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 28, OFFICERS AND EMPLOYEES**

Chapter 28, OFFICERS AND EMPLOYEES

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

GENERAL REFERENCES

- Continuity of government -- See Ch. 6.
- Defense and indemnification -- See Ch. 7.
- Personnel policies -- employee handbook -- See Ch. 32.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 28, OFFICERS AND EMPLOYEES /
ARTICLE I, Superintendent of Highways [Adopted 7-14-1965 by L.L. No. 1-1965EN
]**

**ARTICLE I, Superintendent of Highways [Adopted 7-14-1965 by L.L. No.
1-1965^{EN(5)}]**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 28, OFFICERS AND EMPLOYEES /**

ARTICLE I, Superintendent of Highways [Adopted 7-14-1965 by L.L. No. 1-1965EN] / § 28-1. Term of office.

§ 28-1. Term of office.

The term of office of the Superintendent of Highways of the Town of Esopus is hereby changed from two to four years.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 28, OFFICERS AND EMPLOYEES / ARTICLE II, Deputy Superintendent of Highways [Adopted 2-8-1989 by L.L. No. 1-1989EN]

ARTICLE II, Deputy Superintendent of Highways [Adopted 2-8-1989 by L.L. No. 1-1989EN(6)]

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 28, OFFICERS AND EMPLOYEES / ARTICLE II, Deputy Superintendent of Highways [Adopted 2-8-1989 by L.L. No. 1-1989EN] / § 28-2. Establishment; compensation.

§ 28-2. Establishment; compensation.

The office of Deputy Superintendent of Highways is hereby established, to be compensated in an amount greater than the position of foreman and as set by the Esopus Town Board.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 28, OFFICERS AND EMPLOYEES / ARTICLE III, Town Clerk [Adopted 5-13-1992 by L.L. No. 5-1992EN]

ARTICLE III, Town Clerk [Adopted 5-13-1992 by L.L. No. 5-1992EN(7)]

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 28, OFFICERS AND EMPLOYEES / ARTICLE III, Town Clerk [Adopted 5-13-1992 by L.L. No. 5-1992EN] / § 28-3.

Term of office; purpose.

§ 28-3. Term of office; purpose.

- A. The term of office of the Town Clerk shall be four years.
- B. This article shall supersede § 24 of the Town Law, insofar as it is inconsistent with this article.
- C. For the purpose of furthering the goals and operation of town government and for the general welfare of the residents of the Town of Esopus, the term of office for the Town Clerk shall be increased from two years to four years.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK**

Chapter 32, PERSONNEL POLICIES -- EMPLOYEE HANDBOOK

[HISTORY: Adopted by the Town Board of the Town of Esopus 4-16-1998 by L.L. 2-1998.
Amendments noted where applicable.]

GENERAL REFERENCES

- Continuity of government -- See Ch. 6.
- Defense and indemnification -- See Ch. 7.
- Officers and employees -- See Ch. 28.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE I, General Provisions**

ARTICLE I, General Provisions

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE I, General Provisions / § 32-1.
Welcome message. EN**

§ 32-1. Welcome message. EN(8)

The welcome message from the Town Supervisor^{EN(9)} reads as follows:

"Allow me to extend a personal welcome and congratulations on your appointment to a position with the Town of Esopus. As a member of our team, you take on an extremely important role: that of serving the people of the Town of Esopus. Together, our mission is to provide cost-effective services that conform to the highest standards of quality.

"This Employee Handbook is designed to familiarize you with your employment and to help ensure government compliance, foster positive employee relationships and contribute to the overall success of the Town in delivering services to the public effectively and efficiently.

"Please keep in mind that this is only an overview of the Town's policies and procedures, employee benefits and the Civil Service System. Specific questions concerning employment matters should be addressed to your department head.

"I trust that you will find service with the Town of Esopus rewarding, and I look forward to working with you."

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE I, General Provisions / § 32-2.
History of Town.**

§ 32-2. History of Town.

- A. The Town of Esopus has the distinction of bearing the name of the original colony settled by the Dutch in 1653 on the plains north of the Rondout Creek before it flows into the Hudson River. The area south of the Rondout, east to the Hudson, and extending south to the Klyne Esopus Creek (Black Creek) was called Klyne (little) Esopus. When this section separated from the Town of Kingston and formed its own unit of local government on April 5, 1811, the founders of the new Town named it the Town of Esopus.
- B. After the turn of the century, Port Ewen gradually became the seat of the Town government

and meetings for a number of years were held at the annex of the old Charles Card Drugstore (now the Port Ewen Pharmacy). On May 14, 1945, a public referendum was held to purchase the former Spinnenweber garage on the corner of Broadway and Salem Street, Port Ewen, for use as a Town Hall for the sum of \$12,000. This building has been the seat of the Town of Esopus government ever since.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE I, General Provisions / § 32-3.
Definitions.**

§ 32-3. Definitions.

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

DEPARTMENT HEAD -- Refers to the person in charge of any department, agency, bureau, unit or subdivision of the Town of Esopus. This definition will be applicable in the event such person is serving in an acting, temporary, or provisional status in the position of department head.

ELECTED OFFICIAL -- Refers to any of the following full-time and part-time elected officials of the Town of Esopus:

- A. Town Supervisor.
- B. Town Board members.
- C. Town Justices.
- D. Town Clerk.
- E. Highway Superintendent.
- F. Tax Collector.

EMPLOYEE -- A person employed by the Town, including, but not limited to, an appointed official, department head, managerial employee, confidential employee, supervisory employee, provisional employee, probationary employee, temporary employee, seasonal employee, trainee or student intern, but not an independent contractor.

SUPERVISOR -- Refers to the individual so designated by the department head to direct and inspect the performance of employees.

TOWN BOARD -- Refers to the Town Board of the Town of Esopus.

TOWN OF ESOPUS -- The Town of Esopus may be referred to as the "Town."

TOWN SUPERVISOR -- Refers to the Town Supervisor of the Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE I, General Provisions / § 32-4.
Purpose.**

§ 32-4. Purpose.

The purpose of this Employee Handbook is to communicate the Town's personnel policies and practices to all employees and elected officials. It is extremely important that each employee understand the policies that relate to rules, regulations, procedures, practices, work standards, employment classifications, compensation and benefits.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE I, General Provisions / § 32-5.
Construal of provisions.**

§ 32-5. Construal of provisions.

This Employee Handbook is not a contract of employment and should not be construed as such.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE I, General Provisions / § 32-6.
Changes or modifications.**

§ 32-6. Changes or modifications.

The Town Board reserves the right to interpret, change, modify or eliminate any provision contained in this Employee Handbook. In addition, this Employee Handbook is subject to alteration by local law, changes in Town and/or departmental rules, changes in state or local Civil Service rules or federal, state or local legislation, rules or regulations. (This is not meant to be a comprehensive list.)

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE I, General Provisions / § 32-7.
Questions.**

§ 32-7. Questions.

Any questions regarding any topic covered in this Employee Handbook should be directed to the appropriate department head.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE II, Employee Classifications**

ARTICLE II, Employee Classifications

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE II, Employee Classifications /
§ 32-8. Full-time employees.**

§ 32-8. Full-time employees.

For purposes of this Employee Handbook, the term "full-time employee" will mean and refer to an employee who is regularly scheduled to work a minimum of 35 or 40 hours per week.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE II, Employee Classifications /
§ 32-9. Intermediate employees.**

§ 32-9. Intermediate employees.

For purposes of this Employee Handbook, the term "intermediate employee" will mean and refer to an employee who is regularly scheduled to work more than 17 1/2 but fewer than 35 hours per week.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE II, Employee Classifications /
§ 32-10. Part-time employees.**

§ 32-10. Part-time employees.

For purposes of this Employee Handbook, the term "part-time employee" will mean and refer to an employee who is regularly scheduled to work 17 1/2 hours or fewer per week.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE II, Employee Classifications /
§ 32-11. Temporary employees.**

§ 32-11. Temporary employees.

For purposes of this Employee Handbook, the term "temporary employee" will mean and refer to an employee who is employed to work on a special or emergency project for a specified period.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE II, Employee Classifications /
§ 32-12. Seasonal employees.**

§ 32-12. Seasonal employees.

For purposes of this Employee Handbook, the term "seasonal employee" will mean and refer to an employee who is employed to work for a given season.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE II, Employee Classifications /
§ 32-13. FLSA exempt employees.**

§ 32-13. FLSA exempt employees.

For purposes of this Employee Handbook, "FLSA exempt employee" will mean and refer to an

employee not covered under the Fair Labor Standards Act (FLSA) or a covered employee who qualifies for an exemption from the Act's overtime and/or compensatory time requirements.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE II, Employee Classifications /
§ 32-14. FLSA nonexempt employees.**

§ 32-14. FLSA nonexempt employees.

For purposes of this Employee Handbook, the term "FLSA nonexempt employee" will mean and refer to an employee covered under the Fair Labor Standards Act who qualifies for the overtime and/or compensatory time requirements of the Act.

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ARTICLE III, Civil Service System

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§ 32-15. Merit system to be employed.**

§ 32-15. Merit system to be employed.

All appointments and promotions will be based on merit and fitness and, where applicable, after competitive examination.

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§ 32-16. Unclassified and classified services.**

§ 32-16. Unclassified and classified services.

- A. Unclassified service. In accordance with Civil Service Law and for purposes of this Employee Handbook, the term "unclassified service" will include all individuals who are elected officials and/or members of boards or commissions.
- B. Classified service. In accordance with Civil Service Law and for purposes of this Employee Handbook, the term "classified service" will include all Town employees who are subject to the Rules for the Classified Civil Service of Ulster County. The Classified Service is divided into four jurisdictional classes:
 - (1) Exempt: those positions for which competitive or noncompetitive examinations or other qualification requirements are not practicable.
 - (2) Competitive: those positions for which it is practicable to determine merit and fitness by competitive examination.
 - (3) Noncompetitive: those positions for which it is not practicable to determine merit and fitness by competitive examination, but rather by a review of training and experience.
 - (4) Labor: those positions which require no specific minimum requirements.

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§ 32-17. Civil service appointments in competitive class.**

§ 32-17. Civil service appointments in competitive class.

In accordance with Civil Service Law, the following types of appointments will be made to positions in the competitive class:

- A. Permanent: an appointment to a vacant position in the competitive class from an eligible list established as a result of examination, following successful completion of a probationary term;
- B. Provisional: an appointment to a vacant position in the competitive class when there is not an appropriate eligible list. A provisional appointee must take an examination whenever it is scheduled. Thereafter, a permanent appointment will be made on the basis of the eligible list resulting from the examination; or
- C. Temporary: an appointment to a position in the competitive class for reasons including, but not limited to: emergency work projects; planned termination of the position after a limited time; replacing an employee who is on a leave of absence; filling a position funded through a temporary grant; or filling a position vacated by the promotion of another employee until the

employee who has been promoted receives permanent status. In accordance with Civil Service Law, a temporary appointment may be for a period of up to twelve months and may be subject to the following provisions:

- (1) A temporary appointment for one to three months may be made without referring to the eligible list.
- (2) A temporary appointment for three to six months may be made by selection of any candidate on the eligible list.
- (3) A temporary appointment for more than six months may be made if the candidate is among the top three candidates and is willing to accept a temporary position, or if a current eligible list does not exist for that particular position.

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§ 32-18. Examinations and promotions.**

§ 32-18. Examinations and promotions.

- A. Examinations. In accordance with Civil Service Law, in the event that there is a vacancy in a new or existing position in the competitive class which the Town intends to maintain, the Town will fill the vacancy by examination. The Ulster County Personnel Office will test and rank each candidate according to the individual's performance on the examination. The Town will select one of the top three available candidates on the list to fill the position (this is referred to as the "rule of three").
- B. Promotions. The Town will offer opportunities for advancement for those employees who qualify. In the event that the position is in the competitive class, a qualified employee must normally take a promotional examination and the above rule of three will apply. An employee who wants to be promoted should become knowledgeable about the employee's present position and be aware of higher level positions for which the employee may be qualified.

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§ 32-19. Veteran's credits.**

§ 32-19. Veteran's credits.

An employee who is a veteran may be eligible to apply for veteran's credits on a civil service examination. Veteran's credits may be added to a passing score, but may be used only once for appointment purposes. An employee who is a veteran should contact the Ulster County Personnel Office for details concerning these credits.

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§ 32-20. Oath of office.**

§ 32-20. Oath of office.

- A. Requirement. Each Town officer must take the oath of office, which must be administered prior to commencing work and attested to by the Town Clerk within 30 calendar days of commencement of office. Each Town officer who is reelected or reappointed to a subsequent term must take the oath of office for each term.
- B. Filing of oath. The oath of office must be filed in the Office of the Town Clerk within 30 days of commencement of office.

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§ 32-21. Procedure for filling vacancies.**

§ 32-21. Procedure for filling vacancies.

- A. Statement of compliance. The Town of Esopus complies with all applicable federal, state and local laws, rules and regulations throughout the employee selection process, including, but

not limited to, the Public Officers Law, Town Law, Civil Service Law, Equal Employment Opportunity and the Americans with Disabilities Act.

- B. Notification of vacancies. In the event that there is a vacancy in a new or existing position which the Town intends to maintain, the vacancy may be advertised and/or posted and qualified individuals interviewed.
- C. Appointment to vacancies. Unless otherwise specified in the Public Officers Law and/or Town Law, the Town Board will have the authority to hire individuals to fill vacancies as they occur. It is the policy of the Town to hire the best available person. Recommendations from department heads and supervisors will be sought and considered before appointments are approved by the Town Board.
- D. Residency preference. In the event that there is a vacancy in a new or existing position which the Town intends to maintain, the Town will give preference to qualified applicants who are residents of the Town.

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§ 32-22. Driver's license.**

§ 32-22. Driver's license.

- A. Requirement. An employee who is required to drive either a Town-owned vehicle or the employee's own personal vehicle to conduct business on behalf of the Town, must possess at the time of appointment, and must maintain throughout employment, a valid New York State driver's license.
- B. Commercial drivers. An employee who operates a vehicle which requires a Commercial Driver's License (CDL) must maintain such license throughout employment. In accordance with the Federal Commercial Motor Vehicle Safety Act of 1986, a commercial driver must notify the Town within 30 days of a conviction of any traffic violation (except parking), no matter where or what type of vehicle the employee was driving.
- C. Loss of driver's license. An employee who is required to possess a driver's license or CDL license in order to perform certain job duties and responsibilities must immediately notify the appropriate department head in the event that the license is suspended or revoked. The loss or suspension of the driver's license or CDL license may affect the employee's employment with the Town.

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§ 32-23. Probationary period.**

§ 32-23. Probationary period.

- A. Purpose of probationary period. The probationary period is for an employee to become familiar with the specific duties and responsibilities of the employee's new position. The probationary period also provides the department head with an opportunity to evaluate the employee's job performance and potential for development in the position.
- B. Length of probationary period.
 - (1) Competitive class. Except as otherwise provided in the Rules for the Classified Civil Service of Ulster County, an employee appointed from an open competitive list must serve a probationary period of not less than eight weeks nor more than 26 weeks.
 - (2) Other classes. Except as otherwise provided in the Rules for the Classified Civil Service of Ulster County, an employee's original appointment to a position in the exempt, noncompetitive or labor class shall be for a probationary period of not less than eight nor more than 26 weeks.
- C. Successful completion of probationary period. An employee's appointment will become permanent upon written notice that the probationary period has been successfully completed following the minimum period of service required; or, the employee's appointment will become permanent upon the retention of the employee after completion of the maximum period of service required.
- D. Failure to successfully complete probationary period. In the event that the employee's performance or conduct is not satisfactory, the Town may dismiss the employee from employment or return the employee to the employee's previous position in Town service, as the case may be, at any time after the completion of the minimum probationary period and on or before completion of the maximum probationary period.

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§ 32-24. Performance appraisal.**

§ 32-24. Performance appraisal.

- A. Statement of purpose. The purpose of performance appraisal is to evaluate employee performance. The performance appraisal will take into consideration the employee's work quality, job knowledge, initiative, attendance, teamwork, conduct, communication skills and such other criteria that properly reflects the employee's performance. The ratings assigned to performance appraisals may be considered in determining a pay increase and as a factor in promotion and disciplinary action.
- B. Frequency. An employee will be formally evaluated at least once each year on a date determined by the employee's department head. Informal evaluations will occur on an as-needed basis throughout the performance cycle.
- C. Post-evaluation conference. After an evaluation, the evaluator will meet with the employee to review the employee's performance appraisal report.
- D. Deficiencies. Should deficiencies be recorded in the performance of the employee, the employee will receive specific, reasonable, written recommendations for improvement.
- E. Employee reply. An employee's written reply, if any, will be attached to the performance appraisal report.

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§ 32-25. Rules of conduct.**

§ 32-25. Rules of conduct.

- A. Policy statement. It is the policy of the Town of Esopus that certain rules and regulations regarding employee behavior are necessary for the benefit and safety of all employees, the efficient operation of the Town, and the delivery of services to residents of the Town. Any conduct that interferes with operations, that discredits the Town or that is offensive to residents or other employees will not be tolerated. An employee must conduct oneself in a positive manner so as to promote the best interests of the Town.
- B. Specifications. Any employee who, after investigation, is found to have violated the policies, procedures, rules or regulations outlined in this Employee Handbook or those established by the employee's department or is found to have engaged in any of the following job related actions will be subject to appropriate disciplinary action in accordance with the Civil Service

Law (§ 75). (This is not meant to be a comprehensive list.)

- (1) Falsification of any records or reports pertaining to employment application, medical reports, production records, time records, shipping and receiving records, absence from work, injuries on the job, claims for benefits provided by the Town.
- (2) Intimidation, coercion, threatening or assault of or fighting or interfering with other employees, elected officials, residents of the Town or any other person.
- (3) Engagement in any form of harassment, including sexual harassment.
- (4) Improper performance of job duties or repeated failure to perform assigned duties and responsibilities.
- (5) Refusal to obey instructions of a department head or supervisor or any other form of insubordination.
- (6) Careless or negligent use or operation of equipment, including vehicles and machinery.
- (7) Willful or deliberate abuse, destruction, defacement, misuse or theft of Town property or removal of Town property.
- (8) Gambling on Town property.
- (9) Sleeping on the job, unless authorized by a department head or supervisor.
- (10) Violation and/or disregard of safety rules or safety practices, including failure to wear assigned safety clothing or equipment.
- (11) Failure to adhere to the personal appearance/dress code policy.
- (12) Repeated violations of Town policies, procedures or rules of conduct.
- (13) Leaving work area without permission, as defined by the department head.
- (14) Excessive tardiness and/or absences.
- (15) Unauthorized absences or repeated failure to give proper notice.
- (16) Possession or use of controlled substances or alcohol while on Town property or in Town vehicles.
- (17) Possession of illegal or unlicensed firearms or explosives on Town property or in Town vehicles.
- (18) Acts of sabotage or espionage.

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§ 32-26. Code of ethics.**

§ 32-26. Code of ethics.

A. Policy statement. Pursuant to the provisions of § 806 of the General Municipal Law, the Town Board recognizes that there are rules of ethical conduct for elected officials and employees which must be observed so as to maintain a high degree of moral conduct and public confidence. Therefore, the Town Board has adopted rules of ethical conduct. These rules are in addition to Article 18 of the General Municipal Law and any other law pertaining to ethical conduct or interest in contracts.

B. Definitions. For the purpose of the Town of Esopus's Code of Ethics, the following terms shall have the following meanings:

INTEREST -- Refers to a pecuniary or material benefit accruing to an officer or employee, unless the context otherwise requires.

OFFICER or EMPLOYEE -- Refers to an officer or employee of the Town of Esopus, whether paid or unpaid, including members of any board, commission or other agency thereof.

C. Standards of conduct. Every officer or employee is subject to and must abide by the following standards of conduct:

- (1) Gifts. An officer or employee may not solicit any gift or accept or receive any gift having a value of \$25 or more, whether in the sum of money, services, loan, travel, entertainment, hospitality, thing or promise or any other form, under circumstances in which it could reasonably be inferred that such gift was intended to influence the officer or employee or could reasonably be expected to influence the officer or employee in the performance of official duties or was intended as a reward for any official action on the officer's or employee's part.
- (2) Confidential information. An officer or employee may not disclose confidential information acquired in the course of official duties or use such information to further personal interest.
- (3) Representation before one's own agency. An individual may not receive or enter into any agreement, express or implied, for compensation for services to be performed in relation to any matter before any Town agency of which the individual is an officer, member or employee or of any Town agency over which the individual has jurisdiction

or to which the individual has the power to appoint any member, officer or employee.

- (4) Representation before any agency for a contingent fee. An officer or employee may not receive or enter into any agreement, express or implied, for compensation for services to be rendered in relation to any matter before any agency of the Town, whereby the officer's or employee's compensation would be dependent or contingent upon any action by such agency with respect to such matter, provided that this provision shall not prohibit the fixing at any time of fees based upon the reasonable value of the services rendered.
 - (5) Disclosure of interest in legislation. To the extent that he or she knows thereof, a member of the Town Board and any officer or employee of the Town, whether paid or unpaid, who participates in the discussion of or gives official opinion to the Town Board on any legislation before the Town Board shall publicly disclose on the official record the nature and extent of any direct or indirect financial or other private interest he or she has in such legislation.
 - (6) Investments which conflict with official duties. An officer or employee may not invest or hold any investment, directly or indirectly, in any financial, business, commercial or other private transaction which creates a conflict with the officer's or employee's official duties.
 - (7) Private employment. An officer or employee shall not engage in, solicit, negotiate for or promise to accept private employment or render services for private interests when such employment or service creates a conflict with or impairs the proper discharge of the officer's or employee's official duties.
 - (8) Future employment. No officer or employee, within two years from the termination of services or employment with the Town, may accept employment which will involve contacts with the Town in which such employment takes advantage by virtue of ones' prior contact and relationship with the Town.
 - (9) Future representation before the Town. An officer or employee shall not, after the termination of service or employment with the Town, appear before any board or agency of the Town in relation to any case, proceeding or application in which the officer or employee personally participated during the period of service or employment or which was under the officer's or employee's active consideration. This does not preclude re-employment by the Town.
- D. Penalties for offenses. In addition to any penalty contained any other provision of law, any officer or employee who shall knowingly violate any of the provisions of this code may be fined, suspended or removed from office or employment, as the case may be, in the manner

provided by law.

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§ 32-27. Disciplinary action.**

§ 32-27. Disciplinary action.

- A. Rights to § 75 hearing. An employee who is covered under the New York State Civil Service Law, § 75, will not be subjected to any disciplinary penalty except for incompetence or misconduct shown after a hearing upon stated charges.
- B. Covered employees. In accordance with the Civil Service Law, the following employees are covered under § 75:
 - (1) An employee holding a position by permanent appointment in the competitive class.
 - (2) An employee holding a position in the noncompetitive class who has been employed for at least five years of continuous uninterrupted service, except when such an employee holds a position designated as management/confidential. Even though the employee has completed the required probationary period and has received permanent appointment or employment in the noncompetitive class, the employee is not covered under § 75 until the employee has completed five years of continuous service.
 - (3) An employee holding a position by permanent appointment or employment in the exempt, competitive, noncompetitive or labor class who is a qualified veteran or qualified volunteer firefighter, except when such an employee holds the position of private secretary, cashier, or deputy of any official or department. Specifically, the employee must have been honorably discharged or released under honorable circumstances from the Armed Forces of the United States, having served therein as such member in time of war as defined in § 85 of the New York State Civil Service Law, or the employee must be an exempt volunteer firefighter as defined in the General Municipal Law.
- C. Employees not covered by § 75. An employee not covered by § 75 may be disciplined, including termination, without a § 75 hearing. The following employees are not covered under § 75:
 - (1) Any employee in the unclassified service (such as elected officials and members of boards and commissions).

- (2) A newly hired employee serving a required probationary period, even if the employee has veteran or exempt volunteer firefighter status.
 - (3) An employee holding a position in the noncompetitive class who has less than five years of continuous uninterrupted service, unless the employee is an eligible veteran or volunteer firefighter who has successfully completed the required probationary period.
 - (4) An employee holding a position in the noncompetitive class designated as management/confidential.
 - (5) An employee holding a position in the exempt class, unless the employee is an eligible veteran or volunteer firefighter who has successfully completed the required probationary period.
 - (6) An employee holding a position in the labor class unless the employee is an eligible veteran or volunteer firefighter who has successfully completed the required probationary period.
 - (7) An employee holding a position by provisional appointment.
 - (8) A temporary or seasonal employee.
- D. Notice of discipline. The employee's department head will provide the employee with a written notice of discipline (NOD) which will contain all charges and specifications.
- E. Employee answer. The employee will have eight calendar days to respond to the charges. The employee's response must be in writing.
- F. Disciplinary hearing. Unless there is a stipulation of settlement between the Town and the employee, the appointing authority will designate a hearing officer in accordance with the Civil Service Law, (§ 75). The designation must be in writing. The hearing officer will set the time and place for the hearing. The hearing officer will make a record of the hearing, which will be submitted to the appointing authority, with the hearing officer's recommendations, for review and decision.
- G. Right to representation. The employee may have representation by counsel at the hearing and may summon witnesses on the employee's behalf.
- H. Suspension without pay pending determination of charges. Pending the hearing and determination of charges, the employee may be suspended without pay for a period not to exceed 30 calendar days.
- I. Penalties. In the event that the employee is found to be guilty of the charges, the penalty may consist of one of the following:

- (1) Written reprimand.
 - (2) Fine not to exceed \$100, which will be deducted from the employee's pay.
 - (3) Suspension without pay, not to exceed two months.
 - (4) Demotion in grade and title.
 - (5) Termination from Town employment.
- J. Finding of not guilty. In the event that the employee is found to be not guilty, the employee will be restored to the employee's position with full pay for the period of suspension less the amount of any unemployment insurance benefits that the employee may have received during such period.
- K. Limitations. Notwithstanding any other provision of law, no removal or disciplinary proceeding will be commenced more than 18 months after the occurrence of the alleged incompetence or misconduct. Such limitation will not apply where the incompetence or misconduct would, if proved in a court of appropriate jurisdiction, constitute a crime.
- L. Filing requirements. In the event that the employee is found to be guilty, a copy of the charges, the employee's written answer, a transcript of the hearing and the determination will be filed in the office of the department in which the employee is employed. A copy will also be filed with the Ulster County Personnel Department.
- M. Copy of § 75. A copy of § 75 in its entirety, can be obtained from the Ulster County Civil Service Department or the Town Supervisor's office.

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§ 32-28. Personnel file.**

§ 32-28. Personnel file.

- A. Policy statement. It is the policy of the Town to balance its need to obtain, use and retain employment information with a concern for each employee's privacy. To this end, the Town will endeavor to maintain only that personnel information necessary for the conduct of the Town's business or required by federal, state or local law. Personnel records will be maintained for current and past employees in order to document employment-related decisions and comply with government record-keeping and reporting requirements.
- B. Content. The records maintained by the Town include, but are not limited to, employment

applications, report of personnel change forms (MSD-426), copies of job-required licenses and certificates, federal and state withholding tax forms, Immigration Form I-9 forms, retirement enrollment/waiver forms, health insurance enrollment/waiver forms, disciplinary and grievance notices, letters of acclamation and probationary reports.

- C. Location of files. All personnel records for current employees will be kept in the Town Supervisor's office and will be maintained and controlled by the Town Supervisor.
- D. Medical records. All employee medical records will be kept in a separate file apart from the employee's personnel file in the Town Supervisor's office and will be maintained and controlled by the Town Supervisor. For security purposes, this file will be locked at all times.
- E. Substance testing records. All employee substance testing records will be maintained and controlled by the program manager and stored in his or her office. For security purposes, this file will be locked at all times.
- F. Change in status. An employee must immediately notify the Town Supervisor's office of a change of name, address, telephone number, personal status, number and age of dependents, beneficiary designations, and individuals to notify in case of emergency.
- G. Employee access. An employee may review and copy the contents of the employee's own personnel file. The employee must make an appointment with the Town Supervisor. An authorized official must be present when the employee inspects the file. The employee may not remove or place any material in the file without the approval of the Town Supervisor. Copies of records contained in an employee's personnel file may not be released to a third party without the written consent of the employee, unless federal, state or local laws require otherwise.

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§ 32-29. Notices of resignation.**

§ 32-29. Notices of resignation.

- A. Employees. An employee who intends to resign from employment must submit a written resignation to the employee's department head at least two weeks before the date of resignation is to be effective.
- B. Town officers. A Town officer (as defined by the Public Officers Law) must resign by delivering a written notice to the Town Clerk. If no date is specified, the office becomes vacant immediately upon delivery of the notice to the Town Clerk. If a Town officer wishes

to resign at some future date, the Town officer may specify a resignation date. However, if the resignation date is more than 30 days after delivery of the notice to the Town Clerk (90 days for Justices), the resignation will become effective 30 days after such delivery.

- C. Town Clerk. The Town Clerk who intends to resign must submit a written resignation to the Secretary of State at least 30 calendar days before the date of resignation is to be effective.

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ARTICLE V, Operational Policies

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Departmental hours.**

§ 32-30. Departmental hours.

- A. Normal hours of operation. The Town Board and/or Town Supervisor will establish the beginning and ending times of normal operation. An employee's department head will establish the employee's scheduled hours of work, which may differ from the normal hours of operation depending upon the particular needs and requirements of the department.
- B. Workweek. The Town Board and/or Town Supervisor will establish the days the Town will conduct business and/or perform services. An employee's department head will establish the employee's scheduled days of work. The Town Board and Town Supervisor reserve the right to approve all employee work schedules, except where otherwise prohibited by applicable state or Town law.
- C. Flex-time. An employee may begin and/or end a given workday at a time requested by the employee and approved by the department head. Such flex-time must normally be during the time which the department is open and available to the public. The employee's use of flex-time will be governed by the mutual needs and consent of the department head and the employee.
- D. Overtime. A department head may require an employee to work additional hours beyond the employee's normal workday and workweek. An employee must receive prior approval from

the employee's department head before working additional hours.

- E. Refusal to work additional hours. An employee who, after investigation, is found to have refused to work additional hours as directed will be subject to appropriate disciplinary action in accordance with the Civil Service Law (§ 75).

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Emergency situations.**

§ 32-31. Emergency situations.

- A. During work. During periods of extraordinary weather conditions or other emergencies, the Town Supervisor may direct that certain employees who perform nonessential services may leave work. An employee who is directed by the Town Supervisor to leave work due to an emergency closing will be paid for the remainder of the employee's normal workday at the employee's regular rate of pay. Such time will not be included as time worked for the purpose of computing overtime.
- B. Prior to reporting to work. In the event that extraordinary weather conditions develop before the employee is to report to work and appropriate public announcement has been made to close the roads, an employee must attempt to receive prior approval not to travel into work from the employee's department head. If the absence is approved, all hours of absence for a FLSA nonexempt employee may be charged to the employee's personal leave or vacation leave credits at the employee's option.

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Meal and rest periods.**

§ 32-32. Meal and rest periods.

- A. Meal periods. Meal periods are scheduled and approved by the department head in accordance with the needs and requirements of the department. Meal periods must normally be taken in the middle of the employee's workday. Unless otherwise directed by the department head, an employee may leave the work-site during the meal period.
- B. Rest breaks. Rest breaks are scheduled and approved by the employee's department head in

accordance with the needs and requirements of the department. An employee who chooses not to take a rest break will not be entitled to leave before the normal quitting time and will not receive extra pay for the time worked. Unless otherwise specified by departmental rules, all rest breaks must be taken at the work site and may not exceed the time allowed.

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Time records.**

§ 32-33. Time records.

- A. Policy statement. It is the policy of the Town of Esopus that a FLSA nonexempt employee is required to complete a time record in order to record time worked or leave taken in a given week. A FLSA exempt employee is not required to record daily attendance but must account for authorized paid leave taken by completing a time record indicating such.
- B. Procedures. An employee who is required to complete a time record must comply with the following procedures:
 - (1) All time worked, including the beginning and ending time, must be recorded.
 - (2) All paid and unpaid leaves of absence must be recorded.
 - (3) The time record must be verified and signed by the department head.
 - (4) The time record of a department head must be verified and signed by the Town Supervisor.
 - (5) The time record must be submitted to the bookkeeper by 10:00 a.m. on Monday. In the event that Monday is a designated holiday, the time record must be submitted by 10:00 a.m. on Tuesday.
- C. Correction of errors. An employee must immediately bring errors in time records to the attention of the employee's department head who will investigate the matter and make and initial the correction once the error has been verified.
- D. Unauthorized flex-time. Unless prior approval has been obtained from the department head, arriving early or leaving late for the employee's own convenience is not to be included in working time, provided that the employee performed no preapproved authorized or specified duties for the Town during such intervals.
- E. Falsification of time records. An employee who, after investigation, is found to have falsified

or altered a time record or the time record of another employee or completed a time record for another employee will be subject to appropriate disciplinary action in accordance with the Civil Service Law (§ 75). In extenuating circumstances where an employee is not able to complete the employee's own time sheet, the department head may complete the time record on behalf of the employee.

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Bonding insurance.**

§ 32-34. Bonding insurance.

The Town will provide bonding insurance for an employee who is required to act in a fiduciary capacity.

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Expense reimbursement.**

§ 32-35. Expense reimbursement.

- A. Policy statement. Upon proper authorization and approval of the Town Board, an employee or elected official will be reimbursed for expenses associated with carrying out Town business, including, but not limited to, meals, lodging, parking and highway tolls. An employee or elected official attending a luncheon or dinner as an official representative of the Town will be reimbursed for expenses incurred, upon presentation of an itemized claim. All required documentation and corresponding receipts must be submitted to the Town Supervisor in order for the reimbursement to be processed. Reimbursement for hotels and meals will be at the current New York State rate.
- B. Mileage. An employee who is directed by the appropriate department head to use the employee's own vehicle to conduct Town business will be reimbursed at the mileage rate established by the Town Board. All required documentation and corresponding receipts must be submitted to the Town Supervisor in order for the reimbursement to be processed.
- C. Required training. Upon proper authorization and approval of the Town Board, an employee will be reimbursed for required training. All required documentation and corresponding receipts must be submitted to the Town Supervisor in order for the reimbursement to be

processed.

- D. Required membership fees. Upon proper authorization and approval of the Town Board, an employee required to hold membership in a professional organization as part of the employee's job will be reimbursed for any required dues and/or fees. All required documentation and corresponding receipts must be submitted to the Town Supervisor in order for the reimbursement to be processed.
- E. Association of Towns meeting. Upon proper authorization and approval of the Town Board, an employee or elected official who attends the annual meeting conducted by the Association of Towns will be reimbursed for all reasonable expenses. Delegates to this meeting will be selected by the Town Board. Reimbursement for hotels and meals will be at the current New York State rate. All required documentation and corresponding receipts must be submitted to the Town Supervisor in order for the reimbursement to be processed.

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Vehicle usage.**

§ 32-36. Vehicle usage.

- A. Policy statement. All vehicles and related equipment of the Town of Esopus are owned and maintained for the purpose of conducting official business of the Town. Said vehicles and equipment may not be used for the personal, private gain of any official or employee, nor for any other purpose which is not in the general public interest.
- B. Standards. For the purpose of compliance with this policy, the following standards must be met at all times:
 - (1) Town vehicles and related equipment must remain under the general administrative jurisdiction and direction of the department head to which it is assigned.
 - (2) Town vehicles must be assigned to specific Town officials and employees for specific purposes and tasks. Said vehicles may not be used for any unauthorized purpose nor to conduct personal, private, or non Town-related business.
 - (3) Town vehicles must always be operated in a safe and responsible manner and in compliance with all applicable traffic laws in effect. In the event of an accident, regardless of severity, an accident report must be filed with the Town Supervisor's office, by the applicable department head, within 24 hours.

- (4) Town vehicles may not be used to transport persons who are not officials or employees of the Town of Esopus nor material not related to the conduct of official Town business without direct authorization by the appropriate department head or the Town Board.
 - (5) Town vehicles must always be maintained in a safe and secure condition when not in use, including locked and/or under direct observation, and all keys maintained under controlled and authorized jurisdiction of the appropriate department head.
 - (6) In the event a Town vehicle must travel outside the limits of the Town of Esopus, the department head or supervisor must receive prior approval from the Town Board; either on a case-by-case basis or as a comprehensive approval for specified purposes.
 - (7) No advertisements, signs, bumper stickers or other markings of a political or commercial nature may be displayed on Town vehicles at any time, except those of a limited community service nature which have been authorized by the Town Board.
- C. Disciplinary action. Violations of this policy must be reported within 24 hours to the Town Supervisor's office. Any employee who, after investigation, is found to have violated this vehicle usage policy will be subject to appropriate disciplinary action in accordance with the Civil Service Law, (§ 75).

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Supplies, tools and equipment; fuel usage.**

§ 32-37. Supplies, tools and equipment; fuel usage.

- A. Supplies. All Town-owned supplies must be used efficiently and not wasted. An employee may not use any Town supplies, such as postage, paper or office supplies for personal use.
- B. Tools and equipment. The employee must repair or replace any tool or piece of equipment lost or damaged by the employee as a result of negligence or intentional misuse. An employee may not use any tool or piece of equipment, including, but not limited to, fax machines, copiers and computer equipment for personal use. Unless authorization has been granted by the department head, an employee may not use any Town facilities, tools or equipment to work on vehicles or trailers not owned by the Town.
- C. Fuel. An employee may not use gasoline, fuel oil or motor oil from the Town's fuel pump or Town garage for personal use or for any other vehicle not owned by the Town.
- D. Disciplinary action. Violations of these policies must be reported within 24 hours to the

Town Supervisor. Any employee who, after investigation, is found to have violated these policies will be subject to appropriate disciplinary action in accordance with the Civil Service Law, (§ 75).

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Telephone usage guidelines.**

§ 32-38. Telephone usage guidelines.

It is important to maintain good relations with the residents of the Town. When conducting Town business on the telephone, an employee must abide by the following guidelines:

- A. An employee must answer promptly and speak in a clear, friendly and courteous tone.
- B. An employee must give the name of the department or office and one's own name. If the call is not for the employee who answers, the employee must transfer the caller to the correct party.
- C. If the call must be placed on hold, the employee who answered the call must return to the line frequently to confirm that the call is being transferred.
- D. During office hours, each department head is responsible for there being at least one employee in the department or office to answer telephones. If the department or office has a limited staff, arrangements must be made with another department or office for telephone coverage or an answering device must be in operation.
- E. Collect calls may not be accepted without the approval of the department head or supervisor.
- F. An employee may not make personal calls, except in an emergency or to check briefly on family matters.
- G. An employee may not make personal long-distance calls, except in an emergency. The employee must reimburse the Town for the cost of the call.
- H. An employee may not make personal calls on a Town provided cellular phone, except in an emergency. The employee must reimburse the Town for the cost of the call.

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Solicitations and distributions.

§ 32-39. Solicitations and distributions.

- A. Policy statement. It is the policy of the Town of Esopus to prohibit solicitation and distribution on its premises by nonemployees and to permit solicitation and distribution by employees only as outlined below.
- B. During working hours. An employee may not distribute literature or solicit other employees during working hours without approval from the appropriate department head.
- C. During meal periods and rest breaks. With permission from the department head, an employee may distribute literature and solicit other employees during meal periods and rest breaks, provided that it does not interfere with the normal operations of the department, reduce employee efficiency, annoy fellow employees or pose a threat to the Town's security.

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Personal appearance.**

§ 32-40. Personal appearance.

- A. Policy statement. It is the policy of the Town that each employee's dress, grooming and personal hygiene should be appropriate to the work situation.
- B. Standards. An employee must maintain a personal appearance in a manner which reflects a good image to the public. Acceptable personal appearance is an ongoing requirement of employment with the Town. Radical departures from conventional dress or personal grooming and hygiene standards are not permitted.
- C. Safety clothing and equipment. An employee may be required to wear safety clothing and equipment as directed by the department head. If such is the case, the employee must comply with all safety requirements.

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Maintenance of work area.**

§ 32-41. Maintenance of work area.

An employee will be responsible for maintaining one's work area in a neat and orderly manner at all times.

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Personal property.**

§ 32-42. Personal property.

The Town will not repair, replace or reimburse an employee for the damage or loss of the employee's personal property. An employee bringing personal property to the workplace does so at one's own risk.

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Unauthorized work.**

§ 32-43. Unauthorized work.

- A. Performing unauthorized work. An employee may not perform work for any entity other than the Town during the employee's tour of duty.
- B. Disciplinary action. An employee who, after investigation, is found to have performed unauthorized work, claimed that Town work was done when such is not the case or performed any act of fraud or deceit will be subject to appropriate disciplinary action in accordance with the Civil Service Law, § 75.

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Outside employment.**

§ 32-44. Outside employment.

- A. Policy statement. It is the policy of the Town that an employee may engage in outside work as long as such outside work does not interfere with the employee's performance standards, pose an actual or potential conflict of interest or compromise the interests of the Town.
- B. Guidelines. The following guidelines have been established for an employee who engages in outside work.
 - (1) An employee will be judged by the same performance standards and will be subject to the Town's scheduling demands, regardless of any existing outside work requirements.
 - (2) If the Town determines that an employee's outside work interferes with the performance or the ability to meet the requirements of the Town as they are modified from time to time, the employee may be asked to terminate the outside employment if the employee wishes to remain employed by the Town.
 - (3) No Town equipment, supplies or other material may be used by an employee on other than Town work for monetary gain.
 - (4) Outside employment that constitutes a conflict of interest is prohibited. An employee may not receive any income or material gain from individuals outside of the Town for materials produced or services rendered while performing the employee's job.
 - (5) A Town employee who engages in outside work must notify the person for whom the work is being performed that such work is being done on the employee's own time and that the employee is not representing the Town while performing such work.

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ARTICLE VI, Absence Policies

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POLICIES -- EMPLOYEE HANDBOOK / ARTICLE VI, Absence Policies / § 32-45.
Tardiness.**

§ 32-45. Tardiness.

- A. Notification of tardiness. An employee must be ready and able to work at the time the

employee is scheduled to begin work. In the event that an employee is unable to report to work at the scheduled time, the employee must notify the employee's department head prior to the employee's scheduled starting time.

- B. Disciplinary action. Tardiness may be cause for appropriate disciplinary action in accordance with the Civil Service Law, § 75.

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Notification of absence.**

§ 32-46. Notification of absence.

- A. Daily notification. In the event that an employee is unable to report to work, the employee must notify the employee's department head each day of the absence and state the reason for the absence. In the event that the absence was preauthorized, this requirement will be waived.
- B. Notification of sick leave. In the event that an employee must take sick leave, the employee must notify the appropriate department head prior to the employee's scheduled reporting time. This procedure must be followed to receive sick leave pay.
- C. Early departure. In the event that an employee must leave work during the workday, the employee must notify the employee's department head prior to the start of a shift, or in the case of an emergency, prior to leaving.

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Jury duty leave.**

§ 32-47. Jury duty leave.

- A. Jury leave. In the event that an employee is required to perform jury duty on a day the employee is scheduled to work, the employee will receive a paid jury leave. Such leave will not be subtracted from any of the employee's leave credits.
- B. Notification of jury duty. When an employee receives notice to report for jury duty, the employee must immediately submit a copy of the notice to the employee's department head.

- C. Return to duty. In the event that the employee is released from jury duty on a given day and there are two or more hours remaining in the employee's scheduled workday, the employee must report to work. The employee will be allotted time to return home and prepare for work.

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Bereavement leave.**

§ 32-48. Bereavement leave.

- A. Immediate family. In the event of a death of a full-time or intermediate employee's immediate family member, the employee may take a paid leave of absence for up to three days from the employee's regularly scheduled work. Such leave will not be subtracted from any of the employee's leave credits.
- B. Part-time, temporary or seasonal employees. A part-time, temporary or seasonal employee is not eligible for paid bereavement leave but may be allowed to take time-off without pay, provided that the employee has prior approval from the department head.
- C. Definition of immediate family. For purpose of bereavement leave, "immediate family member" will mean the following:
 - (1) Spouse.
 - (2) Child.
 - (3) Parent.
 - (4) Sibling.
 - (5) Mother-in-law.
 - (6) Father-in-law.
 - (7) Daughter-in-law.
 - (8) Son-in-law.
 - (9) Grandparent.
 - (10) Grandchild.
- D. Extended bereavement leave. An employee may use vacation leave credits to extend a bereavement leave. The department head will have total discretion in the approval of an

employee's extended bereavement leave.

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POLICIES -- EMPLOYEE HANDBOOK / ARTICLE VI, Absence Policies / § 32-49.
Military leave and military leave of absence.**

§ 32-49. Military leave and military leave of absence.

- A. Military leave (New York State law). This section refers only to a paid leave for military service under New York State law and does not affect an employee's entitlement to leave needed for military service under federal statute. The Town of Esopus recognizes the importance of the Military Reserve and National Guard and will permit any employee the use of military leave to participate in annual encampment or training duty. The Town will grant such leave with pay for up to 22 workdays or 30 calendar days in a calendar year, whichever is greater. Such military leave beyond the 22 workdays or 30 calendar days in a calendar year will be unpaid, however accumulated vacation or compensatory time may, at the employee's option, be used at any time during the leave. In accordance with applicable New York State law, the employee may keep all pay received for military service.
- B. Military leave of absence (federal law). An unpaid leave of absence for a period of up to the federal statutory limits will be granted to an employee to serve in any of the uniformed services of the United States. The employee's accumulated vacation or compensatory time may, at the employee's option, be used at any time during such leave of absence.

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POLICIES -- EMPLOYEE HANDBOOK / ARTICLE VI, Absence Policies / § 32-50.
Family and Medical Leave Act.**

§ 32-50. Family and Medical Leave Act.

- A. Statement of compliance. The Town of Esopus complies with the provisions of the Family and Medical Leave Act (FMLA).
- B. Summary. FMLA entitles an eligible employee to a maximum of 12 workweeks (defined by the employee's normal workweek) of job-protected, unpaid leave in any twelve-month period for certain family and medical reasons. The twelve-month period is a rolling period measured backward from the date an employee uses any FMLA leave. At the conclusion of a leave of absence under the FMLA, the employee will be restored to the position the employee held

when the leave began or to an equivalent position with equivalent benefits, pay and working conditions, provided that the employee returns to work immediately following such leave.

C. Eligibility.

- (1) To be eligible for an unpaid leave under FMLA, an employee must meet the following requirements:
 - (a) The employee must be employed at a work-site where 50 or more employees are employed within a seventy-five-mile radius of each work location, for each working day during each of 20 or more calendar workweeks per year.
 - (b) The employee must be an employee of the Town for at least 12 months before the leave request (these need not be consecutive) who has worked for at least 1,250 hours during the previous 52 weeks prior to the date the leave commences.
- (2) The Town of Esopus currently does not employ 50 or more employees who work 20 or more calendar workweeks per year. Therefore, Town employees are not presently eligible for leave under FMLA. If the Town of Esopus should employ 50 or more employees for 20 or more calendar workweeks in the current or preceding year, eligible employees will be afforded leave under FMLA under the following circumstances:
 - (a) Upon the birth of the employee's child and to care for the newborn child;
 - (b) Upon the placement of a child with the employee for adoption or foster care and to care for the newly placed child;
 - (c) To care for the employee's spouse, son, daughter or parent who has a serious health condition; and
 - (d) Because of the employee's own serious health condition which makes the employee unable to perform one or more of the essential functions of his or her job.

D. Return to work. At the conclusion of the leave, the employee, provided that the employee returns to work immediately following such leave, will be restored to the position he or she held when the leave began or an equivalent position with equivalent benefits, pay and working conditions.

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Leave of absence.**

§ 32-51. Leave of absence.

- A. Policy statement. It is the policy of the Town of Esopus to grant a full-time employee a leave of absence without pay for a period of up to 12 weeks, under certain circumstances. The Town of Esopus complies with the provisions of the Family and Medical Leave Act which will take precedence over this policy if and when any employee meets the eligibility requirements under the Act.
- B. Granting of leave of absence. The granting and duration of each leave of absence will be determined by the Town Board in conjunction with applicable federal and state laws and the Rules for the Classified Civil Service of Ulster County.
- C. Types of leave. The following types of leaves of absence will be considered:
 - (1) Sick leave of absence. Employees who are unable to work because of a serious health condition or disability may be granted a sick leave of absence. This type of leave covers disabilities caused by pregnancy, childbirth or other related medical conditions. The Town requires certification of an employee's need for sick leave, both before the leave begins and on a periodic basis thereafter, by the employee's health care provider.
 - (2) Parental leave of absence. Female employees, when not disabled by pregnancy or childbirth (see above), and male employees may be granted a parental leave of absence to care for a child upon birth or upon placement for adoption or foster care.
 - (3) Family care leave of absence. Employees may be granted a family care leave of absence for the purpose of caring for a child, spouse or parent who has a serious health condition. The Town requires certification of the family member's serious health condition, both before the leave begins and on a periodic basis, by the family member's health care provider.
- D. Eligibility. To be eligible, an employee must meet the following requirements:
 - (1) The employee must have completed at least one year of full-time, continuous service during the previous 52 weeks prior to the date leave commences.
 - (2) Spouses who both work for the Town of Esopus are allowed a combined maximum of 12 workweeks of leave for the birth or care of a newborn child, adoption or foster care of a child and to care for such newly placed child or the serious health condition of a child, spouse or parent during any twelve-month period.
- E. Definitions. For the purpose of this policy, the following definitions will apply:

FAMILY MEMBER -- Refers to:

- (1) Spouse: husband or wife as defined or recognized under state law for purpose of marriage.
- (2) Parent: biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a son or daughter as defined indirectly below. This term does not include an employee's parents-in-law.
- (3) Child: biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing in loco parentis, who is either under age 18 or age 18 or older and incapable of self-care because of a mental or physical disability. Persons who are in loco parentis include those with day-to-day responsibilities to care for and financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

HEALTH CARE PROVIDER -- Refers to a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; or any other person defined in the FMLA regulations capable of providing health care services.

SERIOUS HEALTH CONDITION -- Refers to an illness, injury, impairment or physical or mental condition that involves inpatient care in a hospital, hospice or residential medical care facility or any subsequent treatment in connection with such treatment; or continuing treatment by a health care provider, including, but not limited to:

- (1) A period of incapacity of more than three consecutive calendar days that also involves continuing treatment by a health care provider.
- (2) A period of incapacity due to pregnancy or prenatal care.
- (3) A period of incapacity or treatment for such incapacity due to a chronic serious health condition.
- (4) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective.
- (5) A period of absence to receive multiple treatments, including any period of recovery, by a health care provider or by a provider of health care services under orders of or on referral by a health care provider, for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

F. Notification requirements. Unless there are unusual circumstances, such as a sudden serious illness, the employee must give notice, in writing, to the department head at least 30 calendar days prior to the commencement date of the unpaid leave.

- G. Status reports. The employee must continuously update the appropriate department head as to the employee's status as it relates to eligibility.
- H. Medical certification.
- (1) The employee must produce a medical certification issued by a health care provider which supports the need for a leave under this policy. When required, the employee must provide a copy before the leave begins or, if the leave was unforeseeable, 15 calendar days from the date the leave was requested. Failure to submit medical certification may jeopardize the employee's eligibility for an unpaid leave of absence and/or the ability to return to work. The medical certification must include:
 - (a) The date the medical condition began.
 - (b) The probable duration of the medical condition.
 - (c) Pertinent medical facts.
 - (d) An assertion that the employee is unable to perform the employee's essential job functions or that the employee is needed to care for a family member for a specified period of time.
 - (2) The Town of Esopus reserves the right to request a second opinion by another health care provider. The Town will pay for the second opinion. In the event that a conflict occurs between the first and second opinion, the Town may, again at its own expense, obtain a third opinion from a health care provider approved jointly by the Town and the employee. This third opinion will be final and binding.
- I. Certification for adoption/foster care. An employee must produce proper certification from the appropriate agency for an unpaid leave for the adoption or foster care of a child.
- J. Benefits during an unpaid leave of absence. For the purpose of this policy, the following will apply:
- (1) Use of accrued paid leave credits. An employee must first use all vacation leave credits which will be included in the maximum 12 weeks of leave. For leaves taken due to the employee's own serious health condition, the employee must first use all sick leave credits, which will be included in the maximum 12 weeks of leave.
 - (2) Accrual of paid leave credits while on unpaid leave. An employee will not accumulate vacation leave or sick leave while on an unpaid leave. An employee will not receive holiday pay for any holidays that may occur while on an unpaid leave of absence.
 - (3) Medical insurance. During the unpaid leave, an employee's eligibility status for medical insurance coverage will not change. All employee contributions must be paid on a

timely basis in order to maintain the continuous coverage of benefits. Contributions will be at the same level as if the employee was working. Coverage will cease if payments are not made within a thirty-calendar day grace period of the due date. Premium payments or policy coverage are subject to change. In the event the employee fails to return to work after the unpaid leave of absence period has expired, the Town may recover the premium that it paid for maintaining the coverage during any period of the unpaid leave, except for the following circumstances:

- (a) The continuation, recurrence or onset of a serious health condition of the employee or the employee's eligible family member with proper medical certification; or,
 - (b) Circumstances beyond the employee's control, such as: parent chooses to stay home with a newborn child who has a serious health condition; employee's spouse is unexpectedly transferred to a job location more than 75 miles from the employee's work-site; a relative or individual other than an immediate family member has a serious health condition and the employee is needed to provide care; or, the employee is laid off while on leave.
- K. Employment restrictions during leave of absence. While on an approved unpaid leave, the employee may not be employed by another employer during the same hours that the employee was normally scheduled to work for the Town of Esopus.
- L. Return to work. The following conditions for returning to work will apply:
- (1) Medical statement. Before resuming employment, an employee must submit a statement from the employee's health care provider indicating that the employee is able to return to work, either with or without restrictions. Failure to return to work when required may be considered a voluntary termination.
 - (2) Early return. An employee who intends to return to work earlier than anticipated must notify the department head at least five business days prior to the date the employee is able to return. The department head shall in turn notify the Town Supervisor.
 - (3) Extension of unpaid leave of absence. An employee who wants an extension of the leave previously requested must notify the employee's department head at least two business days from the date the change occurred which necessitates the change in leave time. The Town Board reserves the right to approve all leave extensions.

ARTICLE VII, Compensation

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POLICIES -- EMPLOYEE HANDBOOK / ARTICLE VII, Compensation / § 32-52.
Wage and salary.**

§ 32-52. Wage and salary.

- A. Rate of pay. An employee's rate of pay will be established by the Town Board.
- B. Merit increases. An employee may receive a pay increase based upon the employee's past performance. The merit increase will be granted at the discretion of the Town Board.

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Overtime pay.**

§ 32-53. Overtime pay.

- A. Authorization. A nonexempt employee must receive prior approval from the employee's department head before working beyond the employee's normal workday or workweek.
- B. FLSA exempt employees. In accordance with the Fair Labor Standards Act, a FLSA exempt employee will not be paid for overtime nor receive compensatory time for any hours worked in excess of the employee's normal workday or workweek.
- C. FLSA nonexempt employees. A full-time FLSA nonexempt employee will be paid 1 1/2 times the employee's regular hourly rate of pay for all authorized time worked over eight hours in a given workday. An intermediate, part-time, temporary or seasonal employee will be paid 1 1/2 times the employee's regular hourly rate of pay for all authorized time worked over 40 hours in a given workweek.
- D. Compensatory time. A nonexempt employee will have the option of receiving compensatory time in lieu of paid overtime. When a nonexempt employee chooses to receive compensatory time, the employee will be credited with the equivalent of 1 1/2 hours for all authorized overtime worked in a given workday. An employee may accumulate up to 40 hours in

compensatory time credits (80 hours if employed in the Highway Department). In the event an employee accrues more than the cap allowed, the employee must either use the excess compensatory leave credits within the pay period in which it is earned or take paid overtime. An employee must use all compensatory leave credits within the calendar year in which they are earned.

- E. Credit for paid leave. Sick leave, personal leave, vacation leave, jury duty leave and holidays will be included as time worked for the purpose of computing overtime. Bereavement leave and military leave will not be included as time worked for the purpose of computing overtime.
- F. Termination from employment. An employee whose employment with the Town is terminated will receive cash payment for unused compensatory credits to which the employee is properly entitled at the employee's then current rate of pay.

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Pay period and check distribution.**

§ 32-54. Pay period and check distribution.

- A. Payroll period. The payroll period will begin Saturday and end six calendar days later on Friday.
- B. Pay date. Paychecks will be issued on Friday. In the event that the pay date is a designated holiday, paychecks will be distributed on the previous workday.
- C. Distribution. The bookkeeper will deliver paychecks to the department heads for further distribution to employees.
- D. Direct deposit. The Town provides a direct deposit option for employees. If elected, the designated amount will be deposited directly into the employee's account at the Ulster County Federal Credit Union. The employee must submit a signed, written authorization for direct deposit to the bookkeeper.
- E. Authorized check release. The department head will not release a paycheck to anyone other than the employee unless the employee has submitted a signed, written authorization with the bookkeeper.

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Payroll deductions.**

§ 32-55. Payroll deductions.

- A. Statutory deductions. The required portion of an employee's pay for federal and state taxes and any other deduction required by law will be deducted from the employee's paycheck. Such deductions will be noted on the paycheck.
- B. Voluntary deductions. Payroll deductions provided through the Town's payroll system will be made from an employee's paycheck when authorized by the employee. Such deductions will be noted on the paycheck.

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ARTICLE VIII, Employee Benefits

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§ 32-56. Holidays.**

§ 32-56. Holidays.

- A. Designated holidays. The Town of Esopus will observe the following holidays:
 - (1) New Year's Day.
 - (2) Martin Luther King's birthday.
 - (3) President's Day.
 - (4) Good Friday.
 - (5) Memorial Day.
 - (6) Fourth of July.

- (7) Labor Day.
 - (8) Columbus Day.
 - (9) Election Day.
 - (10) Veterans' Day.
 - (11) Thanksgiving Day.
 - (12) Day after Thanksgiving.
 - (13) Christmas Day.
- B. Holiday occurs on days off. In the event that a designated holiday occurs on a Saturday, the holiday will be observed on the preceding Friday. In the event that a designated holiday occurs on a Sunday, the holiday will be observed on the following Monday.
- C. Holiday pay. A full-time employee who does not work on a designated holiday will be paid for the day at the employee's regular daily rate of pay. An intermediate employee is eligible to receive holiday pay only for designated holidays on which the employee would normally be scheduled to work and only for the employee's regularly scheduled number of hours. A part-time, temporary or seasonal employee is not eligible for holiday pay.
- D. Assigned to work on a holiday. A full-time FLSA nonexempt and intermediate employee who is required to work on a designated holiday will be paid for all hours worked at 1 1/2 times the employee's regular rate of pay, in addition to the holiday pay. A part-time, temporary or seasonal employee who works on a designated holiday will be paid at the employee's regular rate of pay.

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§ 32-57. Vacation leave.**

§ 32-57. Vacation leave.

- A. Allowance. A full-time employee will be credited with paid vacation leave in accordance with the vacation schedule directly below. An employee may take vacation leave only after it has been credited. A new employee will be credited with vacation leave on the employee's one-year anniversary. Thereafter, the employee will be credited on January 1 of each year for the vacation leave earned in the previous year. An employee who has a two-, five- or fifteen-year anniversary with the Town will be credited with the extra week of vacation on

the employee's anniversary date. An intermediate employee will earn paid vacation leave in the same manner granted to full-time employees. Such leave will be prorated by the average number of hours the employee works in a workweek divided by five.

After Completion of: (years of continuous service)	Vacation Leave (days)
1	5
2	10
5	15
15 and each year thereafter	20

- B. Part-time, temporary or seasonal employees. A part-time, temporary or seasonal employee is not eligible for paid vacation leave, but may be allowed to take time-off without pay, provided that the employee has prior approval from the department head.
- C. Scheduling. An employee must receive prior approval from the employee's department head to take vacation leave. The department head will have total discretion in the approval of vacation leave.
- D. Accumulation. An employee may not accumulate vacation leave credits and must use all vacation leave in the year in which it is earned.
- E. Holiday during scheduled vacation. In the event that a designated holiday occurs on an employee's normal workday and the employee is on paid vacation, the employee will receive holiday pay for the day and the employee's vacation leave credits will not be charged for that day.
- F. Termination of employment. An employee whose employment with the Town is terminated will receive cash payment for unused vacation leave to which the employee is properly entitled at the employee's then current rate of pay.

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§ 32-58. Sick leave.**

§ 32-58. Sick leave.

- A. Allowance. A full-time employee will be credited with one day of paid sick leave each month. An employee may take sick leave only after it has been credited. The employee will be credited on the first day of the month after it was earned. An intermediate employee will earn paid sick leave in the same manner granted to full-time employees. Such leave will be prorated by the average number of hours the employee works in a workweek divided by five.
- B. Part-time, temporary or seasonal employees. A part-time, temporary or seasonal employee is not eligible for paid sick leave but may be allowed to take time-off without pay provided that the employee has prior approval from the department head.
- C. Accrual during leaves of absence. An employee will be credited with sick leave credits while on a paid leave of absence, but not while on an unpaid leave of absence.
- D. Use of sick leave. Sick leave is provided to protect an employee against financial hardship during an illness or injury. Sick leave is an insurance benefit against financial loss not a leave benefit to which the employee is automatically entitled. An employee may use sick leave credits for personal illness or injury that inhibits the employee's work or for medical and dental appointments which cannot be scheduled during non-work hours. Sick leave credits may not be used in increments of less than one hour.
- E. Family sick leave. An employee may use sick leave credits for family illness or injury only if the employee must provide direct care to an immediate family member. The employee may use up to 40 hours of sick leave credits for family sick leave which will be subtracted from the employee's accumulated sick leave credits. For purpose of family sick leave, "immediate family member" will mean the employee's parent, spouse or child, including stepchild and foster child.
- F. Accumulation. An employee may accumulate sick leave credits to a maximum of 40 days.
- G. Sick leave incentive program. In the event that a full-time employee has accumulated 40 sick leave days, the employee may continue to accrue one sick leave day per month up to a maximum of 12 additional days. The employee shall be paid an amount equal to 1/2 of the additional sick leave days remaining at the end of the calendar year. The employee shall receive the sick leave incentive payment on the second payday in December. In the event of sickness during the period following the payment, the employee shall receive an adjustment in the number of sick leave days credited in the following calendar year.
- H. Medical verification. The Town may require medical verification of an employee's absence if the Town perceives the employee is abusing sick leave, or has used an excess amount of sick leave, or when an employee is absent for more than three consecutive workdays due to an

illness or injury. An employee who fails to produce such documentation or falsifies or alters such documentation will be subject to appropriate disciplinary action in accordance with the Civil Service Law (§ 75).

- I. Abuse of sick leave. An employee who, after investigation, is found to have abused the use of sick leave will be subject to appropriate disciplinary action in accordance with the Civil Service Law (§ 75).
- J. Termination of employment. An employee whose employment with the Town is terminated will not receive cash payment for unused sick leave. An employee who retires from the Town will receive cash payment for the balance of unused sick leave. In the event that a full-time employee who has accumulated 40 sick leave days hence becomes an elected official in the Town of Esopus, the days will be banked and held in reserve until retirement or reemployment by the Town.

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§ 32-59. Personal leave.**

§ 32-59. Personal leave.

- A. Summary. A full-time employee may be allowed to take personal leave with pay to attend to a personal matter that cannot be attended to during nonworking hours.
- B. Intermediate, part-time, temporary or seasonal employees. An intermediate, part-time, temporary or seasonal employee is not eligible for paid personal leave.
- C. Scheduling. An employee must receive prior approval from the employee's department head to take personal leave. The department head will have total discretion in the approval of personal leave.

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§ 32-60. Insurance coverage.**

§ 32-60. Insurance coverage.

- A. Coverage. The Town of Esopus will make available insurance benefits based upon an employee's employment status as defined in Article II, Employee Classifications of this

Employee Handbook.

- B. Eligibility for coverage. Each elected official and full-time employee is eligible to participate in the available insurance plans. An intermediate, part-time, temporary or seasonal employee may not participate in these plans.

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§ 32-61. Medical plan.**

§ 32-61. Medical plan.

- A. Coverage. The Town will make available major medical, hospital and surgical insurance to each eligible employee, including elected officials, and the employee's eligible family. Coverage will begin on the employee's first day of employment, provided that the employee meets all eligibility requirements of the insurance plan.
- B. Plan. The Town may, at its discretion, change carriers and/or offer an alternative plan. A description of the plan may be obtained from the Secretary to the Supervisor.
- C. Premium payment. The Town will pay the full premium for individual or family medical insurance coverage, as the case may be, for each eligible full-time employee hired prior to January 1, 1998. A full-time employee who becomes eligible for medical benefits on or after January 1, 1998, must contribute 10% of the cost of the premium for the type of coverage selected. The premium will be deducted from the employee's regular paycheck. The employee may elect to have such deduction made on a pretax basis in accordance with Section 125 of the Internal Revenue Code.
- D. Changes in employee contribution amounts. The Town Board may, by Town Board Resolution, increase the amount the employee must contribute to the medical insurance premium for individual and/or family medical insurance coverage.
- E. Enrollment information. The Secretary to the Supervisor will provide the employee with the enrollment forms and assist with the administrative and operational aspects of the medical insurance program. Enrollment in a medical insurance plan is not automatic. The employee must complete the necessary enrollment forms. The employee must select individual or family coverage, as the case may be, and submit the enrollment forms to the Secretary to the Supervisor on time.
- F. Keeping coverage up to date. An employee must immediately notify the Secretary to the

Supervisor should any of the following conditions occur:

- (1) Change in family unit, such as:
 - (a) Marriage or divorce.
 - (b) Acquires a dependent.
 - (c) No longer has any eligible dependents.
 - (d) Dependent loses eligibility.
 - (e) No longer wants to provide coverage for a dependent.
 - (f) Spouse dies.
- (2) Change in status, such as:
 - (a) Takes a leave of absence without pay.
 - (b) Obtains coverage under spouse's plan.
 - (c) Becomes eligible for Medicare within the next four months.
- (3) Other changes, such as:
 - (a) Wants to cancel coverage.
 - (b) Changes address or telephone number.

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§ 32-62. Medical insurance buyout.**

§ 32-62. Medical insurance buyout.

- A. Eligibility. A full-time employee, including an elected official, who is eligible for medical insurance coverage made available through the Town may receive a cash buyout in lieu of receiving medical insurance benefits. To be eligible for the medical insurance buyout, the employee must provide documentation of comparable medical health insurance coverage in a manner and form to be determined by the Town and sign an appropriate waiver of health insurance coverage and a waiver of liability to the Town. Employees who retire after December 31, 2008, will no longer be considered for medical insurance buyouts. [Amended

12-18-2008]

- B. Intermediate, part-time, temporary or seasonal employees. An intermediate, part-time, temporary or seasonal employee is not eligible for this provision.
- C. Amount of buy out. An employee who is eligible for the medical insurance buy out will receive an amount equivalent to 33% of the average cost of the annual premium for the type of coverage (family, individual, retiree) chosen by the employee. The Town Board may, through Town Board resolution, change the amount of the buy out.
- D. Method of payment. Payments will be made on a quarterly basis, with a check issued after each quarter. These payments will be reported as income for federal and state income tax purposes.
- E. Reinstatement. In the event that the employee loses coverage under the alternate insurance plan, the employee may resume coverage under one of the medical insurance plans made available through the Town. Coverage will begin on the first of the month immediately following the employee giving notice, provided that the employee gives such notice at least five business days prior to the first of the month and meets all eligibility requirements of the insurance plan.

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§ 32-63. Medical insurance for retired employees.**

§ 32-63. Medical insurance for retired employees.

- A. Coverage. The Town will make available major medical, hospital and surgical insurance to an eligible full-time employee, including an elected official, who retires from the Town. Coverage will also be made available for the retiree's eligible spouse, provided that the spouse was covered under the retiree's medical insurance plan at the retiree's date of retirement. In the event that the retiree predeceases the eligible spouse, the spouse may continue medical insurance coverage, provided that the spouse pays the full cost of the premium. Coverage of a spouse will cease at the time of divorce or legal separation.
- B. Eligibility. To be eligible for health insurance coverage, the retiree must be age 55 or older and must have at least 10 years of full-time continuous service with the Town. In addition, the retiree must be eligible to receive retirement benefits through the New York State Retirement System.
- C. Premium payment. The Town will pay the full premium for individual or family medical

insurance coverage, as the case may be, for each eligible retiree who had at least 20 years of full-time service with the Town. An elected official or employee who retires from the Town and who is eligible to receive retirements benefits as described above but who does not meet the twenty-year service criteria shall be eligible to receive individual or family medical insurance coverage at a prorated contribution. To be eligible for such coverage, the retiree must have a minimum of 10 years of service with the Town at the time of retirement. Contribution rates are as follows:

Years of Service Rounded to Nearest Year	Retiree Contribution	Town Contribution
20	0%	100%
19	5%	95%
18	10%	90%
17	15%	85%
16	20%	80%
15	25%	75%
14	30%	70%
13	35%	65%
12	40%	60%
11	45%	55%
10	50%	50%

D. Plan. The Town will make available the same medical insurance plans offered to then current employees. The Town Board may, through Town Board resolution, change the plans at any time, including, but not limited to, type of coverage, retiree contributions and type of carrier. Coverage under a medical insurance plan made available through the Town will continue until the retiree or eligible family member, as the case may be, meets the eligibility criteria for Medicare coverage, at which time primary coverage will be provided by Medicare. At

that time, the retiree and eligible family members may be required to change medical insurance plans in order to maintain supplemental coverage.

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§ 32-64. Continuation of benefits (COBRA).**

§ 32-64. Continuation of benefits (COBRA).

- A. Summary. The Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) offers employees and qualified beneficiaries the right to continue existing health insurance coverage, completely at their own expense, under certain qualifying conditions. All required premiums and administrative fees must be paid in a timely manner in order for coverage to continue.
- B. Eligibility. An individual is a qualified beneficiary if the individual is covered under a group health plan on the day before a qualifying event as either a covered employee, the spouse of a covered employee or a dependent child of a covered employee. A child who is either born to or who is placed for adoption with the covered employee during a period of COBRA coverage is also a qualified beneficiary.
- C. Qualifying events. The option to elect COBRA coverage must be taken at the time of separation, reduction in hours or change of dependent status, as the case may be, and will be in effect for a period of 18, 29, or 36 months, depending upon any of the following qualifying events:
 - (1) An eighteen-month continuation will be available to a qualified beneficiary in the event of the covered employee's termination of employment for any reason except gross misconduct or the covered employee's loss of eligibility to participate due to reduced work hours.
 - (2) A twenty-nine-month continuation will be available to a qualified beneficiary in the event that the qualified beneficiary is disabled, per a determination under the Social Security Act, or becomes disabled within the first 60 days of COBRA coverage. The qualified beneficiary must provide the plan administrator with notice of the disability within 60 days of the determination of the disability by Social Security and before the end of the original eighteen-month COBRA coverage period. The qualified beneficiary must notify the plan administrator of a determination by Social Security that the individual is no longer disabled within 30 calendar days of such determination.
 - (3) A thirty-six-month continuation will be available to a qualified beneficiary in the event

of any one of the following:

- (a) A covered employee's death;
- (b) Divorce or legal separation from a covered employee;
- (c) A covered dependent child's loss of eligibility to participate in the insurance plan due to the covered employee becoming covered by Medicare as a result of total disability or choosing Medicare in place of the insurance plan at age 65; or
- (d) A covered dependent ceases to be a dependent child under the health insurance plan.

- D. Limitations. In the event that an employee becomes covered by Medicare, but no loss of coverage results for the employee or the covered dependents and a subsequent qualifying event occurs, the duration of coverage for all qualified beneficiaries will be 36 months from the date of the termination or reduction in hours. A qualified beneficiary may be covered under multiple qualifying events, but in no case will coverage be continued for more than 36 months.
- E. Change in beneficiary status. An employee must notify the Town within 60 calendar days of a legal separation or divorce or when a dependent is no longer eligible for insurance due to the age limitations or educational status requirements established by the insurance plan. The Town will not be responsible for any loss of coverage resulting from the employee's failure to give notification of such an event.
- F. Enrollment information. The Secretary to the Supervisor will provide the employee with the enrollment forms and assist with the administrative and operational aspects of COBRA. Enrollment is not automatic. The employee must complete the necessary enrollment forms and return all COBRA forms to the Secretary to the Supervisor within the time indicated. If the required forms or premium payments are not received at the time specified, medical insurance coverage will cease.

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§ 32-65. Employee assistance program.**

§ 32-65. Employee assistance program.

- A. Summary. The Town will make available an Employee Assistance Program (EAP) for a full-time employee and the employee's eligible family members to obtain confidential, professional counseling. This program is designed to help employees and their families deal

with a variety of problems through professional consultation on a confidential basis. The Town believes it is in the best interest of employees, their families and the Town to deal with problems before they seriously affect one's health, family, personal relationships or job performance.

- B. Intermediate, part-time, temporary or seasonal employees. An intermediate, part-time, temporary or seasonal employee is not eligible to participate in this program.
- C. How to access the program. An employee may either contact the employee's department head or the Employee Assistance Program directly for further information. The program is administered by the following:

Employee Assistance Program Services of the Mid-Hudson Valley
394 Hasbrouck Avenue
Kingston, NY 12401
(914)339-5237

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§ 32-66. Uniforms.**

§ 32-66. Uniforms.

The Town will provide a uniform for every employee who is required to wear one by the employee's department head. The Town will also pay for the cleaning of uniforms.

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§ 32-67. Workers' Compensation Insurance.**

§ 32-67. Workers' Compensation Insurance.

- A. Coverage. The Town will make available Workers' Compensation benefits, including payment of medical costs and replacement of lost wages up to the regulated maximum, to each eligible employee who suffers a job-related injury. Coverage will begin on the

employee's first day of employment, provided that the employee meets all eligibility requirements.

- B. Premium payment. The Town will pay the full premium for Workers' Compensation coverage for each eligible employee.
- C. Reporting of injury. The employee must submit a written report of the injury to the employee's department head and the Secretary to the Supervisor within 24 hours of the occurrence in order to ensure prompt coverage of the claim. The department head will provide the employee with the necessary forms. In the event that the employee is unable to complete the forms due to the injury or illness, the department head will complete and submit the required forms on behalf of the employee.
- D. Use of sick leave credits. An employee may draw from the employee's sick leave credits in conjunction with Workers' Compensation payments to equal, but not exceed, the employee's regular daily rate of pay.

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§ 32-68. Disability insurance.**

§ 32-68. Disability insurance.

- A. Coverage. The Town will make available disability insurance benefits to each eligible full-time employee. This benefit supplements loss of time from work due to a qualified non-job-related illness or injury. Coverage will begin on the employee's first day of employment, provided that the employee meets all eligibility requirements.
- B. Plan. The Town may, at its discretion, change carriers and/or offer an alternative disability plan. A description of the plan may be obtained from the Secretary to the Supervisor.
- C. Premium payment. The Town will pay the full premium for disability coverage for each eligible full-time employee.
- D. Reporting of injury. The employee must submit a written report of the injury, on the proper form, to the employee's department head and the Secretary to the Supervisor within 24 hours of the occurrence. If all qualifying conditions are met, insurance benefits will begin on the eighth consecutive day of disability, in accordance with the New York State Disability Benefits Law. The Secretary to the Supervisor will provide the employee with the necessary forms.

- E. Use of sick leave credits. An employee may draw from the employee's sick leave credits in conjunction with disability payments to equal, but not exceed, the employee's regular daily rate of pay. If an employee has completed the employee's fifth anniversary of employment on the date the disability claim is filed, the Town will grant the employee an additional 80 sick leave days. This benefit will not be granted more than once in any five-year period.

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§ 32-69. Unemployment insurance.**

§ 32-69. Unemployment insurance.

The Town will make available unemployment insurance benefits to each eligible employee ruled eligible for benefits by the State Department of Labor.

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§ 32-70. Social Security.**

§ 32-70. Social Security.

Social Security benefits are available for retirement, survivor's benefits and medical costs under qualifying conditions, as determined by the Federal Social Security Administration Office. Employee contributions to Social Security (FICA) are matched by the Town.

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§ 32-71. The New York State Employees' Retirement System.**

§ 32-71. The New York State Employees' Retirement System.

- A. Summary. The Town will make available the New York State Employees' Retirement System pension plan to each eligible employee. An employee has a vested right to retirement benefits after 10 years of eligible public sector service. In the event that an employee leaves after 10 years of service but prior to retirement age, such employee may receive a benefit at

retirement age related to those years as a public sector employee.

- B. Mandatory membership. A full-time employee who began employment with the State of New York or with a participating employer on or after July 27, 1976, must join the retirement system. An employee who is appointed to a permanent, full-time position on a probationary basis must join the retirement system on the effective date of the probationary appointment. Employment is considered full-time unless:
- (1) The employee works less than 30 hours per week; or
 - (2) The annual compensation for the position is less than the state's minimum wage multiplied by 2,000 hours; or
 - (3) The employee is employed in a position which will be terminated within one year of its commencement; or
 - (4) The position is either provisional or temporary under the Civil Service Law; or
 - (5) The position is held on a less than twelve-month per year basis.
- C. Optional membership; an employee who is not mandated to join may join the retirement system. Such employee must complete an application form, which can be obtained from the Secretary to the Supervisor. An employee who is not mandated to join and chooses not to join, must complete a waiver of enrollment form.

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§ 32-72. Americans with Disabilities Act.**

§ 32-72. Americans with Disabilities Act.

The Town of Esopus does not discriminate against qualified individuals with a disability who, with or without reasonable accommodation, can perform the essential functions of the

employment position that such individual holds or desires. It is the policy of the Town to hire, promote and maintain terms, conditions and privileges of employment in a manner which does not discriminate on the basis of a qualified individual's disability.

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ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE IX, Compliance Policies /
§ 32-73. Equal employment opportunity.**

§ 32-73. Equal employment opportunity.

- A. Policy statement. The Town of Esopus is an equal opportunity employer. The Town does not discriminate on the basis of race, color, sex, religion, age, national origin, marital status, disability or veteran status. Discrimination based on any of the above groups is strictly prohibited. This policy applies to all conditions of employment, including, but not limited to, hiring, placement, compensation, promotion, transfer, training, leave of absence and termination.
- B. Notification of policy violations. An employee should immediately report any perceived violation of this policy to the employee's department head. In the event that the employee is unable to discuss this matter with the department head, the complaint should be reported to the Town Supervisor or other member of the Town Board. All complaints of discrimination will be investigated discreetly and promptly. An employee who reports discrimination will not suffer adverse employment consequences as a result of making the complaint.
- C. Disciplinary action. Any employee, supervisor or department head who, after investigation, is found to have violated this policy will be subject to appropriate disciplinary action in accordance with the Civil Service Law (§ 75).

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POLICIES -- EMPLOYEE HANDBOOK / ARTICLE IX, Compliance Policies /
§ 32-74. Fair treatment.**

§ 32-74. Fair treatment.

- A. Policy statement. It is the policy of the Town to treat all employees with fairness, respect and dignity. The Town will not tolerate harassment or discrimination of any kind in the workplace.

- B. Notification of policy violations. An employee should immediately report any kind of harassment or discrimination in the workplace to the employee's department head. In the event that the employee is unable to discuss this matter with the department head, the complainant should be reported to the Town Supervisor or other member of the Town Board. All complaints of discrimination will be investigated discreetly and promptly. An employee who reports harassment or discrimination in the workplace will not suffer adverse employment consequences as a result of making the complaint.
- C. Disciplinary action. Any employee, supervisor or department head who, after investigation, is found to have violated the fair treatment policy will be subject to appropriate disciplinary action in accordance with the Civil Service Law (§ 75).

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POLICIES -- EMPLOYEE HANDBOOK / ARTICLE IX, Compliance Policies /
§ 32-75. Sexual harassment.**

§ 32-75. Sexual harassment.

- A. Policy statement. While all forms of harassment are prohibited, the Town of Esopus explicitly prohibits the sexual harassment of employees.
- B. Definition of sexual harassment. For the purpose of this policy, sexual harassment will mean unwelcome sexual advances, requests for sexual favors and/or other verbal or physical conduct of a sexual nature when any or all of the following conditions exist:
 - (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - (2) When submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; or
 - (3) Such conduct has the purpose or effect of interfering unreasonably with an individual's work performance or is creating an intimidating, hostile, or offensive working environment.
- C. Enforcement of sexual harassment policy.
 - (1) It is the responsibility of the Town to maintain a workplace free of any form of sexual harassment. The Town will not tolerate any actions by a department head or other supervisory staff that threatens or insinuates, either explicitly or implicitly, that an employee's refusal to submit to sexual advances will adversely affect the employee's

employment, evaluation, wages, advancement, assigned duties, shifts or any other condition of employment or career development.

- (2) The responsibility for maintaining a workplace free of any form of sexual harassment is not limited to department heads or supervisory staff. All employees are prohibited from engaging in conduct including, but not limited to, the following:
- (a) Sexual flirtations, touching, advances or propositions;
 - (b) Verbal abuse of a sexual nature, such as swearing, jokes or comments of a sexual nature, etc.;
 - (c) Graphic or suggestive comments about an individual's dress or body;
 - (d) Using sexually degrading words to describe an individual; and/or
 - (e) Displaying sexually suggestive objects or pictures in the workplace, including photographs, postcards or posters.

- D. Notification of policy violations. An employee who believes to have experienced or witnessed sexual harassment in the workplace should immediately report such behavior to the employee's department head. In the event that the employee is unable to discuss this matter with the department head, the complaint should be reported to the Town Supervisor or other member of the Town Board. All complaints will be investigated discreetly and promptly. An employee who reports sexual harassment activities will not suffer adverse employment consequences as a result of making the complaint.
- E. Disciplinary action. Any employee, supervisor or department head who, after investigation, is found to have engaged in sexual harassment will be subject to appropriate disciplinary action in accordance with the Civil Service Law (§ 75).

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POLICIES -- EMPLOYEE HANDBOOK / ARTICLE IX, Compliance Policies /
§ 32-76. Drug-free workplace.**

§ 32-76. Drug-free workplace.

- A. Statement of compliance. The Town Board, in the interest of providing a safe work environment and a healthy productive workforce, has adopted the following Drug-Free Workplace Policy, which is consistent with the federal Drug-Free Workplace Act of 1988.
- B. Prohibited activity. The unlawful manufacture, distribution, dispensation, possession or use

of a controlled substance is strictly prohibited in all workplaces and work sites. An employee who, after investigation, is found to have violated this prohibition may be referred for counseling or rehabilitation and satisfactory treatment and will be subject to appropriate disciplinary action in accordance with the Civil Service Law (§ 75).

- C. Employee assistance. In establishing a drug-free workplace, it is the policy of the Town to work with an employee suffering from drug abuse so that the employee will receive assistance necessary to overcome dependency. An employee seeking such assistance is encouraged to contact the employee's department head or the Town's Employee Assistance Program to discuss the situation before problems begin to surface in the workplace. Any disclosures made by an employee will be treated as strictly confidential. The employee's decision to seek assistance will not be used as the basis for disciplinary action nor used against the employee in any disciplinary proceeding.
- D. Employee responsibilities. As a condition of the Town receiving federal grant moneys, each employee must abide by this policy and notify the department head of any criminal drug conviction occurring in the workplace within five calendar days of the conviction.
- E. Town responsibilities. The Town will notify the granting federal agency within 10 days after receiving notice from an employee of such a conviction or otherwise receiving actual notice of such conviction. In addition, the Town will take appropriate disciplinary action against the employee within 30 calendar days.

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POLICIES -- EMPLOYEE HANDBOOK / ARTICLE IX, Compliance Policies /
§ 32-77. Substance testing.**

§ 32-77. Substance testing.

- A. Statement of compliance. The Town Board has adopted a Substance Testing Policy that is in compliance with the Omnibus Transportation Employee Testing Act of 1991, Controlled Substances and Alcohol Use and Testing as outlined by the Department of Transportation in 49 CFR Parts 40, 382 and 391 of the Code of Federal Regulations. The purpose of this policy is to reduce accidents resulting from an employee's use of controlled substances and alcohol, thus reducing fatalities, injuries and property damage. The Substance Testing Policy defines many important details of the program, such as testing implementation, prohibitions and consequences, procedures, costs and disciplinary action.
- B. Covered employees. The Town's Substance Testing Policy applies to all employees who drive commercial motor vehicles requiring a commercial driver's license to operate.

- C. Acknowledgment form. A covered employee will receive a written copy of the Substance Testing Policy and must sign an employee acknowledgment form. This form will be placed in the employee's personnel file.

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POLICIES -- EMPLOYEE HANDBOOK / ARTICLE IX, Compliance Policies /
§ 32-78. Smoking.**

§ 32-78. Smoking.

- A. Restrictions. Smoking is prohibited in all Town buildings and facilities. Smoking is also prohibited in a Town vehicle unless all passengers of said vehicle agree to allow smoking.
- B. Questions. Any questions regarding this policy should be directed to the Town Supervisor.

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POLICIES -- EMPLOYEE HANDBOOK / ARTICLE X, Safety**

ARTICLE X, Safety

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ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE X, Safety / § 32-79. General
policies.**

§ 32-79. General policies.

- A. Policy statement. Prevention of injury and illness in the workplace requires the cooperation of all employees in all safety and health matters. It is the policy of the Town to reduce the number of workplace injuries and illnesses to an absolute minimum. Accidents can be prevented through use of reasonable precautions and the practice of safe working habits.
- B. Employee responsibility. In an effort to protect all employees and to safeguard equipment and property, before an employee begins a given task, the employee must fully understand the correct operation and possible hazards involved, safety procedures and necessary safety

equipment required to perform the job.

C. Safety program. The Town's safety program includes, but is not limited to, the following:

- (1) Providing mechanical and physical safeguards to the maximum extent possible.
- (2) Conducting inspections to find and eliminate unsafe working conditions and practices, control health hazards and comply with the safety and health standards for every job.
- (3) Training all employees in safety and health practices.
- (4) Providing necessary personal protective equipment and instructions for its use and care.
- (5) Developing and enforcing safety and health rules and requiring that employees cooperate with these rules as a condition of employment.
- (6) Investigating, promptly and thoroughly, every accident to find the cause and correct the problem to prevent future occurrences.
- (7) Providing first aid kits and fire extinguishers throughout buildings and facilities.

D. Accident plan. In the event of an accident, an employee must immediately stop work and take the following steps:

- (1) Eliminate the immediate cause of the accident.
- (2) Provide aid to the injured person and summon for assistance.
- (3) Call the department head immediately.
- (4) If the accident appears serious, call an ambulance.
- (5) Take steps to prevent additional accidents.

E. Accident reporting procedures. In the event that an accident occurs in the workplace, the following procedures will apply:

- (1) When an accident occurs which results either in the loss of an employee's work time or in the provision of medical care to an employee, the employee's supervisor must complete an Employer's Report of Injury Form (C-2). This form must be submitted to the Secretary to the Supervisor within six workdays of the accident.
- (2) When an accident occurs which does not result in the loss of an employee's work time, or in the provision of medical care to the employee, the employee's supervisor must complete a Supervisor's Report of Incident Form. This form must be submitted to the Secretary to the Supervisor within six workdays of the accident.

- (3) The Secretary to the Supervisor must keep a log of the injury or illness for five years following the end of the calendar year to which it relates. A copy of this log, which includes totals and information for the year, must be posted in each department or areas where notices to employees are customarily posted.

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POLICIES -- EMPLOYEE HANDBOOK / ARTICLE X, Safety / § 32-80. Hazard
communication program.**

§ 32-80. Hazard communication program.

- A. Statement of compliance. The Town of Esopus is committed to providing a safe and healthy work environment and complies with all federal, state and local laws regarding hazard recognition, accident prevention and working conditions. The Town considers hazard communication and the prevention of workplace injuries and illnesses to be of prime importance. This portion of the Town's comprehensive safety program has been prepared to comply with the requirement of Title 29 of the Code of Federal Regulations 1926.59. It is intended to ensure that all information necessary for the safe use, handling and storage of hazardous chemicals be made available to employees.
- B. Guidelines. The following guidelines for the identification of chemical hazards and the preparation and proper use of containers, labels, placards and other types of warning devices must be adhered to:
 - (1) Chemical inventory. The Town must maintain an inventory of all known chemicals in use. An employee may obtain the chemical inventory from the employee's department head.
 - (2) Container labels. All chemicals on a work-site must be stored in the original or approved containers with the proper label attached. The department head must ensure that each container is labeled with the identity of the hazardous chemical contained and any appropriate hazard warnings. The Town will rely on manufacturer applied labels whenever possible. A container not properly labeled must be given to the department head for labeling or proper disposal.
 - (3) Dispensing chemicals. An employee may dispense chemicals from original containers only in small quantities intended for immediate use. Any chemical leftover must be returned to the original container or to the employee's department head for proper handling. No unmarked containers of any size are to be left in the work area unattended.
- C. Material safety data sheets (MSDS). An employee working with a hazardous chemical may

obtain a copy of the material safety data sheet (MSDS) and a standard chemical reference from the employee's department head.

- D. Employee training. An employee must be trained to work safely with hazardous chemicals. This training program must cover the following areas:
- (1) Methods used to detect the release of hazardous chemicals in the workplace.
 - (2) Physical and health hazards of chemicals and the measures used to protect employees.
 - (3) Safe work practices.
 - (4) Emergency responses to the exposure of hazardous chemicals.
 - (5) Proper use of personal protective equipment.
 - (6) Hazard communication standards, including labeling and warning systems, and an explanation of the use of material safety data sheets.
- E. Personal protective equipment (PPE). Depending on job duties, an employee must routinely wear protective devices, such as gloves, as directed by the employee's department head. An employee may obtain required personal protective equipment (PPE) from the employee's department head. An employee who is required to wear special safety equipment as directed by the department head must comply with the department head's request. An employee who does not follow the department head's instruction will be subject to appropriate disciplinary action in accordance with the Civil Service Law (§ 75).
- F. Emergency response. Any incident of overexposure or spill of a hazardous chemical/substance must immediately be reported to the employee's department head. The department head must ensure that proper emergency response actions are taken.
- G. Hazards of nonroutine tasks. The department head must inform employees of any special tasks that may arise which would involve possible exposure to hazardous chemicals. Review of safe work procedures and use of required PPE must be conducted prior to the start of these tasks. Where necessary, areas will be posted to indicate the nature of the hazard involved.

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ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE XI, Communication Procedures**

ARTICLE XI, Communication Procedures

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ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE XI, Communication Procedures
/ § 32-81. Bulletin board.**

§ 32-81. Bulletin board.

- A. Location. Bulletin boards will be located throughout Town buildings for communicating information to employees. An employee should check the bulletin boards frequently to keep informed on changes in employment matters and other items of interest.
- B. Posting of material. All material to be posted on bulletin boards, including memos and announcements, must have the prior approval of the appropriate department head.

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POLICIES -- EMPLOYEE HANDBOOK / ARTICLE XI, Communication Procedures
/ § 32-82. Adverse correspondence.**

§ 32-82. Adverse correspondence.

- A. Written communication. An employee who receives a memo, fax message, letter, telegram, legal notice, summons or other form of communication of a negative nature must immediately forward the document to the appropriate department head.
- B. Verbal communication. An employee who receives a verbal complaint from a Town resident of unfair treatment or expressions of anger or dissatisfaction must immediately notify the appropriate department head.

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ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL
POLICIES -- EMPLOYEE HANDBOOK / ARTICLE XII, Dispute Resolution**

ARTICLE XII, Dispute Resolution

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ADMINISTRATIVE LEGISLATION / Chapter 32, PERSONNEL**

**POLICIES -- EMPLOYEE HANDBOOK / ARTICLE XII, Dispute Resolution /
§ 32-83. Grievance procedure.**

§ 32-83. Grievance procedure.

- A. Dispute resolution. The Town Board has established a set of procedures to provide for the orderly resolution of differences in a fair and equitable manner at the earliest possible stage and to promote a harmonious and cooperative relationship between employees, Department Heads and members of the Town Board which will enhance the overall operation of the Town.
- B. Definition of grievance. For the purpose of this Employee Handbook, a grievance will mean a claimed violation, misinterpretation or inequitable application of the provisions of this Employee Handbook.
- C. Informal grievance (step one).
 - (1) An employee who claims to have a grievance may present the grievance to the employee's immediate supervisor. The grievance must be submitted, in writing or verbally, within seven calendar days following knowledge of the event(s) which caused the grievance or when the employee should have had knowledge.
 - (2) Within seven calendar days after receiving the grievance, the employee's immediate supervisor will meet with the employee to discuss and attempt to resolve the matter.
- D. Formal grievance (step two).
 - (1) In the event that the informal grievance is not adjusted at step one, the employee may submit the matter to the employee's department head. The grievance must be submitted, in writing, within seven calendar days from receiving the step one response or when the response should have been received.
 - (2) Within seven calendar days after receiving the grievance, the department head will meet with the employee to discuss and attempt to resolve the matter. Within seven calendar days from the meeting, the department head will issue a written response which will be given to the Town Supervisor and the employee.
- E. Appeal to Town Supervisor (step three).
 - (1) In the event that the employee is not satisfied with the response at step two, the employee may submit the matter to the Town Supervisor. The grievance must be submitted, in writing, within seven calendar days from receiving the step two response or when the response should have been received.

- (2) At this step, the grievance will specify the nature of the grievance, including the provision of the Employee Handbook that was allegedly violated and a statement of facts, times, dates and the remedy sought.
- (3) Within seven calendar days after receiving the grievance, the Town Supervisor will investigate the matter and issue a written response, which will be given to the employee.

F. Appeal to Town Board (step four).

- (1) In the event that the employee is not satisfied with the response at step three, the employee may submit the matter to the Town Board by filing a request for hearing with the Town Clerk. The request for hearing must be submitted, in writing, within seven calendar days from receiving the step three response or when the response should have been received.
- (2) The Town Board will set the time and place for the hearing. All decisions rendered by the Town Board will be final and binding.

G. Right to representation. The employee will be allowed representation by counsel at the hearing or have the right to summon witnesses.

H. Time limits. The employee must adhere to the time limits set forth in this grievance procedure. In the event that the employee does not advance the grievance to the next step within the established time limit, the grievance will be considered withdrawn and no further appeal will be accepted. The time limits may be extended by mutual agreement, provided that the extension is in writing, dated and signed by the employee and the official who is to receive the grievance.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 34, PLANNING BOARD**

Chapter 34, PLANNING BOARD

[HISTORY: Adopted by the Town Board of the Town of Esopus 8-9-1972. Amendments noted where applicable.]

GENERAL REFERENCES

- Environmental Board -- See Ch. 9.**
Meetings -- See Ch. 25.
Waterfront Advisory Board -- See Ch. 43.
Compensation for planning and zoning review -- See Ch. 71.
Flood damage prevention -- See Ch. 80.

**Subdivision of land -- See Ch. 107.
Zoning -- See Ch. 123.**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 34, PLANNING BOARD / § 34-1.
Objectives.**

§ 34-1. Objectives.

The objectives of the Planning Board shall be to plan for the orderly, efficient, economic and aesthetic development of the Town of Esopus in accordance with the Town of Esopus Zoning Ordinance^{EN(10)} and the Town of Esopus Developmental Plan.

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ADMINISTRATIVE LEGISLATION / Chapter 34, PLANNING BOARD / § 34-2.
Membership; terms.**

§ 34-2. Membership; terms.

- A. The Planning Board shall consist of seven members who are appointed by the Town Board of the Town of Esopus.^{EN(11)}
- B. The members shall serve terms of seven years, which will expire consecutively.
- C. The membership should represent the various communities within the Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 34, PLANNING BOARD / § 34-3.
Officers.**

§ 34-3. Officers.

The officers of the Planning Board shall be a Chairman and a Secretary. The Chairman shall preside at all meetings and shall be chief executive officer. The Secretary shall keep minutes of all meetings and shall maintain a file of all correspondence and records. The Secretary shall also perform the duties of the Chairman in his absence.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 34, PLANNING BOARD / § 34-4.
Meetings.**

§ 34-4. Meetings.

- A. The regular monthly meeting of the Planning Board shall be held on the fourth Thursday of each month at the Esopus Town Hall in Port Ewen, New York.
- B. The annual organizational meeting of the Planning Board shall be held during the first regular meeting following the January organizational meeting of the Town Board.
- C. Special meetings may be called from time to time by the Chairman or upon request of a majority of the Planning Board members. A minimum of five days' notification shall be given.
- D. Emergency meetings may be called by the Chairman or upon request of a majority of the Planning Board members.
- E. Prospective applicants or representatives desirous of introducing or discussing any business with the Planning Board shall make an appointment at least five days prior to the regular meeting.
- F. Final action on important questions shall be made in executive session.
- G. A period prior to adjournment shall be open for public discussion and opinion.

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ADMINISTRATIVE LEGISLATION / Chapter 34, PLANNING BOARD / § 34-5.
Publicity releases. [Amended 4-16-1981]**

§ 34-5. Publicity releases. [Amended 4-16-1981]

When there is reasonable evidence that a proposed project shall be brought before a public hearing, a publicity release shall be written and approved by at least two members of the Planning Board and will be approved by the Chairman before release.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 34, PLANNING BOARD / § 34-6.
Attendance at meetings.**

§ 34-6. Attendance at meetings.

A member must attend at least eight of the 12 regular meetings during the year. A member shall

not miss more than three consecutive meetings without just cause.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 34, PLANNING BOARD / § 34-7.
Parliamentary procedure.**

§ 34-7. Parliamentary procedure.

Robert's Rules of Order shall govern all proceedings.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 34, PLANNING BOARD / § 34-8.
Quorum.**

§ 34-8. Quorum.

A majority of the members of the Planning Board shall constitute a quorum to transact business.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 37, RECORDS**

Chapter 37, RECORDS

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

GENERAL REFERENCES

Meetings -- See Ch. 25.

Fees -- See Ch. 76.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 37, RECORDS / ARTICLE I, Public
Access [Adopted 12-11-1974]**

ARTICLE I, Public Access [Adopted 12-11-1974]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 37, RECORDS / ARTICLE I, Public
Access [Adopted 12-11-1974] / § 37-1. Applicability.**

§ 37-1. Applicability.

The following rules and regulations shall apply to the public inspection and copying of such town records as are subject to public inspection by law and shall continue in effect until altered, changed, amended or superseded by further resolution of this Town Board or by action of the Committee on Public Access to Records established pursuant to Chapters 578, 579 and 580 of the Laws of 1974.^{EN(12)}

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ADMINISTRATIVE LEGISLATION / Chapter 37, RECORDS / ARTICLE I, Public
Access [Adopted 12-11-1974] / § 37-2. Place of inspection.**

§ 37-2. Place of inspection.

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

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ADMINISTRATIVE LEGISLATION / Chapter 37, RECORDS / ARTICLE I, Public
Access [Adopted 12-11-1974] / § 37-3. Time of inspection.**

§ 37-3. Time of inspection.

Such records shall be made available for public inspection on regular business days between the hours of 10:00 a.m. and 12:00 noon and 2:00 p.m. and 4:00 p.m., if readily available. If not readily available, a written request specifically describing records to which access is desired shall be filed with the town officer or employee charged with the custody and keeping thereof, who shall produce the same within 48 hours of such request. Such written request shall be on the form prescribed by the State Comptroller. If the town officer or employee charged with the custody and keeping of the records elects to refuse access, he shall submit to the requester a written statement of his reason therefor within 48 hours of such request.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 37, RECORDS / ARTICLE I, Public**

Access [Adopted 12-11-1974] / § 37-4. Fee for copies; certification.

§ 37-4. Fee for copies; certification.

- A. Copies. The town officer or employee charged with the custody and keeping of the record shall, upon request, make a copy or copies of any record subject to such inspection upon a payment of a fee of \$0.25 per page. If a copy or copies are desired thereof by the requester, the town officer or employee charged with the custody and keeping of the record shall make the same and mail or deliver the same to the requester within one week, depending on the volume and number of copies requested.
- B. Certification. Any town officer or employee charged with the custody and keeping of any such record shall, upon request, certify a copy of a document or record prepared pursuant to the provisions of the preceding subsection upon payment of a fee of \$1.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 37, RECORDS / ARTICLE I, Public
Access [Adopted 12-11-1974] / § 37-5. Deletion of identifying details.**

§ 37-5. Deletion of identifying details.

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

- A. Disclosure of such personal matters as may have been reported in confidence to an agency or municipality and which are not relevant or essential to the ordinary work of the agency or municipality.
- B. Disclosure of employment, medical or credit histories or personal references of applicants for employment, except that such records may be disclosed when the applicant has provided a written release permitting such disclosure.
- C. Disclosure of items involving the medical or personal records of a client or patient in a hospital or medical facility.
- D. The sale or release of lists of names and addresses in the possession of any department, if such lists would be used for private, commercial or fund-raising purposes.
- E. Disclosure of items of a personal nature when disclosure would result in economic or

personal hardship to the subject party and such records are not relevant or essential to the ordinary work of the department.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 37, RECORDS / ARTICLE I, Public Access [Adopted 12-11-1974] / § 37-6. List of records.

§ 37-6. List of records.

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

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 37, RECORDS / ARTICLE I, Public Access [Adopted 12-11-1974] / § 37-7. Record of votes.

§ 37-7. Record of votes.

In addition to such requirements as may be imposed by this chapter or by Chapter 578 of the Laws of 1974,^{EN(13)} each board, commission or other group of the town having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding in which he votes.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 37, RECORDS / ARTICLE II, Records Management [Adopted 1-8-1997 by L.L. No. 1-1997]

ARTICLE II, Records Management [Adopted 1-8-1997 by L.L. No. 1-1997]

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 37, RECORDS / ARTICLE II, Records Management [Adopted 1-8-1997 by L.L. No. 1-1997] / § 37-8. Program established; designation of officer.

§ 37-8. Program established; designation of officer.

There shall be a records management program established under the aegis of the Esopus Town Clerk. The Town Clerk is designated as the Town's Records Management Officer. The officer will be responsible for administering the noncurrent and archival public records and storage areas for the town in accordance with local, state and federal laws and guidelines.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 37, RECORDS / ARTICLE II, Records Management [Adopted 1-8-1997 by L.L. No. 1-1997] / § 37-9. Powers and duties of officer.

§ 37-9. Powers and duties of officer.

- A. The Town Records Management Officer shall have all the necessary powers to carry out the efficient administration, determination of value, use, preservation, storage and disposition of the noncurrent and archival public records kept, filed or received by the officers and departments of the Town of Esopus.
- B. The Records Management Officer shall continually survey and examine public records to recommend their classification so as to determine the most suitable methods to be used for the maintaining, storing and servicing of archival material, such as:
 - (1) Obsolete and unnecessary records according to New York State Archives Records Retention and Disposition Schedules (MU-1) thereby subject to disposition;
 - (2) information containing administrative, legal, fiscal, research, historical or educational value which warrant their permanent retention; or
 - (3) Records not subject to disposition according to State Law.
- C. The Records Management Officer shall establish guidelines for proper records management in any department or agency of town government in accordance with local, state and federal laws and guidelines.
- D. The Records Management Officer shall report annually to the Town Board on the powers and duties herein mentioned, including, but not limited to, the cost-benefit ratio of programs effectuated by the program.
- E. The Records Management Officer shall oversee all requests for records storage equipment, microfilm equipment, etc., and coordinate and participate in planning for the expansion of

micro graphics and automated data processing systems.

- F. The Records Management Officer shall establish an inactive records storage area for the storage, processing and servicing of all noncurrent and archival records for all town departments and agencies.
- G. The Records Management Officer shall perform the following functions with respect to the town:
 - (1) Advise and assist town departments in reviewing and selecting records to be transferred to the inactive records storage area for storage and/or preservation.
 - (2) Continually survey and examine public records to determine the most stable methods to be used for the creating, maintaining, storing and servicing of archival materials.
 - (3) Establish and maintain an adequate repository for the proper storage, conservation, processing and servicing of archival records.
 - (4) Promulgate rules governing public access to and use of records in the archives, subject to the approval of the Records Advisory Board.
 - (5) Develop a confidentiality policy for archival records designated confidential, provided such policy does not conflict with any federal or state statutes.
 - (6) Provide information services to other Town of Esopus offices.
 - (7) Develop a procedure whereby historically important records are to be identified at the point of generation.
 - (8) Collect archival materials which are not official Town of Esopus records but which have associated value to the town or a close relationship to the existing archival collection. Such collecting shall be subject to archive space, staff and cost limitations and to the potential endangerment of such materials if they are not collected by the Archives.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 37, RECORDS / ARTICLE II, Records Management [Adopted 1-8-1997 by L.L. No. 1-1997] / § 37-10. Records Advisory Board.

§ 37-10. Records Advisory Board.

A Records Advisory Board shall be designated to provide advice, guidance and support to the records program. Members of the Records Advisory Board shall be in positions of sufficient authority to ensure compliance with records management practices throughout all departments.

The Board may consist of the Town Supervisor, the Town Clerk, the Superintendents of Sewer, Water and Highway or Town Historian, a representative from the Justice Court, the Assessor's office and the Tax Office. The Records Advisory Board shall:

- A. Provide advice to the Town Records Management Officer on the development of the records management program.
- B. Review the performance of the program on an ongoing basis and propose changes and improvements.
- C. Review retention periods not covered by the SARA Schedule MU-1 or retention period changes recommended by department heads.
- D. Provide advice on the appraisal of records for archival value and to be the final sign-off entity as to what is or is not archival.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 37, RECORDS / ARTICLE II, Records Management [Adopted 1-8-1997 by L.L. No. 1-1997] / § 37-11. Custody.

§ 37-11. Custody.

The Records Management Officer shall maintain physical custody and official responsibility of all records in his/her possession. Department heads shall retain constructive control and authority over all department records, regardless of their physical location.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 37, RECORDS / ARTICLE II, Records Management [Adopted 1-8-1997 by L.L. No. 1-1997] / § 37-12. Replevin.

§ 37-12. Replevin.

The Town Attorney may take steps to recover local government records which have been alienated from proper custody and may, when necessary, institute actions of replevin.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 37, RECORDS / ARTICLE II, Records Management [Adopted 1-8-1997 by L.L. No. 1-1997] / § 37-13. Disposal of records.

§ 37-13. Disposal of records.

No records shall be destroyed or otherwise disposed of by a department of the town unless a records disposal form has been executed. Records will not be destroyed if they are required for any pending audit, litigation or other investigation.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 37, RECORDS / ARTICLE II, Records Management [Adopted 1-8-1997 by L.L. No. 1-1997] / § 37-14. Definitions.

§ 37-14. Definitions.

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

ARCHIVES -- Those official records which have been determined by the Records Management Officer and Advisory Committee to have sufficient historical or other value to warrant their continued preservation by the town.

INACTIVE RECORDS STORAGE AREA -- An establishment maintained by the town primarily for the storage, serving security and processing of records which must be preserved for varying periods of time and need not be retained in active office space and equipment.

RECORD -- Any documents, books, papers, photographs, sound recordings, microfilm or any other materials, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official town business.

RECORDS DISPOSITION

A. The removal by the town, in accordance with approved records control schedules, of records no longer necessary for the conduct of business by such agency through removal methods which may include:

- (1) The disposal of temporary records by destruction or donation; or
- (2) The transfer of records to the inactive records storage area for temporary storage of inactive records and permanent storage of records determined to have historical or other sufficient value warranting continued preservation.

B. The transfer of records from one town agency to any other town agency.

RECORDS MANAGEMENT -- The planning, controlling, directing, organizing, training, promotion and other managerial activities involved in records maintenance, use and disposition,

including records preservation, disposal, records centers or other storage facilities.

SERVICING -- Making information in records available to any town department for official use or to the public.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 39, RECREATION COMMISSION**

Chapter 39, RECREATION COMMISSION

[HISTORY: Adopted by the Town Board of the Town of Esopus 10-19-2006. Amendments noted where applicable.]

GENERAL REFERENCES

Park rules and regulations -- See Ch. 98.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 39, RECREATION COMMISSION / §
39-1. Establishment.**

§ 39-1. Establishment.

A commission is established which shall be known hereafter as the "Town of Esopus Recreation Commission," formerly known as the "Ross Park and the Town of Esopus Recreation Commission."

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 39, RECREATION COMMISSION / §
39-2. Membership; term; successors.**

§ 39-2. Membership; term; successors.

The Town of Esopus Recreation Commission shall consist of five Commissioners who shall be residents of the Town and shall serve at the pleasure of the Town Board for a term of five years, and the members of such Commission first appointed shall be appointed for such terms that the term of one Commissioner shall expire annually thereafter; and their successors shall thereafter be appointed to serve terms of years which shall total in number the membership of such Commission. The Summer Program Director, chosen by the Town Board, and a parks employee

employed by the Town of Esopus shall serve as ex officio members of the Commission.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 39, RECREATION COMMISSION / §
39-3. Officers; meeting procedures; quorum; records and annual report.**

§ 39-3. Officers; meeting procedures; quorum; records and annual report.

The Town Board shall designate a member of the Commission to act as Chairman thereof. At the first meeting of the Commission, its members shall elect from among themselves a Recording Secretary. The Commission shall adopt rules and procedures for its monthly meetings. Three voting members shall constitute a quorum in order to carry out a vote. The Commission shall keep accurate records of its meetings and activities and shall file an annual report with the Town Supervisor.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 39, RECREATION COMMISSION / §
39-4. Monthly minutes; recreation budget.**

§ 39-4. Monthly minutes; recreation budget.

The Commission shall submit its monthly minutes to the Town Board concerning the activities and work of the Commission and shall submit its recommendations regarding the recreation budget by September 1, each year, to the Town Supervisor.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 39, RECREATION COMMISSION / §
39-5. Compensation.**

§ 39-5. Compensation.

The members of the Commission, including ex officio members, shall receive no compensation for their services as members thereof but may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties within the appropriations made available thereof

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 39, RECREATION COMMISSION / §**

39-6. Vacancies.

§ 39-6. Vacancies.

The vacancies in such Commission occurring otherwise than by expiration of term shall be filled in the same manner as original appointments.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 39, RECREATION COMMISSION / § 39-7. Powers and duties.

§ 39-7. Powers and duties.

The Town of Esopus Recreation Commission shall advise the Town Board, notwithstanding the terms set forth above, for the purpose of identification, coordination and systemization of all the recreation needs of the Town of Esopus, including but not limited to playgrounds, parks, neighborhood recreation centers, events and festivals, with all the powers and responsibilities of local authorities under Article 13 of the General Municipal Law.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 40, (RESERVED)

Chapter 40, (RESERVED)

[Former Chapter 40, Residency Requirements, adopted 5-19-1982 by L.L. No. 1-1982, was superseded 4-16-1998 by L.L. No. 2-1998. For current provisions, see Ch. 32, Personnel Policies -- Employee Handbook.]

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 43, WATERFRONT ADVISORY BOARD

Chapter 43, WATERFRONT ADVISORY BOARD

[HISTORY: Adopted by the Town Board of the Town of Esopus 4-8-1987 by L.L. No. 2-1987. Amendments noted where applicable.]

GENERAL REFERENCES

Environmental Board -- See Ch. 9.

**Planning Board -- See Ch. 34.
Waterfront Revitalization Program -- See Ch. 44.
Subdivision of land -- See Ch. 107.
Zoning -- See Ch. 123.**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 43, WATERFRONT ADVISORY BOARD
/ § 43-1. Purpose.**

§ 43-1. Purpose.

The purpose of this chapter is to establish a Waterfront Advisory Board to provide assistance and advice in the implementation of the Local Waterfront Revitalization Program (LWRP) of the Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 43, WATERFRONT ADVISORY BOARD
/ § 43-2. Establishment; membership; terms; compensation.**

§ 43-2. Establishment; membership; terms; compensation.

- A. The Advisory Board shall be established and appointed by the Town Board of the Town of Esopus.
- B. The Board shall consist of nine members who shall be appointed for a period of three years, except that the first Board shall consist of three members appointed for three years, three members appointed for two years and three members appointed for one year.
- C. Each member shall be a resident of the town. Members shall be chosen for their demonstrated knowledge, ability and readiness to serve the Board in functions described in this chapter and with due regard for maintaining among the membership a range of special aptitudes and expertise in areas relevant to the work of the Board. In addition, one member shall be a member of the Planning Board, one shall be a member of the Environmental Board and one shall be a member of the Zoning Board of Appeals. [Amended 12-13-1989 by motion; 1-14-1990 by L.L. No. 1-1990]
- D. Members of the Board shall serve without compensation, but shall be entitled to reimbursement for necessary expenditures in the performance of their work, subject to limitations of the budget established by the town.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I

**ADMINISTRATIVE LEGISLATION / Chapter 43, WATERFRONT ADVISORY BOARD
/ § 43-3. Rules and procedures.**

§ 43-3. Rules and procedures.

- A. The Board, subject to prior budget allocation, may retain clerical and/or professional services and may purchase such supplies as are necessary for the carrying out of its duties.
- B. The Board will make its own rules of procedure, subject to applicable law. It will elect a Chairman and may, in its discretion, also elect other officers from among its members and shall appoint a Secretary to record the minutes of its meetings, copies of which shall be filed with the Town Clerk.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 43, WATERFRONT ADVISORY BOARD
/ § 43-4. Powers and duties.**

§ 43-4. Powers and duties.

The Board's basic task will be to advise and assist in the implementation of the LWRP, its policies and projects, including physical, legislative, regulatory, administrative and other actions included in the program. In pursuance of this task, the Board will:

- A. Advise the Town Board on implementation, priorities, work assignments, time tables and budgetary requirements of the program.
- B. Review applications for site plans, zone changes, subdivisions and public works projects in the coastal area, as may be referred to it, and advise the appropriate agency as to their consistency with policies of the LWRP.
- C. Subject to the approval of the Town Board, make application for funding from state, federal or other sources to finance projects under the LWRP.
- D. Maintain liaison with related town bodies, including, but not limited to, the Planning and Zoning Boards and the Environmental Board, and with concerned nongovernmental bodies, in order to further the implementation of the LWRP.
- E. Upon the request of the Town Board, evaluate, in timely fashion, proposed actions of state agencies within the coastal zone in order to assure consistency of such actions with policies of the LWRP, advise the Board of any conflicts and participate in discussions to resolve such conflicts.
- F. Assist the Town Board in the review of proposed federal actions referred to it by the

Department of State and provide its opinion concerning the consistency of the action with local coastal policies.

- G. Prepare an annual report on progress achieved and problems encountered during the year and recommend such actions as the Board considers necessary for the further implementation of the LWRP to the appropriate body.
- H. Perform other functions regarding the waterfront area as the Town Board may assign to it from time to time.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 43, WATERFRONT ADVISORY BOARD
/ § 43-5. Limitations.**

§ 43-5. Limitations.

Notwithstanding any other provisions of this chapter or the LWRP, no powers, duties or functions are conferred by it on the Waterfront Advisory Board other than those set forth in § 43-4 above; and no provision of this chapter shall be construed as altering the powers, duties and functions of any existing town board, agency or officer of the Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 43, WATERFRONT ADVISORY BOARD
/ § 43-6. Continuation and expiration of term of Board.**

§ 43-6. Continuation and expiration of term of Board.

Five years from the date of initial appointment and every three years thereafter, the Board shall issue a finding as to its continued need and future function. Should the Board find that there is no longer a need for its services or that its functions are no longer appropriate, or should the Board fail to render any finding in a timely manner, the Board's term shall be considered to have expired, and its powers and duties shall automatically be assigned to the Planning Board.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 43, WATERFRONT ADVISORY BOARD
/ § 43-7. When effective.**

§ 43-7. When effective.

This chapter shall become effective upon the appointment of nine members to the Board as

provided for in this chapter.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 44, WATERFRONT REVITALIZATION
PROGRAM**

Chapter 44, WATERFRONT REVITALIZATION PROGRAM

[HISTORY: Adopted by the Town Board of the Town of Esopus 4-8-1987 by L.L. No. 3-1987. (This local law also provided that it shall be effective upon the approval of the LWRP by the Secretary of State of the State of New York.) Amendments noted where applicable.]

GENERAL REFERENCES

- Environmental Board -- See Ch. 9.**
- Planning Board -- See Ch. 34.**
- Waterfront Advisory Board -- See Ch. 43.**
- Subdivision of land -- See Ch. 107.**
- Zoning -- See Ch. 123.**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I
ADMINISTRATIVE LEGISLATION / Chapter 44, WATERFRONT REVITALIZATION
PROGRAM / § 44-1. Authority; intent; purpose.**

§ 44-1. Authority; intent; purpose.

- A. This chapter is adopted pursuant to the Waterfront Revitalization and Coastal Resources Act of the State of New York (Article 42 of the Executive Law).
- B. This chapter is intended to provide a framework for agencies of the Town of Esopus to consider the policies and purposes contained in the Local Waterfront Revitalization Program (LWRP) when reviewing applications for actions or direct agency actions, and to assure to the maximum extent practicable that such actions are consistent with said policies and purposes.
- C. It is the intention of the Town of Esopus that the preservation, enhancement and utilization of the natural and manmade resources of the town's unique coastal area take place in a coordinated and comprehensive manner to ensure a proper balance between natural resources and the need to accommodate population growth and economic development. Accordingly, it is the purpose of this chapter to achieve such a balance, permitting the beneficial use of coastal resources while preventing loss of living marine resources and wildlife; diminution of

open space areas or public access to the waterfront; shoreline erosion; impairment of scenic beauty; losses due to flooding, erosion and sedimentation; or permanent adverse changes to ecological systems.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 44, WATERFRONT REVITALIZATION PROGRAM / § 44-2. Definitions.

§ 44-2. Definitions.

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

ACTION -- A Type I, Type II or unlisted action as defined in the State Environmental Quality Review Act.^{EN(14)}

AGENCY -- Any department, board, commission, public authority or other agency of the Town of Esopus which has jurisdiction by law to approve or directly undertake a given action.

DIRECT ACTION -- An action which is planned and proposed for implementation by the Town of Esopus. "Direct actions" include but are not limited to capital projects, procedure-making, policy-making and zoning.

LOCAL WATERFRONT REVITALIZATION PROGRAM or LWRP -- The Local Waterfront Revitalization Program of the Town of Esopus adopted in 1987 pursuant to Article 42 of the Executive Law of the State of New York and as amended from time to time.

WATERFRONT ADVISORY BOARD or BOARD -- The Town of Esopus Waterfront Advisory Board established by Local Law No. 2-1987.^{EN(15)}

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART I ADMINISTRATIVE LEGISLATION / Chapter 44, WATERFRONT REVITALIZATION PROGRAM / § 44-3. Review of actions.

§ 44-3. Review of actions.

- A. As early as possible in an agency's formulation of a direct action or as soon as an agency receives an application for approval of an action, the agency and the Waterfront Advisory Board shall follow the review procedures set forth in this chapter. No action subject to these procedures shall begin until the procedures have been completed.
- B. The agency shall refer to the Board a copy of the application or plan for a proposed direct

action, as the case may be.

C. Opinion.

- (1) The Board, within 30 days from such referral, shall render an opinion in writing to the referring agency covering the following questions:
 - (a) Whether the proposed action is inconsistent with one or more of the policies of the LWRP and, if so, in what way.
 - (b) Whether the proposed action will advance one or more of said policies and, if so, how.
 - (c) If Subsection C(1)(a) and (b) are both answered in the affirmative, whether and to what extent the inconsistency outweighs or is outweighed by the advancement when measured by the purposes of the LWRP.
- (2) The Board may also, in its discretion, suggest ways in which the purposes of the proposed action might be accomplished in a manner that would result in less hindrance or no hindrance to the policies and purposes of the LWRP and/or in greater advancement of them.

D. If the Board finds in its opinion rendered under Subsection C of this section that the proposed action will substantially hinder the achievement of or be substantially inconsistent with one or more policies of the LWRP, the referring agency shall, as soon as possible, upon receiving the Board's opinion and before commencing or permitting such action, issue a written statement either accepting the Board's opinion with regard to such inconsistency or setting it aside in whole or in part.

- (1) If any part of the finding of inconsistency is accepted, the proposed action may not begin unless and until the referring agency determines, with respect to the proposed action or any revision thereof which may be devised by it or presented to it in a revised application, that:
 - (a) No reasonable alternatives exist which would permit the action to be taken in a manner which would not substantially hinder the achievement of such policy or policies.
 - (b) The action taken will minimize all adverse effects on such policy or policies to the maximum extent practicable.
- (2) In the case of a direct action, the determination must further include a finding that the action will result in an overriding public benefit.
- (3) A determination by the referring agency under this subsection shall constitute a

determination that the action is consistent to the maximum extent practicable with the approved LWRP as required by Executive Law, Article 42.

- E. In making any determination under Subsection D, the referring agency shall take the opinion of the Board fully into account and make it a part of the public record of its proceedings. Where the referring agency acts contrary to the opinion of the Board, it shall state the basis upon which it has found that the action is either consistent with the policies of the LWRP or that the conditions of Subsection D above have been satisfied.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION**

**PART II
GENERAL LEGISLATION**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 46, ADVERTISING MATERIALS**

Chapter 46, ADVERTISING MATERIALS

[HISTORY: Adopted by the Town Board of the Town of Esopus 5-12-1976 by L.L. No. 1-1976. Amendments noted where applicable.]

GENERAL REFERENCES

Peddling and soliciting -- See Ch. 100.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 46, ADVERTISING MATERIALS / § 46-1.
Distribution restricted.**

§ 46-1. Distribution restricted.

It shall be unlawful for any person to leave hanging any kind of bag or bags containing advertising materials or samples or to distribute advertising material or samples at a home located within the Town of Esopus, New York, other than the home of the person soliciting the same, by placing such material at the home or on the property of the person owning or occupying such home, unless the person distributing such advertising material or samples obtains the written consent of the person occupying the home.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 46, ADVERTISING MATERIALS / § 46-2.
Exceptions.**

§ 46-2. Exceptions.

The foregoing provision shall not apply to the distributing of advertising materials through the United States Postal Service. The provisions of this chapter shall not apply to the distribution of any newspaper of general circulation nor to materials distributed by charitable or nonprofit organizations.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 46, ADVERTISING MATERIALS / § 46-3.
Penalties for offenses. [Amended 4-16-1981 by L.L. No. 6-1981]**

§ 46-3. Penalties for offenses. [Amended 4-16-1981 by L.L. No. 6-1981]

A violation of this chapter shall be deemed an offense, and all persons, including corporations, found in violation shall be subject to a fine of not more than \$250 or to imprisonment for a term of not more than 15 days, or both.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 48, ALARM SYSTEMS**

Chapter 48, ALARM SYSTEMS

[HISTORY: Adopted by the Town Board of the Town of Esopus 7-16-1998 by L.L. No. 4-1998. Amendments noted where applicable.]

GENERAL REFERENCES

**Appearance tickets -- See Ch. 50.
Fire prevention -- See Ch. 77.**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 48, ALARM SYSTEMS / § 48-1. Title.**

§ 48-1. Title.

This chapter shall be known and may be cited as the "Alarm System Local Law of the Town of Esopus."

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 48, ALARM SYSTEMS / § 48-2. Declaration of
policy.**

§ 48-2. Declaration of policy.

The Town Board of the Town Esopus is concerned that a large number of audible burglar and fire alarm signals transmitted from locations in the Town of Esopus are activated automatically as the result of defective or malfunctioning equipment or are caused by the negligence of the owner or occupant of the premises to which the Police or Fire Departments is required to respond as the result of the signal and where an emergency condition is found not to exist, resulting in an unnecessary use of the personnel and resources of the departments. The Town Board believes that the imposition of a scale of penalties for repeated false alarms will encourage property owners and occupants to use care in the use of their alarm equipment and to maintain the equipment in proper condition and that a registration record will facilitate notification to alarm owners of possible violations of this chapter.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 48, ALARM SYSTEMS / § 48-3. Definitions.**

§ 48-3. Definitions.

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

FALSE ALARM -- The activation of an audible alarm system or of a signal transmitted to a police or fire department, giving notice of fire, unlawful entry or other damage to or intrusion upon property within the Town of Esopus where, upon response by the Fire or Police Department, the condition of fire, unlawful entry, damage or intrusion upon property is found not to exist. It shall not be deemed a false alarm where the system or signal is activated by a natural disaster, such as a hurricane, lightning, thunderstorm, earthquake, or an interruption in the electrical or telephone services to the premises without the knowledge or control of the owner or occupant thereof.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 48, ALARM SYSTEMS / § 48-4. Registration
required.**

§ 48-4. Registration required.

- A. Effective January 1, 1998, the owner or occupant of any premises in the Town of Esopus upon which a burglar or fire alarm system is operated shall provide the following information, in writing, to the Town of Esopus Building Inspector:
 - (1) The name, address and business and residence telephone numbers of the property owner and occupant.
 - (2) The property location, both by street or postal address and tax roll identification number.
 - (3) The number of individual tenants or subtenants occupying the premises.
- B. The Building Inspector's Office shall be notified by the owner or occupant within 15 days of any change in the information previously provided.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 48, ALARM SYSTEMS / § 48-5. Record of
false alarms to be maintained.**

§ 48-5. Record of false alarms to be maintained.

- A. A member of the Police or Fire Department who proceeds to a premises in response to the communication of a signal which is determined to be a false alarm may thereafter file a written report with the Building Inspector setting forth the date, time, premises, location, whether an owner or occupant was present, whether there appeared to be any fire, unlawful entry, intrusion or other damage to the premises and whether it appeared that the alarm signal was activated by a natural disaster as above described.
- B. The Building Inspector shall maintain a record of the reports of false alarms reported to him pursuant to the preceding subsection.
- C. Upon the receipt of the first report of a false alarm, the Building Inspector shall forward a copy of each report, either personally or by first class mail, to the person or persons identified pursuant to § 48-4A of this chapter. For each successive report received within a twelve-month period, such reports shall be delivered either personally or by certified mail, return receipt requested, and accompanied by a copy of this chapter.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 48, ALARM SYSTEMS / § 48-6. Right of
inspection.**

§ 48-6. Right of inspection.

The Building Inspector and, in the case of fire alarms, the Fire Chief or their designated deputies shall have the right to inspect the alarm system, at the premises on which it is located, upon consent of the owner, occupants or lessee of the property or, if such consent is not given, upon obtaining an administrative search warrant from a court of competent jurisdiction. Nothing set forth in this chapter shall be deemed or intended to restrict the ability of the Building Inspector or Fire Chief to inspect the alarm system on the subject premises without consent or without a warrant in case of an emergency.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 48, ALARM SYSTEMS / § 48-7. Penalties for
offenses.**

§ 48-7. Penalties for offenses.

- A. The owner or occupant of the premises from which more than two false alarms shall have previously been given within any twelve-month period and who shall have, at the time of the first alarm, maintained current registration information with the Building Inspector as required by the provisions of this chapter shall be guilty of a violation and shall be punished by a fine of not more than \$100 for the first violation and by a fine of not more than \$250 for each subsequent violation occurring within a twelve-month period. For the purposes of this subsection, a subsequent violation shall be deemed to have occurred each time a false alarm is reported within 12 months of the first violation.

- B. The owner or occupant of premises from which more than one false alarm shall have been given within any twelve-month period and who shall not have, at the time of the first alarm, maintained current registration information with the Building Inspector as required by the provisions of this chapter shall be guilty of a violation and shall be punished by a fine of not more than \$100 for the first violation and by a fine of not more than \$250 for each subsequent violation occurring within a twelve-month period. For the purposes of this subsection, a subsequent violation shall be deemed to have occurred each time a false alarm is reported within 12 months of the first violation.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 48, ALARM SYSTEMS / § 48-8. When
effective.**

§ 48-8. When effective.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 50, APPEARANCE TICKETS**

Chapter 50, APPEARANCE TICKETS

[HISTORY: Adopted by the Town Board of the Town of Esopus 5-19-1982 by L.L. No. 2-1982. Amendments noted where applicable.]

GENERAL REFERENCES

**Building construction -- See Ch. 56.
Dogs and other animals -- See Ch. 68.**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 50, APPEARANCE TICKETS / § 50-1 Statutory
authority; title.**

§ 50-1 Statutory authority; title.

This chapter is enacted pursuant to the authority of § 150.10 of the Criminal Procedure Law and shall be known as the "Appearance Tickets Law of the Town of Esopus."

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 50, APPEARANCE TICKETS / § 50-2 Purpose.**

§ 50-2 Purpose.

The purpose of this chapter is to authorize public servants of the Town of Esopus to issue and serve appearance tickets in connection with violations of state statutes, local laws, ordinances or rules and regulations of the Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 50, APPEARANCE TICKETS / § 50-3
Definitions.**

§ 50-3 Definitions.

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

APPEARANCE TICKET -- A written notice issued and subscribed by a police officer or other public servant authorized by state law or local law enacted pursuant to the provisions of the Municipal Home Rule Law to issue the same, directing a designated person to appear in a designated local criminal court at a designated future time in connection with his alleged commission of a designated offense. A notice conforming to such definition constitutes an appearance ticket, regardless of whether it is referred to in some other provision of law as a summons or by any other name or title.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 50, APPEARANCE TICKETS / § 50-4
Designation of certain Town officials to issue appearance tickets. [Amended
9-18-2008 by L.L. No. 3-2008]**

**§ 50-4 Designation of certain Town officials to issue appearance tickets. [Amended
9-18-2008 by L.L. No. 3-2008]**

A. The following public servants of the Town of Esopus are hereby authorized to issue and serve appearance tickets with respect to violations of state statutes, local laws, ordinances, rules or regulations of the Town of Esopus that such public servants are, respectively, required or authorized to enforce:

- (1) Highway Superintendent for removal of vehicles for snow removal.
- (2) Dog Warden for violation of Dog Local Law.
- (3) Building Inspector for violation of Building Code.
- (4) Zoning Enforcement Officer for violation of zoning.
- (5) Water Superintendent for violation of Water Code.
- (6) Sewer Superintendent for violation of Sewer Code.
- (7) Fire Marshal for violations of Fire Code. Fire inspectors shall be authorized to enforce all legislation relating to fire prevention and safety, as well as related parking restrictions enacted for firesafety purposes.
- (8) Landfill Superintendent for violation of landfill rules and regulations.

- (9) Stormwater Management Officer for violation of Stormwater Management and Erosion and Sediment Control Code.
- B. Each of the above-named elected or appointed officials may appoint a deputy, with the approval of the Town Board, to carry out the provisions of this chapter.
- C. The Zoning Enforcement Officer and the Town Superintendent of Highways or their appointed deputies shall also have the power to issue appearance tickets for violations of those sections of the Code of the Town of Esopus dealing with sidewalks, junk cars, junkyards and the dumping of garbage in places not authorized by the Code.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 53, BINGO**

Chapter 53, BINGO

[HISTORY: Adopted by the Town Board of the Town of Esopus 6-25-1958; (This ordinance was approved at a referendum held 8-12-1958.) amended in its entirety 4-10-1963. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Games of chance -- See Ch. 83.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 53, BINGO / § 53-1. Conduct of games
authorized.**

§ 53-1. Conduct of games authorized.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 53, BINGO / § 53-2. Unlicensed games
prohibited.**

§ 53-2. Unlicensed games prohibited.

No person, firm, association, corporation or organization other than a licensee under the provisions of Article 14-H of the General Municipal Law shall conduct such game or shall lease or otherwise make available for conducting bingo a hall or other premises for any consideration whatsoever, direct or indirect.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 53, BINGO / § 53-3. Rent based on
percentage of receipts or net profits prohibited.**

§ 53-3. Rent based on percentage of receipts or net profits prohibited.

No bingo games shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 53, BINGO / § 53-4. Purchases from
unauthorized suppliers prohibited.**

§ 53-4. Purchases from unauthorized suppliers prohibited.

No authorized organization licensed under the provisions of Article 14-H of the General Municipal Law shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of bingo games from other than a supplier licensed under the Bingo Control Law or from another authorized organization.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 53, BINGO / § 53-5. Proceeds to be
exclusively devoted to lawful purposes of conductor.**

§ 53-5. Proceeds to be exclusively devoted to lawful purposes of conductor.

The entire net proceeds of any game of bingo and of any rental shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 53, BINGO / § 53-6. Limit on prize in single
game.**

§ 53-6. Limit on prize in single game.

No prize shall exceed the sum or value of \$250 in any single game of bingo.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 53, BINGO / § 53-7. Limit on series of prizes.**

§ 53-7. Limit on series of prizes.

No series of prizes on any one bingo occasion shall aggregate more than \$1,000.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 53, BINGO / § 53-8. Games to be managed or
operated by members only.**

§ 53-8. Games to be managed or operated by members only.

No person except a bona fide member of any such organization shall participate in the management or operation of such game.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 53, BINGO / § 53-9. Remuneration for
management or operation prohibited.**

§ 53-9. Remuneration for management or operation prohibited.

No person shall receive any remuneration for participating in the management or operation of any game of bingo.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 53, BINGO / § 53-10. Penalties for offenses.**

§ 53-10. Penalties for offenses.

The unauthorized conduct of a bingo game and any willful violation of any provisions of this chapter shall constitute and be punishable as a misdemeanor.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING**

Chapter 54, BLASTING

[HISTORY: Adopted by the Town Board of the Town of Esopus 2-10-1988 by L.L. No. 1-1988. Amendments noted where applicable.]

GENERAL REFERENCES

Excavations in public highways -- See Ch. 74.

Fire prevention -- See Ch. 77.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-1. Title.**

§ 54-1. Title.

This chapter shall be known as a "Local Law Regulating Blasting and the Use of Explosives in Blasting Operations."

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-2. Legislative
declaration.**

§ 54-2. Legislative declaration.

" It is an elementary principle in reference to private rights that every individual is entitled to the undisturbed possession and lawful enjoyment of his own property."^{EN(16)}

"Since blasting involves a substantial risk of harm, no matter the degree of care exercised, we

perceive no reason for ever permitting a person who engages in such an activity to impose this risk upon nearby persons or property without assuming responsibility therefor." _

Over 140 years ago, the New York Court of Appeals addressed the potential conflict which exists between the right of a person to undertake activities on his lands which disturb the right of quiet possession of land by an adjoining land owner. The Court concluded:

"If these rights conflict, the former must yield to the latter, as the more important of the two, since upon the grounds of public policy, it is better that one man should surrender a particular use of his land than that another should be deprived of the beneficial use of his property, altogether, which might be the consequence if the privilege of the former should be wholly unrestricted." _

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-3. Legislative intent.**

§ 54-3. Legislative intent.

It is the intent of the Town Board of the Town of Esopus to implement and encapsulate in statutory form the New York State Court of Appeals decision in Spano v Perini, (25 NY2d 11) (1970).

"One who engages in blasting must assume the responsibility, and be liable without fault for any injury he causes to neighboring property ..."

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-4. Definitions.**

§ 54-4. Definitions.

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

BLASTS and BLASTING -- Includes any activity whereby layers of earth or rock are dislodged or torn apart by the use of any explosive, and includes the displacement of any vegetation, ground cover, earth or rock by the explosion or detonation of any explosive material.

BUILDING INSPECTOR -- The duly appointed Building Inspector of the Town of Esopus.

PERSON -- Includes a person, persons, firm, partnership, corporation or other entity capable of being sued.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-5. Liability of blaster.**

§ 54-5. Liability of blaster.

A. "A blaster is absolutely liable for any damages he causes with or without trespass..." (We are) "not concerned with the particular manner by which the damage was caused, but by the

simple fact that any explosion in a built up area was likely to cause damage."EN(17)

- B. "The intentional setting off of explosives - that is blasting - in an area in which it is likely to cause harm to neighboring persons or property, shall make the blaster and the person who engages him absolutely liable for the consequences of his act."EN(18)
- C. "The evidence addressed by the plaintiff on this question can be entirely circumstantial and such evidence is sufficient as a matter of law."EN(19)

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-6. License required to
own, possess, transport or use explosives.**

§ 54-6. License required to own, possess, transport or use explosives.

No person shall purchase, own, possess, transport or use explosives in blasting operations in the town unless a license therefor shall have first been issued as provided under the Labor Law.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-7. Conduct of blasting
operations.**

§ 54-7. Conduct of blasting operations.

The holder of a blaster's license issued pursuant to this chapter shall perform blasting operations in accordance with the provisions, regulations and requirements of the Labor Law and of the codes, rules and regulations and any and all amendments thereto and, in addition, shall perform such blasting operations in accordance with recommended good practices usually employed in the industry.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-8. Exempt activities.**

§ 54-8. Exempt activities.

The provisions of this chapter shall not apply to any of the following:

- A. Agencies of the United States, including its armed services.

- B. The state and its political and civil subdivisions.
- C. Any school district or portion thereof situated in the town.
- D. Any district corporation.
- E. Any public benefit corporation.
- F. Police and fire-fighting forces.
- G. Any quarry operating and existing in the town prior to the enactment of the Zoning Ordinance (1969).

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-9. Hours and days of
operation.**

§ 54-9. Hours and days of operation.

It shall be unlawful to blast or carry on any blasting operation after 5:00 p.m. or before 8:00 a.m., nor shall any blasting be done on Sunday, except with the written approval of the Building Inspector.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-10. Permits; insurance
requirements; inspection fee.**

§ 54-10. Permits; insurance requirements; inspection fee.

- A. No person may use explosives in the Town of Esopus without first obtaining a permit from the Building Inspector.
- B. Permits for blasting shall only be issued to persons holding blaster's licenses or to contractors who have in their employ persons holding such licenses.
- C. The permit shall state the location for which it is approved, the date issued, the name of the person authorized to do the blasting and such other information as the Building Inspector may deem necessary.
- D. The permit shall be good only for the one location designated therein, shall not be transferable and shall expire not later than one year from the date thereof.
- E. The applicant shall also satisfy the Building Inspector that any magazine to be used for the

storage of explosives on the work for which the blasting permit is desired has been duly licensed by the Industrial Commissioner of the State of New York, as provided in Article 16, § 458, of the Labor Law.

- F. The permit shall not be issued until the applicant shall submit to the Town of Esopus a public liability insurance policy providing coverage in the amount of \$1,000,000 for each person injured, \$3,000,000 for each accident and \$1,500,000 for property damage, together with a certificate of insurance, executed by the carrier, that said policy will not be canceled except on 10 days' notice, in writing, to the Town of Esopus.
- G. Should the Building Inspector determine that the extent of the blasting operations in any particular case and the danger involved require public liability insurance coverage in greater amounts than above specified, he shall immediately certify his determination to the Town Clerk and simultaneously request that the Town Board fix the policy limits. The Town Board shall meet as expeditiously as possible for said purpose, and said Town Board is hereby authorized and empowered to fix the policy limits in such amount or amounts as the Town Board shall deem commensurate with the scope of the blasting operations and the dangers involved. Such liability insurance policy shall be issued by an insurance company authorized to do business in New York State and approved as to form and sufficiency by the Town Attorney, and, after such approval, said policy shall be filed with the Town Clerk.
- H. The liability hereby imposed upon the applicant shall be one of absolute liability for any such loss, expense, cost or damages of any kind or nature to persons or property resulting from blasting, with or without trespass, and shall not depend upon any question of negligence upon his part or upon the part of his agents, servants or employees. The neglect of anyone to direct the applicant, his agents, servants or employees to take any particular precaution or to refrain from doing any particular thing shall not excuse the applicant from the liability hereby imposed upon him.
- I. An application for such permit shall be accompanied by an inspection fee of \$100 for each day the blasting shall take place. [Amended 4-21-2005]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-11. Records to be kept.**

§ 54-11. Records to be kept.

The blaster shall each day deliver to the Town Clerk before 10:00 a.m. the records of the blasting done on the previous day. This record shall contain, at a minimum, the following information for each blast:

- A. The name and address of the person, firm or corporation responsible for the detonation of the

- blast.
- B. The date.
- C. The time.
- D. The spacing.
- E. The burden (feet).
- F. The depth (feet).
- G. The subdrilling (feet).
- H. The stemming (feet).
- I. The number of holes (diameter in inches).
- J. The maximum explosive per delay.
- K. The type of day.
- L. The wind direction.
- M. The make of explosive (pounds).
- N. The total explosive used for each blast.
- O. The delay system.
- P. The delay manufacturer.
- Q. The delay cap numbers.
- R. The minimum interval.
- S. The name of the blaster.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-12. Restricted uses.**

§ 54-12. Restricted uses.

It shall be unlawful for any person, firm or corporation to engage in the use of explosives or combustibles for blasting purposes without following, within the Town of Esopus, the following precautions and procedures:

- A. Blasts shall be made with small charges consisting of an explosive agent no greater than 12 sticks of forty-percent dynamite or the equivalent thereof.
- B. Barricades shall be erected around blasting areas at all times.
- C. Watchmen shall be posted in sufficient numbers to warn all persons of danger while blasting is in progress. Said watchmen shall not be less than two in number and shall carry red flags.
- D. Blasts shall be covered with wire mesh mats or railroad ties to effectively prevent the spraying of stones, earth or other debris on the surrounding areas.
- E. All persons living within a radius of 500 feet of a point at which a blast is to be made shall be personally warned to take necessary precautions by opening windows and doors.
- F. Blasting shall be done only by duly licensed persons.
- G. Before any explosive is detonated, the person holding the blaster's permit shall sound a horn loud enough to be heard 1/4 of a mile away three times and wait five minutes before actually detonating the explosive.
- H. No blasting shall be done except between the hours of 8:00 a.m. and 5:00 p.m.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-13. Stop-work orders.**

§ 54-13. Stop-work orders.

- A. In the event that blasting is carried on contrary to the conditions contained in this chapter, the Building Inspector must issue a stop-work order.
- B. No blasting shall be conducted in the Town of Esopus which shall cause any vibrations in any neighboring properties. The sudden appearance of cracks in floors, walls or ceilings or the lengthening of the same or the cracking of windows or the implosion or explosion of windows shall be prima facie evidence of the use of excessive amounts of explosives, and the Building Inspector must issue a stop-work order upon observation of the same. No appeal to the Zoning Board of Appeals shall act as a lifting of a stop-work order, notwithstanding any provision of law.
- C. The Building Inspector shall have the authority to lift the stop-work order upon proof that the next successive explosion (blast) shall not only be within the limits set forth in § 54-13A above, but shall also contain fewer explosives than the prior explosion so that the explosions do not vibrate neighboring houses.
- D. It shall be no excuse that the use of lesser amounts of explosives would increase the cost of

removing the rock and earth.

- E. Failure to comply with the stop-work order shall be deemed a misdemeanor and punishable by a fine of not more than \$2,500 for each day such violation of the law shall be permitted to exist or by imprisonment for a term of not more than six months, or both.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-14. Blasts to be covered.**

§ 54-14. Blasts to be covered.

Before firing any blast, except where the same is in a tunnel, the material to be blasted shall be covered on the top and sides with timber, held securely together by strong chains or cables of iron or steel and covered with sheets of metal or heavy woven matting of rope or wire.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-15. Notice to Town Clerk
required.**

§ 54-15. Notice to Town Clerk required.

One hour before the detonation of any blast (explosion), the contractor and/or blaster shall give notice to the Town Clerk by telephone or in person of the exact time that the explosion will take place.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-16. Blasting contiguous
to structures or in the vicinity of weak structures; additional requirements.**

**§ 54-16. Blasting contiguous to structures or in the vicinity of weak structures; additional
requirements.**

The blasting of rock contiguous to any structure shall be so conducted as not to cause damage thereto. To this end, weak walls or other supports shall be shored up, and rotten or decomposed rock shall be removed only by use of gads, picks or crowbars. When blasting in the vicinity of a weak structure is unavoidable, only light face blasts with short lines of resistance and charges shall be used.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II

GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-17. Unexploded charges to be removed.

§ 54-17. Unexploded charges to be removed.

Immediately after firing a blast, the blaster shall cause all debris to be removed and shall thoroughly examine the rock and the drill holes to ascertain whether there remains any unexploded charge, and until this is done, no further drilling or blasting shall take place. In case a blast shall fail to carry away the entire drill hole and leaves the lower part intact, no further drilling shall be done in that hole.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-18. Severability.**

§ 54-18. Severability.

In the event that any provision of this chapter shall be found by a court of competent jurisdiction to be invalid or unconstitutional, that finding shall not invalidate the other provisions of this chapter.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-19. Attorneys' fees to be responsibility of contractor and blaster.**

§ 54-19. Attorneys' fees to be responsibility of contractor and blaster.

In the event that persons or property are damaged by the blasting and payment therefor shall not have been made within three months from the time of notice to the contractor or blaster, the contractor and the blaster shall be jointly and severally responsible for the payment of reasonable attorney's fees, costs and disbursements of the plaintiff, whether or not the case goes to trial; attorneys' fees shall not, however, be payable by the contractor or blaster in the event that a final judgment is entered against the plaintiff or in the event that said contractor or blaster can prove that they or their insurance carrier offered to settle such claim for a consideration at least equal to that payable pursuant to the final settlement or judgment, within said three-month period, and that said offer was rejected by the claimant.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 54, BLASTING / § 54-20. Penalties for offenses.**

§ 54-20. Penalties for offenses.

The violation of any of the provisions of this chapter, except § 54-14, for which a separate penalty is imposed, or failure to comply therewith shall be a misdemeanor and punishable by a fine which shall not exceed \$1,000. Each day such violation shall be permitted to exist shall constitute a separate offense. The application of the above penalty shall not be held to prevent the enforced removal of the prohibited conditions or application to the Supreme Court for an injunction.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION**

Chapter 56, BUILDING CONSTRUCTION

[HISTORY: Adopted by the Town Board of the Town of Esopus 9-12-1990 by L.L. No. 8-1990. Amendments noted where applicable.]

GENERAL REFERENCES

- Appearance tickets -- See Ch. 50.**
- Unsafe buildings -- See Ch. 59.**
- Excavations -- See Ch. 74.**
- Fees -- See Ch. 76.**
- Fire prevention -- See Ch. 77.**
- Flood damage prevention -- See Ch. 80.**
- Subdivision of land -- See Ch. 107.**
- Zoning -- See Ch. 123.**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-1.
Enactment of administrative provisions. EN**

§ 56-1. Enactment of administrative provisions. EN(20)

The Town Board of the Town of Esopus, New York, having duly adopted a resolution accepting the applicability of the New York State Uniform Fire Prevention and Building Code, hereby enacts the following administrative ordinance pursuant to the provisions of § 383 of the Executive Law of the State of New York and all other applicable laws.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II

**GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-2.
Building Inspector.**

§ 56-2. Building Inspector.

There is hereby designated in the Town of Esopus a public official to be known as the "Building Inspector," who shall be appointed by the Town Board at a compensation to be fixed by it; who shall administer and enforce the provisions of all laws, ordinances, rules, regulations and orders, as well as all the provisions of the New York State Uniform Fire Prevention and Building Code, applicable to the location, design, materials, construction, alteration, repair, equipment, maintenance, use, occupancy, removal and demolition of buildings and structures and appurtenances located in the Town of Esopus; and who shall serve at the will and under the jurisdiction of the Town Board of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-3.
Other employees.**

§ 56-3. Other employees.

The Town Board may appoint such other employees, assistants and deputies as may be necessary from time to time to carry out the functions of the Building Inspector. Such deputy building inspectors shall perform such duties not inconsistent with law as shall be assigned to them by the Building Inspector, and, in the performance thereof, they shall have the same right to enter and inspect any building and perform other necessary acts as conferred upon the Building Inspector.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-4.
Absence or inability to act of Building Inspector.**

§ 56-4. Absence or inability to act of Building Inspector.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-5.
Restrictions on employees; exceptions.**

§ 56-5. Restrictions on employees; exceptions.

The Building Inspector or his deputies shall not engage in any activity inconsistent with his duties, nor shall he, during the term of his employment, be engaged directly or indirectly in any building business in the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building or in the preparation of plans or specifications thereof within the Town of Esopus, except only that this provision shall not prohibit any employee from such activities in the construction of a building or structure owned by him and not constructed for sale.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-6.**

Powers and duties of Building Inspector.

§ 56-6. Powers and duties of Building Inspector.

- A. Except as otherwise specifically provided by law, ordinance or regulation, or except as herein otherwise provided, the Building Inspector shall administer and enforce all of the provisions of laws, ordinances and regulations applicable to the construction, alteration, repair, removal and demolition of buildings and structures and the installation and use of materials and equipment therein and the location, use, occupancy and maintenance thereof, as well as all the provisions of the New York State Uniform Fire Prevention and Building Code (hereinafter referred to as the "Uniform Code").
- B. He shall receive applications and issue permits for the erection, alteration, removal and demolition of buildings or structures or parts thereof and shall examine the premises for which such applications have been received or such permits have been issued for the purpose of ensuring compliance with laws, ordinances and regulations governing building construction.
- C. He shall issue appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to ensure compliance during the entire course of construction with the requirements of such laws, ordinances or regulations. He shall make all inspections which are necessary or proper for the carrying out of his duties, except that he may accept written reports of inspection from building inspectors or from generally recognized and authoritative service and inspection bureaus, provided that the same are certified by a responsible official thereof.
- D. Whenever the same may be necessary or appropriate to assure compliance with the provisions of applicable laws, ordinances or regulations covering building construction, he

may require the performance of tests in the field by experienced, professional persons or by accredited and authoritative testing laboratories or service bureaus or agencies.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-7.
Records, annual report.**

§ 56-7. Records, annual report.

- A. The Building Inspector shall keep permanent official records of all transactions and activities conducted by him, including all applications received, permits and certificates issued, fees charged and collected, inspection reports and notices and orders issued. All such records shall be public records open to public inspection during business hours.
- B. The Building Inspector shall annually submit to the Town Board a written report and summary of all business conducted by the Building Inspector, including permits and certificates issued, fees collected, orders and notices promulgated, inspections and tests made and appeals or litigation pending.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-8.
Interdepartmental assistance.**

§ 56-8. Interdepartmental assistance.

The Building Inspector may request and shall receive, so far as may be necessary in the discharge of his duties, the assistance and cooperation of the Police, Fire and Health Departments or their officers and of all other Town officials exercising any jurisdiction over the construction, use or occupancy of buildings or the installation of equipment therein.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-9.
Building permit required; application.**

§ 56-9. Building permit required; application.

- A. No person, firm or corporation shall commence the erection, construction, enlargement, alteration, removal, improvement, demolition, conversion or change in the nature of the occupancy of any building or structure, or cause the same to be done, without first obtaining

a separate building permit from the Building Inspector for each such building or structure, except that no building permit shall be required for the performance of ordinary repairs which are not structural in nature.

B. Application for a building permit shall be made to the Building Inspector on forms provided by him. An application must be filed with the Building Inspector for any and all proposed work, except work costing less than \$250 for labor and materials. The Building Inspector shall determine, after examination of the application and other documents submitted, the necessity for issuing a building permit pursuant to the Uniform Code. The application shall contain the following information:

- (1) A description of the land on which the proposed work is to be done, as well as the last deed thereto.
- (2) A statement of the use or occupancy of all parts of the land and of the building or structure in question.
- (3) The valuation of the proposed work.
- (4) The full names and addresses of the owner and of the applicant and the names and addresses of their responsible officers, if any of them are corporations.
- (5) A brief description of the nature of the proposed work.
- (6) A duplicate set of plans and specifications, as set forth in Subsection D of this section.
- (7) Such other information as may reasonably be required by the Building Inspector to establish compliance of the proposed work with the requirements of the applicable building laws, ordinances and regulations, as well as compliance with Town, county or state driveway cut permits, compliance with the requirements of environmental quality review laws and regulations and compliance with the rules and regulations of the State and County Boards of Health, as well as compliance with all conditions specified and required by the Town Planning Board or the Zoning Board of Appeals, or both such agencies.
- (8) Insurance.
 - (a) A contractor who has no employees must submit to the Building Inspector a certificate of liability insurance. (Please see § 56-19.)
 - (b) A contractor who has employees shall submit certificates showing that he has secured and paid for workers' compensation, disability and liability insurance. (See § 56-19.)
- (9) A stormwater pollution prevention plan if applicable pursuant to Chapter 106 of the

Town Code. [Added 11-15-2007 by L.L. No. 5-2007]

- C. Applications shall be made by the owner or lessee, or the agent of either, or by the architect, engineer or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner or applicant that the proposed work is authorized by the owner and that the applicant is authorized to make such application.
- D. Each application for a building permit shall be accompanied by duplicate copies of plans and specifications, including a plot plan, drawn to scale, showing the location and size of all proposed new construction and all existing structures on the site, the nature and character of the work to be performed and the materials to be incorporated, the distance from lot lines, the relationship of structures on adjoining property, widths and grades of adjoining streets, walks and alleys and, where required by the Building Inspector, details of structural, mechanical and electrical work, including computations, stress diagrams and other essential technical data. Plans and specifications shall bear the signature of the person responsible for the design and drawings. The Building Inspector may waive the requirements for filing plans. (See also § 56-19 for insurance requirements.)
- E. Amendments to the application or to the plans and specifications accompanying the same may be filed at any time prior to the completion of the work, subject to the approval of the Building Inspector.
- F. Decks are deemed to be new construction and must meet all side yard and rear yard requirements of Chapter 123, Zoning.
- G. Pools. In-ground as well as aboveground pools may not be built without first obtaining a building permit.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-10.
Approval of application; issuance of building permit.**

§ 56-10. Approval of application; issuance of building permit.

- A. The Building Inspector shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith. He shall approve or disapprove the application within 30 days after the application is filed in his office.
- B. Upon approval of the application and upon receipt of the legal fees therefor, he shall issue a building permit to the applicant upon the form prescribed by him and shall affix his signature

or cause his signature to be affixed thereto.

- C. Upon approval of the application, a set of plans and specifications shall be retained in the files of the Building Inspector, and the other set shall be returned to the applicant, together with the building permit, and shall be kept at the building site, open to inspection by the Building Inspector or his authorized representative at all reasonable times.
- D. If the application, together with the plans, specifications and other documents filed therewith, describes proposed work which does not conform to all requirements of the applicable building regulations, the Building Inspector shall disapprove the same and shall return the plans and specifications to the applicant, together with the reasons therefor in writing.
- E. No building permits or certificates of occupancy or compliance required by this chapter shall be issued by the Building Inspector pertaining to any premises on which there exists a violation of this chapter or any related Town regulation which governs either building construction or the use of land and structures within the Town of Esopus. [Added 3-15-2007 by L.L. No. 2-2007]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-11.
Performance of work under permit.**

§ 56-11. Performance of work under permit.

A. Period of permit effectiveness.

- (1) A building permit shall be effective to authorize the commencement of work in accordance with the application, plans and specifications on which it is based for a period of one year after the date of its issuance. For good cause, the Building Inspector may allow one extension for a period not exceeding one year. [Amended 3-15-2007 by L.L. No. 2-2007]
- (2) (Reserved)^{EN(21)}
- (3) Following the approved extensions, no further work is to be undertaken without renewing the expired permit or filing for a new building permit.

B. The issuance of a building permit shall constitute authority to the applicant to proceed with the work in accordance with the approved plans and specifications and in accordance with the applicable building laws, ordinances or regulations. All work shall conform to the approved application, plans and specifications.

C. Inspections.

- (1) Work for which a building permit has been issued must be inspected and approved by the Building Inspector:
 - (a) Prior to enclosing or covering any portion thereof; and
 - (b) Upon completion of each stage of construction, including, but not limited to, building location, footings, foundations, waterproofing, footing drains, framing, plumbing, heating and air conditioning, electrical, compliance with energy code, fire protection and detection systems, final inspection.
- (2) A certificate of occupancy or certificate of compliance will not be issued unless the conditions set forth above are strictly adhered to. It shall be the responsibility of the owner, applicant or his agent to inform the Building Inspector that the work is ready for inspection and to schedule such inspection. The owner, applicant or designated representative shall be present during the inspection.

- D. Firesafety inspections of areas of public assembly, as defined in Part 606 of Title 9 of the Official Compilation of Codes, Rules and Regulations, shall be done annually.
- E. Firesafety inspections of units whose occupants actively (in writing) request an inspection, empty units or common areas of multiple dwellings shall be done every 20 months.
- F. Firesafety inspections of nonresidential occupancies (e.g., garages, places of business, warehouses, etc.) shall be done every 16 months.
- G. There shall be inspections in response to bona fide complaints, in writing, regarding conditions or activities allegedly failing to comply with the Uniform Code.
- H. There shall be maintained in the office of the Building Inspector a record of all examinations and inspections, together with a record of findings of violations of the law.
- I. Notification regarding fire or explosion. The chief of any fire department providing fire-fighting services for a property within the Town of Esopus shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel-burning appliance, chimney or gas vent. [Added 3-15-2007 by L.L. No. 2-2007]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-12.
Fees.**

§ 56-12. Fees.

A. The fee schedule for building and related premises shall be as follows:

- (1) Demolition and repairs: [Amended 4-21-2005; 3-15-2007 by L.L. No. 2-2007]
 - (a) Demolition costing up to \$1,000: \$30 (liability insurance required).
 - (b) Demolition costing over \$1,000: \$30, plus \$10 per each additional \$1,000 or any part thereof (liability insurance required).
 - (c) Repairs, alterations, renovations and installations (wood stove, fence): \$30 for the first \$1,000, and \$10 for each additional \$1,000 of the cost of the repair, alteration or addition (minimum fee of \$30).
- (2) For building permits (new construction):
 - (a) New construction: \$0.50 per square foot. (NOTE: Decks are new construction.) [Amended 4-21-2005; 3-15-2007 by L.L. No. 2-2007]
 - (b) Plumbing, heating, standpipe, sprinkler, elevator or electrical work, etc., is included in the term "construction or alteration work." When filed with complete construction plans, all such work is included under one fee based on the total cost of the building or structure, inclusive of such mechanical installations.
- (3) For plumbing only:
 - (a) Additions to plumbing system (not meant to include replacement of existing fixtures or piping): same as construction or alteration work if value can be determined; otherwise \$10 per fixture installed. [NOTE: Minor additions (extra faucet, sillcocks, etc.) under \$25: no permit or fee required.]
 - (b) All new construction must utilize water-saving fixtures.
- (4) Electrical work:
 - (a) Inspector. The chief inspector and each of the duly appointed inspectors of the New York Board of Fire Underwriters, Atlantic-Inland Inc., Fire Underwriters of New York, Middle Department Inspection Agency, Inc., and Independent Electrical Inspection Agency are hereby authorized and deputized as agents of the Town of Esopus to make inspections and reinspections of all electrical installations heretofore and hereafter described and to approve or disapprove the same. In no event, however, will the cost or expense of such inspections and reinspections be a charge against the Town of Esopus.
 - (b) Duties of the inspector. It shall be the duty of the inspector to report in writing to the Chief Building Inspector, whose duty it shall be to enforce all the provisions of this

code, all violations of or deviations from or omissions of the electrical provisions of the National Electrical Code and of all local laws, ordinances and the Building Code as referred to in this chapter, insofar as any of the same apply to electrical wiring. The inspector shall make inspections and reinspections of electrical installations in and on properties in the Town of Esopus upon the written request of an authorized official of the Town of Esopus or as herein provided. The inspector is authorized to make inspections and reinspections of electrical wiring installations, devices, appliances and equipment in and on properties within the Town of Esopus where he deems it necessary for the protection of life and property. In the event of an emergency, it is the duty of the inspector to make electrical inspections upon the oral request of an official or officer of the Town of Esopus. It shall be the duty of the inspector to furnish written reports to the proper officials of the Town of Esopus and to the owners and/or lessees of property where defective electrical installations and equipment are found upon inspection. He shall authorize the issuing of a certificate of compliance when electrical installations and equipment are in conformity with this chapter. He shall direct that a copy of the certificate of compliance be sent to the Town of Esopus to the attention of the Building Inspector.

- (c) Violations of this chapter. It shall be a violation of this chapter for any person, firm or corporation to install or cause to be installed or to alter or repair electrical wiring for light, heat or power in or on properties in the Town of Esopus until an application for inspection has been filed with any one of the agents set forth in § 56-12A(4) above. It shall be a violation of this chapter for a person, firm or corporation to connect or cause to be connected electrical wiring in or on properties for light, heat or power to any source of electrical energy supply prior to the issuance of a certificate of compliance or a certificate of compliance or a certificate of occupancy by any of the agents set forth in § 56-12A(4) above.
- (5) Other installations: same as construction work if value can be determined; otherwise:
[Amended 3-15-2007 by L.L. No. 2-2007]
 - (a) Oil burner installations and conversions:
 - [1] Domestic: \$25.
 - [2] Commercial: \$50.
 - [3] Industrial: \$50.
 - (b) Sprinkler, standpipe or refrigeration systems: a minimum of \$50.
- (6) (Reserved)^{EN(22)}

- (7) Where specifically allowed, permits and appropriate fees are required for the following:
- (a) Permission to cut the curb and construct a driveway across sidewalks, or parking lots: \$50. [Amended 3-15-2007 by L.L. No. 2-2007]
 - (b) Vaults under sidewalks, by area.
 - (c) Trailers, moving of buildings, signs, marquees, transmission towers, etc.

NOTE: The Town Planning Board or Town Board may require cash or a letter of credit to ensure compliance, where appropriate.

- (8) Additional fees.
- (a) The fee schedule set forth in this section of the Esopus Town Code shall continue to be the fee schedule used by the Building Inspector. However, the Town Board, by resolution, may at any time amend the foregoing fee schedule.
 - (b) Amendments to such fee schedule in the future shall be made by resolution of the Town Board.
 - (c) In addition to the fee schedule as set forth in this section, the Building Inspector shall charge additional fees for any actual inspection made in excess of seven inspections pursuant to any building permit. For each inspection in addition to the seven inspections set forth above, there shall be an additional charge of \$50, payable to the Town. [Amended 3-15-2007 by L.L. No. 2-2007]
 - (d) A modular home inspection fee shall be set at the rate set forth in this section of the Esopus Town Code or for the fixed sum of \$185. The exact cost shall be determined by the Building Inspector. Any inspections in excess of five inspections for said modular home shall pay the rate of \$50 per additional inspection. Any and all additions to said modular home shall be determined as set forth by the rates in this section of the Esopus Town Code. [Amended 3-15-2007 by L.L. No. 2-2007]
 - (e) Mobile home permits. The fee for mobile home installation permits shall be \$100. Any inspection in addition to three inspections shall be charged at the rate of \$50 per inspection. The fee for any addition or repair to said trailer shall be determined pursuant to this section of the Esopus Town Code. [Amended 3-15-2007 by L.L. No. 2-2007]
 - (f) An "inspection" is defined as a Building Inspector's scheduling an appointment and

appearing for said appointment. The fact that the work is not completed or that the builder or owner failed to appear for the appointment or that the Building Inspector was otherwise prevented or unable to inspect shall nonetheless be considered an inspection requiring the payment of the appropriate inspection fee or fees.

- (g) Upon the request of any person, firm or corporation to the Town Clerk or the Building Inspector for a certification or letter as to whether or not a certificate of occupancy or a certificate of compliance has ever been issued for the property in question, whether or not there are outstanding building permits and whether or not the building predates zoning, and all inquiries of a similar character shall be accompanied by a fee of \$25. However, in the event that a Town official or employee, in order to comply with the request, has to make a field inspection of the property, an additional fee of \$50 should be paid to the Building Inspector.

(9) Swimming pools. [Added 7-10-1991]

- (a) Aboveground pools: \$50. [Amended 3-15-2007 by L.L. No. 2-2007]

(10) Work started without permit: two times the normal fee. [Added 3-15-2007 by L.L. No. 2-2007]

(11) Sign fee \$25. [Added 3-15-2007 by L.L. No. 2-2007]

(12) Permit renewal: 30% of original fee. [Added 3-15-2007 by L.L. No. 2-2007]

B. Exemptions and refunds.

(1) No fee shall be required for municipally funded properties. [Amended 3-15-2007 by L.L. No. 2-2007]

(2) (Reserved)^{EN(23)}

(3) In the event that an application for a building permit is not approved, the applicant shall be entitled to a refund of 50% of the fee paid, provided that no construction has been commenced. If construction work has been started an application is not approved, the fees paid shall not be refunded.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-13.
Revocation of building permit.**

§ 56-13. Revocation of building permit.

The Building Inspector may revoke a building permit in the following instances:

- A. Where he finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based.
- B. Where he finds that the building permit was issued in error and should not have been issued in accordance with the applicable law.
- C. Where he finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications.
- D. Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Building Inspector.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-14.
Stop-work orders.**

§ 56-14. Stop-work orders.

Whenever the Building Inspector has reasonable grounds to believe that work on any building or structure is being prosecuted in violation of the provisions of the applicable building laws, ordinances or regulations, or not in conformity with the provisions of an application, plans or specifications on the basis of which a building permit was issued, or in an unsafe and dangerous manner, he shall notify the owner of the property or the owner's agent or the person performing the work to suspend all work, and any such persons shall forthwith stop such work and suspend all building activities until the stop order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him or by posting the same upon a conspicuous portion of the building under construction and sending a copy of the same by registered mail.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-15.
Right of entry.**

§ 56-15. Right of entry.

Any Building Inspector, deputy building inspector or Code Enforcement Officer, upon a showing of proper credentials and in the discharge of his duties, may enter upon any building, structure or premises at any reasonable hour, and no person shall interfere with or prevent such

entry. However, in the event that right of entry is refused, the Building Inspector shall request the Town Board to direct the Attorney for the Town to secure a court order to permit entry.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-16.
Certificate of occupancy or certificate of compliance required.**

§ 56-16. Certificate of occupancy or certificate of compliance required.

- A. A certificate of occupancy certifies that the structure conforms to the approved plans and specifications filed with the building permit application and conforms to all of the requirements of the applicable provisions of the law, as well as conditions stipulated by the Planning Board or the Zoning Board of Appeals. (A certificate of occupancy or certificate of compliance will not be secured unless there is strict compliance with the above.)
- B. A certificate of compliance is issued for:
 - (1) Visual inspections of existing buildings and that what is visible complies with code requirements.
 - (2) Buildings erected after the code with no evidence of a building permit applied for or no evidence of inspection reports for said structure.
 - (3) Accessory structures.
- C. No building hereafter erected shall be used or occupied in whole or in part until a certificate of occupancy or certificate of compliance shall have been issued by the Building Inspector.
- D. No building hereafter enlarged, extended or altered (whose new construction or alteration involves structural change) or upon which work has been performed which required the issuance of a building permit shall continue to be occupied or used for more than 30 days after the completion of the alteration or work unless a certificate of occupancy or certificate of compliance shall have been issued by the Building Inspector.
- E. No change shall be made in the use or type of occupancy of an existing building unless a certificate of occupancy or certificate of compliance shall have been issued by the Building Inspector.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-17.
Inspection prior to issuance of certificate of occupancy or certificate of
compliance.**

§ 56-17. Inspection prior to issuance of certificate of occupancy or certificate of compliance.

Before issuing a certificate of occupancy or certificate of compliance, the Building Inspector shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit to construct, enlarge, alter, repair, remove, demolish or change the use or occupancy; and he may conduct such inspections as he deems appropriate from time to time during and upon completion of the work for which a building permit has been issued. There shall be maintained in the office of the Building Inspector a record of all such examinations and inspections, together with a record of findings of violations of the law.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-18.
Issuance of certificate of occupancy or certificate of compliance.**

§ 56-18. Issuance of certificate of occupancy or certificate of compliance.

- A. When, after final inspection, it is found that the proposed work has been completed in accordance with the applicable building laws, ordinances and regulations and also in accordance with the application, plans and specifications filed in connection with the issuance of the building permit, the Building Inspector shall issue a certificate upon the form provided by him. If it is found that the proposed work has not been properly completed, the Building Inspector shall refuse to issue a certificate of occupancy or certificate of compliance and shall order the work completed in conformity with the building permit and in conformity with the applicable building regulations.
- B. A certificate of occupancy or certificate of compliance shall be issued, where appropriate, within 30 days after application therefor is made. Failure to act upon such application within 30 days shall constitute approval of such application, and the building or portion thereof may thereafter be occupied as though a certificate of occupancy had been issued.
- C. The certificate of occupancy or certificate of compliance shall certify that the work has been completed and that the proposed use and occupancy is in conformity with the provisions of the applicable building laws, ordinances and regulations and shall specify the use or uses and the extent thereof to which the building or structure or its several parts may be put.
- D. Temporary certificate. The Code Enforcement Officer shall be permitted to issue a temporary certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a building permit. However, in no event shall the Code Enforcement Officer issue a temporary certificate unless the Code

Enforcement Officer determines that the building or structure, or the portion thereof covered by the temporary certificate, may be occupied safely; that any fire- and smoke-detecting or fire-protection equipment which has been installed is operational; and that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a temporary certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A temporary certificate shall be effective for a period of time, not to exceed six months, which shall be determined by the Code Enforcement Officer and specified in the temporary certificate. During the specified period of effectiveness of the temporary certificate, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code. [Added 3-15-2007 by L.L. No. 2-2007]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-19.
Insurance.**

§ 56-19. Insurance.

- A. Before work on any construction shall commence, the applicant or builder or contractor shall provide the Building Inspector with a certificate of insurance issued and executed by an insurance company licensed to do business in the State of New York: [Amended 4-15-1999 by L.L. No. 1-1999; 4-15-1999 by L.L. No. 2-1999]
- (1) Proving that workers' compensation insurance and disability insurance have been issued to the person, firm or corporation engaged to do the construction.
 - (2) Providing public liability insurance coverage for construction costs under \$9,999 or less, in the amount of \$300,000 for each person injured, \$600,000 for each accident and \$150,000 for property damage.
- B. The certificate shall also contain a clause that the insurance carrier will not cancel the same except on 10 days' notice in writing to the Town of Esopus.
- C. Should the Building Inspector determine that the extent of the operations in any particular case and the case and the danger involved require public liability insurance coverage in greater amounts than above specified, he shall immediately certify his determination to the Town Clerk and simultaneously request that the Town Board fix the policy limits. The Town Board shall meet as expeditiously as possible for said purpose, and said Town Board is hereby authorized and empowered to fix the policy limits in such amount or amounts as the Town Board shall deem commensurate with the scope of the operations and the dangers

involved.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-20.
Proof of compliance.**

§ 56-20. Proof of compliance.

Whenever there are reasonable grounds to believe that any material, construction, equipment or assembly does not conform to the requirements of the applicable building laws, ordinances or regulations, the Building Inspector may require the same to be subjected to tests in order to furnish proof of such compliance.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-21.
Penalties for offenses.**

§ 56-21. Penalties for offenses.

- A. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, demolish, equip, use, occupy or maintain any building or structure or portion thereof in violation of any provision of this chapter or to fail in any manner to comply with a notice, directive or order of the Building Inspector or to construct, alter or use and occupy any building or structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy.
- B. Any person who shall fail to comply with a written order of the Building Inspector within the time fixed for compliance therewith, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents or any other person taking part or assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of this chapter or any lawful order, notice, directive, permit or certificate of the Building Inspector made thereunder, shall be punishable by a fine of not more than \$500 or 30 days in jail, or both. Each day that a violation continues shall be deemed a separate offense.
- C. Except as provided otherwise by law, such a violation shall not be a crime, and the penalty or punishment imposed therefor shall not be deemed for any purpose a penal or criminal penalty or punishment and shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person convicted thereof.

D. This section shall not apply to violations of the provisions of the State Building Construction Code punishable under § 385 of the Executive Law of the State of New York^{EN(24)} nor to violations of the provisions of the Multiple Residence Law punishable under § 304 of the Multiple Residence Law of the State of New York.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-22.
Abatement of violation.**

§ 56-22. Abatement of violation.

Appropriate actions and proceedings may be taken at law or in equity to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to prevent illegal acts, conduct or business in or about any premises; and these remedies shall be in addition to the penalties prescribed in the preceding section.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-23.
Demolition.**

§ 56-23. Demolition.

No person, firm or corporation may demolish, destroy or tear down any structure unless a permit to do so is issued by the Building Inspector.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-24.
Hours of work.**

§ 56-24. Hours of work.

Any person, firm or corporation doing construction work in the Town of Esopus may not work before 7:00 a.m. and must cease work not later than 10:00 p.m.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-25.
Right to appeal.**

§ 56-25. Right to appeal.

Any person, firm or corporation claiming it is adversely affected or aggrieved by any ruling, decision, determination or order of the Building Inspector or any other duly qualified personnel acting for or on behalf of the Town of Esopus under any of the provisions of this code shall have the right to appeal any such ruling, decision, determination or order to the Town Board for final determination by the Supreme Court of the State of New York. Such appeal must be taken within 30 days after the determination or order is filed in the office of the Building Inspector.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-26.
Operating permits. [Added 3-15-2007 by L.L. No. 2-2007]**

§ 56-26. Operating permits. [Added 3-15-2007 by L.L. No. 2-2007]

A. Operating permits required.

- (1) Operating permits shall be required for conducting the activities or using the categories of buildings listed below:
 - (a) All group A, B, F, H, I, M, R, S and U as defined in the Fire Code of New York.
 - (b) Hazardous processes and activities, including but not limited to commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;
 - (c) Use of pyrotechnic devices.
- (2) Any person who proposes to undertake any activity or to operate any type of building listed in this Subsection A shall be required to obtain an operating permit prior to commencing such activity or operation.

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

C. Inspections. The Code Enforcement Officer or an inspector authorized by the Code

Enforcement Officer shall inspect the subject premises prior to the issuance of an operating permit.

- D. Multiple activities. In any circumstance in which more than one activity listed in Subsection A of this section is to be conducted at a location, the Code Enforcement Officer may require a separate operating permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single operating permit to apply to all such activities.
- E. Duration of operating permits. Operating permits shall be issued for such period of time, not to exceed one year. 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. Fees. The fee specified in or determined in accordance with the provisions set forth in this chapter must be paid at the time submission of an application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit. [Amended 12-18-2008]
 - (1) Abstracts: \$75.
 - (2) Abstract inspections: \$150.
 - (3) Aboveground pool permits: \$75.
 - (4) Public assembly: \$50.
 - (5) Business: \$25.
 - (6) Mercantile: \$50.
 - (7) Factory/industrial: \$100.
 - (8) Hazardous: \$150.
 - (9) Residential (multifamily): \$50.
 - (10) Storage \$25.
 - (11) Miscellaneous: \$25.

(12) Bed-and-breakfast: \$35.

(13) Educational: No fee

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 56, BUILDING CONSTRUCTION / § 56-27.
Fees by resolution. [Added 3-15-2007 by L.L. No. 2-2007]**

§ 56-27. Fees by resolution. [Added 3-15-2007 by L.L. No. 2-2007]

All of the fees set forth in this chapter may be amended by resolution of the Town Board adopted by a majority vote.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 59, BUILDINGS, UNSAFE**

Chapter 59, BUILDINGS, UNSAFE

[HISTORY: Adopted by the Town Board of the Town of Esopus 12-29-1980 by L.L. No. 23-1980. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction -- See Ch. 56.

Fees -- See Ch. 76.

Fire prevention -- See Ch. 77.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 59, BUILDINGS, UNSAFE / § 59-1. Title. EN**

§ 59-1. Title. EN(25)

The title of this chapter shall be known as the "Unsafe Building Demolition Law."

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 59, BUILDINGS, UNSAFE / § 59-2. Building
Inspector.**

§ 59-2. Building Inspector.

The Town Board of the Town of Esopus shall appoint a Building Inspector who will be charged with the responsibility of carrying out the obligations and duties set forth in this chapter.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 59, BUILDINGS, UNSAFE / § 59-3. Unsafe
building prohibited; inspection; notice. EN [Added 9-12-1990 by L.L. No. 10-1990]**

§ 59-3. Unsafe building prohibited; inspection; notice. ^{EN(26)} [Added 9-12-1990 by L.L. No. 10-1990]

- A. No person, firm or corporation or association, who or which is the owner of a building in the Town of Esopus, shall cause, suffer, allow or permit said building to become dangerous or unsafe to the public. In the event that any building now is or hereafter becomes dangerous or unsafe to the public from any cause whatsoever, said owner or occupant shall repair or remove said building. In the event of the failure of the owner of any such building to repair or remove the same, the Building Inspector of the Town of Esopus shall make a complete inspection and report of the condition of said building to the Town Board of the Town of Esopus. Notice shall thereafter be served on the owner or some one of the owners, executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in said building, personally or by registered mail. The notice shall contain a description of the premises, a statement of the particulars in which the building or structure is unsafe or dangerous and an order requiring said building or structure to be made safe and secure or removed. The notice shall also provide for the time within which the person served with said notice shall commence and complete the securing or removal of the building or structure. A copy of such notice shall be filed in the office of the County Clerk of Ulster County, which notice shall be filed by such Clerk in the same manner as a notice of pendency, pursuant to Article 65 of the Civil Practice Law and Rules, and shall have the same effect as a notice of pendency as therein provided, except as otherwise hereinafter provided in this section. A notice so filed shall be effective for a period of one year from the date of filing; provided, however, that it may be vacated upon the order of a judge or justice of a court of record or upon the consent of the Attorney for the town. The Ulster County Clerk shall mark such notice and any record or docket thereof as canceled of record upon the presentation and filing of such consent or of a certified copy of such order.
- B. The Building Inspector shall investigate an alleged violation of the performance standards, and if there are reasonable grounds to believe that a violation exists, he shall investigate the alleged violation and for such investigation may, with the approval of the Town Board, employ qualified experts. A copy of said findings shall be forwarded to the Town Board. The services of any qualified experts employed by the town to advise in establishing a violation shall be paid by the violator if it shall be determined that a violation is proved, and otherwise

by the town. No new certificate of occupancy shall be issued unless such charges have been paid to the town.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 59, BUILDINGS, UNSAFE / § 59-4. Hearing.**

§ 59-4. Hearing.

A hearing shall be held before the Town Board, notice of which and the time and place thereof to be specified in the notice to repair or demolish, served upon the owner and such persons having an interest in the property or structure as is herein prescribed.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 59, BUILDINGS, UNSAFE / § 59-5. Emergency
powers.**

§ 59-5. Emergency powers.

In the event that such owner fails or refuses to repair or remove the same within the time provided or, in cases of great emergency, where the delay of proceedings, as hereinbefore provided, would result in probable loss of life or property, the Supervisor of the Town of Esopus shall have the power to direct the Building Inspector to proceed at once to take such action as is needed to guard the safety of persons and property.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 59, BUILDINGS, UNSAFE / § 59-6. Costs to be
assessed against land.**

§ 59-6. Costs to be assessed against land.

All costs and expenses incurred by the Town of Esopus in connection with any and all of the above proceedings to remove or secure, including the cost of actually removing the said building or structure or securing the same, shall be assessed against the land on which the building or structure is located.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 59, BUILDINGS, UNSAFE / § 59-7. Costs of
removal to be assessed.**

§ 59-7. Costs of removal to be assessed.

If such owner or person served by mail, as hereinabove provided, shall fail to pay the costs and expenses incurred by the Town of Esopus within 10 days after being notified of the costs thereof by registered mail, the Town Clerk shall file, immediately preceding the time for making the annual assessment roll, a certificate of such actual cost and expense with a statement as to the property upon which such cost and expense were incurred, the buildings or other obstructions removed, as the case may be, with the Assessor of the Town of Esopus, who shall, in the preparation of the next assessment roll of the Town of Esopus, tax and assess such amount upon such property, and the same shall be levied, collected and enforced in the same manner, by the same proceedings, at the same time, under the same penalties and having the same lien upon the property assessed as general town tax and as a part thereof.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 64, CURFEW**

Chapter 64, CURFEW

[HISTORY: Adopted by the Town Board of the Town of Esopus 8-2-1973 by L.L. No. 3-1973. Amendments noted where applicable.]

GENERAL REFERENCES

Park rules and regulations -- See Ch. 98.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 64, CURFEW / § 64-1. Curfew established.**

§ 64-1. Curfew established.

It shall be unlawful and a violation of this chapter for any person under the age of 18 years of age to be or remain upon any street, alley or public place within the town limits of the Town of Esopus after 10:00 p.m. at night and prior to 5:30 a.m. in the morning unaccompanied by a parent or guardian responsible for his acts. The above does not apply to persons under 18 who are going to or returning from gainful employment or returning from a social or school function in a quiet, peaceful manner via a direct route.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 64, CURFEW / § 64-2. Peace officers**

authorized to detain violators.

§ 64-2. Peace officers authorized to detain violators.

Every peace officer, while on duty, is hereby authorized to detain any minor willfully violating the provisions of this chapter until the parent or guardian of each child shall take him or her into custody; but such officer shall, immediately upon taking custody of the child, communicate with the parent or guardian unless it shall reasonably appear, upon due inquiry, that such child has not available such parent or guardian to assert custody, in which latter case said child shall be turned over to the custody of the Family Court of the County of Ulster.^{EN(27)}

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 64, CURFEW / § 64-3. Penalties for offenses.
[Amended 4-16-1981 by L.L. No. 1-1981]**

§ 64-3. Penalties for offenses. [Amended 4-16-1981 by L.L. No. 1-1981]

Any person who shall violate any of the provisions of this chapter shall be subject to immediate arrest and detention with or without process by any peace officer in whose presence such violation was committed, and such violation, upon conviction thereof, shall be punishable by a fine not to exceed \$250 or by imprisonment for a term not to exceed 15 days, or both, for each and every offense.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS**

Chapter 68, DOGS AND OTHER ANIMALS

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

GENERAL REFERENCES

Appearance tickets -- See Ch. 50.

Fees -- See Ch. 76.

Animals in parks -- See Ch. 98.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE I,
Swine [Adopted 11-6-1963]**

ARTICLE I, Swine [Adopted 11-6-1963]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE I,
Swine [Adopted 11-6-1963] / § 68-1 Title.**

§ 68-1 Title.

This article shall be known and may be cited as the "Ordinance Controlling, Regulating and Restricting the Keeping of Swine Within the Town of Esopus, Ulster County, New York."

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE I,
Swine [Adopted 11-6-1963] / § 68-2 Purpose.**

§ 68-2 Purpose.

The rules, regulations and provisions hereinafter set forth controlling, regulating and restricting the keeping of swine within the Town of Esopus have been adopted for the purpose of promoting the health and general welfare of the residents of the Town of Esopus. It is the intention to prescribe reasonable rules and regulations governing the raising of swine within the town and to prohibit the establishment of any new swine or hog farms within the town.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE I,
Swine [Adopted 11-6-1963] / § 68-3 Definitions.**

§ 68-3 Definitions.

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

DISTANCE -- Whenever the linear distance of a structure or area from a lake, pond, stream, swamp, spring area, highway or dwelling is mentioned, it is intended to mean the shortest horizontal distance from the nearest point of the structure or area to the high-water mark of the lake, pond, stream, swamp or spring area or to the highway line or to the nearest point of the dwelling.

DWELLING HOUSE -- Any building or structure established or maintained as temporary or permanent living quarters for human beings.

GARBAGE -- Waste animal or vegetable matter from homes, institutions, restaurants, hotel kitchens and vegetable markets or fruit markets, and offal from abattoirs and packing houses.

HIGHWAY -- Any existing town, county or state highway, road or street.

MANURE -- Excrement from swine.

PREMISES -- Land, with or without buildings, owned by or under the control of any individual, firm or corporation and on which swine are housed, stabled or quartered.

SWINE -- Pigs or hogs in excess of eight weeks of age.

SWINE OR HOG FARM -- Any establishment that raises more than two hogs or raises any number of hogs for the purpose of sale, barter or exchange.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE I,
Swine [Adopted 11-6-1963] / § 68-4 Permit required.**

§ 68-4 Permit required.

No person, firm or corporation, being the owner or occupant of any land or premises within the Town of Esopus, shall use or permit the use of said land or premises for the keeping of swine without obtaining a permit therefor, as hereinafter provided.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE I,
Swine [Adopted 11-6-1963] / § 68-5 Application for permit; issuance.**

§ 68-5 Application for permit; issuance.

A. Application for permit.

- (1) The application for each permit to raise swine shall be in writing and signed by the applicant and shall state the name and address of the applicant; the name and address of each partner, if the applicant is a partnership; the name and address of each officer and director, if the applicant is a corporation; a statement of the total acreage of the farm or premises; and the name and address of the owner or owners of such premises.

- (2) Each application shall be accompanied by a complete plan satisfactorily showing the layout of the farm, the location, size and arrangement of all brood and shelter houses, feeding areas, feeding platforms and pens and the location of any lakes, ponds, streams, swamps or spring areas upon or adjacent thereto, if there are any. The application shall state the type of construction of the brood and shelter houses and of the feeding platforms. The plan shall show the linear distance to the closest highway or road and to the closest dwelling house other than that occupied by the applicant or by such applicant's employees, if any, residing on the premises.
- B. Filing of application and submission of same to the Town Board and duly authorized representative of the Ulster County Health Department. Each application shall be filed with the Town Clerk, who shall thereupon transmit the same to the duly authorized representative of the Ulster County Health Department. The duly authorized representative of the Ulster County Health Department shall, after investigation, transmit the application to the Town Board, together with his written approval or disapproval thereof or recommendations pertaining thereto. All such applications shall, after investigation, be approved or rejected by the Town Board, after which the application shall be filed with the Town Clerk and the applicant notified in writing by the Town Clerk of the action taken thereon.
- C. Issuance of permit. The Town Clerk, upon such written application and upon the approval of the same by a duly authorized representative of the Ulster County Health Department and by the Town Board, shall issue a permit to become effective from the date thereof and to continue in force for the term specified therein, but in no event longer than through the 31st day of December next succeeding, for the use of the premises therein specified for the keeping of swine. Such permit shall specify the maximum number of swine to be kept in said premises at any time, which number shall be based upon the acreage and facilities existing at the date of application. Such permit shall not be transferable or assignable.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE I,
Swine [Adopted 11-6-1963] / § 68-6 Restrictions on keeping of swine.**

§ 68-6 Restrictions on keeping of swine.

- A. Density of swine population. The density of swine population shall not exceed 50 per acre based upon the total acreage of the premises, and in no case shall the total number of swine housed, stabled, quartered or herded exceed 500 on any one premises.
- B. Distance from highways and dwellings. All shelter houses and feeding areas shall be at least 200 feet from the nearest highway and 200 feet from the nearest existing dwelling house other than the dwelling house occupied by the person keeping the swine or by any of his

employees. Shelter houses and feeding areas shall not be deemed to include barns used for farrowing purposes.

- C. Location of brood and shelter houses. All brood and shelter houses, together with the feeding area, shall be located on high ground that is well drained and which does not become subject to flooding from nearby streams or by accumulated rain- or surface water. In no case shall any brooding house, shelter house or feeding area be located so that manure or garbage from any brooding house, shelter house or feeding area may be washed over the surface of the ground to any lake, stream, swamp or spring area.
- D. Pens. Individual pens shall be provided for each brood sow at farrowing time. The minimum size of the farrowing pens should be 36 square feet for gilts and 49 square feet for large sows.
- E. Construction of brood and shelter houses. All brood and shelter houses shall be so constructed that all parts thereof are accessible for cleaning.
- F. Feed areas. All feeding areas shall be properly fenced in in order to permit swine to be excluded from such areas so that the areas can be effectively cleaned.
- G. Feeding platforms. Whenever garbage is fed to swine, watertight feeding platforms shall be provided in such feeding areas. The feeding platforms, when made of lumber, shall be on skids and shall have a rail six inches to eight inches high to prevent the garbage being shoved off the platform. Concrete platforms can be provided with curbs six inches to eight inches high. The total area of the feeding platform to be provided shall not be less than three square feet per swine based upon the maximum number of swine to be maintained. Each platform shall be sloped to permit drainage to one point so that liquids from the platform can be disposed of by means of a leaching bed. An adequate water supply shall be provided for washing and cleansing of the feeding platform, and such washing shall be disposed of beneath the surface of the ground through suitable leaching pits or subsurface absorption pits. After each daily feeding period, all refuse remaining on the platform, together with that spilled on the surface of the ground, shall be removed and shall be disposed of by any of the following methods: placed in a trench or pit in the ground with at least four inches of soil immediately thrown over the refuse; transported daily to the town incinerator for burning; or placed in a pile at least 200 feet from any dwelling, residence or highway with at least four inches of soil immediately thrown upon the surface. The feeding platforms shall be cleaned immediately. Refuse from feeding pens or feeding platforms shall not be placed in piles or remain unburied or uncovered for periods exceeding 12 hours.
- H. Handling of garbage collected for purpose of feeding swine. All containers used for transporting garbage through the town must be immediately cleaned after use thereof, and the cleaning water, together with the refuse therefrom, shall be disposed of as provided in § 68-6G above. Garbage delivered to premises for the feeding of swine shall be forthwith placed upon the feeding platform or stored in airtight containers until it is fed to the swine as

above provided. Garbage shall not be piled or stored upon the premises except as above provided for a period of more than one hour after delivery.

- I. Immunization against hog cholera. All swine to which garbage is fed shall be immunized against hog cholera.
- J. Disposal of manure. Manure, including animal droppings from all brood and shelter houses, shall be removed at least weekly and shall be properly and promptly disposed of. In the spring and fall months, disposal may consist of distributing it over farmlands that are used yearly for farm purposes. In cases where such manure from swine, together with bedding, is not distributed in the spring and fall months on lands used yearly for farm purposes, it shall then be disposed of as follows: It shall either be placed in pits and trenches and immediately covered with not less than four inches of earth, or it shall be scattered over the surfaces of the ground and plowed under within 24 hours. In no case shall such manure, together with bedding, be placed or scattered over the surface of the ground within 1,000 feet of any residence other than that of the holder of a permit issued pursuant to this article or that of an employee of such holder residing on said holder's premises, unless the same is plowed under within 24 hours after being so scattered.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE I,
Swine [Adopted 11-6-1963] / § 68-7 Right of entry; inspections.**

§ 68-7 Right of entry; inspections.

The police officers of the Town of Esopus and any duly authorized agent or employee of said town shall have the right to enter upon the premises at any reasonable time and shall have the right at all times to inspect all parts of said premises on which swine are kept.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE I,
Swine [Adopted 11-6-1963] / § 68-8 Revocation of permit.**

§ 68-8 Revocation of permit.

If a police officer, a duly authorized representative of the Ulster County Health Department or any authorized representative of the Town of Esopus finds that any premises upon which swine are kept are not being maintained in a clean and sanitary condition and in accordance with the provisions of this article, such facts shall thereupon be reported to the Town Board, and the Town Board may direct the Town Clerk to serve an order in writing upon the holder of the

permit or the person in charge of said premises directing that the conditions specified be remedied within five days after the date of service of such order. If such conditions are not corrected after the expiration of such five-day period, the Town Board may cause a notice, in writing, to be served upon the holder of such permit or the person in charge of such premises, requiring the holder of the permit to appear before the Town Board of the Town of Esopus at a time specified in such notice and to show cause why such permit should not be revoked. The Town Board may, after a hearing at which testimony of witnesses may be taken and the holder of the permit shall be heard, revoke such permit if such Town Board shall find that said premises are not maintained in a clean and sanitary condition or if the Town Board finds that any provision of this article has been violated or for such other further and sufficient cause. Upon the revocation of such permit, the premises shall forthwith cease to be used for the keeping of swine, and all swine shall forthwith be removed therefrom.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE I,
Swine [Adopted 11-6-1963] / § 68-9 Renewal of permit.**

§ 68-9 Renewal of permit.

Application for the renewal of any permit pursuant to this article must be filed with the Town Clerk on or before the first day of December next preceding the expiration of said permit. Upon the approval of said application for a renewal of the permit by a duly authorized representative of the Ulster County Health Department and the Town Board, the Town Clerk shall issue a renewal permit which shall become effective upon the expiration of the prior permit and continue in force for the term specified therein, but in no event longer than for a period of one year. Such renewal permit shall not be transferred or assigned.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE I,
Swine [Adopted 11-6-1963] / § 68-10 Applicability to existing uses.**

§ 68-10 Applicability to existing uses.

This article shall apply to all premises located in the Town of Esopus upon which swine are being kept on the date of its adoption. The owner or operator of any such premises shall have 30 days after this article becomes effective to make an application for a permit. The owner or operator of any such premises shall have a period of 60 days after making application for the permit within which to make the necessary arrangements to conform to the requirements of this article. The permit shall be granted only on the condition that the requirements of this article are

complied with within 60 days after making the application.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE I,
Swine [Adopted 11-6-1963] / § 68-11 New use of premises for swine prohibited.**

§ 68-11 New use of premises for swine prohibited.

No permit shall be issued to any person, corporation or firm to keep swine within the limits of the Town of Esopus, New York, except upon the premises being used for the raising of swine at the time of adoption of this article.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE I,
Swine [Adopted 11-6-1963] / § 68-12 Penalties for offenses. [Amended
4-16-1981 by L.L. No. 6-1981]**

§ 68-12 Penalties for offenses. [Amended 4-16-1981 by L.L. No. 6-1981]

Any person who violates any provision of this article shall be guilty of a violation and, upon conviction thereof, shall be punishable by a fine of not more than \$250 or by imprisonment for not more than 15 days, or by both such fine and imprisonment. In addition, the violation of this article or of any of the provisions thereof shall subject the person, firm or corporation violating the same to a civil penalty, and when a violation of this article or any of its provisions is continuous, each 24 hours thereof shall constitute a separate and distinct violation, said penalty to be recovered by the Town of Esopus in a civil action. The application of the above-described penalties or any prosecution for the violation of the provisions of this article shall not be deemed to prevent the revocation of any permit or the forcible removal of conditions prohibited by this article.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE I,
Swine [Adopted 11-6-1963] / § 68-13 Permit not to be deemed to waive
compliance.**

§ 68-13 Permit not to be deemed to waive compliance.

The issuance of a permit pursuant to the provisions of this article shall not be deemed to waive compliance by the holder thereof or by the property owner with any statute of the State of New

York or ordinance or health regulation of the Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE II,
Dogs [Adopted 5-6-1970]**

ARTICLE II, Dogs [Adopted 5-6-1970]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE II,
Dogs [Adopted 5-6-1970] / § 68-14 Legislative intent.**

§ 68-14 Legislative intent.

The purpose of this article shall be to preserve the public peace and good order in the Town of Esopus and to contribute to the public welfare and good order of its residents by enforcing certain regulations and restrictions on the activities of dogs that are consistent with the rights and privileges of the owners of dogs and the rights and privileges of other citizens of the Town of Esopus. This article is adopted pursuant to the authority of § 126 of the Agriculture and Markets Law of the State of New York.^{EN(28)}

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE II,
Dogs [Adopted 5-6-1970] / § 68-15 Definitions.**

§ 68-15 Definitions.

As used and intended in this article and for the purpose hereof, unless the context otherwise indicates, the following terms shall have the meanings indicated:

ANIMAL -- Male or female dogs, either singular or plural.

AT LARGE -- As applied to an animal, shall designate and describe each animal at all times when it is off the premises of its owner or is on the premises of another without his consent, and is not under the visual and voice control of its owner.

CONFINED -- As applied to an animal, shall mean that such animal is securely confined or restrained and kept on the owner's premises, either within a building, kennel or wire or other

suitable enclosure or securely fastened on a chain, wire or other effective tether of such length and so arranged that the animal cannot reach or endanger any person on any adjacent premises or on any public street, way or place, or, if the animal is being transported by the owner, that it is securely confined in a crate or other container or so restrained in a vehicle that it cannot escape therefrom.

DANGEROUS -- Applies to any animal which, without just cause, bites, attacks, chases or snaps at or otherwise threatens to attack any person or attacks and wounds a dog or other domestic animal or which displays any other fierce, vicious or dangerous propensities.

OWNER -- The party purchasing the license, unless the dog is or has been lost and such loss reported to the Esopus constabulary and reasonable search has been made. If an animal 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 animal which is kept, brought or comes within the town. Any person owning or harboring a dog for a period of one week prior to the filing of any complaint charging a violation of this article shall be held and deemed to be the "owner" of such dog for the purpose of the article. In the event that any dog found to be in violation of this article shall be owned by a minor, the head of the household in which said minor resides shall be deemed to have custody and control of said dog and shall be responsible for any acts of the said dog and violation of this article.

PUBLIC NUISANCE -- As applied to an animal, shall describe, designate or apply to:

- A. Every animal which seriously and habitually disturbs the peace and quiet of the neighborhood by barking or howling or making other disturbing noises.
- B. Every animal which habitually chases any persons or bicycles, automobiles or other vehicles upon any public highway or in any such public place.
- C. Every animal which causes damage or destruction to property upon premises other than that of the owner or person harboring such animal.
- D. Every animal which is a dangerous animal as defined in the above definition of "dangerous"; every such animal is hereby declared to be a public nuisance.

TOWN -- The area within the corporate limits of the Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE II,
Dogs [Adopted 5-6-1970] / § 68-16 Owner responsibility.**

§ 68-16 Owner responsibility.

The owner of every animal which is at any time kept, brought or comes into the town will be held responsible for the strict observance by such animal and with respect to such animal of all the rules and regulations contained in this article at all times when such animal is within the town.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE II, Dogs [Adopted 5-6-1970] / § 68-17 Animals in heat.

§ 68-17 Animals in heat.

The owner of every female animal must effectively confine such animal at all times during every period when such animal is in heat.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE II, Dogs [Adopted 5-6-1970] / § 68-18 Animals to be controlled.

§ 68-18 Animals to be controlled.

No person who owns a dog shall permit such dog to be at large in the Town of Esopus, Ulster County, New York, unless said dog is restrained by an adequate collar and leash or unless accompanied by its owner or a responsible person able to control the animal other than when on the premises of the person owning, keeping, harboring or having the custody and control of such dog or upon the premises of another with the knowledge, consent and approval of the owner of said premises or when hunting in the company and under the control of a hunter or hunters.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE II, Dogs [Adopted 5-6-1970] / § 68-18.1 Prohibited actions. [Added 11-18-1999 by L.L. No. 3-1999]

§ 68-18.1 Prohibited actions. [Added 11-18-1999 by L.L. No. 3-1999]

No person owning, keeping, harboring or having the custody and control of any dog shall permit

or allow the dog to engage in the following actions:

- A. 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.
- B. Uproot, dig or otherwise damage any vegetables, lawn, flowers, garden beds or other property not belonging to the owner of such dog.
- C. Chase, jump upon or otherwise harass any person in such manner as to reasonably cause intimidation or fear or to put such person in reasonable apprehension of bodily harm or injury.
- D. Habitually chase, run alongside of or bark at motor vehicles while on a public street or highway or upon public or private property other than property of the owner or harbinger of said dog.
- E. Create a nuisance by defecating, urinating or digging on public property or private property other than the property of said dog.
- F. Be at large on any school premises or recreational areas, or the sidewalks adjacent thereto, unless said dog is on leash.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE II,
Dogs [Adopted 5-6-1970] / § 68-18.2 Howling or barking dogs. [Added
11-18-1999 by L.L. No. 3-1999]**

§ 68-18.2 Howling or barking dogs. [Added 11-18-1999 by L.L. No. 3-1999]

- A. No person shall keep or harbor a dog which howls or barks in violation of this section.
- B. It shall constitute a violation of this section if the howling or barking occurs continually and is audible beyond the property line of the premises on which the dog is located:
 - (1) For more than ten minutes between the hours of 10:00 p.m. and 8:00 a.m.; or
 - (2) For more than 20 minutes between the hours of 8:00 a.m. and 10:00 p.m.
- C. It shall be a defense to such violation if the owner of the dog proves by a preponderance of the evidence that the only reason the dog was howling or barking was that the dog was being provoked by a person or was otherwise being incited, or was acting as a guide dog, hearing dog, service dog or police work dog.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE II,
Dogs [Adopted 5-6-1970] / § 68-19 Dangerous animals. EN [Added 9-12-1990 by
L.L. No. 6-1990]**

§ 68-19 Dangerous animals. EN⁽²⁹⁾ [Added 9-12-1990 by L.L. No. 6-1990]

- A. Dangerous dogs shall be dealt with pursuant to § 121 of the Agriculture and Markets Law of the State of New York.
- B. Any person, firm or corporation keeping or harboring snakes, animals or other creatures which could cause harm to human beings shall file annually (as of January 1) with the Town Clerk and the Chief of the Fire Department in the fire district in which the creatures are housed or harbored a list of the creatures, the temperament of each (i.e., poisonous, likely to bite and cause harm, etc.). The purpose of this subsection is to forewarn Fire Department personnel in the event that they must enter the building or property in the event of a fire or other emergency.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE II,
Dogs [Adopted 5-6-1970] / § 68-20 Dog Control Officer. [Amended 6-12-1980 by
L.L. No. 8-1980]**

§ 68-20 Dog Control Officer. [Amended 6-12-1980 by L.L. No. 8-1980]

- A. The Town of Esopus may appoint a Dog Control Officer pursuant to the appropriate statutes of the State of New York or, in the alternative, may designate a representative or representatives to serve as special Dog Control Officers as needed. It shall be the duty of the Dog Control Officer to enforce the appropriate provisions of the Agriculture and Markets Law with respect to dogs in the Town of Esopus and to enforce this article.
- B. The Dog Control Officer of the Town of Esopus shall seize any dog which is found to be in violation of any provision of this article as well as any dog or dogs otherwise required to be seized under and by virtue of the Agriculture and Markets Law of the State of New York. All complaints concerning alleged violations shall be communicated to the Dog Control Officer. All such complaints shall be investigated, and it shall be the duty of the Dog Control Officer in the appropriate case to proceed with civil or criminal enforcement, as the case may be.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II

GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE II, Dogs [Adopted 5-6-1970] / § 68-21 Abandoned dogs. [Amended 4-16-1981 by L.L. No. 2-1981]

§ 68-21 Abandoned dogs. [Amended 4-16-1981 by L.L. No. 2-1981]

Any dog at large which does not display any current dog license or other means of identification or which fails to exhibit any evidence of having had administered to it a rabies vaccination shall be considered an abandoned dog and may be summarily impounded by the Dog Control Officer.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE II, Dogs [Adopted 5-6-1970] / § 68-22 Disposition of seized dogs.

§ 68-22 Disposition of seized dogs.

- A. Every dog seized shall be properly fed and cared for at the expense of the Town of Esopus until disposition thereof, as herein provided, and in accordance with the applicable provisions of the Agriculture and Markets Law of the State of New York.
- B. Every dog seized shall be treated in a humane manner.
- C. If the dog seized bears a license tag, the Dog Control Officer shall ascertain the owner of the dog and shall give immediate notice by personally serving such owner, or by mailing said personal notice to such owner, or an adult member of his family with a notice in writing stating that the dog has been seized and will be destroyed unless redeemed as herein provided. [Amended 6-12-1980 by L.L. No. 8-1980]
- D. The owner of a seized dog may redeem the dog within seven days, except that the owner of a dog bearing a license tag may redeem the dog within 12 days, by paying to the Town Clerk the sum of \$5, as the cost of seizure, and the reasonable cost of feeding and caring for such dog. [Amended 4-16-1981 by L.L. No. 2-1981]
- E. EN⁽³⁰⁾If not so redeemed, the owner shall forfeit all title to the dog, and the dog shall be sold or destroyed by the Dog Control Officer. In the case of sale, the purchaser must pay the purchase price to the Town Clerk and obtain a license for such dog. A dog which is to be destroyed shall be destroyed in keeping with the latest humane practices of disposing of animals. The Dog Control Officer who causes such dog to be destroyed shall make a written report of such destruction and disposition to the Town Clerk stating that the dog was destroyed in keeping with humane practices. The Town Clerk shall keep a record of all dogs which are destroyed. [Added 8-14-1985 by L.L. No. 5-1985]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE II,
Dogs [Adopted 5-6-1970] / § 68-23 Maltreatment prohibited. [Amended
6-12-1980 by L.L. No. 8-1980]**

§ 68-23 Maltreatment prohibited. [Amended 6-12-1980 by L.L. No. 8-1980]

It shall be unlawful for any person in the Town of Esopus to torture, torment, deprive of necessary sustenance, unnecessarily or cruelly beat or otherwise abuse or needlessly mutilate or kill a living animal or creature. Any animal so treated shall be impounded by the Dog Control Officer. The owner thereof shall be notified in writing and by personal service or by regular mail of the alleged violation, and the matter shall be referred to the Town Justice for a hearing and determination.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE II,
Dogs [Adopted 5-6-1970] / § 68-24 Penalties for offenses. [Amended 6-12-1980
by L.L. No. 8-1980]**

§ 68-24 Penalties for offenses. [Amended 6-12-1980 by L.L. No. 8-1980]

- A. Penalties for violations of this article shall be dealt with pursuant to Article 7, § 119, of the Agriculture and Markets Law of the State of New York.
- B. The Dog Control Officer, or any peace officer duly appointed by the Town Board of the Town of Esopus, shall have the authority to issue appearance tickets pursuant to the Criminal Procedure Law for violations of this article.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE II,
Dogs [Adopted 5-6-1970] / § 68-25 Compensation for dogs destroyed.**

§ 68-25 Compensation for dogs destroyed.

The owner, harbinger or possessor of any dog destroyed under the provisions of this article shall not be entitled to any compensation, and no action shall be maintainable thereafter to recover the value of the dog.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE II,
Dogs [Adopted 5-6-1970] / § 68-26 Amendments.**

§ 68-26 Amendments.

The Town Board may from time to time amend, supplement, change, modify or repeal this article pursuant to the provisions of the Town Law applicable thereto.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE
III, Dog License Fees [Adopted 10-24-1979 by L.L. No. 1-1979]**

ARTICLE III, Dog License Fees [Adopted 10-24-1979 by L.L. No. 1-1979]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE
III, Dog License Fees [Adopted 10-24-1979 by L.L. No. 1-1979] / § 68-27 Fees.
[Amended 1-1-1998; 1-19-2006]**

§ 68-27 Fees. [Amended 1-1-1998; 1-19-2006]

Commencing on October 1, 1979, the license fee for dogs will be as follows:^{EN(31)}

- A. For a neutered male: \$5.50.
- B. For a spayed female: \$5.50.
- C. For an unneutered male: \$13.50.
- D. For an unspayed female: \$13.50.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE
III, Dog License Fees [Adopted 10-24-1979 by L.L. No. 1-1979] / § 68-28
Exemption for "seeing dogs."**

§ 68-28 Exemption for "seeing dogs."

If the applicant shall disclose and the Clerk or Dog Control Officer is satisfied that the dog for which the license is sought is a so-called "seeing dog," trained to aid the blind and actually used for such purpose, the license therefor shall be issued without the payment of any fee, and the Clerk or Dog Control Officer shall inscribe across the face of the license in red ink the words "seeing dog." All such dogs that are owned by any recognized guide dog training center within the state shall be exempt from such licensing fee until such time as it is determined by the training center that such dog will not make a guide dog. At such time it will then be necessary to pay the license fee as required by § 68-27 hereof.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 68, DOGS AND OTHER ANIMALS / ARTICLE
III, Dog License Fees [Adopted 10-24-1979 by L.L. No. 1-1979] / § 68-29 Penalty
fees. [Added 7-17-2008 by L.L. No. 2-2008]**

§ 68-29 Penalty fees. [Added 7-17-2008 by L.L. No. 2-2008]

- A. The New York State Department of Agriculture and Markets maintains that all dogs must be licensed. In the Town of Esopus, the local penalty fee for failure to license a dog shall be \$25.
- B. The New York State Department of Agriculture and Markets maintains that all dog licenses must be renewed yearly. The Town of Esopus local penalty fee for failure to renew a dog license shall be \$25. For those dog owners who fail to renew the following year, an additional fee of \$25 shall be added.
- C. The penalty fines as stated above may be amended by resolution at the Town Board's discretion when it deems appropriate.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 71, COMPENSATION FOR PLANNING AND
ZONING REVIEW COSTS**

**Chapter 71, COMPENSATION FOR PLANNING AND ZONING REVIEW
COSTS**

[HISTORY: Adopted by the Town Board of the Town of Esopus 5-20-1991 by L.L. No. 3-1991.

Amendments noted where applicable.]

GENERAL REFERENCES

Environmental Board -- See Ch. 9.

Planning Board -- See Ch. 34.

Fees -- See Ch. 76.

Subdivision of land -- See Ch. 107.

Zoning -- See Ch. 123.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 71, COMPENSATION FOR PLANNING AND
ZONING REVIEW COSTS / § 71-1. Intent; purpose.**

§ 71-1. Intent; purpose.

A. Intent. The intent of this legislation is to make available to the Planning Board and the Zoning Board of Appeals and the Town Board expertise and professional resources in making final determinations on subjects requiring an expertise not usually possessed by volunteer boards of citizens, including, but not limited to, engineering, land use planning, architecture, law, surveying, environmental and ecological concerns.

B. Purpose.

- (1) The purpose of this legislation is to give the Town Board, the Planning Board and the Zoning Board of Appeals the resources to hire experts to help guide them through the various phases of review and approval of subdivisions, site plans, conditional use permits, variance and zoning amendments and the environmental review (SEQRA) process as the Boards may find reasonable and necessary to arrive at a decision on the developers' proposal(s).
- (2) It is further the purpose of this legislation to shelter the residents of the Town of Esopus from incurring any costs for expert or professional advice to its Planning Board, Zoning Board of Appeals and Town Board from persons who have plans for developing lands in the town.
- (3) Since the applicant will receive a benefit from the actions of the Town Board, the Planning Board or the Zoning Board of Appeals, every developer must pay the full cost of experts engaged by the Planning Board, the Zoning Board of Appeals or the Town Board which the members of such Board(s) believe to be reasonable and necessary to aid them in making decisions on technical matters.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II

GENERAL LEGISLATION / Chapter 71, COMPENSATION FOR PLANNING AND ZONING REVIEW COSTS / § 71-2. Fees; procedures; escrow accounts.

§ 71-2. Fees; procedures; escrow accounts.

- A. EN(32) Any person, firm or corporation desiring to subdivide a tract of land, gain approval of a site plan or conditional use permit, appeal a decision of the Building Inspector to the Zoning Board of Appeals or obtain an amendment to Chapter 123, Zoning, or the Zoning Map shall pay application fees to the Town Clerk in accordance with a fee schedule adopted by the Town Board. [Added 7-8-1992 by L.L. No. 4-1992]
- B. In addition to the fees set forth in Subsection A above, the following procedures shall apply to the applications for subdivisions of more than three lots, site plans or conditional use permits for more than three dwelling units or 2,500 square feet of nonresidential floor area or other commercial development, or any amendment to Chapter 123, Zoning, or the Zoning Map (including planned unit developments):
- (1) Upon receipt of an application for sketch plan review of a subdivision or presubmission review of an application for site plan review or a conditional use permit or a petition for an amendment to Chapter 123, Zoning, or the Zoning Map, the reviewing board shall require that funds be deposited with the Town Supervisor in an amount recommended by the reviewing board as sufficient to cover the cost of necessary professional reviews.
 - (2) The funds aforesaid are to be maintained by the Supervisor of the Town of Esopus in an interest-bearing escrow account. The escrow account shall be charged for both SEQRA-related and administration fees as set forth herein. Such fees shall include all of the environmental review fees, consultants' fees, engineering fees, legal or accounting fees, time spent on the project by the attorney for the town, as well as the fees of any other experts the Town Board, the Planning Board or the Zoning Board of Appeals may find reasonable and necessary to carry out their duties and functions.
 - (3) The town will, on a monthly basis, send copies of all bills associated with an applicant's project to the applicant at the address given on the application. Upon receipt of copies of the bills, the applicant will have 10 days from the date of mailing to object to any bill which he (it) deems unreasonable. Thereafter, the Town Board, by majority vote, will have the sole discretion to pay such bills and release the funds to the town's consultants.
 - (4) EN(33) The escrow account set forth in Subsection B(2) above must always be maintained at a balance set forth in Subsection B(1) above. Upon written notice submitted on or about the first day of each and every month, the applicant shall be obligated to replenish the escrow fund within 15 days after notice in order to always maintain the balance in the account set forth in Subsection B(1) above. [Added 7-8-1992 by L.L. No. 4-1992]

- C. Upon the failure of the applicant to replenish the fund within 15 days after notice, the entire review process shall come to a halt. The Planning Board, the Town Board and/or the Zoning Board of Appeals shall not further consider the applicant's proposal or place the project on the Board's agenda unless and until the escrow fund is replenished in full.
- D. Upon the completion of the project or in the event that the project is withdrawn or abandoned, any sums remaining on deposit after payment of all fees, costs and disbursements owed to or incurred by the town shall be refunded to the applicant, with accumulated interest, within 45 days. However, in the event that litigation by or concerning the developer is either pending or imminent, the escrow funds shall not be released until all of the current, threatened or imminent litigation has been finally disposed of at the trial or appellate levels.
- E. The applicant shall reimburse the town for all legal fees generated by the applicant. Without meaning to limit the generality of the foregoing, the applicant shall pay the town reasonable legal fees in the event that the applicant sues the town, or the town sues the applicant, or a third party sues the town and/or the applicant, and the town must defend itself in the courts. As used herein, "town" shall include, but not be limited to, any town officers, the Town Board, the Planning Board and the Zoning Board of Appeals.
- F. In addition to the above, all costs and expenses mandated by SEQRA (Article 8 of the Environmental Conservation Law and 6 NYCRR 617) shall also be paid by the developer.
- G. The applicant must also pay for the variable and allocable fixed administrative costs associated with the application, such as clerical time, costs of printing and publication, costs of photocopying by town staff and various other miscellaneous matters associated with the project.
- H. Prior to consideration of the applicant's project by the Town Board, the Planning Board or the Zoning Board of Appeals, the applicant shall enter into a contract with the town embodying the terms and conditions outlined in this section and § 71-1.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 71, COMPENSATION FOR PLANNING AND
ZONING REVIEW COSTS / § 71-3. Severability.**

§ 71-3. Severability.

Should any section or provision of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect or impair the validity of this chapter as a whole or any part thereof other than the particular provision as declared to be unconstitutional or invalid.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 71, COMPENSATION FOR PLANNING AND
ZONING REVIEW COSTS / § 71-4. When effective.**

§ 71-4. When effective.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 74, EXCAVATIONS IN PUBLIC HIGHWAYS**

Chapter 74, EXCAVATIONS IN PUBLIC HIGHWAYS

[HISTORY: Adopted by the Town Board of the Town of Esopus 3-9-1988 by L.L. No. 4-1988.
Amendments noted where applicable.]

GENERAL REFERENCES

**Blasting -- See Ch. 54.
Fees -- See Ch. 76.
Highways -- See Ch. 88.**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 74, EXCAVATIONS IN PUBLIC HIGHWAYS / §
74-1. Permit required. EN**

§ 74-1. Permit required. EN⁽³⁴⁾

- A. No cut or break shall be made in the pavement or street surface and no trench or excavation shall be dug for any purpose whatsoever in any street owned by the Town of Esopus, Ulster County, New York, without first obtaining from the Superintendent of Highways of such town a written permit for the making of such cut, trench or excavation, which permit shall specify the purpose for which the permit is asked and the name of the corporation or person making application therefor. Such permit shall be valid for a period of not more than 15 days after the date of issuance of the same, after which said permit shall lapse and become null and void. If the work for which such permit is issued has not been completed within said period of 15 days, the corporation or person doing such work may apply for a renewal of said permit, and the Superintendent of Highways may grant such renewal, subject to the same limitations and conditions contained in the issuance of the original permit.

- B. Before any permit will be issued for any excavation in a public highway, the person seeking the permit shall post a cash bond in an amount to be determined by the Superintendent of Highways. This bond shall be retained by the Superintendent of Highways for a period of one year. In the event that the cut in the road settles within one year, the cash bond shall be used to repair the road.
- C. Before any permit is issued, the person seeking the permit shall, if applicable, comply with the provisions of Chapter 106 of this Code regarding a stormwater pollution prevention plan. [Added 11-15-2007 by L.L. No. 6-2007]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 74, EXCAVATIONS IN PUBLIC HIGHWAYS / §
74-2. Notice of commencement; trenches to be protected; claims for damages.**

§ 74-2. Notice of commencement; trenches to be protected; claims for damages.

The applicant shall give the Superintendent of Highways of said town at least 24 hours' notice of the time such work is to be commenced, unless such notice is waived by said Superintendent. All trenches or cuts must be properly protected by necessary guards, sheathing and braces and must also be protected by lights at night; and the person or persons granted such permit shall be responsible for all claims for damages resulting from any cause connected with the making of such cut, trench or excavation.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 74, EXCAVATIONS IN PUBLIC HIGHWAYS / §
74-3. Construction standards, methods of construction.**

§ 74-3. Construction standards, methods of construction.

- A. Excavations in public highways shall be scored or cut with straight edges. All undermining must be recut and treated as set forth below.
- B. Excavations must be backfilled with Item 4. If any other material is used, the permit holder must first receive permission, in writing, from the Superintendent of Highways to use substitute materials.
- C. All manholes, valve boxes, etc., must be set at road level. If set below or above road level, the road will not be accepted by the town. When refilling the hole, every 12 inches shall be compacted with a suitable compactor or compressor. In the event that the excavation settles within one year from the date of construction, the builder of the road or the person who

engaged his services shall pay to the Town Superintendent of Highways the cost to the town of bringing the excavation up to grade and in compliance with the specifications set forth herein.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 74, EXCAVATIONS IN PUBLIC HIGHWAYS / §
74-4. Liability insurance required.**

§ 74-4. Liability insurance required.

The person, firm or corporation making the cut in the public highway shall carry liability insurance in a sum not less than \$1,000,000 for each person injured and \$3,000,000 for each accident. The Town of Esopus shall be named as an additional insured on the policy or certificate of insurance. No permit shall be issued without such a certificate. Such certificate is to be filed with the Superintendent of Highways. The certificate shall also oblige the insurance company writing such insurance to notify the Town Clerk of the Town of Esopus by registered mail 10 days prior to the date that the policy of insurance will for any reason be canceled.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 74, EXCAVATIONS IN PUBLIC HIGHWAYS / §
74-5. Application required; fee.**

§ 74-5. Application required; fee.

The application for a permit to make excavations in a public highway shall be made on forms furnished by the Superintendent of Highways and shall be submitted in duplicate, along with a check in the sum of \$25, made payable to the Town of Esopus Highway Department.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 74, EXCAVATIONS IN PUBLIC HIGHWAYS / §
74-6. Notice of completion.**

§ 74-6. Notice of completion.

Immediate notice of the completion of work for which the permit is given shall be given to the Superintendent of Highways of said town.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II

GENERAL LEGISLATION / Chapter 74, EXCAVATIONS IN PUBLIC HIGHWAYS / § 74-7. Penalties for offenses.

§ 74-7. Penalties for offenses.

Any person violating this chapter shall be deemed guilty of a misdemeanor.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 76, FEES**

Chapter 76, FEES

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

GENERAL REFERENCES

Fees generally -- See individual chapters.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 76, FEES / ARTICLE I, General Provisions
[Adopted 11-12-1986 by L.L. No. 7-1986]**

ARTICLE I, General Provisions [Adopted 11-12-1986 by L.L. No. 7-1986]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 76, FEES / ARTICLE I, General Provisions
[Adopted 11-12-1986 by L.L. No. 7-1986] / § 76-1. Town and special district
services.**

§ 76-1. Town and special district services.

The Town Board may, by resolution and majority vote, set the fees or charges for any Town service or services of any special district. These powers shall also apply to fees in force at the time of the enactment of this chapter.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 76, FEES / ARTICLE II, Fee Schedule**

[Adopted 1-1-1998EN]

ARTICLE II, Fee Schedule [Adopted 1-1-1998EN(35)]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 76, FEES / ARTICLE II, Fee Schedule
[Adopted 1-1-1998EN] / § 76-2. Fees established.**

§ 76-2. Fees established.

The Town Board of the Town of Esopus duly sets the following fee schedule for the year 1998 as follows:

A. Transfer station.

(1) Identification sticker:

(a) Regular: \$20 yearly.

(b) Seniors: \$10 yearly.

(2) Punch card (bag fees: \$20 per card, good for 10 thirty-gallon bags).

(3) Tipping fees (based upon the UCRRA's rate/adjusted per calendar month):

(a) Six dollars (C and D charge for 100 pounds or less).

(b) One hundred twenty dollars per ton for C and D.

(c) Special permits (for nonresident vehicles transporting resident refuse):

[1] Regular: \$20.

[2] Seniors: \$10.

(d) Special five-day permit (issued at transfer station only; good for any five days during the year): \$5.

(e) White goods (includes washer, dryer, refrigerator, air conditioner, water heater, stove, appliance): \$10 per item.

(f) Tires:

- [1] Up to 14 inches: \$2 per tire.
- [2] Fifteen to 19 inches: \$3 per tire.
- [3] Twenty inches and over: \$5 per tire.
- [4] Any tire on rim: \$7 per tire.

(g) Recyclables: free.

B. Water and sewer rates.

- (1) Water: \$12 minimum for the first 4,000 gallons; \$2.76 per 1,000 gallons thereafter.
- (2) Sewer: \$10 minimum for the first 4,000 gallons; \$2.36 per 1,000 gallons thereafter.
- (3) Hookup fee:
 - (a) One hundred dollars water tap fee and material.
 - (b) One hundred dollars sewer tap fee and material.

C. Town Clerk.

- (1) Marriage license: \$20.
- (2) Dog license and renewal:
 - (a) Male, neutered: \$2.50 plus \$3 local fee. [Amended 1-19-2006]
 - (b) Female, spayed: \$2.50 plus \$3 local fee. [Amended 1-19-2006]
 - (c) Male, unneutered: \$10.50 plus \$3 local fee. [Amended 1-19-2006]
 - (d) Female, unspayed: \$10.50 plus \$3 local fee. [Amended 1-19-2006]
 - (e) Exemption: guide dog, war dog, police work dog, hearing dog, service dog: no fee.
 - (f) Purebred: up to 10 dogs: \$25; up to 20 dogs: \$50.
- (3) Replacement ID tag: \$1.50 per tag.
- (4) Dog redemption (per calendar year).
 - (a) First occasion: \$10.
 - (b) Second occasion: \$20.
 - (c) Third occasion: \$30, etc.

- (5) Peddler permit: \$50 per year or \$10 per day.
- (6) Trailer park fee: \$100 per park, and a unit fee of \$10 per unit. [Amended 8-20-2008]
- (7) Certifications (births, deaths, marriages): \$10 each. (If required for social services: free; limit 1).
- (8) Maps:
 - (a) Town of Esopus Street Map: \$2.
 - (b) Town of Esopus Zoning Map: \$5.
- (9) Town of Esopus, Chapter 123 Zoning Book (1-1995): \$20.
- (10) Comprehensive plan/master plan: \$25.
- (11) Copies \$0.25 each.
- (12) Games of chance:
 - (a) Bingo license: \$18.75 per occasion.
 - (b) Bell jars: \$25 per year.
 - (c) All others: \$25 per occasion.

D. Building Department. As adopted by the Town Board of the Town of Esopus September 12, 1990, by Local Law No. 8-1990 and as amended on July 10, 1991.^{EN(36)}

E. Planning Board fee schedule.

- (1) Conditional use permit: \$50, plus \$25 per dwelling unit or \$25 per 1,000 square feet.
- (2) Subdivision: \$100 application fee up to three lots. Fifty dollars additional per lot fee for over three lots.
- (3) Site plan approval application fee: \$50, plus \$1 per \$1,000 of the cost of development.
- (4) Planned Unit Development (PUD) fees: same as those charged for site plan review in addition to any and all consultant fees, attorney's fees and all other expert witness fees required. (Town Board resolution of 6/14/1989).
- (5) Recreation fee: \$1,000 per dwelling unit. [Amended 2-17-2005]
- (6) Escrow establishment: determined by Planning Board (Local Law No. 3 of 1991 to compensate the Town of Esopus for the cost of certain planning and zoning

reviews.^{EN(37)})

F. Zoning Board of Appeals.^{EN(38)} [Amended 12-18-2008^{EN(39)}]

(1) Application fee:

(a) Residential: \$100 plus \$15 per dwelling unit.

(b) Commercial: \$300 plus \$45 per 1,000 square feet of building area.

(2) Public hearing fee: \$200.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 77, FIRE PREVENTION

Chapter 77, FIRE PREVENTION

[HISTORY: Adopted by the Town Board of the Town of Esopus 6-12-1980 by L.L. No. 7-1980. Amendments noted where applicable.]

GENERAL REFERENCES

Appearance tickets -- See Ch. 50.

Blasting -- See Ch. 54.

Building construction -- See Ch. 56.

Junkyards -- See Ch. 90.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 77, FIRE PREVENTION / § 77-1. Administration and enforcement. EN [Added 9-12-1990 by L.L No. 12-1990]

§ 77-1. Administration and enforcement. ^{EN(40)} [Added 9-12-1990 by L.L No. 12-1990]

There is hereby designated the Building Inspector and his deputies, or the person designated as Fire Inspector by the Town Board, to administer and enforce the New York State Uniform Fire Prevention and Building Code within the Town of Esopus.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 77, FIRE PREVENTION / § 77-2. Rules and regulations.

§ 77-2. Rules and regulations.

The Town Board, on consultation with the Fire Inspector, may adopt rules and regulations for the administration and enforcement of the State Fire Prevention Code.^{EN(41)} Such rules and regulations shall not conflict with the State Fire Prevention Code,^{EN(42)} this chapter or any other provision of law.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 77, FIRE PREVENTION / § 77-3. Permits.**

§ 77-3. Permits.

- A. There shall be no fee for permits. Permits shall be issued by and bear the name and signature of the Building Inspector and shall specify:
- (1) The activity or operation for which the permit is issued.
 - (2) The address or location where the activity or operation is to be conducted.
 - (3) The name and address of the permittee.
 - (4) The permit number and date of issuance.
 - (5) The period of permit validity.
- B. Permits shall not be transferable, and any change in activity, operation, location, ownership or use shall require a new permit.
- C. Permits shall continue until revoked or for a period of time designated at the time of issuance. An extension of the permit time period may be granted, provided that a satisfactory reason can be shown for failure to start or complete the work or activity authorized within the required time period.
- D. Permits shall be obtained for the following:
- (1) Automobile wrecking yards: to operate an automobile wrecking yard.
 - (2) Boatyards and marinas.
 - (3) Bowling establishments: for bowling pin refinishing and bowling lane resurfacing operations involving the use and application of flammable or combustible liquids or materials.

- (4) Cellulose nitrate motion-picture film: to store, keep or have on hand more than 25 pounds of cellulose nitrate motion-picture film.
- (5) Cellulose nitrate plastics (pyroxylin).
 - (a) To store, keep or have on hand more than 25 pounds of cellulose nitrate plastics (pyroxylin).
 - (b) To manufacture articles of cellulose nitrate plastics (pyroxylin) which shall include the use of cellulose nitrate plastics (pyroxylin) in the manufacture or assembling of other articles.
- (6) Combustible fibers: to store, handle or use combustible fibers in quantities in excess of 100 cubic feet, except agricultural products on a farm.
- (7) Combustible materials: to store, handle or use combustible materials, including, but not limited to, empty combustible packing cases, boxes, barrels or similar containers, rubber tires, baled cotton, rubber, cork or other similar materials in excess of 2,500 cubic feet gross volume, on any premises.
- (8) Compressed gases.
 - (a) To store, handle or use at normal temperatures and pressures more than:
 - [1] Two thousand cubic feet of flammable compressed gas; or
 - [2] Six thousand cubic feet of nonflammable compressed gas.
 - (b) To store, handle or use any quantity of liquefied natural or hydrogen gas.
- (9) Cryogenics: to store, handle or use cryogenic fluids, except cryogenics used as a motor fuel and stored in motor vehicle tanks, as follows:
 - (a) Production, sale or storage of cryogenic fluids.
 - (b) Storage or use of flammable cryogenic fluids, cryogenic oxidizers or liquefied oxygen in excess of 10 gallons.
- (10) Dry-cleaning plants: to use in excess of four gallons of solvents or cleaning agents classified as flammable or combustible.
- (11) Explosives, ammunition and blasting agents.
 - (a) To manufacture, possess, store, sell or otherwise dispose of explosives and blasting agents.

- (b) To use explosives or blasting agents.
- (12) Flammable and combustible liquids.
- (a) To store, handle or use flammable liquids in excess of 6 1/2 gallons inside dwellings; or in excess of 10 gallons inside any other building or other occupancy; or in excess of 60 gallons outside of any building. This provision shall not apply to:
 - [1] Liquids in the fuel tank of a motor vehicle, aircraft, portable or stationary engine, boat or portable heating plant.
 - [2] Paints, oils, varnishes or similar flammable mixtures, when such liquids are stored for maintenance, painting or similar purposes.
 - (b) To store, handle or use combustible liquids in excess of 25 gallons inside a building or in excess of 60 gallons outside of a building. This provision shall not apply to fuel oil used in connection with oil-burning equipment.
 - (c) For processing, blending or refining of flammable or combustible liquids.
- (13) Flammable finishing: for spraying, coating or dipping operations utilizing flammable or combustible liquids.
- (14) Hazardous chemicals.
- (a) To store, handle or use more than 55 gallons of corrosive liquids; or more than 50 pounds of oxidizing materials; or more than 10 pounds of organic peroxides; or more than 50 pounds of nitromethane; or 1,000 pounds or more of ammonium nitrate, ammonium nitrate fertilizers and fertilizer mixtures containing 60% or more ammonium or any amount of toxic material or poisonous gas.
 - (b) To store, handle or use any quantity of air-reactive, water-reactive or unstable materials.
- (15) Junkyards: to operate a junkyard.
- (16) Liquefied petroleum gas: for each installation of liquefied petroleum gas employing a container or an aggregate of interconnected containers of over 2,000 gallons' water capacity and for each permanent installation, irrespective of size of containers, made in buildings in which 20 or more persons congregate for civic, political, educational, religious, social or recreational purposes. Installers shall maintain a record of all installations and replacement of portable cylinders and have it available for inspection.
- (17) Lumberyards: to operate a lumberyard.

(18) Matches: to store matches in excess of 25 cases.

[NOTE: One case equals one matchman's gross of 14,400 matches.]

(19) Places of assembly: to maintain, operate or use a place of assembly.

(20) Service stations and repair garages: to operate a service station or repair garage.

(21) Welding and cutting: to operate a welding and cutting business. A record of all locations where welding or cutting operations are performed shall be maintained and kept available for inspection by the permit holder.

(22) Fire permit to burn leaves, brush, grass, branches and other natural matter upon rules and regulations determined by the Building Inspector or his designee. The Building Inspector shall have the power to designate the Fire Inspector or Fire Chief to issue said fire permits. This permit is in addition to any permit required by the New York State Department of Environmental Conservation or any other New York State agency.
[Added 8-9-1989 by L.L. No. 6-1989]

(23) Hazardous materials: Any element or compound or combination thereof which is flammable, corrosive, detonable, toxic, radioactive, an oxidizer, an etiologic agent or highly reactive and which, because of handling, storage, processing or packaging, may have detrimental effects upon operating and emergency personnel, the public, equipment and/or the environment. Once the Building Inspector has issued a permit for any of the above, the Town Board shall notify the Fire Department in the district where the hazardous materials are located of the nature of the hazardous materials for which a permit has been issued. [Added 9-12-1990 by L.L. No. 13-1990]

- E. Consolidated permits. When more than one permit is required for the same property or premises, a single permit may be issued listing all materials or operations covered. Revocation of a portion or portions of such consolidated permit for specific hazardous materials or operations shall not invalidate the remainder.
- F. Location of permits. Permits shall be kept on property or premises covered by the permit or carried by the permit holder.
- G. Revocation of permits. Permits may be suspended or revoked when it is determined there is a violation of a condition under which the permit was issued or there has been misrepresentation or falsification of material facts in connection with the permit application

or a condition of the permit.

- H. Every person, firm or corporation storing or having on hand hazardous materials or chemicals must file with the Town Board a complete list of the hazardous materials or chemicals on the premises as of January 1 of each and every year such hazardous materials and chemicals are stored anyplace in the Town of Esopus. These reports shall be known as "Material Safety Data Sheets (MSDS)." [Added 9-12-1990 by L.L. No. 14-1990]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 77, FIRE PREVENTION / § 77-4. Inspections.**

§ 77-4. Inspections.

- A. The Building Inspector shall conduct periodic inspections for compliance with the provisions of the State Fire Prevention Code.^{EN(43)} Such inspections may be made at any reasonable time.
- B. If entrance to make an inspection is refused or cannot be obtained, the Building Inspector may apply for a warrant to make an inspection to any court of competent jurisdiction.
- C. The Building Inspector shall have the authority to investigate the cause, origin and circumstances of any fire or explosion involving a loss of life, injuries to persons or destruction or damage to property.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 77, FIRE PREVENTION / § 77-5. Compliance
required; violation orders.**

§ 77-5. Compliance required; violation orders.

- A. A person owning, operating, occupying or maintaining property or premises within the scope of the State Fire Prevention Code or this chapter shall comply with all the provisions of the State Fire Prevention Code, this chapter and all orders, notices, rules, regulations or determinations issued in connection therewith.
- B. Whenever the Building Inspector finds that there has been a violation of the State Fire Prevention Code, this chapter or any rule or regulation adopted pursuant to this chapter, a violation order shall be issued to the person or persons responsible.
- C. Violation orders shall be in writing, shall identify the property or premises, shall specify the violation and remedial action to be taken, shall provide a reasonable time limit for

compliance and shall state the time within which an appeal may be taken.

- D. Violation orders may be served by personal service; by mailing by registered or certified mail; or by posting a copy thereof in a conspicuous place on the premises and by mailing a copy thereof to the premises on the same day as posted, enclosed in a postpaid wrapper addressed to the person responsible.
- E. In case the owner, lessor, occupant or the agent of any of them shall fail, neglect or refuse to remove, eliminate or abate the violation within the time specified in the violation order, an information shall be filed by the Building Inspector in the Town Justice Court of the Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 77, FIRE PREVENTION / § 77-6. Penalties for
offenses.**

§ 77-6. Penalties for offenses.

- A. Failure to comply with any provision of the State Fire Prevention Code, this chapter, rules or regulations adopted pursuant to this chapter or a violation order shall be deemed a violation, and the violator shall be liable for a fine of not more than \$250 or imprisonment not to exceed 15 days, or both, and each day such violation continues shall constitute a separate violation.
- B. An action or proceeding in the name of the Town of Esopus may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provision of the State Fire Prevention Code, this chapter, a rule or regulation adopted pursuant to this chapter or a violation order, or to vacate the occupancy or building in the case of imminent danger to life or property. Such remedy shall be in addition to penalties otherwise prescribed by law.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 77, FIRE PREVENTION / § 77-7. Records.**

§ 77-7. Records.

The Building Inspector shall keep official records of all permits, inspection reports, recommendations, complaints and violation orders.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II

GENERAL LEGISLATION / Chapter 77, FIRE PREVENTION / § 77-8. Board of Review.

§ 77-8. Board of Review.

- A. Where practical difficulties or unnecessary hardships may result from enforcement of the strict letter of any provision of the State Fire Prevention Code, applications for variances consistent with the spirit of the Code and not inconsistent with the requirements of Subdivision 2 of § 391 of Article 18-A of the Executive Law may be made to and acted upon by a Board of Review established in accordance with the provisions of § 395 of the Executive Law.^{EN(44)}
- B. The Building Inspector and Fire Inspector shall obtain a copy of the Review Board's decision for its record.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION**

Chapter 80, FLOOD DAMAGE PREVENTION

[HISTORY: Adopted by the Town Board of the Town of Esopus 11-8-1995 by L.L. No. 4-1995. Amendments noted where applicable.]

GENERAL REFERENCES

- Building construction -- See Ch. 56.**
Compensation for planning and zoning review costs -- See Ch. 71.
Excavation -- See Ch. 74.
Fees -- See Ch. 76.
Subdivision of land -- See Ch. 107.
Cross-connection and backflow prevention -- See Ch. 120, Art. II.
Zoning -- See Ch. 123.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-1.
Findings. EN**

§ 80-1. Findings.^{EN(45)}

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-2.
Purpose.**

§ 80-2. Purpose.

It is the purpose of this chapter to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Regulate uses which are dangerous to health, safety and property due to water or erosion hazards or which result in damaging increases in erosion or in flood heights or velocities.
- B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. Control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.
- D. Control filling, grading, dredging and other development which may increase erosion or flood damages.
- E. Regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- F. Qualify for and maintain participation in the National Flood Insurance Program.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-3.
Objectives.**

§ 80-3. Objectives.

The objectives of this chapter are to:

- A. Protect human life and health.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-4.
Word usage and definitions.**

§ 80-4. Word usage and definitions.

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

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

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

AREA OF SPECIAL FLOOD HAZARD -- The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1 through A30, A99, V, VO, VE or V1 through V30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain."

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

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

BUILDING -- See "structure."

CELLAR -- See "basement."

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

ELEVATED BUILDING

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

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

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION -- The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction

of streets and either final site grading or the pouring of concrete pads).

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

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

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

FLOOD or FLOODING

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - (a) The overflow of inland or tidal waters.
 - (b) The unusual and rapid accumulation or runoff of surface waters from any source.
- (2) Flood or flooding also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in Subsection (1)(a) above.

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

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

FLOOD INSURANCE STUDY -- See "flood elevation study."

FLOODPLAIN or FLOOD-PRONE AREA -- Any land area susceptible to being inundated by water from any source. (See "flooding.")

FLOODPROOFING -- Any combination of structural and nonstructural additions, changes or

adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY -- See "regulatory floodway."

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

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

HISTORIC STRUCTURE -- Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

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

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

MANUFACTURED HOME -- A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when

connected to the required utilities. The term does not include a recreational vehicle.

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

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

MOBILE HOME -- 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 a floodplain management regulation adopted by the community, and includes any subsequent improvements to such structure.

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

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

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

RECREATIONAL VEHICLE -- A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

REGULATORY FLOODWAY -- The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in § 80-13B of this chapter.

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

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

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

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

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's continued designation as an historic structure.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-5.
Applicability.**

§ 80-5. Applicability.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-6.
Basis for establishing areas of special flood hazard. [Amended 9-9-1993 by L.L.
No. 4-1993]**

**§ 80-6. Basis for establishing areas of special flood hazard. [Amended 9-9-1993 by L.L.
No. 4-1993]**

- A. The areas of special flood hazard are identified and defined on the following documents prepared by the Federal Emergency Management Agency:
- (1) Flood Insurance Rate Map (multiple panels) Index No. 360855 0001-0030, whose effective date is July 5, 1984.
 - (2) A scientific and engineering report entitled "Flood Insurance Study, Town of Esopus, New York, Ulster County," dated January 5, 1984.
 - (3) Flood Boundary and Floodway Map (multiple panels) Index No. 360855 0001-0030, whose effective date is July 5, 1984.
- B. The above documents are hereby adopted and declared to be a part of this chapter. The Flood Insurance Study and/or maps are on file at the Town Clerk's office, Broadway, Port Ewen, New York.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-7.
Interpretation and conflict with other laws.**

§ 80-7. Interpretation and conflict with other laws.

- A. This chapter includes all revisions to the National Flood Insurance Program through November 1, 1989, and shall supersede all previous laws adopted for the purpose of flood damage prevention.
- B. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the highest standards shall govern.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-8.
Penalties for offenses.**

§ 80-8. Penalties for offenses.

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable regulations. Any infraction of the provisions of this chapter by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Esopus 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 §§ 80-19 and 80-20 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-9.
Warning and disclaimer of liability.**

§ 80-9. Warning and disclaimer of liability.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-10.
Designation of local administrator.**

§ 80-10. Designation of local administrator.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-11.
Purpose of floodplain development permit; fees.**

§ 80-11. Purpose of floodplain development permit; fees.

- A. Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and ensuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in § 80-6, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the local administrator and may include, but not be limited to, plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing.
- B. Fees. All applications for a floodplain development permit shall be accompanied by an application fee of ____.^{EN(46)} In addition, the applicant shall be responsible for reimbursing the Town of Esopus for any additional costs necessary for review, inspection and approval of this project. The local administrator may require a deposit of not more than \$500 to cover these additional costs.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-12.
Permit application.**

§ 80-12. Permit application.

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

- A. The proposed elevation, in relation to mean sea level, of the lowest floor (including basement

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

- B. The proposed elevation, in relation to mean sea level, to which any new or substantially improved nonresidential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the local administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.
- C. A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in § 80-15C, Utilities.
- D. A certificate from a licensed professional engineer or architect that any nonresidential floodproofed structure will meet the floodproofing criteria in § 80-17, Nonresidential structures, (except coastal high-hazard areas).
- E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in § 80-6, when notified by the local administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide assurances that the conveyance capacity of the altered or relocated stream segment will be maintained.
- F. A technical analysis, by a licensed professional engineer, if required by the local administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- G. In Zone A, when no base flood elevation data is available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or five acres.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-13.
Powers and duties of local administrator.**

§ 80-13. Powers and duties of local administrator.

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

- A. Permit application review. The local administrator shall conduct the following permit application review before issuing a floodplain development permit. The local administrator shall:
 - (1) Review all applications for completeness, particularly with the requirements of § 80-12, Permit application, and for compliance with the provisions and standards of this chapter.
 - (2) Review subdivision and other proposed new development, including manufactured home parks, to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of §§ 80-14 through 80-18 and, in particular, § 80-14A, Subdivision proposals.
 - (3) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of §§ 80-14 through 80-18, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and resubmit the application.
 - (4) Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law.
- B. Use of other flood data.
 - (1) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 80-12G, as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this chapter.
 - (2) When base flood elevation data is not available, the local administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this chapter.
- C. Alteration of watercourses. The local administrator shall:

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

D. Construction stage. The local administrator shall:

- (1) In Zones A1 through A30, AE and AH and also Zone A, if base flood elevation data is available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (2) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The local administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

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

F. Stop-work orders.

- (1) The local administrator shall issue or cause to be issued a stop-work order for any floodplain development found ongoing without a development permit. Disregard of a stop-work order shall subject the violator to the penalties described in § 80-8 of this chapter.
- (2) The local administrator shall issue or cause to be issued a stop-work order for any floodplain development found noncompliant with the provisions of this chapter and/or the conditions of the development permit. Disregard of a stop-work order shall subject

the violator to the penalties described in § 80-8 of this chapter.

G. Certificate of compliance.

- (1) In areas of special flood hazard, as determined by documents enumerated in § 80-6, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of this chapter.
- (2) A certificate of compliance shall be issued by the local administrator upon satisfactory completion of all development in areas of special flood hazard.
- (3) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Subsection E, Inspections, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

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

- (1) Floodplain development permits and certificates of compliance.
- (2) Certificates of as-built lowest floor elevations of structures, required pursuant to Subsection D(1) and (2), and whether or not the structures contain a basement.
- (3) Floodproofing certificates required pursuant to Subsection D(1) and whether or not the structures contain a basement.
- (4) Variances issued pursuant to §§ 80-19 and 80-20.
- (5) Notices required under § 80-13C, Alteration of watercourses.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-14.
General standards.**

§ 80-14. General standards.

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in § 80-6:

- A. Subdivision proposals. The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):
- (1) Proposals shall be consistent with the need to minimize flood damage.
 - (2) Public utilities and facilities, such as sewer, gas, electrical and water systems, shall be located and constructed so as to minimize flood damage.
 - (3) Adequate drainage shall be provided to reduce exposure to flood damage.
- B. Encroachments.
- (1) Within Zones A1 through A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:
 - (a) The applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location; or
 - (b) The Town of Esopus agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Esopus for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Esopus for all costs related to the final map revision.
 - (2) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in § 80-6, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:
 - (a) A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in flood levels during the occurrence of the base flood; or
 - (b) The Town of Esopus agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Esopus for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town

of Esopus for all costs related to the final map revisions.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-15.
Standards for all structures.**

§ 80-15. Standards for all structures.

- A. Anchoring. New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse or lateral movement during the base flood. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
- B. Construction materials and methods.
 - (1) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
 - (2) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
 - (3) Enclosed areas.
 - (a) For enclosed areas below the lowest floor of a structure within Zones A1 through A30, AE or AH and also Zone A, if base flood elevation data is available, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - [1] A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided; and
 - [2] The bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade.
 - (b) Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

Enclosed areas subgrade on all sides are considered basements and are not permitted.

C. Utilities.

- (1) Machinery and equipment servicing a building must either be elevated to or above the base flood level or designed to prevent water from entering or accumulating within the components during a flood. This includes heating, ventilating and air-conditioning equipment, hot-water heaters, appliances, elevator lift machinery and electrical junction and circuit breaker boxes. When located below the base flood elevation, a professional engineer's or architect's certification of the design is required.
- (2) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (3) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall.
- (4) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-16.
Residential structures.**

§ 80-16. Residential structures.

The following standards, in addition to the standards in § 80-14A, Subdivision proposals, and § 80-14B, Encroachments, and § 80-15, Standards for all structures, apply to structures located in areas of special flood hazard as indicated:

- A. Within Zones A1 through A30, AE and AH and also Zone A, if base flood elevation data is available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above the base flood level.
- B. Within Zone A, when no base flood elevation data is available, new and substantially improved structures shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.
- C. Within Zone AO, new and substantially improved structures shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth

number specified in feet on the community's Flood Insurance Rate Map enumerated in § 80-6 (at least two feet if no depth number is specified).

- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-17.
Nonresidential structures.**

§ 80-17. Nonresidential structures.

The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures, in addition to the requirements in § 80-14A, Subdivision proposals, and § 80-14B, Encroachments, and § 80-15, Standards for all structures.

- A. Within Zones A1 through A30, AE and AH and also Zone A, if base flood elevation data is available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:
 - (1) Have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or
 - (2) Be floodproofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- B. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:
 - (1) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified); or
 - (2) Together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in Subsection A(2).
- C. If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for construction. A floodproofing certificate or other certification shall be provided to the local administrator that certifies that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Subsection A(2), including the specific

elevation (in relation to mean sea level) to which the structure is to be floodproofed.

- D. Within Zones AH and AO, adequate drainage paths are required to guide floodwaters around and away from proposed structures on slopes.
- E. Within Zone A, when no base flood elevation data is available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-18.
Manufactured homes and recreational vehicles.**

§ 80-18. Manufactured homes and recreational vehicles.

The following standards, in addition to the standards in § 80-14, General standards, and § 80-15, Standards for all structures, apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

A. Recreational vehicles.

- (1) Recreational vehicles placed on sites within Zones A1 through A30, AE and AH shall either:
 - (a) Be on site fewer than 180 consecutive days;
 - (b) Be fully licensed and ready for highway use; or
 - (c) Meet the requirements for manufactured homes in Subsections B, D and E.
- (2) A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices and has no permanently attached additions.

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

frame ties to ground anchors.

- C. A manufactured home to be placed or substantially improved in Zones A1 through A30, AE and AH in an existing manufactured home park or subdivision that is not to be placed on a site on which a manufactured home has incurred substantial damage shall be:
 - (1) Elevated in a manner such as required in Subsection B; or
 - (2) Elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- D. Within Zone A, when no base flood elevation data is available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.
- E. Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in § 80-6 (at least two feet if no depth number is specified). Elevation on piers consisting of dry stacked blocks is prohibited.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-19.
Appeals board.**

§ 80-19. Appeals board.

- A. The Zoning Board of Appeals as established by the Town of Esopus shall hear and decide appeals and requests for variances from the requirements of this chapter.
- B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this chapter.
- C. Those aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- D. In passing upon such applications, the Zoning Board of Appeals, shall consider all technical

evaluations, all relevant factors, standards specified in other sections of this chapter and:

- (1) The danger that materials may be swept onto other lands to the injury of others.
 - (2) The danger to life and property due to flooding or erosion damage.
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (4) The importance of the services provided by the proposed facility to the community.
 - (5) The necessity to the facility of a waterfront location, where applicable.
 - (6) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage.
 - (7) The compatibility of the proposed use with existing and anticipated development.
 - (8) The relationship of the proposed use to the Comprehensive Plan and floodplain management program of that area.
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (10) The costs to local governments and the dangers associated with conducting search-and-rescue operations during periods of flooding.
 - (11) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
 - (12) The costs of providing governmental services during and after flood conditions, including search-and-rescue operations and maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems and streets and bridges.
- E. Upon consideration of the factors of Subsection D and the purposes of this chapter, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter.
- F. The local administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency upon request.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 80, FLOOD DAMAGE PREVENTION / § 80-20.
Conditions for variances.**

§ 80-20. 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 the items in § 80-19D(1) through (12) have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (1) The proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure.
 - (2) The variance is the minimum necessary to preserve the historic character and design of the structure.
- C. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that:
 - (1) The criteria of Subsections A, D, E and F of this section are met.
 - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification of:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety or extraordinary public expense; create nuisances; cause fraud on or victimization of the public; or conflict with existing chapters 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 over the signature of a community official that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 83, GAMES OF CHANCE**

Chapter 83, GAMES OF CHANCE

[HISTORY: Adopted by the Town Board of the Town of Esopus 9-5-1980 by L.L. No. 21-1980. Amendments noted where applicable.]

GENERAL REFERENCES

Bingo -- See Ch. 53.
Fees -- See Ch. 76.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 83, GAMES OF CHANCE / § 83-1. Statutory
authority; title.**

§ 83-1. Statutory authority; title.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 83, GAMES OF CHANCE / § 83-2. Definitions.**

§ 83-2. Definitions.

A. The words and terms used in this chapter shall have the same meanings as such words and terms are used in Article 9-A of the General Municipal Law, unless otherwise provided herein or if the context requires a different meaning.

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

OFFICER -- The chief law enforcement officer of the town.

TOWN -- The Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 83, GAMES OF CHANCE / § 83-3. Games of
chance authorized; restrictions.**

§ 83-3. Games of chance authorized; restrictions.

- A. Games of chance may be conducted in the town by an authorized organization, after obtaining a license therefor, in accordance with the provisions, requirements and limitations of Article 9-A of the General Municipal Law, the rules and regulations of the New York State Racing and Wagering Board and this chapter.
- B. The conduct of games of chance on Sundays is authorized, except as otherwise provided in Article 9-A of the General Municipal Law.
- C. In addition to the restrictions contained in § 189 of the General Municipal Law, the conduct of games of chance in the town shall be subject to the following restrictions: Games of chance may be conducted in the town on any day of the week except on Easter Sunday, Christmas Day and New Year's Eve.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 83, GAMES OF CHANCE / § 83-4. When
effective.**

§ 83-4. When effective.

This chapter shall take effect upon filing with the Secretary of State after approval thereof by the voters of the town voting thereon at the next succeeding biennial town election.^{EN(47)}

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE**

Chapter 85, GARBAGE, RUBBISH AND REFUSE

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

GENERAL REFERENCES

Appearance tickets -- See Ch. 50.

Fees -- See Ch. 76.

Landfills -- See Ch. 92.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE I, Dumping [Adopted 8-9-1967 by L.L. No. 1-1967; amended in its
entirety 3-23-1977 by L.L. No. 2-1977]**

**ARTICLE I, Dumping [Adopted 8-9-1967 by L.L. No. 1-1967; amended in its
entirety 3-23-1977 by L.L. No. 2-1977]**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE I, Dumping [Adopted 8-9-1967 by L.L. No. 1-1967; amended in its
entirety 3-23-1977 by L.L. No. 2-1977] / § 85-1. Definitions.**

§ 85-1. Definitions.

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

GARBAGE -- Includes waste food, papers, dead animals or parts thereof, droppings or excreta of domestic fowl in whole or mixed with some other substance, ashes, offal, vegetables, dross, cinders, shells, straw, shavings, paper, dirt, filth and all waste matter which shall be flammable or capable of fermentation or decay.

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

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE I, Dumping [Adopted 8-9-1967 by L.L. No. 1-1967; amended in its
entirety 3-23-1977 by L.L. No. 2-1977] / § 85-2. Dumping prohibited; exception.**

§ 85-2. Dumping prohibited; exception.

No person shall throw, cast, lay, bury or leave or direct, suffer or permit any servant, agent or employee to throw, cast, lay, bury or leave any rubbish or garbage of any kind whatsoever in, upon, near or adjoining any highway, public road, way or place or route of public travel in the Town of Esopus, Ulster County, New York, or in or upon any private property situated in said Town of Esopus, except as such place or places may from time to time be designated or approved as a dumping ground by the Town Board of said Town of Esopus, for which written permission to use same is issued by said Town Board.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE I, Dumping [Adopted 8-9-1967 by L.L. No. 1-1967; amended in its
entirety 3-23-1977 by L.L. No. 2-1977] / § 85-3. Burial of animals.**

§ 85-3. Burial of animals.

Nothing herein contained shall prevent a person from burying an animal on his or her own lands.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE I, Dumping [Adopted 8-9-1967 by L.L. No. 1-1967; amended in its
entirety 3-23-1977 by L.L. No. 2-1977] / § 85-4. Dumping of materials originating
outside of town prohibited.**

§ 85-4. Dumping of materials originating outside of town prohibited.

No person shall throw, cast, lay, bury or leave or direct, suffer or permit any servant, agent or employee to throw, cast, lay, bury or leave any rubbish or garbage of any kind whatsoever in or upon any private or public dumping ground or landfill, which said rubbish or garbage originates outside the Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE I, Dumping [Adopted 8-9-1967 by L.L. No. 1-1967; amended in its
entirety 3-23-1977 by L.L. No. 2-1977] / § 85-5. Penalties for offenses.**

§ 85-5. Penalties for offenses.

Any person violating the provisions of this article shall be guilty of an offense and, on conviction, shall be punished by a fine not to exceed \$500 and up to \$100 per day for every day the offense occurs or by imprisonment for a period not to exceed six months, or both.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN]**

**ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN⁽⁴⁸⁾]**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN] / § 85-6. Definitions.**

§ 85-6. Definitions.

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

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

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

PERSON OR PERSONS ENGAGED IN THE BUSINESS OF COLLECTING GARBAGE, RUBBISH AND OTHER WASTE MATERIALS -- Includes any individual, firm, partnership, corporation, municipality or association of persons engaged in the business of collecting garbage, rubbish and other waste materials for a fee or any other valuable consideration.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN] / § 85-7. Dumping ground designated.**

§ 85-7. Dumping ground designated.

The premises owned or leased by the Town of Esopus situated, lying and being the Town of Esopus, County of Ulster and State of New York, generally described as follows: 34.8 acres located adjacent to the former New York Central Rail Road, West Shore Line (now Conrail) main line at West Park, New York. Said premises are hereby designated as the dumping ground of this town for garbage, rubbish and other waste materials by the residents of the town, subject to the provisions of this article. The regulations herein contained shall also apply to any other lands hereafter acquired or leased for the purpose of disposal of garbage, rubbish and other waste materials.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN] / § 85-8. Disposal of vehicles and large articles.**

§ 85-8. Disposal of vehicles and large articles.

No person shall carry or leave or cause to be carried or left upon the premises mentioned in § 85-7 of this article any automobile, vehicle, machine, trailer, mobile home, commercial appliance or other article, or any part thereof, unless the same shall have been dismantled and the body thereof so cut into four-by-six-foot sections flattened out so as to permit the same to occupy a minimum of space. Any deviation will have to have special permits and Board approval. Doors must be removed from appliances as a safety precaution.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN] / § 85-9. Garbage.**

§ 85-9. Garbage.

No person shall carry or leave or cause to be carried or left upon the premises mentioned in

§ 85-7 of this article, any garbage as hereto defined, or any material, waste or offal of any kind which shall give off any offensive odor, either when left upon premises or thereafter, or creates or may thereafter create a nuisance of any kind or which shall be or may become dangerous to human or animal life.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN] / § 85-10. Use of dumping ground restricted.**

§ 85-10. Use of dumping ground restricted.

No person not a resident of or conducting an established business in the Town of Esopus shall deposit any garbage, rubbish or other waste materials on the premises herein designated for that purpose, except a person or persons engaged in the business of collecting garbage, rubbish and other waste materials who have entered a valid and existing contract with the Town Board of the Town of Esopus permitting deposits on the premises.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN] / § 85-11. Permit required for commercial waste collectors.**

§ 85-11. Permit required for commercial waste collectors.

- A. Any person who is engaged in the business of collecting garbage, rubbish and other waste materials, as defined in § 85-6 of said article, or any other person who in fact collects said garbage, rubbish and other waste materials shall, before collecting and depositing said material in the Town of Esopus dumping area or on any other property, public or private, in the Town of Esopus, procure a license or permit from the Town Clerk of the Town of Esopus to collect and deposit such waste materials. The Town Clerk of the Town of Esopus shall provide such applicant with a written application, upon which the applicant shall state the routes located in the Town of Esopus where he collects garbage, rubbish and other waste materials, the number of homes or businesses located on said routes and the approximate cubic yardage or tonnage per month of garbage, rubbish and other waste materials deposited in the Town of Esopus dumping area or on any property, public or private, in the Town of Esopus.
- B. A midyear report containing the same information required in Subsection A above will be

filed on July 1 of each year to update the annual application.

- C. Any person engaged in or conducting a business in the Town of Esopus desiring to deposit solid bulk materials, including stoves, refrigerators and other bulk materials, shall state on the application provided to him by the Town Clerk of the Town of Esopus the approximate number of articles or the approximate tonnage per month of articles to be deposited in the Town of Esopus dumping area. Said application shall further state the nature and type of business engaged in and the location of said business. If there is more than one business site located within the Town of Esopus, the application shall so state the name and address of each business site.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN] / § 85-12. Permit required for noncommercial use.**

§ 85-12. Permit required for noncommercial use.

Residents of the Town of Esopus not in the business of collecting garbage, rubbish and other waste materials for hire, money or any other valuable consideration may apply to the Town of Esopus Town Clerk for a permit for the limited purpose of depositing garbage, rubbish and other waste materials within reasonable amounts, i.e., standard household usage per week, originating from their own homes or property on the premises herein designated for that purpose.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN] / § 85-13. Hazardous materials prohibited.**

§ 85-13. Hazardous materials prohibited.

No person shall, under any circumstances, carry or leave or cause to be carried or left any toxic or hazardous materials, as defined under New York State Law, or batteries of any kind. Any violations or deviations will be prosecuted to the fullest extent of the law.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN] / § 85-14. Conduct of dumping.**

§ 85-14. Conduct of dumping.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN] / § 85-15. Burning in dumping area unlawful.**

§ 85-15. Burning in dumping area unlawful.

No burning by any person or persons shall be permitted in said dumping area, except by an order of the Town Board.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN] / § 85-16. Transportation of waste materials.**

§ 85-16. Transportation of waste materials.

Any and all vehicles used for the collection and transportation of garbage, rubbish and other waste materials, while traveling on the public highways in the Town of Esopus, shall be constructed and covered so as to prevent any of the material thereon from falling on the road or blowing from said vehicles. Each portable container over eight cubic yards in size shall be clearly marked with the letters "Town of Esopus" and the cubic yardage.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN] / § 85-17. Dumping on private property unlawful.**

§ 85-17. Dumping on private property unlawful.

No person shall throw or deposit or cause to be thrown or deposited, any garbage, rubbish or

other waste materials or abandoned vehicles, or parts thereof, in or upon any public highway, street or place or in or upon any property within the Town of Esopus, including his or her own, except upon the dumping ground aforesaid pursuant to the regulations hereof by the Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN] / § 85-18. Fees.**

§ 85-18. Fees.

- A. Persons engaged in the business of collecting garbage, rubbish and other waste materials shall pay to the Town Clerk an annual fee of \$250 per commercial vehicle upon the issuance of a permit or license permitting them to engage in the business of depositing waste materials in the Town of Esopus. In addition, each commercial hauler will pay a tipping fee of \$42 per ton of material or \$15 per cubic yard, whichever creates the highest fee, deposited in the landfill site. The fee charged will be predicated on the size of the container or compactor. Each container or compactor will be clearly marked on each side, stating the tonnage and cubic-yard capacity. Partial loads will be treated as full loads for the purpose of determination of fee to be charged. Each commercial hauler will be billed on a semimonthly basis. All bills will be rendered by the 15th and 30th days of the month, with payment due within two weeks of the mailing of such bills. All commercial haulers with a delinquent balance over 30 days old will be prohibited from depositing waste materials in the landfill.
- B. There shall be a credit of 55 tons per week issued to any person or persons engaged in the business of collecting garbage, rubbish and other waste materials from residences within the Town of Esopus. These collectors must get Town Board approval prior to setting rates for pick up at Town of Esopus residences.
- C. Applicants engaged in a business located physically in the Town of Esopus, upon receiving a permit from the Town Clerk of the Town of Esopus to deposit solid waste, such as refrigerators, stoves, etc., shall pay an annual fee of \$100 per truck up to one ton's capacity and \$200 per truck over one ton's capacity upon obtaining said permit, in addition to tipping fees.
- D. Residents of the Town of Esopus not engaged in the business of collecting garbage, rubbish and other waste materials and not engaged in a business in the Town of Esopus whereby bulk refuse, such as refrigerators, stoves, etc., would be deposited, shall obtain an annual permit from the Town of Esopus upon paying an annual fee of \$5.

- E. Contractors doing work for town residents or town business, such as construction or renovations, shall procure a permit from the Town Clerk and pay \$15 for a thirty-day permit, plus normal tipping fees. Contractors shall also provide proof of origin. Material to be dumped must originate from the Town of Esopus only.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN] / § 85-19. Penalties for offenses by commercial collectors.**

§ 85-19. Penalties for offenses by commercial collectors.

Any person engaged in the business of collecting garbage, rubbish and other waste materials in the Town of Esopus violating any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of \$5,000 for each offense or by imprisonment in jail not to exceed 60 days, or both.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN] / § 85-20. Penalties for offenses by licensed depositors of solid waste.**

§ 85-20. Penalties for offenses by licensed depositors of solid waste.

Any person, firm, corporation, etc., doing business in the Town of Esopus and licensed to deposit solid waste material, such as tires, refrigerators, stoves, etc., violating any provision of this article shall be guilty of a violation and, upon conviction thereof, shall be liable by a fine of \$250 for each offense or by imprisonment in jail not to exceed 60 days, or both.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN] / § 85-21. Additional penalties for offenses.**

§ 85-21. Additional penalties for offenses.

Any person, persons, corporation, partnership or firms violating any provision of this article, the penalty for which is not provided for in § 85-19 or 85-20 shall be guilty of a violation and, upon conviction, shall be punishable by a fine of \$250 for each offense or by imprisonment in jail not

to exceed 60 days, or both.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN] / § 85-22. Tires; fee; removal from rim required.**

§ 85-22. Tires; fee; removal from rim required.

All passenger-car and small-truck tires deposited in the landfill will be charged \$2 per tire, and large-truck tires, 20 inches or larger, will be charged \$5 per tire.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN] / § 85-23. Amendment of fees.**

§ 85-23. Amendment of fees.

The Town Board by resolution may adjust the above-mentioned fees from time to time, without public hearing.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 85, GARBAGE, RUBBISH AND REFUSE /
ARTICLE II, Disposal of Waste Materials [Adopted 5-10-1989 by L.L. No.
4-1989EN] / § 85-24. Revocation of privileges.**

§ 85-24. Revocation of privileges.

Any person who, or whose servants, agents, employees or officers, shall be convicted of violation of this article may thereafter be denied the use of the dumping ground, either temporarily or permanently, by resolution of the Town Board, and his or her license shall be subject to revocation or suspension.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 88, HIGHWAYS**

Chapter 88, HIGHWAYS

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

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 88, HIGHWAYS / § 88-1. Prior notice required for civil action. EN [Adopted 5-20-2004 by L.L. No. 2-2004]

§ 88-1. Prior notice required for civil action. ^{EN(49)} [Adopted 5-20-2004 by L.L. No. 2-2004]

- A. No civil action shall be maintained against the Town or Town Superintendent of Highways, nor other employees or officers thereof, acting in such capacity, for damages or injuries to person or property sustained by reason of any highway, bridge, street, sidewalk, crosswalk, or culvert being defective, out of repair, unsafe, dangerous or obstructed unless, prior to the occurrence resulting in such damages or injuries, written notice of the defective, unsafe, dangerous or obstructed condition of such highway, bridge, street, sidewalk, crosswalk or culvert was actually given to the Town Clerk or Town Superintendent of Highways, and there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of.
- B. No such action shall be maintained for damages or injuries to personal property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, street, sidewalk, crosswalk or culvert unless written notice thereof, specifying the particular place, was actually given to the Town Clerk or Town Superintendent of Highways and there was failure or neglect to cause such snow or ice to be removed, or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 88, HIGHWAYS / § 88-2. Contents of notice. [Adopted 5-20-2004 by L.L. No. 2-2004]

§ 88-2. Contents of notice. [Adopted 5-20-2004 by L.L. No. 2-2004]

The written notice hereunder shall contain at least the following information:

- A. Name and mailing address of the person giving notice.
- B. A precise statement as to the nature and extent of any defective, unsafe, dangerous or

obstructed condition or the existence of snow or ice upon any highway, bridge, street, sidewalk, crosswalk or culvert within the Town of Esopus.

- C. The approximate date that such condition first became known to the person giving the notice.
- D. The exact location of such condition, giving wherever possible reference to a street address or addresses, utility pole numbers or such other geographic reference as will aid the Town in properly locating such condition.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 88, HIGHWAYS / § 88-3. Transmission of
notices to Clerk and Town Board. [Adopted 5-20-2004 by L.L. No. 2-2004]**

§ 88-3. Transmission of notices to Clerk and Town Board. [Adopted 5-20-2004 by L.L. No. 2-2004]

The Town Superintendent of Highways shall transmit in writing to the Town Clerk within five days after receipt thereof all written notices received pursuant to this chapter and Subdivision 2 of § 65-a of the Town Law. The Town Clerk shall cause all written notices received pursuant to this chapter and Subdivision 2 of § 65-a of the Town Law, to be presented to the Town Board within five days of the receipt thereof or at the next succeeding Town Board meeting, whichever shall be sooner.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 88, HIGHWAYS / § 88-3.1. Record of notices.
[Adopted 5-20-2004 by L.L. No. 2-2004]**

§ 88-3.1. Record of notices. [Adopted 5-20-2004 by L.L. No. 2-2004]

The Town Clerk shall keep an index, record, in a separate book, of all written notices which he or she shall receive regarding 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, street, sidewalk, crosswalk or culvert, which record shall state the date of receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice was received. The record of such notice shall be preserved for a period of five years from the date it is received.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 88, HIGHWAYS / § 88-3.2. Definitions.**

[Adopted 5-20-2004 by L.L. No. 2-2004]

§ 88-3.2. Definitions. [Adopted 5-20-2004 by L.L. No. 2-2004]

For the purposes of this chapter, the terms "highway," "bridge," "street," "sidewalk," "crosswalk," and "culvert" shall include, but not be limited to, every grating, opening, drain, sewer, pier, dock, park, recreational facility, parking lot, path, step or stairway and any other means of access of every kind, nature and description whatsoever leading thereto or therefrom, which is owned, controlled and maintained by the Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 88, HIGHWAYS / § 88-4. Standards for
construction of roads. [Adopted 3-9-1988 by L.L. No. 5-1988]**

§ 88-4. Standards for construction of roads. [Adopted 3-9-1988 by L.L. No. 5-1988]

The Town of Esopus will not accept for dedication any road which does not meet the minimum standards set forth below:

- A. All of the applicable provisions of the Highway Law must be strictly complied with.
- B. The cost of construction shall be borne by the person offering the road for dedication.
- C. The right-of-way shall be 50 feet in width.
- D. The paved portion of the highway shall be 26 feet in width.
- E. The center line of the paved portion of the road must also be the center line of the right-of-way. The Superintendent of Highways, for good cause shown, may modify this requirement, in writing.
- F. Before any highway is to be laid out, the Town Superintendent of Highways must be consulted. In the event that the highway is to be laid out in an area where sewer and water lines have been installed, the owner must also consult the Superintendent of the Water and Sewer Department. Strict adherence to the water and sewer regulations is a prerequisite to the Town's accepting the road as a Town highway.
- G. Before any highway is to be laid out, the Superintendent of Highways shall be furnished with a survey, in triplicate, prepared by a licensed surveyor in the State of New York of the proposed highway.
- H. All boundaries of the proposed road shall be marked with suitable permanent markers of steel or stone; all corners shall have permanent markers; all tangents of over 1,000 feet shall

have markers set at no less than five-hundred-foot intervals.

- I. Before construction commences, the right-of-way shall be completely cleared of brush and trees for the full length and width of the proposed road. New roads shall extend to the furthest edge of the owner's property line.
- J. Drainage.
 - (1) After consultation with the Town Superintendent of Highways, the owner shall, at his own cost and expense, install all drainage structures and driveway crossings of a design, size and length acceptable to the Superintendent of Highways.
 - (2) Easements shall be obtained, if necessary, for drainage ditches, which shall also be of a size and design satisfactory to the Superintendent of Highways.
 - (3) The owner/applicant must submit a stormwater pollution prevention plan pursuant to Chapter 106 of the Town of Esopus Code. [Added 11-15-2007 by L.L. No. 7-2007]
- K. Roadway. The full fifty-foot width of roadway shall be graded to conform to a typical cross section, a copy of which is annexed hereto.^{EN(50)} The road profile shall be submitted to the Town Superintendent of Highways for approval before construction commences; said road shall be constructed to the grade indicated on the profile approved by the Superintendent of Highways. The grade shall be in accordance with good engineering practice and shall be so laid out that additional work by the Town shall be unnecessary after dedication and acceptance.
- L. Road proper.
 - (1) The twenty-six-foot-wide traveled portion of the road shall be excavated to a depth of no less than 15 inches below the finished grade. The subbase of the traveled portion of the road shall be made of hard shale, graded gravel, quarry rubble or Item 4.
 - (2) The subbase must be thoroughly compacted with a suitable heavy roller and trimmed to present an even surface. Both the profile and cross section of the subbase shall be covered with three inches of plant-mixed asphalt base, which in turn shall be rolled and compacted. The final layer shall consist of one-and-one-half-inch Type No. 7 asphalt topping, which shall also be rolled and compacted with suitable and proper equipment. Prior to compaction of each of the three steps set forth above, no additional layer of road surfacing may be applied until and unless the Superintendent of Highways finds that the compaction has been accomplished according to good engineering practice.
- M. Utility poles or underground utilities must be located in the outside edge of the fifty-foot right-of-way, not more than five feet from the outermost portion of the right-of-way, and

must be installed prior to acceptance of the road.

N. Dead-end roads.

- (1) Dead-end roads will generally not be accepted by the Town; however, if the terrain or the physical characteristics of the land allow no alternative except for a dead end, the owner must install a T-turnaround, which must be at least 50 feet in width (that direction which follows the right-of-way) and 150 feet in length (the direction which runs at right angles to the right-of-way). The T shall be on the center line of the right-of-way. The area occupied by the turnaround shall be a part of the deed proffered to the Town for the road. The T shall be constructed in the same manner as the traveled portion of the road.
- (2) Prior to offering to dedicate the road to the Town, the owner shall furnish the Attorney for the Town with a title policy, which shall specifically state, among other things, that the lands to be dedicated for a road are free and clear of all encumbrances. The dedication of the road to the Town shall be accomplished in exact compliance with the Highway Law. The owner shall also furnish the Town with the cost of filing the deed in the Ulster County Clerk's office.

O. The map filed by the owner shall designate the street name.

P. A two-inch-by-ten-foot steel pole shall be erected, together with the name of the street, by the owner. Such sign shall be white on a green background and shall be on a standard extruded sign blank.

Q. A true and accurate street survey showing all lots and properties to be used in the allocation of present and future street numbering shall also be filed with said map.

R. No road will be accepted for dedication which has more than a twelve-percent grade.

S. Any deviation from any of the above requirements can only be made by a written release from the Town Superintendent of Highways. Such a release shall accompany the owner's petition for the acceptance of the proposed road as a Town highway.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 88, HIGHWAYS / § 88-5. (Reserved)**

§ 88-5. (Reserved)

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 88, HIGHWAYS / § 88-6. Driveways. [Adopted
3-9-1988 by L.L. No. 6-1988]**

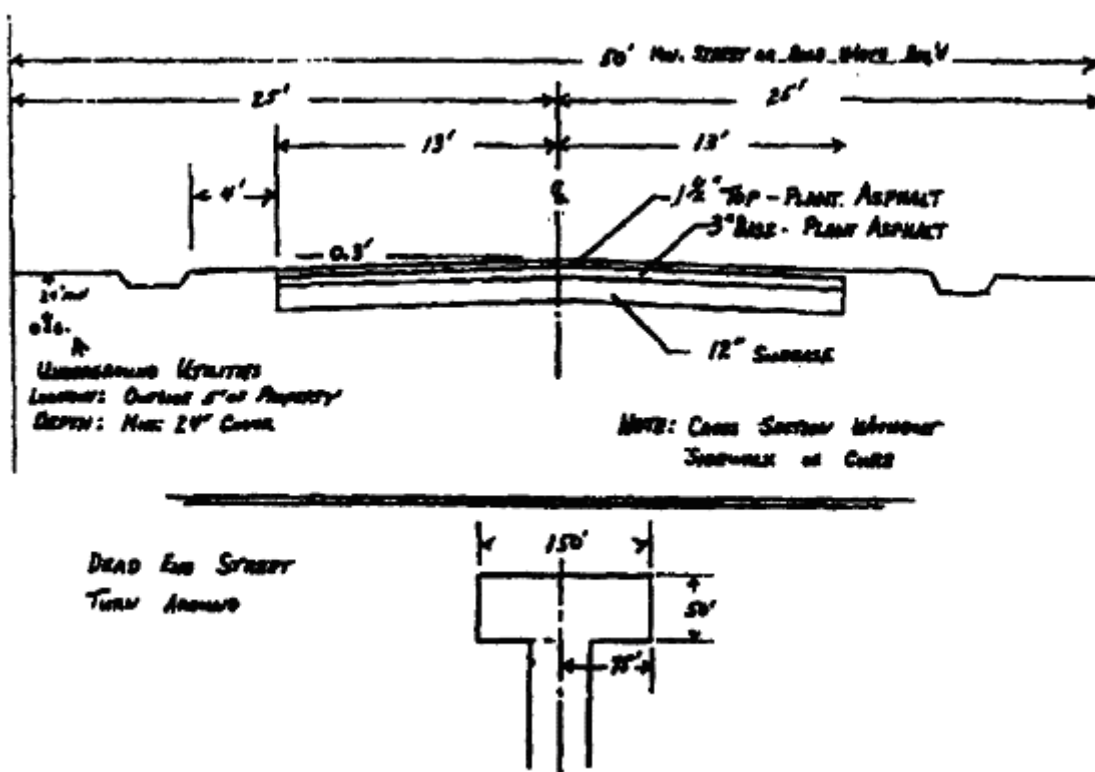
§ 88-6. Driveways. [Adopted 3-9-1988 by L.L. No. 6-1988]

- A. No person, firm or corporation may enter from private lands onto a public highway in the Town of Esopus without first obtaining a permit to do so from the Superintendent of Highways. The Superintendent of Highways will consider sight distance, terrain, drainage problems, etc., before granting or denying the permit.
- B. The application for a driveway permit shall be made in duplicate on forms supplied by the Town Clerk. One duplicate original shall be filed with the Town Clerk and the other with the Superintendent of Highways.
- C. The driveway must be constructed to the grade of the public highway or lower, so that snowplows do not peel off the surface of the driveway. The driveway must also be so constructed that no water from the driveway shall drain onto a public highway. In the event that is impractical, then the owner must install a grate at the point where the private driveway meets the public highway so that the water will drain through the grate and not onto the public highway.
- D. The driveway must be perpendicular to the Town road for at least 25 feet. In the event that the driveway is not constructed in accordance with the instructions of the Town Superintendent of Highways, the owner will be given the opportunity to redo the work, or the Superintendent of Highways may, at his discretion, redo the work; the cost of the same shall be charged against the owner of the property and, if unpaid, will be assessed against the land on which the driveway was erected. If the owner shall fail to pay the cost and expenses incurred by the Town of Esopus within 10 days after being notified of the cost thereof by registered or certified mail, the Town Clerk shall file, immediately preceding the time for making the annual assessment roll, a certificate of such actual cost and expense, with the statement as to the property upon which such cost and expense was incurred. The Assessor of the Town of Esopus shall, in the preparation of the next assessment roll of the Town of Esopus, tax and assess such amount upon such property, and the same shall be levied, collected and enforced in the same manner, by the same proceedings, at the same time, under the same penalties and having the same lien upon the property assessed as general Town tax and as a part thereof.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 88, HIGHWAYS / Typical Section**

Typical Section

[Adopted 3-9-1988 by L.L. No. 5-1998]



CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 90, JUNKYARDS

Chapter 90, JUNKYARDS

[HISTORY: Adopted by the Town Board of the Town of Esopus 3-12-1969 by L.L. No. 1-1969. Amendments noted where applicable.]

GENERAL REFERENCES

- Fees -- See Ch. 76.
- Fire prevention -- See Ch. 77.
- Garbage, rubbish and refuse -- See Ch. 85.
- Landfills -- See Ch. 92.
- Abandoned vehicles -- See Ch. 113.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 90, JUNKYARDS / § 90-1. Legislative
determination.**

§ 90-1. Legislative determination.

It is hereby declared, pursuant to the authority created by the Municipal Home Rule Law of the State of New York, that the maintenance of junkyards and the dealing in secondhand articles with inadequate regulations for the conducting of such businesses is a menace to the health, safety, morals, welfare and reasonable comfort of the citizens of the town and that the establishment of proper standards for the regulation of junkyards and dealers in secondhand articles is essential to the public welfare. Therefore, the provisions hereafter prescribed to provide adequate regulations for the conduct of such businesses are enacted, and their necessity in the public interest is hereby declared as a matter of legislative determination.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 90, JUNKYARDS / § 90-2. Dealing in
secondhand articles except in licensed junkyards prohibited. [Amended 6-8-1983
by L.L. No. 1-1983]**

**§ 90-2. Dealing in secondhand articles except in licensed junkyards prohibited. [Amended
6-8-1983 by L.L. No. 1-1983]**

No person shall engage in the business of dealer of secondhand articles in the Town of Esopus except in a duly licensed junkyard. This section, however, shall not be interpreted to prohibit yard sales or garage sales. Such sales shall not exceed one week in duration in any given year. No license shall be required to conduct yard or garage sales.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 90, JUNKYARDS / § 90-3. Definitions.**

§ 90-3. Definitions.

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

JUNKYARD -- A lot, land or structure or part thereof used primarily for the storage and sale of wastepaper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage or salvaging of machinery and vehicles not in running condition and for the sale of parts thereof. For the purpose of this section, junkyard shall mean any place of storage or deposit, whether in

connection with another business or not, where two or more unregistered, old or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming some or all of the materials therein, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any other purpose. Such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles which, taken together, equal in bulk two or more such vehicles; provided, however, that the term "junkyard" shall not be construed to mean an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal produce is scrap iron, steel or nonferrous scrap for sale for remelting purposes only.

MOTOR VEHICLES -- All vehicles propelled or drawn by power other than muscular power, originally intended for use on public highways.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 90, JUNKYARDS / § 90-4. Unauthorized
junkyards unlawful.**

§ 90-4. Unauthorized junkyards unlawful.

It shall be unlawful for any person, firm or corporation to establish, maintain, operate or conduct within the Town of Esopus any junkyard, unless duly licensed to do so as hereinafter provided and in strict compliance with this chapter and all other provisions of law applicable thereto.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 90, JUNKYARDS / § 90-5. Application for
license.**

§ 90-5. Application for license.

An application for license provided for under § 90-4 shall be made to the Town Clerk upon forms to be furnished by him. Said application shall state the name of the owner of the premises, the name and address of the applicant and the nature and extent of his interest in the business for which a license is desired, the location of the proposed junkyard, the size of the area intended to be used and any other information required by the Town Clerk. Such application shall be accompanied by a fee of \$25, which shall cover the required investigation; and whether or not a license is issued, such investigation fee shall be retained by the town.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II

GENERAL LEGISLATION / Chapter 90, JUNKYARDS / § 90-6. Town Board approval required.

§ 90-6. Town Board approval required.

The Town Clerk shall refer such application to the Town Board which, in turn, shall refer the same to the Planning Board before acting thereon, and no license shall be issued without the approval of the Town Board.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 90, JUNKYARDS / § 90-7. Restrictions on locations.

§ 90-7. Restrictions on locations.

- A. Every junkyard shall be not less than 500 feet from any property line or building nor less than 150 feet from any public highway.
- B. Every junkyard shall not be less than 1,000 feet from a public school, playground, public library, church, hospital, orphanage or children's institution housing children under 16 years of age.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 90, JUNKYARDS / § 90-8. License fee; term; display required.

§ 90-8. License fee; term; display required.

- A. If such application is approved as required by § 90-6, the Town Clerk shall issue a license to the applicant upon the payment of a fee of \$10.
- B. Each license or renewal thereof shall expire on May 1 following its issuance and may be renewed for a period of one year from the date of expiration after application and the payment of the fee required in this section.
- C. Such license shall always be on display in the office of the junkyard.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 90, JUNKYARDS / § 90-9. Enclosure required.

§ 90-9. Enclosure required.

Every junkyard established in this town shall be completely enclosed by a fence of a height of not less than eight feet and provided with no more than two gates for entrance and exit which must be closed and securely locked during the hours of darkness. The fence must be of the solid type. The materials used in the construction of the fence must be of sound quality, painted and kept in good repair at all times. Said fence shall be kept free of all signs and advertisements except those which directly pertain to the business conducted in the area enclosed.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 90, JUNKYARDS / § 90-10. Fire extinguishers
required.**

§ 90-10. Fire extinguishers required.

There shall be maintained in each junkyard at least two approved fire extinguishers.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 90, JUNKYARDS / § 90-11. Record of
purchases; operation of junkyard.**

§ 90-11. Record of purchases; operation of junkyard.

- A. Every junkyard shall be kept under the management of the licensee, who must be of good reputation and character and who shall manage such junkyard from an office located on the premises. There shall be maintained in such office a bound book containing a record of all persons from whom the licensee has purchased any material, their home addresses, the time of the purchases and a complete description of the material purchased and the price paid for such material. Such record shall at all times be available for inspection by any peace officer, a member of the Town Board or the Town Clerk.
- B. It shall be the duty of the licensee of any such junkyard:
- (1) Not to buy from nor sell to any minor, actually or apparently under the age of 21 years.
 - (2) To operate and maintain the junkyard in such a manner as to prevent the creation of fire hazards of any kind.
 - (3) To take such other measures as shall be deemed necessary by the officers and boards set forth in § 90-6 hereof, to preserve the health, comfort and safety of all persons doing

business at the junkyard and of the general public.

- (4) To prevent the committing of any nuisance at the junkyard and to report immediately to the proper authorities all acts of a disorderly character created by any person or persons at the junkyard and, to that end, to maintain proper policing thereof.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 90, JUNKYARDS / § 90-12. Failure to comply.**

§ 90-12. Failure to comply.

The Town Clerk must, upon the order of the Town Board, revoke or suspend the license granted under the authority of this chapter for failure to comply with any provisions of this chapter or any laws or regulations relating to any such junkyard. A duly authorized agent of the town shall inspect all junkyards monthly and report any noncompliance of a violation therein of this chapter to the Town Board.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 90, JUNKYARDS / § 90-13. Waiver of provisions.**

§ 90-13. Waiver of provisions.

Where any of the provisions of this chapter cannot be met due to unusual circumstances, the Town Board may, at its discretion, waive any of the foregoing provisions of the chapter.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 90, JUNKYARDS / § 90-14. Owner or licensee liable.**

§ 90-14. Owner or licensee liable.

The owner or licensee of any such junkyard, who commits any acts in violation of any of the provisions of this chapter, shall be liable for any such violation and for the penalty thereof. Each day such violation shall continue or be permitted to exist shall constitute a separate violation.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 90, JUNKYARDS / § 90-15. Penalties for offenses.**

§ 90-15. Penalties for offenses.

- A. Any person violating any of the provisions of this chapter shall be guilty of an offense and, upon conviction, shall be punishable by a fine of not more than \$250 or by imprisonment for not more than 15 days, or by both such fine and imprisonment. [Amended 8-9-1978 by L.L. No. 1-1978; 4-16-1981 by L.L. No. 6-1981]
- B. Where the owner of any property located in the town is notified of a violation of the provisions of this chapter on his property and the same is not corrected or removed within 45 days after written notification, said condition shall be corrected by the town at the expense of said property owner and, if not paid, shall be added to the taxes on said property.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 92, LANDFILLS**

Chapter 92, LANDFILLS

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

GENERAL REFERENCES

- Appearance tickets -- See Ch. 50.
Fees -- See Ch. 76.
Garbage, rubbish and refuse -- See Ch. 85.
Junkyards -- See Ch. 90.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 92, LANDFILLS / ARTICLE I, Rules and
Regulations [Adopted 6-12-1980 by L.L. No. 13-1980]**

ARTICLE I, Rules and Regulations [Adopted 6-12-1980 by L.L. No. 13-1980]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 92, LANDFILLS / ARTICLE I, Rules and
Regulations [Adopted 6-12-1980 by L.L. No. 13-1980] / § 92-1. Title.**

§ 92-1. Title.

This article shall be cited and shall be referred to hereinafter as the "Rules and Regulations of the Sanitary Landfill."

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 92, LANDFILLS / ARTICLE I, Rules and
Regulations [Adopted 6-12-1980 by L.L. No. 13-1980] / § 92-2. Legislative
findings; intent.**

§ 92-2. Legislative findings; intent.

The Town Board of the Town of Esopus finds it necessary to the preservation of the health, safety, good conduct and appearance of the town and the convenience and financial well-being of the citizenry to regulate the use of the sanitary landfill. These rules and regulations are intended to maintain prompt, efficient, clean and courteous service in the use of the sanitary landfill.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 92, LANDFILLS / ARTICLE I, Rules and
Regulations [Adopted 6-12-1980 by L.L. No. 13-1980] / § 92-3. Word usage.**

§ 92-3. Word usage.

For the purpose of this article, the terms, phrases and words used herein shall have the meanings ordinarily given thereto or as defined in the New York State Sanitary Code and the Ulster County Sanitary Code. They shall be given the construction provided for in the General Construction Law of the State of New York.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 92, LANDFILLS / ARTICLE I, Rules and
Regulations [Adopted 6-12-1980 by L.L. No. 13-1980] / § 92-4. Hours to be
posted; use at other times prohibited.**

§ 92-4. Hours to be posted; use at other times prohibited.

The sanitary landfill shall be open on such days and times as the Town Board shall provide by resolution, which dates and times shall be posted at the entrance to the sanitary landfill. No

person shall deposit waste, garbage or refuse at any other day or time than as provided herein.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 92, LANDFILLS / ARTICLE I, Rules and
Regulations [Adopted 6-12-1980 by L.L. No. 13-1980] / § 92-5. Restrictions on
deposits.**

§ 92-5. Restrictions on deposits.

Only that refuse, garbage and waste as is accumulated in the Town of Esopus shall be accepted. No such waste shall be accepted which contains burning or smoldering substances, and no such waste shall be deposited at the landfill.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 92, LANDFILLS / ARTICLE I, Rules and
Regulations [Adopted 6-12-1980 by L.L. No. 13-1980] / § 92-6. Dismantling
required.**

§ 92-6. Dismantling required.

No person, firm or corporation shall carry or leave or cause to be carried or left upon the sanitary landfill any automobile, vehicle, machine, appliance or other article or any part thereof, unless the same shall have been dismantled and the body thereof so cut and flattened out as to permit the same to occupy a minimum of space.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 92, LANDFILLS / ARTICLE I, Rules and
Regulations [Adopted 6-12-1980 by L.L. No. 13-1980] / § 92-7. Adherence to
instructions required.**

§ 92-7. Adherence to instructions required.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 92, LANDFILLS / ARTICLE I, Rules and
Regulations [Adopted 6-12-1980 by L.L. No. 13-1980] / § 92-8. Deposit of
materials from outside of town prohibited. EN [Added 5-12-1993 by L.L. No.
4-1993]**

§ 92-8. Deposit of materials from outside of town prohibited.^{EN(51)} [Added 5-12-1993 by
L.L. No. 4-1993]

No person, firm or corporation shall carry or leave or cause to be carried or left upon the sanitary landfill any garbage or rubbish originating or collected outside the territorial limits of Ulster County, New York.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 92, LANDFILLS / ARTICLE I, Rules and
Regulations [Adopted 6-12-1980 by L.L. No. 13-1980] / § 92-9. Dumping in other
places prohibited.**

§ 92-9. Dumping in other places prohibited.

No person shall throw or deposit or cause to be thrown or deposited any garbage, rubbish or abandoned vehicles or parts thereof in or upon any public highway, street or place within the Town of Esopus except upon the dumping grounds aforesaid pursuant to the regulations thereof.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 92, LANDFILLS / ARTICLE I, Rules and
Regulations [Adopted 6-12-1980 by L.L. No. 13-1980] / § 92-10. Use restricted;
identification sticker required; charge for deposits.**

§ 92-10. Use restricted; identification sticker required; charge for deposits.

- A. ^{EN(52)}No person, firm or corporation who is not a resident of the County of Ulster or who has not secured permission to do the same shall deposit waste of any kind at the landfill. [Added 5-12-1993 by L.L. No. 6-1993]
- B. No person shall deposit waste at the landfill without first having received an identification sticker from the Town Clerk. In lieu of such sticker, proper proof of residency must be shown.

- C. The Town Board may hereafter provide by resolution for rates to be charged for vehicle loads or wastes deposited in the sanitary landfill, and no person shall deposit waste in the landfill without paying the Town Clerk or the landfill operator for such load or loads.
[Amended 6-11-1986 by L.L. No. 1-1986]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 92, LANDFILLS / ARTICLE I, Rules and
Regulations [Adopted 6-12-1980 by L.L. No. 13-1980] / § 92-11. Conformance
required.**

§ 92-11. Conformance required.

No person shall deposit waste in the sanitary landfill, except in conformity with these rules and regulations, and no person shall engage in conduct adversely affecting the quiet, efficient operation of the landfill.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 92, LANDFILLS / ARTICLE I, Rules and
Regulations [Adopted 6-12-1980 by L.L. No. 13-1980] / § 92-12. Landfill
custodian; rules and regulations.**

§ 92-12. Landfill custodian; rules and regulations.

The Town Board shall appoint a landfill custodian and such assistant custodians as may be necessary to the operation of the landfill. The Town Board may make such rules and regulations which are not inconsistent with these and which are necessary to the efficient operation of the landfill. Such rules shall be posted at the entrance to the landfill, and the Town Board shall provide a copy of the same to the Town Clerk, who shall maintain them in the Town Clerk's files. The landfill custodian, in addition to any other remedies he may have by these regulations and at law, may exclude any person from the use of the landfill who has violated the law or these regulations or whose intention it is, in the opinion of the custodian, to violate these regulations or other applicable laws.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 92, LANDFILLS / ARTICLE I, Rules and
Regulations [Adopted 6-12-1980 by L.L. No. 13-1980] / § 92-13. Penalties for
offenses.**

§ 92-13. Penalties for offenses.

Any person who shall violate any of the provisions of these rules and regulations or those promulgated thereunder shall be guilty of a violation and, upon conviction, shall be punishable by a fine of not more than \$250 for each such offense. Each offense shall constitute a separate violation and shall be punishable as such hereunder.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 92, LANDFILLS / ARTICLE I, Rules and
Regulations [Adopted 6-12-1980 by L.L. No. 13-1980] / § 92-14. Construal of
provisions.**

§ 92-14. Construal of provisions.

Nothing contained in this article shall be construed or interpreted to mean that the town is a party to any contract for refuse removal.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 92, LANDFILLS / ARTICLE II, Fee Schedule
[Adopted 3-14-1990EN]**

ARTICLE II, Fee Schedule [Adopted 3-14-1990^{EN(53)}]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 92, LANDFILLS / ARTICLE II, Fee Schedule
[Adopted 3-14-1990EN] / § 92-15. Fees.**

§ 92-15. Fees.

A. Hours.

- (1) Individual residents of the town can use the landfill during the hours of 8:00 a.m. to 3:00 p.m. each day, except Sunday and Wednesday and holidays, with the proper identification car sticker affixed to the side window on the driver's side only.
- (2) The landfill will be closed on Wednesdays and Sundays and all holidays.

- B. Commercial and residential persons may bring refuse only from the Town of Esopus.
- C. Residential landfill fees are \$20 per year per vehicle and \$10 per year per vehicle for senior citizens (60 years of age and older). Additional fees include: [Amended 2-28-1991]
 - (1) White goods: \$10 per unit (refrigerators, washing machines, etc.).
 - (2) Tires (off rim only):
 - (a) Up to 20 inches: \$2 each.
 - (b) Over 20 inches: \$5 each.
 - (3) Mattresses and box springs: by weight.
 - (4) Special landfill permits: \$20 each; seniors: \$10 each.
- D. All refuse collectors are to be licensed.
- E. Commercial/residential carter fees include \$1,000 per vehicle, plus the standard tipping fee of \$42 per ton.
- F. Commercial/industrial facility in the Town of Esopus:
 - (1) Per one truck ton capacity: \$100, plus tipping fee.
 - (2) More than one-ton capacity: \$200, plus tipping fee.
- G. Contractor construction and demolition (Town of Esopus sites only) fees shall be \$30 for a thirty-day permit, plus tipping fee. [Amended 2-28-1991]
- H. The unit tipping fee shall be \$42 per ton.
- I. Five-gallon containers and up are required to have one end removed and to be cleaned.
- J. No batteries are allowed.
- K. No chemicals, acids or gunpowder is permitted.
- L. Metals, wire and plastic tubing must be separated.
- M. No industrial waste, farm or poultry waste, toxic or flammable materials are allowed.
- N. No charge for brush. Logs must be no longer than four feet in diameter. No stumps are allowed.

GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS

Chapter 98, PARK RULES AND REGULATIONS

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

GENERAL REFERENCES

Advertising materials -- See Ch. 46.
Dogs and other animals -- See Ch. 68.
Garbage, rubbish and refuse -- See Ch. 85.
Peddling and soliciting -- See Ch. 100.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975]**

ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-1.
Title.**

§ 98-1. Title.

This article shall be known and may be cited as the "Town Park Law of the Town of Esopus."

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-2.
Definitions; delegation of authority.**

§ 98-2. Definitions; delegation of authority.

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

PARK or PARKS -- Includes all parks, playgrounds, athletic fields, swimming pools, beaches,

town-owned lands and underwater land owned by the Town of Esopus and other recreation areas under the jurisdiction of the Town Board, such other rights and appurtenances as the Town Board may utilize, whether the same is now or hereafter owned by or acquired by the Town of Esopus in fee or otherwise, including all land under and space above the surface of the ground.

- B. The Town Board hereby delegates to the Ross Park and Town of Esopus Recreation Commissions the authority to carry out the spirit and intent of this article.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-3.
Restrictions on use.**

§ 98-3. Restrictions on use.

Use of town parks shall be restricted as follows:

- A. Every town resident entering town parks, beaches or pools shall be required, upon request, to identify himself as a town resident or to present an official identification tag or sticker which must be affixed to the car window. Such identification tag or sticker may be purchased from the Town Clerk, the park attendant or any other person duly authorized and appointed by the Town Board, the fee for which shall be determined, from time to time, by the Town Board.
- B. The Town Board shall, from time to time, determine by resolution which town beach or beaches shall be restricted to town residents and which shall be open to the general public and shall fix the amount of the fee or fees to be charged to nonresidents for admission to those beaches or pools designated as open to the general public.
- C. No trucks or buses shall be admitted to any of the parks except by special permission from the Town Board granted through its duly appointed park attendant.
- D. A "resident" of the Town of Esopus is a person who resides in the Town of Esopus.
- E. Use of any boating and docking facilities which may be provided by the town in any of the town parks shall be subject to the payments of such fees and charges as the Town Board may, from time to time, establish by resolution, and to such rules and regulations for the proper and efficient operation of said facilities as the Ross Park and Town of Esopus Recreation Commissions may see fit to impose. Such rules and regulations shall be posted on a sign or bulletin board within each park where such facilities are provided. Any violation thereof shall be deemed a violation of this chapter.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-4.
Hours.**

§ 98-4. Hours.

Town of Esopus parks and beaches will open and close at hours specified periodically by the Town Board.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-5.
Requests for use.**

§ 98-5. Requests for use.

The determination as to what is proper use of town parks and beaches is the responsibility of the Ross Park and Town of Esopus Recreation Commissions. Any person or groups wishing to secure the use of the parks or beaches for a civic or private function must make a request at the Town Hall of the Town of Esopus one week in advance of the planned event with the Town Clerk. The Ross Park and Town of Esopus Recreation Commissions reserve the right to approve or disapprove requests for use of the parks or beaches. Preference will be given to town residents and organizations.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-6.
Payment of charges.**

§ 98-6. Payment of charges.

No person shall make use of or gain admittance to or attempt to use or gain admittance to the facilities of any park for the use of which a charge is made by the Town Board unless he shall pay the charge or fee as fixed by the Town Board.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /**

**ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-7.
Loss, damage or theft.**

§ 98-7. Loss, damage or theft.

The town will not be responsible for loss, damage or theft to cars and their contents, to private property nor to the contents of lockers. Such loss, whether inside of buildings or on the grounds of the parks or beaches, shall be the patron's responsibility.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-8.
Bathing.**

§ 98-8. Bathing.

No person shall bathe, wade or swim in any waters of any park or beach except at such times and places and in such proper attire as the Town Board may designate. Such designated bathing areas shall be kept free from any form of water equipment that may cause inconvenience or discomfort to bathers, except such equipment intended for the protection of life. Anyone swimming or bathing in any waters of any park does so at his own risk. No person shall dress or undress in the park except in such bathing houses or places as may be maintained.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-9.
Boating.**

§ 98-9. Boating.

No person shall operate a boat, vessel or other watercraft or contrivance used or capable of being used as a means of transportation in water or air upon any of the waters within the Town of Esopus or upon any of the waters under the jurisdiction of the Town Board, which said operation causes discomfort or inconvenience to any person or patron by reason of speed, noise or causing the disturbance of the land under the waters. No boat or vessel or other craft or contrivance for the purpose of towing skis or any other form of aquatic sports or games shall be operated within 500 feet of the shoreline of any beach. No boat, vessel or other watercraft or contrivance may park, dock or launch, except in areas designated by the Ross Park and Town of Esopus Recreation Commissions.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-10.
Special permit required for certain activities.**

§ 98-10. Special permit required for certain activities.

- A. The Ross Park and Town of Esopus Recreation Commissions shall designate the area to be occupied and shall regulate the use of recreational facilities under the supervision of the Ross Park and Town of Esopus Recreation Commissions so as to prevent congestion and shall distribute patrons of the park over the park area in order to ensure the maximum use of the park area and on behalf of the comfort of said patrons. All organized picnics and outings shall first obtain a special permit at the Town Hall from the Town Clerk.
- B. No person shall erect any structure, stand or platform, hold any meeting, perform any ceremony, make a speech or address, exhibit any performance or form any parade or procession in any park except by special permit from the Ross Park and Town of Esopus Recreation Commissions.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-11.
Fishing.**

§ 98-11. Fishing.

Fishing is prohibited in the vicinity of any bathing area in any park or beach area.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-12.
Fires.**

§ 98-12. Fires.

No person shall kindle, build, maintain or use a fire within the confines of any park except in grills provided for that purpose by the town or suitable grills and fuel provided by the individual and approved by the park attendant. No person shall remove any grill placed in a park by the town from the location where placed by the town to any other location within or without the

park. No fire in any park shall be started, kindled or maintained by any person under the age of 21 years, and any person who starts or kindles any fire shall keep it under his continued care and direction and shall extinguish it.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-13.
Games.**

§ 98-13. Games.

No person shall throw or use any type of ball, beanbag or other object or play any ball game or other game, except in such places designated for such use, nor engage in toy aviation, golf playing or driving or model boating.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-14.
Camping.**

§ 98-14. Camping.

No person shall tent or camp or erect or maintain a tent, lean-to, shelter or camp in any park except by special permit of the Ross Park and Town of Esopus Recreation Commissions.

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GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-15.
Animals prohibited.**

§ 98-15. Animals prohibited.

No person owning or being custodian of any animal shall cause or permit such animal to enter the park.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-16.**

Soliciting and advertising prohibited; vendors.

§ 98-16. Soliciting and advertising prohibited; vendors.

No person shall solicit alms or contributions for any purpose. No person shall post, distribute, cast or leave about any bills, placards, tickets, handbills, circulars or advertisements or any other matter for advertising purposes. No vendors, etc., will be allowed on a beach of park property without a special permit from the Ross Park and Town of Esopus Recreation Commissions.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-17.
Litter to be placed in receptacles; glass containers prohibited.**

§ 98-17. Litter to be placed in receptacles; glass containers prohibited.

No person shall leave, throw, lay, drop or discharge into or on the parks or on the beaches any tin cans, bottles, refuse, garbage, rubbish or waste. Papers, cartons or any other type of litter must be placed in receptacles for that purpose. No glass containers of any sort shall be allowed in the parks or on beaches.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-18.
(Reserved) EN**

§ 98-18. (Reserved) EN⁽⁵⁴⁾

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-19.
Tampering with property prohibited.**

§ 98-19. Tampering with property prohibited.

No person shall deface, injure, displace, remove, fill in, raise, destroy or tamper with any drive, path or walk; take up, remove or carry away trees, shrubs, turf or any material or substances; or remove or destroy any structure, building or any appurtenance connected with the park or any

other property or equipment, real or personal, owned by the Town of Esopus or under the jurisdiction and control of the Ross Park and Town of Esopus Recreation Commission.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-20.
Vehicular traffic.**

§ 98-20. Vehicular traffic.

There shall be no motorized vehicles of any kind permitted on the park and beach properties except in authorized parking areas. Vehicles will only be permitted in the parks and beach for necessary maintenance or for use of specified groups with permission of the Ross Park and Town of Esopus Recreation Commissions.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-21.
Conduct of patrons.**

§ 98-21. Conduct of patrons.

Every person shall conduct himself in an orderly manner and shall endeavor to cause no discomfort or inconvenience to any other person or patron on the parks and beach areas.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE I, General Regulations [Adopted 3-5-1975 by L.L. No. 1-1975] / § 98-22.
Penalties for offenses. [Amended 7-8-1981 by L.L. No. 8-1981]**

§ 98-22. Penalties for offenses. [Amended 7-8-1981 by L.L. No. 8-1981]

Any person who shall violate the provisions of this article or the rules and regulations adopted hereunder shall be guilty of an offense and shall be liable to a fine not exceeding \$250 or imprisonment for a term not exceeding 15 days, or both.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /**

**ARTICLE II, Alcoholic Beverages and Controlled Substances [Adopted 5-20-1991
by L.L. No. 2-1991]**

**ARTICLE II, Alcoholic Beverages and Controlled Substances [Adopted 5-20-1991
by L.L. No. 2-1991]**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE II, Alcoholic Beverages and Controlled Substances [Adopted 5-20-1991
by L.L. No. 2-1991] / § 98-23. Legislative intent.**

§ 98-23. Legislative intent.

It is the intent of the Town Board of the Town of Esopus, in the exercise of its police powers, to promote the general health, safety and welfare of the residents of the town by enacting this article since it is the finding of the Town Board that the possession of open containers of alcoholic beverages, the consumption of alcoholic beverages and controlled substances by persons in the town parks of the Town of Esopus, except under controlled conditions, is detrimental to the health, safety and welfare of the residents of the town and contributes to the development of unsanitary conditions and the creation of nuisances and public disorder.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE II, Alcoholic Beverages and Controlled Substances [Adopted 5-20-1991
by L.L. No. 2-1991] / § 98-24. Title.**

§ 98-24. Title.

This article shall be known and may be cited as the "Town Parks Alcoholic Beverages and Illegal Substances Law."

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE II, Alcoholic Beverages and Controlled Substances [Adopted 5-20-1991
by L.L. No. 2-1991] / § 98-25. Prohibited acts.**

§ 98-25. Prohibited acts.

- A. No person shall have, possess or drink, carry or transport any liquor, wine, beer or other alcoholic beverage in an open bottle or other open container in the town parks of the Town of Esopus.
- B. No person shall possess, consume or use any beer, wine, liquor or any controlled substance, drug, stimulant, depressant or hallucinating agent within any parks or on other public lands.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE II, Alcoholic Beverages and Controlled Substances [Adopted 5-20-1991
by L.L. No. 2-1991] / § 98-26. Permit required.**

§ 98-26. Permit required.

- A. Anything to the contrary herein notwithstanding, in the event that any individual or organization desires to have, distribute or consume alcoholic beverages in the town parks, Town of Esopus, said individual or organization must apply to the Town Board, Town of Esopus, or its duly authorized representatives, for a permit therefor at least seven days prior to the date scheduled for using such beverage. No fee shall be charged for the granting of said permit.
- B. A permit shall be issued only upon the following conditions:
 - (1) Such individual or organization, by its duly authorized agent, must agree, in writing, to assume full responsibility for supervising the conduct of the group or individuals benefiting from such permit and to properly clean up and restore the premises after use to their prior condition. The permit shall be available for display upon the request of any police or enforcement officer.
 - (2) Such individual or organization must further agree, in writing, that adequate precautions shall be taken to ensure that minors will not be served or allowed to consume alcoholic beverages at the permitted event or gathering.
 - (3) No alcoholic beverages shall be distributed or consumed other than on the specific premises described in the permit and only during the time stated therein.
 - (4) No permit shall be issued to any individual or organization which has previously been issued a permit and has failed to comply with the provisions thereof, except when authorized by the Town Board.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE II, Alcoholic Beverages and Controlled Substances [Adopted 5-20-1991
by L.L. No. 2-1991] / § 98-27. Discarding of containers.**

§ 98-27. Discarding of containers.

No person shall discard alcoholic or other beverage containers within the town parks, except in appropriate town trash receptacles.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE II, Alcoholic Beverages and Controlled Substances [Adopted 5-20-1991
by L.L. No. 2-1991] / § 98-28. Penalties for offenses.**

§ 98-28. Penalties for offenses.

The violation of any of the provisions of this article shall be punishable by a maximum fine of \$250 or by imprisonment for 15 days, or by both such fine and imprisonment. Each day any violation shall continue shall constitute a separate violation.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE II, Alcoholic Beverages and Controlled Substances [Adopted 5-20-1991
by L.L. No. 2-1991] / § 98-29. Severability.**

§ 98-29. Severability.

Should any section or provision of this article be declared by the courts to be unconstitutional or invalid, such decision shall not affect or impair the validity of this article as a whole or any part thereof other than the particular provision as declared to be unconstitutional or invalid.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 98, PARK RULES AND REGULATIONS /
ARTICLE II, Alcoholic Beverages and Controlled Substances [Adopted 5-20-1991
by L.L. No. 2-1991] / § 98-30. When effective.**

§ 98-30. When effective.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 100, PEDDLING AND SOLICITING**

Chapter 100, PEDDLING AND SOLICITING

[HISTORY: Adopted by the Town Board of the Town of Esopus 6-12-1980 by L.L. No. 12-1980. Amendments noted where applicable.]

GENERAL REFERENCES

Advertising materials -- See Ch. 46.

Fees -- See Ch. 76.

Soliciting in parks -- See Ch. 98.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 100, PEDDLING AND SOLICITING / § 100-1.
Title.**

§ 100-1. Title.

This chapter shall be known and may be cited as the "Peddling and Soliciting Law of the Town of Esopus."

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 100, PEDDLING AND SOLICITING / § 100-2.
Definitions.**

§ 100-2. Definitions.

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

ESTABLISHED PLACE OF BUSINESS -- A permanent building, store or depository in which or where the person transacts business and deals in the goods, wares or commodities he peddles, vends or solicits in the ordinary and regular course of business.

MERCHANDISING -- The selling, bartering or trading or offering to sell, barter or trade any

goods, wares, commodities or services.

PEDDLER, VENDOR and SOLICITOR -- Includes, unless otherwise herein provided, any person who engages in merchandising any goods, wares, commodities, books, periodicals or services or who solicits contributions of goods or moneys by going from house to house or place of business or in any public street or public place or by temporarily occupying a room, building or other premises therefor.

PERSON -- Includes any individual, firm, partnership, corporation and unincorporated association and principal or agent thereof.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 100, PEDDLING AND SOLICITING / § 100-3.
License required.**

§ 100-3. License required.

It shall be unlawful for any person within the jurisdiction of this chapter to act as a peddler, vendor or solicitor, as herein defined, without first having duly obtained, and having in force and effect, a license therefor.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 100, PEDDLING AND SOLICITING / § 100-4.
License fees.**

§ 100-4. License fees.

The fee for each license issued pursuant to this chapter shall be \$50 per year or \$10 per day or fraction thereof.^{EN(55)}

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 100, PEDDLING AND SOLICITING / § 100-5.
Application for license.**

§ 100-5. Application for license.

A. An application for a license shall contain the following information:

- (1) Name and description of the applicant.

- (2) Address of the applicant (local and legal).
 - (3) Name of the firm or company where the applicant is employed.
 - (4) Address of the firm or company where the applicant is employed.
 - (5) Description of the motor vehicle to be used, along with the license number.
 - (6) Brief description of the nature of the business and the kind of goods or property to be peddled or solicited.
 - (7) Date and length of time the applicant desires the license.
 - (8) Two photographs of the applicant, which shall be approximately 2 1/2 inches by 2 1/2 inches in size, showing the head and shoulders of the applicant in a clear and distinguishing manner.
 - (9) A statement as to whether or not the applicant has been convicted of a crime, misdemeanor or disorderly conduct offense, and where and when so convicted, the nature of the offense and the penalty, if any.
 - (10) The make, model, year, color and license plate number of the automobile(s) used by the applicant during the period of solicitation in the town and the number of his driver's license and the state of issuance.
- B. The Town Clerk may require a letter of authorization from the firm or company which the applicant purports to represent.
- C. Each person peddling or soliciting for the same firm or company shall be required to file a separate application.
- D. Where the applicant is offering for sale goods, merchandise or commodities required to be sold by weight, measure or count as provided under Article 16 of the Agriculture and Markets Law of the State of New York, such application shall be accompanied by a certificate from the Sealer of Weights and Measures having jurisdiction thereof, certifying that all weighing and measuring devices to be used by the applicant have been examined and approved.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 100, PEDDLING AND SOLICITING / § 100-6.
Issuance of license.**

§ 100-6. Issuance of license.

Upon receipt of the application and of the license fee and if reasonably satisfied with the applicant's qualifications, the Town Clerk shall issue a license to the applicant specifying the particular business authorized and the location wherein it may be conducted. This license shall be nontransferable and in the continuous possession of the licensee while engaged in the business licensed. The license shall be produced upon the demand of any town official, prospective buyer, police officer or sheriff or his deputies.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 100, PEDDLING AND SOLICITING / § 100-7.
Licensing period; fees, nontransferability.**

§ 100-7. Licensing period; fees, nontransferability.

The licensing period shall be on a daily, monthly or annual basis, and fees for the same shall be as determined by the Town Board from time to time. Such license shall not be transferable and shall so state on the face thereof.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 100, PEDDLING AND SOLICITING / § 100-8.
Record of licenses.**

§ 100-8. Record of licenses.

The Town Clerk shall keep a record of the applications, the determination thereon and all licenses issued in accordance with this chapter. The record shall contain the name and residence of the person licensed, the location of the business, the amount of the license fee paid and the date of revocation and/or expiration of all licenses revoked.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 100, PEDDLING AND SOLICITING / § 100-9.
Exemptions from provisions.**

§ 100-9. Exemptions from provisions.

The provisions of this chapter shall not apply to the following:

- A. (Reserved)^{EN(56)}
- B. Any person soliciting at the express invitation of the person solicited or serving any

established customer.

- C. A wholesaler selling articles to dealers or merchants who have an established place of business within the town.
- D. A truck gardener or farmer who himself or through his employees vends, sells or disposes of products of his own farm or garden.
- E. A child permanently residing in the Town of Esopus and attending any public, parochial or private school located in the Town of Esopus or immediately adjacent town; or a representative of any established church maintaining a place of worship within the town or immediately adjacent town; or a member of a veterans organization, provided that such organization has and maintains a chapter, post, lodge, camp or other group within the Town of Esopus; or a member of a fraternal organization or civic group, provided that such fraternal organization or civic group maintains a chapter or local organization within the Town of Esopus, and further provided that any person coming within the provisions of this exemption shall only peddle, vend or solicit in connection with an authorized activity of the organization of which such person is a member or the school which such person attends.
- F. Auction sales held pursuant to law by a sheriff or other officer authorized by law to conduct such sale.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 100, PEDDLING AND SOLICITING / § 100-10.
Restrictions.**

§ 100-10. Restrictions.

A licensed peddler, vendor or solicitor shall not:

- A. Call attention to his goods by blowing a horn, by shouting or crying out or by any loud or unusual noise.
- B. Resort to deceptive acts or practices, physical abuse, threats, intimidation or harassment in the course of conducting his business or offer for sale any provision, food or merchandise that is unwholesome, unfit, deleterious or harmful to the user or consumer thereof.
- C. Frequent any street or road so as to cause a private or public nuisance.
- D. Stand or permit the vehicle used by him to stand in one place in any public place or street for more than 10 minutes, nor in front of any premises, for any time, if the owner or the lessee of the ground objects.

- E. Sell confectionery or ice cream within 250 feet of any school between the hours of 8:00 a.m. and 4:00 p.m. on school days.
- F. Canvass, solicit or otherwise go from door to door or place to place within the town for the purpose of canvassing or soliciting as defined in § 100-2, except between the hours of 9:00 a.m. and 5:00 p.m., Monday through Saturday, unless special permission is given by the Town Clerk.
- G. Enter or attempt to enter the house or apartment of any resident in the town without an express invitation from the occupant of the house or apartment.
- H. Conduct himself in such a manner as to annoy or harass any person while soliciting within the town.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 100, PEDDLING AND SOLICITING / § 100-11.
Revocation of license.**

§ 100-11. Revocation of license.

- A. Licenses issued under the provisions of this chapter may be revoked by the Town Clerk of the Town of Esopus after notice and hearing for any of the following causes:
 - (1) Any violation of this chapter.
 - (2) Conducting the business of peddling in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public.
- B. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing.
- C. The Town Clerk, upon receiving information giving him or her reasonable cause to believe that the holder of any license issued hereunder has violated any provisions of this chapter or has been convicted of any violation referred to in this section, may forthwith temporarily suspend such license until a hearing is held by him or her, as provided herein, and the Town Clerk shall have issued his or her determination thereon.
- D. If the licensee has one or more employees, the revocation hereunder shall apply to the licensee and all employees if either he or any one or more of his employees are determined to be in violation of this chapter.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 100, PEDDLING AND SOLICITING / § 100-12.
Appeals.**

§ 100-12. Appeals.

Any person aggrieved by the action of the Town Clerk in the denial of an application for a license, as provided in this chapter, or in the decision of the Town Clerk with reference to the revocation of a license, as provided in § 100-11 of this chapter, shall have the right to appeal to the Town Board of the Town of Esopus. Such appeal shall be taken by filing, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Town Board shall set a time and place for a hearing on such appeal, and notice of such hearing shall be mailed to the applicant at his last known address at least five days prior to the date set for the hearing. The decision and order of the Town Board on such appeal shall be final and conclusive.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 100, PEDDLING AND SOLICITING / § 100-13.
Penalties for offenses. [Amended 4-16-1981 by L.L. No. 6-1981]**

§ 100-13. Penalties for offenses. [Amended 4-16-1981 by L.L. No. 6-1981]

Any person who shall act as a peddler, vendor or solicitor, as herein defined, without a license or who shall violate any of the provisions of this chapter or who shall continue to act as a peddler, vendor or solicitor subsequent to the revocation of his license shall be guilty of a violation and shall be punishable by a fine not to exceed \$250 or by imprisonment for a term not to exceed 15 days, or both, for each day on which such violation continues.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 103, STREETS AND SIDEWALKS**

Chapter 103, STREETS AND SIDEWALKS

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

GENERAL REFERENCES

Appearance tickets -- See Ch. 50.

Building construction -- See Ch. 56.
Unsafe buildings -- See Ch. 59.
Curfew -- See Ch. 64.
Excavations in public highways -- See Ch. 74.
Fire prevention -- See Ch. 77.
Highways -- See Ch. 88.
Subdivision of land -- See Ch. 107.
Abandoned vehicles -- See Ch. 113.
Vehicles and traffic -- See Ch. 115.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 103, STREETS AND SIDEWALKS / ARTICLE I,
Sidewalk Maintenance [Adopted 9-18-2008 by L.L. No. 4-2008]**

ARTICLE I, Sidewalk Maintenance [Adopted 9-18-2008 by L.L. No. 4-2008]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 103, STREETS AND SIDEWALKS / ARTICLE I,
Sidewalk Maintenance [Adopted 9-18-2008 by L.L. No. 4-2008] / § 103-1
Legislative intent.**

§ 103-1 Legislative intent.

The purpose of this article is to define the obligations of the owners of real property abutting sidewalks along Rt. 9W and old 9W in the hamlet of Port Ewen, Town of Esopus, to keep the sidewalks accessible to pedestrians and to ensure safe pedestrian traffic. The specifications and regulations may be amended from time to time.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 103, STREETS AND SIDEWALKS / ARTICLE I,
Sidewalk Maintenance [Adopted 9-18-2008 by L.L. No. 4-2008] / § 103-2
Definitions.**

§ 103-2 Definitions.

As used in this article, the following definitions will apply:

ABUT -- A parcel of real property shall be deemed to abut a sidewalk whether or not the property line crosses or touches the sidewalk.

OCCUPANT -- Any person or entity who is lawfully in possession of the premises.

OWNER -- Any person or legal entity holding full or partial title to the premises.

PEDESTRIAN -- Any person making use of a sidewalk for passage.

PERSON -- An individual, partnership, association, corporation, limited liability company, executor, administrator, trustee, guardian, receiver or other person or entity having a legal interest in real property.

SIDEWALK -- The walkway or path on or between the public roadway and the real property premises of the lands abutting said roadway, designed and prepared for the use of pedestrians, to the exclusion of motor vehicles.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 103, STREETS AND SIDEWALKS / ARTICLE I,
Sidewalk Maintenance [Adopted 9-18-2008 by L.L. No. 4-2008] / § 103-3
Applicability.**

§ 103-3 Applicability.

This article shall apply to all sidewalks on both sides of Broadway, Rt. 9W and the west side of old 9W in the hamlet of Port Ewen, Town of Esopus, and to any sidewalks to be constructed henceforth in the Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 103, STREETS AND SIDEWALKS / ARTICLE I,
Sidewalk Maintenance [Adopted 9-18-2008 by L.L. No. 4-2008] / § 103-4 Snow
and ice removal.**

§ 103-4 Snow and ice removal.

- A. The owner of any real property, whether vacant or improved by any buildings, abutting sidewalks along Rt. 9W and old 9W in Port Ewen, Town of Esopus, shall keep such sidewalk free and clear of snow and ice so as to ensure safe pedestrian passage.
- B. Within 24 hours after cessation of every snowfall, and within 24 hours of the formation of any ice on the sidewalk abutting the premises, the owner or occupant shall remove or cause the same to be removed or cleared entirely from the said sidewalk, creating a pedestrian path to a minimum width of 36 inches, where circumstances permit. If the snow or ice shall be frozen so hard that it cannot practicably be removed, the owner shall, within the time above

specified, cause the sidewalk to be covered and strewn with calcium chloride, ashes, sand or other dissolving or traction material and shall, as soon thereafter as the weather will permit, thoroughly clean the sidewalk path and remove the ice and snow the stated width therefrom the length of the premises abutting the sidewalk which is used by pedestrians as a walkway.

- C. The owner of any real property, whether vacant or improved by any buildings, located at an intersection of two streets shall clear a path at the intersection at least 36 inches in width through any piles or accumulation of snow or ice on the sidewalk or street, where circumstances permit, so as to enable safe pedestrian access from the sidewalk at the corner to the cleared portion of the roadway.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 103, STREETS AND SIDEWALKS / ARTICLE I,
Sidewalk Maintenance [Adopted 9-18-2008 by L.L. No. 4-2008] / § 103-5
Enforcement of snow and ice removal; penalties for offenses.**

§ 103-5 Enforcement of snow and ice removal; penalties for offenses.

- A. The Building Inspector and Zoning Enforcement Officer of the Town of Esopus are authorized to enforce this article by issuing an appearance ticket returnable in the Town of Esopus Justice Court.
- B. An appearance ticket shall be deemed sufficient if delivered to the owner in person or by certified mail to the property postal address and, if different, to the last known address of the owner appearing on the most recent tax rolls of the Town.
- C. Failure to comply with any of the above sections shall result in a fine not to exceed \$250 for each failure to comply, plus the expenses incurred by the Town for the removal of snow or ice from the sidewalks abutting the property owner's premises by the Town of Esopus. Failure to pay the fine or associated expenses will result in an assessment upon said premises on the real property tax statements. Each subsequent twenty-four-hour period without compliance shall constitute a separate violation.
- D. The foregoing provisions do not place an affirmative obligation on the Town of Esopus to maintain sidewalks.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 103, STREETS AND SIDEWALKS / ARTICLE I,
Sidewalk Maintenance [Adopted 9-18-2008 by L.L. No. 4-2008] / § 103-6
Maintenance of vegetation.**

§ 103-6 Maintenance of vegetation.

- A. The owner of any real property, whether vacant or improved by any buildings, abutting sidewalks along Rt. 9W and old 9W in Port Ewen, Town of Esopus, shall maintain or cause to be maintained all vegetation from the curb to the sidewalk so as to ensure safe pedestrian passage and optimum visibility. Vegetation within said area is not to exceed six inches in height.
- B. Any landscape plantings abutting sidewalks shall be kept pruned and weeded by the owner or occupant of any real property, and no part of said plants shall extend over the sidewalks nor impede access to the sidewalks for safe pedestrian passage; nor shall it impair optimum visibility for pedestrians or motorists.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 103, STREETS AND SIDEWALKS / ARTICLE I,
Sidewalk Maintenance [Adopted 9-18-2008 by L.L. No. 4-2008] / § 103-7 Sidewalk
obstructions.**

§ 103-7 Sidewalk obstructions.

- A. The owner of any real property, whether vacant or improved by any buildings, abutting sidewalks along Rt. 9W and old 9W in Port Ewen, Town of Esopus, shall keep such sidewalk free and clear of debris, litter, leaves, soil, or other obstructions so as to ensure safe pedestrian passage.
- B. No person shall drive on or park motorized vehicles on the sidewalks, as per New York State Vehicle and Traffic Law § 1225-a

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 103, STREETS AND SIDEWALKS / ARTICLE I,
Sidewalk Maintenance [Adopted 9-18-2008 by L.L. No. 4-2008] / § 103-8
Alterations and damage.**

§ 103-8 Alterations and damage.

- A. No person shall alter, damage or cause to be altered or damaged any sidewalk as installed. Such person shall be liable for any repairs that result from any such alteration or damage.
- B. No person shall remove or cause damage to any trees which have been planted for the enhancement of the streetscape by the Town, county, or the state. Such person shall be liable

for any costs for replacement that result from any such action. No additional trees shall be planted without authority from the Town Board.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 103, STREETS AND SIDEWALKS / ARTICLE I,
Sidewalk Maintenance [Adopted 9-18-2008 by L.L. No. 4-2008] / § 103-9 Sidewalk
lighting.**

§ 103-9 Sidewalk lighting.

- A. No person shall post signs, decorations, or banners on the sidewalk light poles, except as authorized by the Town Board.
- B. No person shall plug into electrical outlets on the sidewalk light poles, except as authorized by the Town Board.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 103, STREETS AND SIDEWALKS / ARTICLE I,
Sidewalk Maintenance [Adopted 9-18-2008 by L.L. No. 4-2008] / § 103-10
Enforcement of maintenance of vegetation, damage, and alterations; penalties for
offenses.**

**§ 103-10 Enforcement of maintenance of vegetation, damage, and alterations; penalties for
offenses.**

- A. The Building Inspector and Zoning Enforcement Officer of the Town of Esopus are authorized to enforce this article by issuing an appearance ticket returnable in the Town of Esopus Justice Court.
- B. An appearance ticket shall be deemed sufficient if delivered to the owner in person or by certified mail to the property postal address and, if different, to the last known address of the owner appearing on the most recent tax rolls of the Town.
- C. Failure to comply with any of the above sections shall result in a fine not to exceed \$250, plus the expenses incurred by the Town for maintenance of vegetation done by the Town of Esopus. Failure to pay the fine or associated expenses will result in an assessment upon said premises on the real property tax statements.
- D. The foregoing provisions do not place an affirmative obligation on the Town of Esopus to maintain sidewalks or vegetation.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 104, SEWERS**

Chapter 104, SEWERS

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

GENERAL REFERENCES

Appearance tickets -- See Ch. 50.
Building construction -- See Ch. 56.
Fees -- See Ch. 76.
Subdivision of land -- See Ch. 107.
Water -- See Ch. 120.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 104, SEWERS / ARTICLE I, General
Provisions [Adopted 11-14-1979 by L.L. No. 2-1979]**

ARTICLE I, General Provisions [Adopted 11-14-1979 by L.L. No. 2-1979]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 104, SEWERS / ARTICLE I, General
Provisions [Adopted 11-14-1979 by L.L. No. 2-1979] / § 104-1 Definitions.**

§ 104-1 Definitions.

A. Unless the context specifically indicates otherwise, the meaning of terms used in this article shall be as follows:

BOD (denoting "biochemical oxygen demand") -- The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C., expressed in parts per million by weight.

BUILDING DRAIN -- That part of the lowest horizontal piping or drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys the same to the inner face of the building wall.

BUILDING SEWER -- The extension from the building drain to the public sewer or other place

of disposal.

COMBINED SEWER -- A sewer which carries both sanitary sewage and storm- and surface water.

GARBAGE -- Solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

IMPROVEMENT -- The Port Ewen Sewer Improvement of the Town of Esopus, Ulster County, New York.

IMPROVEMENT BOUNDARIES -- The physical boundaries as presently established or as may be extended from time to time as duly provided by town law.

INDUSTRIAL or COMMERCIAL -- Classifications which bear upon applications, rates, fees or other considerations and which shall be determined solely by the Town Board of the town.

INDUSTRIAL WASTES -- The liquid wastes from industrial processes as distinct from sanitary sewage.

NATURAL OUTLET -- Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

PERSON -- An individual, firm, company, association, society, corporation or group.

pH -- The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

PROPERLY SHREDDED GARBAGE -- The wastes from the preparation, cooking and dispensing of food that have been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch in any dimension.

PUBLIC SEWER -- A sewer in which all owners of abutting properties have equal rights and which is controlled by public authority.

SANITARY SEWER -- A sewer which carries sewage and to which storm-, surface and ground waters are not intentionally admitted.

SEWAGE -- A combination of the water-carried waste from residences, business buildings and institutions, together with such ground-, surface and storm waters as may be present. [Amended 3-12-1997 by L.L. No. 4-1997]

SEWAGE TREATMENT PLANT -- Any arrangement of devices and structures used for treating sewage.

SEWAGE WORKS -- All facilities for collecting, pumping, treating and disposing of sewage.

SEWER -- A pipe or conduit for carrying sewage.

STORM SEWER or STORM DRAIN -- A sewer which carries storm- and surface waters and drainage, but excludes sewage and polluted industrial wastes.

SUSPENDED SOLIDS -- Solids that either float on the surface or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

TOWN -- The Town of Esopus, Ulster County, New York.

TOWN BOARD -- The duly elected Town Board of the Town of Esopus or its authorized deputy or representative.

TOWN ENGINEER -- The professional engineer retained as Town Engineer for the Town of Esopus or his authorized deputy, agent or representative.

WATERCOURSE -- A channel in which a flow of water occurs, either continuously or intermittently.

B. "Shall" is mandatory; "may" is permissive.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 104, SEWERS / ARTICLE I, General
Provisions [Adopted 11-14-1979 by L.L. No. 2-1979] / § 104-2 Use of public
sewers required; additional requirements.**

§ 104-2 Use of public sewers required; additional requirements.

- A. It shall be unlawful for any person to place, deposit or permit to be deposited in an unsanitary manner upon public or private property within the improvement or in any area under the jurisdiction of the improvement any human or animal excrement, garbage or other objectionable waste.
- B. It shall be unlawful to discharge to any natural outlet within the improvement or in any area under the jurisdiction of the improvement any sanitary sewage, industrial wastes or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this article.
- C. Within the improvement, it shall be unlawful to construct, use or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage, except as hereinafter provided.

- D. The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose, situated within the improvement boundaries and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the improvement within 100 feet of said property line and the location of such structure is within 150 feet of the property line is hereby required, at his expense, to install suitable plumbing facilities therein and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article, within 90 days after the date of official notice to do so, provided that said public sewer is within 100 feet of the property line and the location of such a structure is within 150 feet of the property line, and any septic tanks, cesspools and similar private sewage disposal facilities shall be cleaned of sludge and liquid, abandoned and filled with suitable material within 90 days after connection to the public sanitary sewer of the improvement.
- E. The owners of premises upon which a commercial car wash is operated and the operators of any such car washes may, if the premises on which any such car washes are located have adequate satisfactory sewerage facilities to dispose of the water used in the car wash, continue to use such sewerage facilities solely to dispose of the water used in actually washing vehicles but must separate the plumbing facilities for that water from the plumbing facilities carrying all other forms of sewage and must connect the latter plumbing facilities directly with the proper public sewer in accordance with all the provisions of this article. The owner and/or operator of any car wash continuing to use a private sewage system as aforesaid shall separate the pipes supplying water to the actual vehicle-washing operation from all water lines to the premises on which said car wash operations are located and shall, at his own cost, connect the pipes supplying water to the actual vehicle-washing operation to a separate water meter so that the quantity of water used in the actual car wash operation is separately metered and measured.
- F. Where a public sanitary sewer is not available under the provisions of § 104-2D above, the building sewer shall be connected to a private sewage disposal system complying with the provisions established by the Ulster County Department of Health.
- G. Hereafter, before commencement of construction of a private sewage disposal system within the improvement boundaries, the owner shall first obtain a written permit from the Ulster County Health Department. The permit shall be made on a form furnished by the Ulster County Health Department and may be supplemented by any plans, specifications and other information as are deemed necessary by the Ulster County Health Department.
- H. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Ulster County Health Department. The applicant shall notify the Ulster County Health Department when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made

within 48 hours of the receipt of notice by the Ulster County Health Department.

- I. The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the Department of Health of the State of New York. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- J. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at his own expense and at no expense to the improvement.
- K. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in § 104-2, a direct connection shall be made to the public sewer in compliance with this article, and any septic tanks, cesspools and similar private sewage disposal facilities shall be cleaned of sludge and liquid, abandoned and filled with suitable material.
- L. No statement contained in this section shall be construed to override or interfere with any additional requirements that may be imposed by the authorized representative of the Ulster County Department of Health or the New York State Department of Health.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 104, SEWERS / ARTICLE I, General
Provisions [Adopted 11-14-1979 by L.L. No. 2-1979] / § 104-3 Building sewers
and connections.**

§ 104-3 Building sewers and connections.

- A. No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Town Board.
- B. Building sewer permits.
 - (1) There shall be two classes of building sewer permits:
 - (a) For residential and commercial services.
 - (b) For service to establishments producing industrial wastes.
 - (2) In either case, the owner or his agent shall make the application on a special form furnished by the town. Their permit application shall be supplemented by any plans, specifications or other information considered pertinent, in the judgment of the Town Board. A permit and inspection fee of \$15 for the sewer permit shall be paid to the Town Clerk at the time the application is filed.

- C. All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall pay for and indemnify the town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- D. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as a separate building sewer.
- E. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Town Engineer, to meet all requirements of the article.
- F. Medium or standard weight cast-iron soil pipe, or PVC STR 35 ABS Schedule 80 or other equal material approved by the Sewer Department. Joints shall be gastight and watertight. If installed in filled or unstable ground, the building sewer shall be of ductile-iron soil pipe, except that nonmetallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the Sewer Department. Bedding material is to be placed in the trench so as to obtain equal support for all sections of pipe.
- G. The size and slope of the building sewer shall be subject to the approval of the Sewer Department, but in no event shall the diameter be less than four inches. The slope of such four-inch pipe shall be not less than 1/8 inch per foot, nor more than 1/2 inch per foot, or as may be required.
- H. The depth shall be sufficient to afford protection from frost. No building sewer shall be laid parallel to or within three feet of any bearing wall which might thereby be weakened. The building sewer shall be laid at uniform grade and in straight alignment, insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings. Where horizontal bends of more than 11 1/4° are required, cleanouts of a type approved by the Sewer Department are to be installed.
- I. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer, and the cost of installing such artificial means shall be paid by the improvement where the aforesaid building drain was in place and in existence as of the time that the public sewer is installed. The cost of repairs, replacing, maintenance and utilities shall be paid by the owner. The cost of installation, maintenance, repair and replacement of any artificial means of lifting sanitary sewage from a building drain to the public sewer, as well as the utility costs incurred in the operation thereof, which artificial means are made necessary by the construction and installation of building drains subsequent to the installation of the public sewer, shall be paid by the owner of the premises on which

any such building drain is located.

- J. All excavations required for the installation of a building sewer shall be open-trench work, unless otherwise approved by the Sewer Department. Pipe laying and backfill shall be performed in accordance with the section of the construction specifications for the Port Ewen Sewer Improvement entitled "Excavation, Trenching and Backfilling for Utilities Systems."
- K. The connection of the building sewer into an existing public sewer shall be at the property line. If a lateral connection has not previously been provided, the lateral will be constructed from the existing public sewer to the property line by the Sewer Department upon submittal of a proper application by the property owner. The method of connection of the lateral to the public sewer will be dependent upon the type of sewer material used and, in all cases, shall be approved by the Sewer Department. The cost of constructing said lateral shall be paid by the owner. Repairs to deed sewer laterals shall be at the expense of the improved area, where such repair exceeds an eight-foot depth.
- L. The applicant for the building sewer permit shall notify the Sewer Department when the building sewer is ready for inspection and connection to the public sewer lateral. The connection shall be made under the supervision of the Sewer Department or such other person appointed by the Town Board.
- M. When trenches are opened for the laying of house sewer lateral pipes, such trenches shall be inspected by the Town Engineer or his deputy or representative before the trenches are filled, and the plumber performing such work shall notify the Sewer Department when the laying of the house sewer lateral is completed. If a trench is filled before inspection is made, the plumber to whom a permit is issued must reexcavate the trench to permit the required inspection.
- N. All excavations for building sewer installation shall be adequately guarded with barricades and lights, so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the town.
- O. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the Town Engineer. Industrial cooling water or unpolluted process waters may be discharged, upon approval of the Town Engineer, to a storm sewer or natural outlet.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 104, SEWERS / ARTICLE I, General
Provisions [Adopted 11-14-1979 by L.L. No. 2-1979] / § 104-4 Sewer extensions.**

§ 104-4 Sewer extensions.

- A. All extensions to the sanitary sewer system owned and maintained by the town shall be properly designed in accordance with the Recommended Standards for Sewage Works, as adopted by the Great Lakes - Upper Mississippi River Board of State Sanitary Engineers and in strict conformance with all requirements of the New York State Department of Health. Plans and specifications for sewer extensions shall be submitted to and approval obtained from the Engineer and the New York State Department of Health before construction may proceed. The design of sewers must anticipate and allow for flows from all possible future extensions or developments within the immediate drainage area.
- B. Sewer extensions, including individual building sewer laterals to the property line, may be constructed by the town under public contract if, in the opinion of the Town Board, the number of properties to be served by such extension warrants its cost. Under this arrangement, the property owner shall pay for and install the building sewer from the property line to his residence or place of business in accordance with the requirements of § 104-3. Thereafter, each property owner served by the extended public sewers will be charged at the full service charge rate as outlined in § 104-9. Property owners may, in accordance with applicable law, propose sewer extensions within the Port Ewen Improvement Area or other parts of the town by drafting a written petition, signed by a majority of the benefiting property owners, and filing it with the Town Board.
- C. If the town does not elect to construct a sewer extension under public contract, the property owner, builder or developer may construct the necessary sewer extension, if this extension is approved by the Town Board in accordance with the requirements of the section. He or they must pay for the entire installation, including all expenses incidental thereto. Each building sewer must be installed and inspected as required by this article, and the inspection fees shall be paid. Design of sewers shall be as specified in Subsection D. The installation of the sewer extension must be subject to full-time inspection by the Town Engineer, and the expenses for this inspection shall be paid for by the owner, builder or developer. The Town Engineer's decision shall be final in matters of quality and methods of construction. The sewer, as constructed, must pass the exfiltration test required in Subsection F before it is to be used. The cost of the sewer extension thus made shall be absorbed by the developers or the property owners, and, thereafter, the property owners will be subject to a sewer service charge proportional to their use of trunk sewers and treatment plant and their proportion of operational and maintenance costs as outlined in § 104-9.
- D. Sewer design shall be in accordance with the following provisions.
 - (1) Pipe shall be of a type approved by the Town Engineer. Trench widths, as measured just

above crown of the pipe, shall not exceed the following:

Pipe Diameter (inches)	Trench Width
8	3 feet, 3 inches
10	3 feet, 6 inches
12	3 feet, 9 inches

- (2) If the trench widths are found during field inspection to exceed the limits in the above table, the sewer pipe shall be encased with a minimum of six inches of concrete. Pipe shall be firmly and evenly bedded on a minimum of three inches of No. 1A or No. 1 crushed stone (New York State Department of Transportation specification). Pipe thickness and field strength shall be calculated on the following criteria:
 - (a) Safety factor: 1.5.
 - (b) Load factor: 1.7.
 - (c) Weight of soil: 120 pounds per cubic foot.
 - (d) Wheel loading: 16,000 pounds.
 - (3) Utilizing the above information, design shall then be made as outlined in Chapter IX of the Water Pollution Control Federation Manual of Practice No. 9, Design and Construction of Sanitary and Storm Sewers.
- E. Manholes shall be constructed at all changes in slope alignment or at intervals not exceeding 400 linear feet. The manholes shall be constructed with a poured 3,000 pounds per square inch concrete base, steel-troweled concrete or mortar inverts and precast four-inch diameter concrete manhole barrel sections and a tapered top section. The manhole frame and cover shall be the standard design of the town and shall be set with no less than two courses of brick underneath to allow for later adjustment in elevation.
- F. Final exfiltration test.
- (1) All sewers shall satisfy requirements of a final exfiltration test before they will be approved and sewage flow accepted from them by the town. This test consists of filling the pipe with water to provide a head of at least five feet above the top of the pipe or

five feet above groundwater, whichever is higher, at the highest point of the pipeline under test, and then measuring the loss of water from the line by the amount which must be added to maintain the original level. In this test, the line must remain filled with water for at least 24 hours prior to the taking of measurements. Exfiltration shall be measured by the drop of water level in a standpipe with closed bottom end or in one of the sewer manholes available for measurement.

- (2) When a standpipe and plug arrangement is used in the upper manhole of a line under test, there must be some positive method of releasing entrapped air in the sewer prior to taking measurements. The test length intervals for either type of test shall be as ordered approved, but in no event shall they exceed 100 feet. In the case of sewers laid on steep grades, the length of line to be tested by exfiltration at any one time may be limited by the maximum allowable internal pressure on the pipe and joints at the lower end of the line. The test period, wherein the measurements are taken, shall not be less than two hours in either type of test.
- (3) The total leakage of any section tested shall not exceed the rate of 100 gallons per mile of pipe per 24 hours per inch of nominal pipe diameter. For purposes of determining the maximum allowable leakage, manholes shall be considered as sections of forty-eight-inch diameter pipe, five feet long. The equivalent leakage allowance shall be 4.5 gallons per manhole per 24 hours for forty-eight-inch diameter manholes. If leakage exceeds the specified amount, the necessary repairs or replacements required shall be made to permanently reduce the leakage to within the specified limit, and the tests shall be repeated until the leakage requirement is met.

G. All sewer extensions constructed at the property owner's, builder's or developer's expense, after final approval and acceptance by the Town Engineer, shall become the property of the town and shall thereafter be maintained by the town. Said sewer extensions, after their acceptance by the town, shall be guaranteed for one year. The guaranty shall be in a form provided for by the town. At the sole discretion of the town, a completion bond or certified check may be demanded as part of the guaranty.

H. No builder or developer shall be issued a building permit for a new dwelling or structure requiring sanitary facilities within the improvement boundaries unless a suitable and approved method of waste disposal is proposed. All new developments shall be provided with an approved system of sanitary sewers.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 104, SEWERS / ARTICLE I, General
Provisions [Adopted 11-14-1979 by L.L. No. 2-1979] / § 104-5 Restrictions on use
of public sewers.**

§ 104-5 Restrictions on use of public sewers.

- A. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:
- (1) Any liquid or vapor having a temperature higher than 150° F. (65° C.) or which would cause a temperature above 40° C. to enter the treatment facilities.
 - (2) Any water or wastes which contain grease or oil or other substance that will solidify or become discernibly viscous at temperatures between 32° F. and 150° F.
 - (3) Any water or wastes containing emulsified oil and grease exceeding an average of 50 parts per million gallons ether-soluble matter.
 - (4) Any gasoline, benzine, naphtha, fuel oil or mineral oil or other flammable or explosive liquid, solid or gas.
 - (5) Any noxious or malodorous gas, such as hydrogen sulfide, sulfur dioxide or nitrous oxide or other substance which, either singly or by interaction with other wastes, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
 - (6) Any garbage that has not been properly pulverized or ground to fine powder.
 - (7) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastic, wood, paunch manure, hair and fleshings, entrails, lime, residues, beer and distillery slops, chemical residue, paint residues, cannery waste, bulk solids or any other solid viscous substance capable of causing obstruction to the flow of the sewers or other interference with the proper operation of the sewage system.
 - (8) Any waters or wastes, acid and alkaline in reaction, having corrosive properties capable of causing damage or hazard to structures, equipment and personnel of the sewage system. Free acids and alkalies must be neutralized at all times, within a permissible pH range of 6.0 to 9.0.
 - (9) Any long half-life (over 100 days) of toxic radioactive isotopes, without a special permit.
 - (10) Any waters or wastes that, for a duration of 15 minutes, have a concentration greater than five times the average of that of normal sanitary sewage [defined in Subsection A(13) of this section], as measured by suspended solids and BOD and/or which is discharged continuously at a rate exceeding 1,000 gallons per minute except by special permit.

(11) Any stormwater, roof drains, spring water, cistern or tank overflow, cellar or footing drains, discharge from any vehicle rack or motor or the contents of any privy vault, holding tank, septic tank or cesspool or the discharge of effluent from any air-conditioning machine or refrigeration unit.

(12) Toxic substances.

(a) No person shall discharge or cause to be discharged any waters or wastes containing a toxic or poisonous substance, a high chlorine demand or suspended solids in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters or the effluent of the City of Kingston wastewater facility. Such toxic substances shall be limited to the average concentrations listed hereinafter in the sewage. If concentrations listed are exceeded, individual establishments will be subject to control in volume and concentration by the Town Engineer.

**Limits of Toxic Substances in Sewage
at Point of Entry into Municipal Systems**

Parameter	Effluent Concentration Limits (milligrams per liter)	
	Thirty-Day Average	Twenty-Four-Hour Average
Cadmium	0.4	0.8
Hexavalent chromium	0.2	0.4
Total chromium	4.0	8.0
Copper	0.8	1.6
Lead	0.2	0.4
Mercury	0.2	0.4
Nickel	4.0	8.0
Zinc	1.2	2.4

**Limits of Toxic Substances in Sewage
at Point of Entry into Municipal Systems**

Parameter	Effluent Concentration Limits (milligrams per liter)	
	Thirty-Day Average	Twenty-Four-Hour Average
Arsenic	0.2	0.4
Available chlorine	50.0	50.0
Cyanide, free	0.4	0.8
Cyanide, complex	1.6	3.2
Selenium	0.2	0.4
Sulfide	6.0	12.0
Barium	4.0	8.0
Manganese	4.0	8.0
Gold	0.2	0.4
Silver	0.2	0.4
Fluorides		
To fresh water	4.0*	8.0*
To saline water	36.0	72.0
Phenol	4.0	8.0

* NOTE: May be multiplied by a factor of 1.5 if the municipal water supply is not fluoridated.

(b) The list of toxic limits provided herein will be replaced by the list of limits of toxic

substances established pursuant to Section 307 of the Clean Water Act, when promulgated. Any limits in the existing list which are either more stringent than the federal limit for a particular substance or for a substance not included in the federal list may remain.

(13) "Normal sanitary sewage" shall be construed to mean all within the following ranges at the effluent of the industrial plant in question:

Constituents	Normal Range (parts per million)
Suspended solids	180 to 350
BOD	140 to 300
Chlorine demand	5 to 15

- B. Grease, oil and sand interceptors shall be provided when, in the opinion of the Town Engineer, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand and other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Town Engineer and shall be located as to be readily and easily accessible for cleaning and inspection.
- C. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.
- D. Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times and shall be accessible and open to inspection by the Town Engineer or his deputy or representative at any time.
- E. The admission into the public sewers of any waters or wastes having a five-day biochemical oxygen demand greater than 300 parts per million by weight or containing more than 350 parts per million by weight of suspended solids or containing more than 15 parts per million of chlorine demand or containing any quantity of substances having the characteristics above the previously described limits or having an average daily flow greater than 2% of the average daily sewage flow of the town shall be subject to the review and approval of the

Town Engineer. Where necessary, in the opinion of the Town Engineer, the owner shall provide, at his expense, such preliminary treatment as may be necessary to reduce the biochemical oxygen demand to 300 parts per million and the suspended solids to 350 parts per million by weight or to reduce the chlorine demand to 15 parts per million or to reduce objectionable characteristics or constituents to within the maximum limits provided for or to control the quantities and rates of discharge of such waters or wastes.

- F. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Town Engineer, the Water Resources Commission of the State of New York and the New York State Department of Environmental Conservation, and no construction of such facilities shall be commenced until said approvals are obtained in writing.
- G. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.
- H. When required by the Town Engineer, the owner of any property served by a building sewer carrying industrial wastes shall install a suitable control manhole in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with the plans approved by the owner at his expense and shall be maintained by him, so as to be safe and accessible at all times.
- I. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made shall be determined in accordance with the Ulster County Health Department Methods of Examination of Water and Sewage and using Standard Methods for the Examination of Water and Wastewater as a correct laboratory reference upon suitable samples taken at control manholes provided for above. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer from the point at which the building sewer is connected.
- J. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the town for treatment, subject to payment therefor by the industrial concern.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 104, SEWERS / ARTICLE I, General
Provisions [Adopted 11-14-1979 by L.L. No. 2-1979] / § 104-6 Tampering with
equipment prohibited.**

§ 104-6 Tampering with equipment prohibited.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the improvement sewerage works. Any person violating this provision shall be subject to immediate arrest under charge of criminal mischief.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 104, SEWERS / ARTICLE I, General
Provisions [Adopted 11-14-1979 by L.L. No. 2-1979] / § 104-7 Right of entry;
Superintendent.**

§ 104-7 Right of entry; Superintendent.

- A. The Town Engineer, employees of the United States Environmental Protection Agency and the New York State Department of Environmental Conservation and duly authorized employees of the town, bearing proper credentials and identification and having a reason for inspection, shall be permitted to enter upon all properties for the purposes of inspection, observation, measurements, sampling and testing, in accordance with the provisions of this article. The town shall have the authority to enforce industrial pretreatment standards promulgated by the United States Environmental Protection Agency pursuant to Section 307 of P.L. 92-500.
- B. The Town Board shall appoint a Superintendent for the improvement who shall have such duties and responsibilities for the management and operation of the improvement as the Town Board may from time to time establish.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 104, SEWERS / ARTICLE I, General
Provisions [Adopted 11-14-1979 by L.L. No. 2-1979] / § 104-8 Notice of violation;
penalties for offenses.**

§ 104-8 Notice of violation; penalties for offenses.

- A. Any person found to be violating any provision of the article shall be served by the town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

- B. Any person who shall continue any violation beyond the above time limit shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not exceeding \$200 for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.
- C. Any person violating any of the provisions of the article shall become liable to the town for any expense, loss or damage occasioned the town by reason of such violation.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 104, SEWERS / ARTICLE I, General
Provisions [Adopted 11-14-1979 by L.L. No. 2-1979] / § 104-9 Sewer charges.**

§ 104-9 Sewer charges.

- A. Sewer charges shall be used for deriving revenues for financing and maintaining sewage collection and treatment facilities. The funds derived from these charges shall be used for all municipal expenses associated with constructing, improving or maintaining a sewerage system, including engineering planning, construction, reconstruction of sewers and a share of the Kingston sewage treatment works and all necessary appurtenances thereto, including pumping stations, extensions, enlargement, replacement or additions to the sanitary sewer systems or the preliminary or other studies and surveys relative thereto, and for the acquisition of land or rights-of-way for any of the capital improvements.
- B. Sewer charges shall include a sewer user charge which shall be levied on owners of properties located within or without the improvement boundaries who contribute sewage to the public sewers and a capital cost amortization charge to be levied on all owners of properties within the improvement boundaries.
 - (1) The following items will be funded by the sewer user charge:
 - (a) Cost of operation and maintenance of the entire sewer collection system, including pump stations.
 - (b) The improvement's share of the cost of operation and maintenance of the City of Kingston sewage treatment plant.
 - (2) The following items will be funded by the capital cost amortization charge:
 - (a) Cost of the retirement of the capital bonds of the improvement.
 - (b) The improvement's share of the cost of retirement of the City of Kingston sewage treatment capital debt.

- C. The Town Board of the Town of Esopus shall review the user charges annually and revise them periodically to reflect the actual sewage works operation and maintenance cost.
- D. Sewer user charges shall be billed quarterly at the same time that the Port Ewen Water District bills for water usage charges. Capital costs amortization charges shall be billed at the same time and included in the tax statement that is sent out by the town for county charges and general town taxes.
- E. Computation of charges.^{EN(57)}
 - (1) ^{EN(58)}Use charges are fixed at the rate of \$10 for the first zero to 4,000 gallons and at the rate of \$2.36 per 1,000 gallons thereafter based on the water meter, with the new rate to be effective January 1, 1994. [Added 6-23-1982 by L.L. No. 5-1982; amended 12-9-1987; 12-8-1993; 1-1-1998]
 - (2) In the event of a defective water meter, the average of its last two quarterly billings for sewer user charges during which the meter was operating properly will be charged. In the event that other than a residential class user enters and uses the improvement, the method of computing the sewer user charges for such a user would be based on factors such as strength, volume and delivery flow rate characteristics, as well as the amount of water from the Port Ewen Water District used by such user as set forth above. If the property has its own water supply or is served by an unmetered independent water company, the owner shall have the option of installing a water meter at his own expense, or the user charges shall be based on 100 gallons per person per day. This shall mean that every man, woman or child living in the residence shall be charged at that rate. Commercial or nonresident users must install a water meter at their own expense. The capital costs amortization charges shall be levied on the basis of the assessed valuation of each parcel of property within the improvement boundaries for general town and county tax purposes at such rates as may from time to time be set by the Town Board.
- F. The bills for sewer user charges shall become due and payable to the Port Ewen Sewer Improvement Area, and such payment shall be made to the Town Clerk at his office quarterly. If such bills are not paid within 30 days, a penalty of 10% of the amount of such bill will be added thereto. If such bill remains unpaid for 60 days, then interest at the rate of 1/2% per month on the unpaid bill shall be added to the bill until payment is made. Sewer user charges and capital costs amortization charges and the interest and penalties thereon shall be a lien upon the real property which is using the public sewer or which is located within the improvement boundaries, and on or before the day when, under the Town Law, preliminary estimates of expenditures are required to be submitted, the Town Clerk shall prepare and file with the Town Board a statement showing all sewer user charges, with penalties and interest thereon, which remain unpaid, which said statement shall contain a brief description of the property to which sewer services were supplied or which is within the

improvement boundaries, the name of the owner liable to pay the same, so far as may be known, and the amount chargeable.

- G. Connection charges. A charge of \$100 will be levied against all property owners who tap in on the public sanitary sewers. The minimum size shall be four inches in diameter. Any sewers in excess of four inches in diameter will pay the additional charges. The cost of constructing the lateral from the public sewer to the property line will be covered by the above connection charge and the work will be performed by the town. The property owner shall pay all costs of constructing the building sewer from the property line to the building drain or the Town Board may, if it deems it advisable and feasible, contract for the cost of constructing the said building sewer from the property line to the building drain and charge the property owner an installation charge therefor, at a rate to be established by the Town Board; but the property owner shall pay all costs of preparing an opening through the building wall permitting the passage of said building main through the wall to the building drain. If the Town Board decides to contract for said connections, then all necessary connections will be made under that contract.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 104, SEWERS / ARTICLE II, Industrial Sewer
Use [The Industrial Sewer Use Law of the Town of Esopus was adopted by the
Town Board 3-12-1997 by L.L. No. 3-1997. A complete copy of said local law and
any amendments thereto are on file in the office of the Town Clerk and may be
examined there during regular office hours.]**

**ARTICLE II, Industrial Sewer Use [The Industrial Sewer Use Law of the Town of
Esopus was adopted by the Town Board 3-12-1997 by L.L. No. 3-1997. A complete
copy of said local law and any amendments thereto are on file in the office of the
Town Clerk and may be examined there during regular office hours.]**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 104, SEWERS / ARTICLE III, Public Sanitary
Sewers [Adopted 4-17-2008 by L.L. No. 1-2008]**

ARTICLE III, Public Sanitary Sewers [Adopted 4-17-2008 by L.L. No. 1-2008]

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II

GENERAL LEGISLATION / Chapter 104, SEWERS / ARTICLE III, Public Sanitary Sewers [Adopted 4-17-2008 by L.L. No. 1-2008] / § 104-10 Connections to public sewer system; maintenance; definitions.

§ 104-10 Connections to public sewer system; maintenance; definitions.

A. Commencing with the effective date of this article, any gravity sanitary sewer; sanitary force main sewer; sewer that serves more than one property; sewer located in a public right-of-way; sanitary pump station (exclusive of privately owned grinder pumps); sewer connection; and sewer extension, the closest part of which is within the public right-of-way or is within a municipal utility easement, shall be connected to the public sanitary sewer system and shall, after completion of design, construction and testing in conformity with all laws, rules and regulations and in accordance with the then-current standards and protocols of the Great Lakes-Upper Mississippi River Board of State Public Health and Environmental Managers (GLUMRB) as published in the "Recommended Standards for Wastewater Facilities," become part of the public sewer system and shall thereafter be maintained by the Public Sewer District.

B. Definitions. For the purposes of this article, the following terms shall have the meanings indicated:

SEWER CONNECTION -- A point of connection between a building, residence or other structure and a public sewer except any connection designed or intended to carry 2,500 gallons per day or more of residential sewage alone.

SEWER EXTENSION -- A newly constructed or proposed sewer designed to serve one or more sewer connection(s).

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 104, SEWERS / ARTICLE III, Public Sanitary Sewers [Adopted 4-17-2008 by L.L. No. 1-2008] / § 104-11 Application.

§ 104-11 Application.

In the event that any of the facilities identified in § 104-10A are to be constructed, the person or entity intending to build same shall file an application for a proposed public sanitary sewer with the Superintendent of the Public Sewer District. Such applications shall include engineering plans, reports and specifications designed by a New York State licensed professional engineer in accordance with the GLUMRB standards referenced above.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 104, SEWERS / ARTICLE III, Public Sanitary
Sewers [Adopted 4-17-2008 by L.L. No. 1-2008] / § 104-12 Engineer services;
review fees.**

§ 104-12 Engineer services; review fees.

- A. The Superintendent of the Public Sewer District shall have the authority to engage the services of a New York State licensed professional engineer to review the design documents submitted by the applicant. The applicant shall be responsible for all of the costs, fees, expenses and disbursements associated with said review.
- B. Upon filing an application, the applicant shall also be required to pay such sums as reasonably determined by the Town, to cover the costs, disbursements, fees and expenses of said review. Said funds shall be held in escrow by the Town and drawn against as invoices are submitted. In the event that said escrow funds are depleted, the applicant shall pay such additional sums as reasonably determined by the Town until the entire review is completed.

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GENERAL LEGISLATION / Chapter 104, SEWERS / ARTICLE III, Public Sanitary
Sewers [Adopted 4-17-2008 by L.L. No. 1-2008] / § 104-13 Adherence to rules
and regulations.**

§ 104-13 Adherence to rules and regulations.

The person(s) making said application shall also be required to adhere to the rules and regulations promulgated by the Town of Esopus governing the construction, testing, connection, dedication and all other aspects of the public sanitary sewers, which rules and regulations may be amended by resolution of the Town Board.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 105, STORM SEWERS**

Chapter 105, STORM SEWERS

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

GENERAL REFERENCES

- Excavations in public highways -- See Ch. 74.**
Flood damage prevention -- See Ch. 80.
Highways -- See Ch. 88.
Stormwater management and erosion and sediment control -- See Ch. 106.
Subdivision of land -- See Ch. 107.
Zoning -- See Ch. 123.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 105, STORM SEWERS / ARTICLE I, Illicit
Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]**

**ARTICLE I, Illicit Discharges, Activities and Connections [Adopted 12-20-2007 by
L.L. No. 10-2007]**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 105, STORM SEWERS / ARTICLE I, Illicit
Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-1. Purpose.**

§ 105-1. Purpose.

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

- A. To meet the requirements of the SPDES General Permit for Stormwater Discharges from MS4s, Permit No. GP-02-02, or as amended or revised;
- B. To regulate the contribution of pollutants to the MS4 since such systems are not designed to accept, process or discharge nonstormwater wastes;
- C. To prohibit illicit connections, activities and discharges to the MS4;
- D. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this article; and

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

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GENERAL LEGISLATION / Chapter 105, STORM SEWERS / ARTICLE I, Illicit
Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-2. Definitions.**

§ 105-2. Definitions.

Whenever used in this article, unless a different meaning is stated in a definition applicable to only a portion of this article, the following terms will have meanings set forth below:

BEST MANAGEMENT PRACTICES (BMPs) -- Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT -- The Federal Water Pollution Control Act (33 U.S.C. § 1251 et. seq.), and any subsequent amendments thereto.

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

DEPARTMENT -- The New York State Department of Environmental Conservation.

DESIGN PROFESSIONAL -- New York State licensed professional engineer or licensed architect.

HAZARDOUS MATERIALS -- Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLICIT CONNECTIONS -- Any drain or conveyance, whether on the surface or subsurface,

which allows an illegal discharge to enter the MS4, including but not limited to:

- A. Any conveyances which allow any nonstormwater discharge including treated or untreated sewage, process wastewater, and wash water to enter the MS4 and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or
- B. Any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

ILLICIT DISCHARGE -- Any direct or indirect nonstormwater discharge to the MS4, except as exempted in § 105-6 this article.

INDIVIDUAL SEWAGE TREATMENT SYSTEM -- A facility serving one or more parcels of land or residential households, or a private, commercial or institutional facility, that treats sewage or other liquid wastes for discharge into the groundwaters of New York State, except where a permit for such a facility is required under the applicable provisions of Article 17 of the Environmental Conservation Law.

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

MS4 -- Municipal separate storm sewer system.

MUNICIPALITY -- The Town of Esopus.

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

- A. Owned or operated by the Town of Esopus;
- B. Designed or used for collecting or conveying stormwater;
- C. Which is not a combined sewer; and
- D. Which is not part of a Publicly Owned Treatment Works (POTW) as defined at 40 CFR 122.2.

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

PERSON -- Any individual, association, organization, partnership, firm, corporation, limited liability company, or other entity recognized by law and acting as either the owner or as the

owner's agent.

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

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

SPECIAL CONDITIONS

- A. Discharge compliance with water quality standards: the condition that applies where a municipality has been notified that the discharge of stormwater authorized under their MS4 permit may have caused or has the reasonable potential to cause or contribute to the violation of an applicable water quality standard. Under this condition, the municipality must take all necessary actions to ensure future discharges do not cause or contribute to a violation of water quality standards.
- B. 303(d) listed waters: the condition in the municipality's MS4 permit that applies where the MS4 discharges to a 303(d) listed water. Under this condition, the stormwater management program must ensure no increase of the listed pollutant of concern to the 303(d) listed water.
- C. Total maximum daily load (TMDL) strategy: the condition in the municipality's MS4 permit where a TMDL including requirements for control of stormwater discharges has been approved by EPA for a water body or watershed into which the MS4 discharges. If the discharge from the MS4 did not meet the TMDL stormwater allocations prior to September 10, 2003, the municipality was required to modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.
- D. The condition in the municipality's MS4 permit that applies if a TMDL is approved in the future by EPA for any water body or watershed into which an MS4 discharges: Under this condition, the municipality must review the applicable TMDL to see if it includes requirements for control of stormwater discharges. If an MS4 is not meeting the TMDL stormwater allocations, the municipality must, within six months of the TMDL's approval, modify its stormwater management program to ensure that reduction of the pollutant of concern specified in the TMDL is achieved.

STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM (SPDES) STORMWATER DISCHARGE PERMIT -- A permit issued by the Department that authorizes the discharge of pollutants to waters of the state.

STORMWATER -- Rainwater, surface runoff, snowmelt and drainage.

STORMWATER MANAGEMENT OFFICER (SMO) -- An employee, the municipal engineer or other public official(s) designated by the Town of Esopus to enforce this article. The SMO may also be designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

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

TMDL -- Total maximum daily load.

TOTAL MAXIMUM DAILY LOAD -- The maximum amount of a pollutant to be allowed to be released into a water body so as not to impair uses of the water allocated among the sources of that pollutant.

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

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GENERAL LEGISLATION / Chapter 105, STORM SEWERS / ARTICLE I, Illicit
Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-3. Applicability.**

§ 105-3. Applicability.

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

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Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-4. Responsibility for administration.**

§ 105-4. Responsibility for administration.

The Stormwater Management Officer(s) [SMO(s)] shall administer, implement, and enforce the

provisions of this article. Such powers granted or duties imposed upon the authorized enforcement official may be delegated in writing by the SMO as may be authorized by the municipality.

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Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-5. Severability.**

§ 105-5. Severability.

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

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Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-6. Discharge prohibitions; exceptions.**

§ 105-6. Discharge prohibitions; exceptions.

A. Prohibition of illegal discharges. No person shall discharge or cause to be discharged into the MS4 any materials other than stormwater except as provided in § 105-6A(1). The commencement, conduct or continuance of any illegal discharge to the MS4 is prohibited except as described as follows:

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

- (2) Discharges approved in writing by the SMO to protect life or property from imminent harm or damage, provided that, such approval shall not be construed to constitute compliance with other applicable laws and requirements, and further provided that such discharges may be permitted for a specified time period and under such conditions as the SMO may deem appropriate to protect such life and property while reasonably maintaining the purpose and intent of this article.
- (3) Dye testing in compliance with applicable state and local laws is an allowable discharge, but requires a verbal notification to the SMO prior to the time of the test.
- (4) The prohibition shall not apply to any discharge permitted under an SPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Department, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the MS4.

B. Prohibition of illicit connections.

- (1) The construction, use, maintenance or continued existence of illicit connections to the MS4 is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this article if the person connects a line conveying sewage to the municipality's MS4 or allows such a connection to continue.

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Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-7. Failing individual sewage treatment systems prohibited.**

§ 105-7. Failing individual sewage treatment systems prohibited.

No persons shall operate a failing individual sewage treatment system in areas tributary to the municipality's MS4. A failing individual sewage treatment system is one which has one or more of the following conditions:

- A. The backup of sewage into a structure.
- B. Discharges of treated or untreated sewage onto the ground surface.

- C. A connection or connections to a separate stormwater sewer system.
- D. Liquid level in the septic tank above the outlet invert.
- E. Structural failure of any component of the individual sewage treatment system that could lead to any of the other failure conditions as noted in this section.
- F. Contamination of off-site groundwater.

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Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-8. Activities contaminating stormwater prohibited.**

§ 105-8. Activities contaminating stormwater prohibited.

- A. Activities that are subject to the requirements of this section are those types of activities that:
 - (1) Cause or contribute to a violation of the municipality's MS4 SPDES permit.
 - (2) Cause or contribute to the municipality being subject to the special conditions as defined in § 105-2, Definitions, of this article.
- B. Such activities include, but are not limited to, failing individual sewage treatment systems as defined in § 105-7, improper management of pet waste or any other activity that causes or contributes to violations of the municipality's MS4 SPDES permit authorization.
- C. Upon notification to a person that he or she is engaged in activities that cause or contribute to violations of the municipality's MS4 SPDES permit authorization, that person shall take all reasonable actions to correct such activities such that he or she no longer causes or contributes to violations of the municipality's MS4 SPDES permit authorization.

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Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-9. Prevention, control and reduction of stormwater pollutants.**

§ 105-9. Prevention, control and reduction of stormwater pollutants.

- A. Best management practices. Where the SMO has identified illicit discharges as defined in § 105-2 or activities contaminating stormwater as defined in § 105-8, the municipality may require implementation of best management practices (BMPs) to control those illicit

discharges and activities.

- (1) The owner or operator of a commercial or industrial establishment shall provide, at his or her own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the MS4 through the use of structural and nonstructural BMPs.
 - (2) Any person responsible for a property or premises, which is, or may be, the source of an illicit discharge as defined in § 105-2 or an activity contaminating stormwater as defined in § 105-8 may be required to implement, at said person's expense, additional structural and nonstructural BMPs to reduce or eliminate the source of pollutant(s) to the MS4.
 - (3) Compliance with all terms and conditions of a valid SPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.
- B. Individual sewage treatment systems: response to special conditions requiring no increase of pollutants or requiring a reduction of pollutants. Where individual sewage treatment systems are contributing to the municipality's being subject to the special conditions as defined in § 105-2 of this article, the owner or operator of such individual sewage treatment systems shall be required to:
- (1) Maintain and operate individual sewage treatment systems as follows:
 - (a) Inspect the septic tank annually to determine scum and sludge accumulation. Septic tanks must be pumped out whenever the bottom of the scum layer is within three inches of the bottom of the outlet baffle or sanitary tee or the top of the sludge is within 10 inches of the bottom of the outlet baffle or sanitary tee.
 - (b) Avoid the use of septic tank additives.
 - (c) Avoid the disposal of excessive quantities of detergents, kitchen wastes, laundry wastes, and household chemicals; and
 - (d) Avoid the disposal of cigarette butts, disposable diapers, sanitary napkins, trash and other such items.
 - (2) Repair or replace individual sewage treatment systems as follows:
 - (a) In accordance with 10 NYCRR, Appendix 75-A to the maximum extent practicable.
 - (b) A design professional licensed to practice in New York State shall prepare design plans for any type of absorption field that involves:
 - [1] Relocating or extending an absorption area to a location not previously

approved for such.

[2] Installation of a new subsurface treatment system at the same location.

[3] Use of alternate system or innovative system design or technology.

(c) A written certificate of compliance shall be submitted by the design professional to the municipality at the completion of construction of the repair or replacement system.

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Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-10. Suspension of access to MS4.**

§ 105-10. Suspension of access to MS4.

- A. Illicit discharges in emergency situations. The SMO may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, to the health or welfare of persons, or to the MS4. The SMO shall notify the person of such suspension within a reasonable time thereafter in writing of the reasons for the suspension. If the violator fails to comply with a suspension order issued in an emergency, the SMO may take such steps as deemed necessary to prevent or minimize damage to the MS4 or to minimize danger to persons.
- B. Suspension due to the detection of illicit discharge. Any person discharging to the municipality's MS4 in violation of this article may have his or her MS4 access terminated if such termination would abate or reduce an illicit discharge. The SMO will notify a violator in writing of the proposed termination of its MS4 access and the reasons therefor. The violator may petition the SMO for reconsideration. Access may be granted by the SMO if he/she finds that the illicit discharge has ceased and the discharger has taken steps to prevent its recurrence. Access may be denied if the SMO determines in writing that the illicit discharge has not ceased or is likely to recur. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section without the prior approval of the SMO.

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Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-11. Industrial or construction activity discharges.**

§ 105-11. Industrial or construction activity discharges.

Any person subject to an industrial or construction activity SPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the municipality prior to the allowing of discharges to the MS4.

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Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-12. Applicability; access to facilities; monitoring of discharges.**

§ 105-12. Applicability; access to facilities; monitoring of discharges.

- A. Applicability. This section applies to all facilities that the SMO must inspect to enforce any provision of this article, or whenever the authorized enforcement agency has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this article.
- B. Access to facilities.
- (1) The SMO shall be permitted to enter and inspect facilities subject to regulation under this article as often as may be necessary to determine compliance with this article. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to the SMO.
 - (2) Facility operators shall allow the SMO ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records as may be required to implement this article.
 - (3) The municipality shall have the right to set up on any facility subject to this article such devices as are necessary in the opinion of the SMO to conduct monitoring and/or sampling of the facility's stormwater discharge.
 - (4) The municipality has the right to require the facilities subject to this article to install monitoring equipment as is reasonably necessary to determine compliance with this article. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

- (5) Unreasonable delays in allowing the municipality access to a facility subject to this article is a violation of this article. A person who is the operator of a facility subject to this article commits an offense if the person denies the municipality reasonable access to the facility for the purpose of conducting any activity authorized or required by this article.
- (6) If the SMO has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this article or any order issued hereunder, then the SMO may seek issuance of a search warrant from any court of competent jurisdiction.

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Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-13. Notification of spills.**

§ 105-13. Notification of spills.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the MS4, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of nonhazardous materials, said person shall notify the municipality in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the municipality within three business days of the telephone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

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Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-14. Enforcement; penalties for offenses.**

§ 105-14. Enforcement; penalties for offenses.

A. Notice of violation.

- (1) When the municipality's SMO finds that a person has violated a prohibition or failed to meet a requirement of this article, he/she may order compliance by written notice of violation to the responsible person. Such notice may require, without limitation:
 - (a) The elimination of illicit connections or discharges;
 - (b) That violating discharges, practices, or operations shall cease and desist;
 - (c) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
 - (d) The performance of monitoring, analyses, and reporting;
 - (e) Payment of a fine; and
 - (f) The implementation of source control or treatment BMPs.
- (2) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

B. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this article shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this article shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation. In addition, any person who violates this article shall pay any fines or penalties that the Town of Esopus is required to pay by reason of said person's

violations.

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Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-15. Corrective measures.**

§ 105-15. Corrective measures.

- A. If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, then the SMO shall request the owner's permission for access to the subject private property to take any and all measures reasonably necessary to abate the violation and/or restore the property.
- B. If refused access to the subject private property, the SMO may seek a warrant or order in a court of competent jurisdiction to be authorized to enter upon the property. Upon determination that a violation is continuing, the SMO or Town Board may seek a court order to take any and all other measures reasonably necessary to abate the violation and/or restore the property and or to collect the fines and penalties set forth above. The cost of implementing and maintaining such measures shall be the sole responsibility of the discharger.

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Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-16. Injunctive relief.**

§ 105-16. Injunctive relief.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this article. If a person has violated or continues to violate the provisions of this article, the SMO may petition for a temporary restraining order and/or preliminary and/or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation, or for such other relief as the SMO or the Town Board deems appropriate.

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Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]**

/ § 105-17. Alternative remedies.

§ 105-17. Alternative remedies.

A. Where a person has violated a provision of this article, he/she may be eligible for alternative punishment in lieu of a civil penalty, upon a determination of the Municipal Code Enforcement Office that:

- (1) The violation was unintentional;
- (2) The violator has no history of previous violations of this article;
- (3) Environmental damage was minimal;
- (4) The violator acted quickly to remedy violation; and
- (5) The violator cooperated in investigation and resolution.

B. Alternative remedies may consist of one or more of the following:

- (1) Attendance at compliance workshops;
- (2) River, stream or creek cleanup activities.
- (3) Other community service related to restoration or protection of environmental resources.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 105, STORM SEWERS / ARTICLE I, Illicit
Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-18. Violations deemed a public nuisance.**

§ 105-18. Violations deemed a public nuisance.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 105, STORM SEWERS / ARTICLE I, Illicit
Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-19. Remedies not exclusive.**

§ 105-19. Remedies not exclusive.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 105, STORM SEWERS / ARTICLE I, Illicit
Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-20. Appeal.**

§ 105-20. Appeal.

Any person, firm or corporation claiming to be adversely affected or aggrieved by any ruling, decision, determination or order of the SMO may appeal such ruling, decision, or determination to the New York State Supreme Court within 30 days after said determination, ruling, or decision is filed in the office of the SMO. To the extent that said time limit is at variance with the time limit set forth in Civil Practice Law and Rules § 217, it is the intention of this article to supersede same.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 105, STORM SEWERS / ARTICLE I, Illicit
Discharges, Activities and Connections [Adopted 12-20-2007 by L.L. No. 10-2007]
/ § 105-21. When effective; repealer.**

§ 105-21. When effective; repealer.

This article shall become effective following its final adoption and after filing same with the Secretary of State of New York. All prior laws or parts of law in conflict with this article are hereby repealed.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 106, STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL**

**Chapter 106, STORMWATER MANAGEMENT AND EROSION AND
SEDIMENT CONTROL**

[HISTORY: Adopted by the Town Board of the Town of Esopus 11-15-2007 by L.L. No. 4-2007. Amendments noted where applicable.]

GENERAL REFERENCES

- Excavations in public highways -- See Ch. 74.
- Flood damage prevention -- See Ch. 80.
- Highways -- See Ch. 88.
- Storm sewers -- See Ch. 105.
- Subdivision of land -- See Ch. 107.
- Zoning -- See Ch. 123.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 106, STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL / ARTICLE I, Findings of Fact; Purpose;
Statutory Authority; Applicability; Exemptions**

**ARTICLE I, Findings of Fact; Purpose; Statutory Authority; Applicability;
Exemptions**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 106, STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL / ARTICLE I, Findings of Fact; Purpose;
Statutory Authority; Applicability; Exemptions / § 106-1. Findings of fact.**

§ 106-1. Findings of fact.

It is hereby determined that:

- A. Land development and activities and associated increases in site impervious cover often alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, flooding, stream channel erosion or sediment transport and deposition;
- B. This stormwater runoff contributes to increased quantities of waterborne pollutants, including siltation of aquatic habitat for fish and other desirable species;
- C. Clearing and grading during construction tends to increase soil erosion and add to the loss of native vegetation necessary for terrestrial and aquatic habitat;
- D. Improper design and construction of stormwater management practices can increase the

velocity of stormwater runoff, thereby increasing stream bank erosion and sedimentation;

- E. Impervious surfaces allow less water to percolate into the soil, thereby decreasing groundwater recharge and stream baseflow;
- F. Substantial economic losses can result from these adverse impacts on the waters of the municipality;
- G. Stormwater runoff, soil erosion and nonpoint source pollution can be controlled and minimized through the regulation of stormwater runoff from land development activities;
- H. The regulation of stormwater runoff discharges from land development activities in order to control and minimize increases in stormwater runoff rates and volumes, soil erosion, stream channel erosion and nonpoint source pollution associated with stormwater runoff is in the public interest and will minimize threats to public health and safety; and
- I. Regulation of land development activities by means of performance standards governing stormwater management and site design will produce development compatible with the natural functions of a particular site or an entire watershed and thereby mitigate the adverse effects of erosion and sedimentation from development.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 106, STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL / ARTICLE I, Findings of Fact; Purpose;
Statutory Authority; Applicability; Exemptions / § 106-2. Purpose.**

§ 106-2. Purpose.

The purpose of this chapter is to establish minimum requirements and controls to protect and safeguard the general health, safety and welfare of the public residing within this jurisdiction and to address the findings of fact in § 106-1 hereof. This chapter seeks to meet those purposes by achieving the following objectives:

- A. Meet the requirements of minimum measures 4 and 5 of the NYS Department of Environmental Conservation State Pollutant Discharge Elimination System (SPDES) General Permit for Stormwater Discharges from Municipal Separate Stormwater Sewer Systems (MS4s), Permit No. GP-02-02, or as amended or revised;
- B. Require land development activities to conform to the substantive requirements of the SPDES General Permit for Construction Activities GP-02-01, or as amended or revised.
- C. Minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature and streambank erosion and maintain the

integrity of stream channels;

- D. Minimize increases in pollution caused by stormwater runoff from land development activities which would otherwise degrade local water quality;
- E. To the maximum extent practicable, minimize the total annual volume of stormwater runoff which flows from any specific site during and following development; and
- F. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management practices and to ensure that these management practices are properly maintained and eliminate threats to public safety.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 106, STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL / ARTICLE I, Findings of Fact; Purpose;
Statutory Authority; Applicability; Exemptions / § 106-3. Statutory authority.**

§ 106-3. Statutory authority.

In accordance with § 10 of the Municipal Home Rule Law of the State of New York, the Town Board of the Town of Esopus has the authority to enact local laws and amend local laws for the purpose of promoting the health, safety or general welfare of the Town of Esopus and for the protection and enhancement of its physical environment. The Town Board of the Town of Esopus may include in any such local law provisions for the appointment of any municipal officer, employees or independent contractor to effectuate, administer and enforce such laws.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 106, STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL / ARTICLE I, Findings of Fact; Purpose;
Statutory Authority; Applicability; Exemptions / § 106-4. Applicability.**

§ 106-4. Applicability.

- A. This chapter shall be applicable to all land development activities as defined in this chapter, Article II, § 106-6.
- B. The municipality shall designate a Stormwater Management Officer who shall accept and review all stormwater pollution prevention plans and forward such plans to the applicable municipal board. The Stormwater Management Officer may:
 - (1) Review the plans;

- (2) Upon approval by the Town Board of the Town of Esopus, engage the services of a registered professional engineer to review the plans, specifications and related documents at a cost not to exceed a fee schedule established by said governing board; or
 - (3) Accept the certificate of a licensed professional that the plans conform to the requirements of this chapter.
- C. All land development activities subject to review and approval by the Town of Esopus under subdivision, site plan and/or special permit regulations shall be reviewed subject to the standards contained in this chapter.
- D. All land development activities not subject to review as stated in Subsection C shall be required to submit a stormwater pollution prevention plan (SWPPP) to the Stormwater Management Officer, who shall approve the SWPPP if it complies with the requirements of this chapter.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 106, STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL / ARTICLE I, Findings of Fact; Purpose;
Statutory Authority; Applicability; Exemptions / § 106-5. Exemptions.**

§ 106-5. Exemptions.

The following activities are exempt from review under this chapter:

- A. Agricultural activity as defined in this chapter;
- B. Silvicultural activity, except that logging operations under Town of Esopus Code Section § 123-11 and landing areas and log haul roads are subject to this chapter;
- C. Routine maintenance activities that disturb less than five acres and are performed to maintain the original line and grade, hydraulic capacity or original purpose of a facility;
- D. Repairs to any stormwater management practice or facility deemed necessary by the Stormwater Management Officer;
- E. Any part of a subdivision if a plat for the subdivision has received final approval by the Town of Esopus on or before the effective date of this chapter and Town authorized construction has commenced;
- F. Land development activities for which a building permit has been approved on or before the effective date of this chapter;

- G. Cemetery graves;
- H. Installation of fence, sign, telephone and electric poles and other kinds of posts or poles;
- I. Emergency activity immediately necessary to protect life, property or natural resources;
- J. Activities of an individual engaging in home gardening by growing flowers, vegetables and other plants primarily for use by that person and his or her family; and
- K. Landscaping and horticultural activities in connection with an existing structure.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 106, STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL / ARTICLE II, Stormwater Control**

ARTICLE II, Stormwater Control

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 106, STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL / ARTICLE II, Stormwater Control / § 106-6.
Definitions.**

§ 106-6. Definitions.

The terms used in this chapter or in documents prepared or reviewed under this chapter shall have the meaning as set forth in this section.

AGRICULTURAL ACTIVITY -- The activity of an active farm including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

APPLICANT -- A property owner or agent of a property owner who has filed an application for a land development activity.

BUILDING -- Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal or property, and occupying more than 100 square feet of area.

CHANNEL -- A natural or artificial watercourse with a definite bed and banks that conducts

continuously or periodically flowing water.

CLEARING -- Any activity that removes the vegetative surface cover.

DEDICATION -- The deliberate appropriation of property by its owner for general public use.

DEPARTMENT -- The New York State Department of Environmental Conservation.

DESIGN MANUAL -- The New York State Stormwater Management Design Manual, most recent version, including applicable updates, that serves as the official guide for stormwater management principles, methods and practices.

DEVELOPER -- A person who undertakes land development activities.

EROSION CONTROL MANUAL -- The most recent version of the New York Standards and Specifications for Erosion and Sediment Control manual, commonly known as the "Blue Book."

GRADING -- Excavation or fill of material, including the resulting conditions thereof.

IMPERVIOUS COVER -- Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snowmelt and water (e.g., building rooftops, pavements, sidewalks, driveways, etc.).

INDUSTRIAL STORMWATER PERMIT -- A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION -- The process of percolating stormwater into the subsoil.

JURISDICTIONAL WETLAND -- An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

LAND DEVELOPMENT ACTIVITY -- Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

LANDOWNER -- The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

LICENSED PROFESSIONAL -- A person currently licensed to practice engineering in New York State, a registered landscape architect, or a certified professional in erosion and sediment

control (CPESC).

MAINTENANCE AGREEMENT -- A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

NONPOINT SOURCE POLLUTION -- Pollution from any source other than from any discernible, confined and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

PHASING -- Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

POLLUTANT OF CONCERN -- Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation), and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

PROJECT -- Land development activity.

RECHARGE -- The replenishment of underground water reserves.

SEDIMENT CONTROL -- Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS -- Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01 -- A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEM GP-02-02 -- A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards.

STABILIZATION -- The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER -- An order issued which requires that all construction activity on a site be stopped.

STORMWATER -- Rainwater, surface runoff, snow melt and drainage.

STORMWATER HOTSPOT -- A land use or activity that generates higher concentrations of

hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

STORMWATER MANAGEMENT -- The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY -- One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER -- An employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices. This work shall be done in coordination with other municipal agencies.

STORMWATER MANAGEMENT PRACTICES (SMPs) -- Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) -- A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF -- Flow on the surface of the ground resulting from precipitation.

SURFACE WATERS OF THE STATE OF NEW YORK -- Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

WATERCOURSE -- A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATERWAY -- A channel that directs surface runoff to a watercourse or to the public storm drain.

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GENERAL LEGISLATION / Chapter 106, STORMWATER MANAGEMENT AND EROSION AND SEDIMENT CONTROL / ARTICLE II, Stormwater Control / § 106-7. Stormwater pollution prevention plans.

§ 106-7. Stormwater pollution prevention plans.

Stormwater pollution prevention plan requirement: No application for approval of a land development activity shall be approved until the appropriate board has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications in this chapter.

- A. Contents of stormwater pollution prevention plans. All SWPPPs shall provide the following background information and erosion and sediment controls:
- (1) Background information about the scope of the project, including location, type and size of project;
 - (2) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map shall be at a scale no smaller than one inch equals 100 feet and shall show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharge(s);
 - (3) Description of the soil(s) present at the site;
 - (4) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP;
 - (5) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
 - (6) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;

- (7) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project from initial land clearing and grubbing to project close-out;
 - (8) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
 - (9) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
 - (10) Temporary practices that will be converted to permanent control measures;
 - (11) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
 - (12) Maintenance schedule to ensure continuous effective operation of the erosion and sediment control practices;
 - (13) Names(s) of the receiving water(s);
 - (14) Delineation of SWPPP implementation responsibilities for each part of the site,
 - (15) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
 - (16) Any existing data that describes the stormwater runoff at the site.
- B. Land development activities as defined in § 106-6 of this article and meeting Condition A, B or C below shall also include water quantity and water quality controls (postconstruction stormwater runoff controls) as set forth in § 106-8C below, as applicable:
- (1) Condition A: stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters, or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
 - (2) Condition B: stormwater runoff from land development activities disturbing five or more acres.
 - (3) Condition C: stormwater runoff from land development activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.

C. SWPPP requirements for conditions A, B and C:

- (1) All information in § 106-8A of this chapter;
- (2) Description of each postconstruction stormwater management practice;
- (3) Site map/construction drawing(s) showing the specific location(s) and size(s) of each postconstruction stormwater management practice;
- (4) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
- (5) Comparison of postdevelopment stormwater runoff conditions with predevelopment conditions;
- (6) Dimensions, material specifications and installation details for each postconstruction stormwater management practice;
- (7) Maintenance schedule to ensure continuous and effective operation of each postconstruction stormwater management practice;
- (8) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;
- (9) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with Article II, § 106-9 of this chapter;
- (10) The SWPPP shall be prepared by a registered landscape architect, certified professional in erosion and sediment control (CPESC) or licensed professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this chapter.

D. Other environmental permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

E. Contractor certification.

- (1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity:

"I certify under penalty of law that I understand and agree to comply with the terms and conditions of the stormwater pollution prevention plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."

- (2) The certification must include the name and title of the person providing the signature, the address and telephone number of the contracting firm, the address (or other identifying description) of the site; and the date the certification is made.
 - (3) The certification statement(s) shall become part of the SWPPP for the land development activity.
- F. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 106, STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL / ARTICLE II, Stormwater Control / § 106-8.
Performance and design criteria.**

§ 106-8. Performance and design criteria.

All land development activities shall be subject to the following performance and design criteria:

- A. Technical standards. For the purpose of this chapter, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this chapter:
 - (1) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the "Design Manual");
 - (2) New York Standards and Specifications for Erosion and Sediment Control (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the "Erosion Control Manual").
- B. Equivalence to technical standards. Where stormwater management practices are not in

accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards as set forth in Article II, § 106-8A, and the SWPPP shall be prepared by a licensed professional.

- C. Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 106, STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL / ARTICLE II, Stormwater Control / § 106-9.
Maintenance, inspection and repair of stormwater facilities.**

§ 106-9. Maintenance, inspection and repair of stormwater facilities.

- A. Maintenance and inspection during construction.

- (1) The applicant or developer of the land development activity or their representative shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this chapter. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.
- (2) For land development activities as defined in § 106-6 of this article and meeting Condition A, B or C in § 106-7B, the applicant shall have a licensed professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. Inspection reports shall be maintained in a site logbook.
- (3) The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place, and shall inspect and document the effectiveness of all erosion and sediment control practice.

- B. Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Esopus to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The easement shall be recorded by the grantor (developer) in the office of the Ulster County Clerk within 15 days after approval by the counsel for the Town

of Esopus. The developer shall also execute form TP-584 and such other documents as may be required by the Ulster County Clerk to record said easement.

- C. Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this chapter shall ensure they are operated and maintained to achieve the goals of this chapter. Proper operation and maintenance also includes, as a minimum, the following:
- (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this chapter;
 - (2) Written procedures for operation and maintenance and training new maintenance personnel;
 - (3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with Article II, § 106-8C.
- D. Maintenance agreements. The Town of Esopus shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the Ulster County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this chapter,^{EN(59)} entitled "Sample Stormwater Control Facility Maintenance Agreement." The Town of Esopus, in lieu of a maintenance agreement, at its sole discretion, may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this chapter and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 106, STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL / ARTICLE II, Stormwater Control / §
106-10. Severability.**

§ 106-10. Severability.

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this chapter shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this chapter.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 106, STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL / ARTICLE III, Administration and
Enforcement**

ARTICLE III, Administration and Enforcement

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 106, STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL / ARTICLE III, Administration and
Enforcement / § 106-11. Construction inspection.**

§ 106-11. Construction inspection.

A. Erosion and sediment control inspection.

- (1) The Town of Esopus Stormwater Management Officer may require such inspections as necessary to determine compliance with this chapter and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this chapter and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Town of Esopus enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:
 - (a) Start of construction;
 - (b) Installation of sediment and erosion control measures;
 - (c) Completion of site clearing;
 - (d) Completion of rough grading;
 - (e) Completion of final grading;
 - (f) Close of the construction season;
 - (g) Completion of final landscaping;
 - (h) Successful establishment of landscaping in public areas.
- (2) If any violations are found, the applicant and developer shall be notified in writing of the

nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

- B. Stormwater management practice inspections. The Town of Esopus Stormwater Management Officer, or at the Town Board's discretion, a licensed professional or a certified professional in erosion and sediment control, shall be responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit as-built plans for any stormwater management practices located on site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a licensed professional engineer or another licensed professional.
- C. Inspection of stormwater facilities after project completion. Inspection programs shall be established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher-than-typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher-than-usual discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit, and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to reviewing maintenance and repair records; sampling discharges, surface water, groundwater and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.
- D. Submission of reports. The Town of Esopus Stormwater Management Officer may require monitoring and reporting from entities subject to this chapter as are necessary to determine compliance with this chapter.
- E. Right of entry for inspection. When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public stormwater system, the landowner shall grant to the Town of Esopus the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in Subsection C.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 106, STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL / ARTICLE III, Administration and
Enforcement / § 106-12. Performance guarantee; maintenance guarantee;
recordkeeping.**

§ 106-12. Performance guarantee; maintenance guarantee; recordkeeping.

- A. Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Town of Esopus in its approval of the stormwater pollution prevention plan, the Town of Esopus may require the applicant or developer to provide, prior to construction, a performance and material and maintenance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Town of Esopus as the beneficiary. The security shall be in an amount and in a form to be determined by the Town of Esopus Planning Board based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Town of Esopus, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the Town of Esopus. Per annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.
- B. Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Town of Esopus with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Town of Esopus may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.
- C. Recordkeeping. The Town of Esopus may require entities subject to this chapter to maintain records demonstrating compliance with this chapter.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 106, STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL / ARTICLE III, Administration and
Enforcement / § 106-13. Enforcement; penalties for offenses.**

§ 106-13. Enforcement; penalties for offenses.

- A. Notice of violation. When the Town of Esopus determines that a land development activity is not being carried out in accordance with the requirements of this chapter, it may issue a written notice of violation to the landowner. The notice of violation shall contain:
- (1) The name and address of the landowner, developer or applicant;
 - (2) The address, when available, or a description of the building, structure or land upon which the violation is occurring;
 - (3) A statement specifying the nature of the violation;
 - (4) A description of the remedial measures necessary to bring the land development activity into compliance with this chapter and a time schedule for the completion of such remedial action;
 - (5) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
 - (6) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of notice of violation.
 - (7) Completion of final landscaping;
 - (8) Successful establishment of landscaping in public areas.
- B. Stop-work orders. The Town of Esopus may issue a stop-work order for violations of this chapter. Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Town of Esopus confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal or monetary penalties in accordance with the enforcement measures authorized in this chapter.
- C. Violations. Any land development activity that is commenced or is conducted contrary to this chapter may be restrained by injunction or otherwise abated in a manner provided by law.
- D. Penalties. In addition to or as an alternative to any penalty provided herein or by law, any person who violates the provisions of this chapter shall be guilty of a violation punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 nor more than \$1,000 or imprisonment for

a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purposes only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation. The Town Board may increase the amount of such fines by resolution. In addition, in the event that the Town of Esopus incurs any monetary fines or penalties due to the acts or omissions of the person who violated this chapter, said individual shall be liable to the Town for payment of said fines or penalties incurred by the Town of Esopus.

- E. Withholding of certificate of occupancy. If any building or land development activity is installed or conducted in violation of this chapter, the Stormwater Management Officer may prevent the occupancy of said building or land.
- F. Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Town of Esopus may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 106, STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL / ARTICLE III, Administration and
Enforcement / § 106-14. Fees for services.**

§ 106-14. Fees for services.

The Town of Esopus may require any person undertaking land development activities regulated by this chapter to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Town of Esopus or performed by a third party for the Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 106, STORMWATER MANAGEMENT AND
EROSION AND SEDIMENT CONTROL / ARTICLE III, Administration and
Enforcement / § 106-15. When effective.**

§ 106-15. When effective.

This chapter shall take effect immediately upon filing with the office of the Secretary of State of

the State of New York.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND**

Chapter 107, SUBDIVISION OF LAND

[HISTORY: Adopted by the Town Board of the Town of Esopus 3-20-2003 by L.L. No. 2-2003. (Former Ch. 107, Subdivision of Land, adopted 8-20-1980 by L.L. No. 18-1980, as amended, was repealed 2-20-2003 by L.L. No. 1-2003.) Amendments noted where applicable.]

GENERAL REFERENCES

- Planning Board -- See Ch. 34.**
- Building construction -- See Ch. 56.**
- Compensation for planning and zoning review costs -- See Ch. 71.**
- Excavations in public highways -- See Ch. 74.**
- Flood damage prevention -- See Ch. 80.**
- Zoning -- See Ch. 123.**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE I,
General Provisions**

ARTICLE I, General Provisions

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE I,
General Provisions / § 107-1. Authority of Planning Board.**

§ 107-1. Authority of Planning Board.

By the authority of the resolution of the Town Board of the Town of Esopus, adopted on _____ pursuant to the provisions of § 276 of the Town Law of the State of New York, the Planning Board of the Town of Esopus is authorized and empowered to approve preliminary and final plats of subdivisions, showing lots, blocks or sites, with or without streets or highways, and to approve the development of entirely or partially undeveloped plats already filed in the office of the Clerk of the county, within that part of the Town of Esopus outside the

limits of any incorporated city or village.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE I,
General Provisions / § 107-2. Title.**

§ 107-2. Title.

These regulations shall be known and may be cited as the "Land Subdivision Regulations of the Town of Esopus, New York."

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE I,
General Provisions / § 107-3. Repealer and amendments.**

§ 107-3. Repealer and amendments.

- A. Repealer. All ordinances, local laws, resolutions or parts thereof inconsistent with the provisions of these regulations are hereby repealed to the extent of such inconsistency, specifically the Subdivision Regulations adopted by the Town Board as most recently amended through Local Law No. 10-1985, adopted 12-28-1985.
- B. Amendments. These regulations or any portion thereof may be amended, supplemented or repealed at any time by the Town Board on its own motion or by petition or by recommendation of the Planning Board. All proposed amendments shall be referred to the Planning Board for study and recommendation, and the Planning Board, prior to taking action on any proposed amendment, shall hold a public hearing thereon, which hearing has been duly advertised at least 10 days prior to such public hearing in a newspaper of general circulation in the Town.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE I,
General Provisions / § 107-4. Policy of Planning Board; objectives.**

§ 107-4. Policy of Planning Board; objectives.

It is declared to be the policy of the Planning Board to consider land subdivisions 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. Character of land. 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. Improvements. Proper provision shall be made for drainage, water supply, sewerage and other needed improvements.
- C. Natural resources. The natural terrain, vegetation, and soil shall be conserved wherever possible.
- D. Design compatibility. All proposed lots shall be said laid out and of such size as to be in harmony with the development pattern of the neighboring properties.
- E. Street layout. The proposed streets shall compose a convenient system conforming to the Official Map, if such exists and shall be property related to the proposals shown on the Town Comprehensive Plan, if such exists.
- F. Street design. Streets shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and public safety and to provide access of firefighting equipment to buildings.
- G. Recreation. Proper provision shall be made for open space for parks and playgrounds.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE I,
General Provisions / § 107-5. Inconsistencies with Town Law.**

§ 107-5. Inconsistencies with Town Law.

Should any of these regulations conflict or be inconsistent with any provision of the New York State Town Law, such provision of the Town Law shall apply.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE I,
General Provisions / § 107-6. Severability.**

§ 107-6. Severability.

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE I,
General Provisions / § 107-7. Waivers.**

§ 107-7. Waivers.

- A. General. Where the Planning Board finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or that the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve waivers to these subdivision regulations having to do with the required improvements set forth in Article IV and Article V, so that substantial justice may be done and the public interest secured, provided that such waiver shall not have the effect of nullifying the intent and purpose of these regulations, and further provided that the Planning Board shall not approve waivers unless it shall make findings based upon the evidence presented to it in each specific case that:
- (1) The granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other properties.
 - (2) The conditions upon which the request for a waiver are based are unique to the property for which the waiver is sought and are not applicable generally to other properties.
 - (3) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.
 - (4) The waivers will not in any manner vary the provisions of the Zoning Law/Ordinance, Master Plan or Official Map.
- B. Conditions. In approving waivers, the Planning Board may require such conditions as will, in its judgement, secure substantially the objectives of the standards or requirements of these regulations.
- C. Procedures.
- (1) A petition for any such waiver shall be submitted in writing by the subdivider at the time when the preliminary plat is filed for the consideration of the Planning Board. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner.
 - (2) The Planning Board shall document, in writing, any and all waivers to these regulations

that are so granted.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE I,
General Provisions / § 107-8. Building permits.**

§ 107-8. Building permits.

Pursuant to the provisions of § 280-a of the Town Law, no permit for the erection of any building or structure on any lot in a proposed subdivision shall be issued unless the subdivision has been duly approved and endorsed by the Planning Board, the plat has been duly filed in the office of the County Clerk, and the street or highway giving access to said lot has been suitably improved to the satisfaction of the Planning Board, or a performance bond or letter of credit, or cash deposit as required by the Planning Board, has been duly filed with the Town to cover the cost of such improvement.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE I,
General Provisions / § 107-9. Plat straddling municipal boundaries.**

§ 107-9. Plat straddling municipal boundaries.

- A. Access. Whenever access to the subdivision is required across land in another municipality, the Planning Board may request assurance from the Town Attorney that access is legally established and from the Engineer for the Planning Board that the access road is adequately improved, or that a performance bond has been duly executed and is sufficient in amount to assure the construction of the access road.
- B. Layout of lots. In general, lot lines should be laid out so as not to cross Town boundary lines.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE I,
General Provisions / § 107-10. Resubdivision.**

§ 107-10. Resubdivision.

For a resubdivision, the same procedure, rules and regulations shall apply as for a subdivision.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II

**GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE II,
Word Usage and Definitions**

ARTICLE II, Word Usage and Definitions

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE II,
Word Usage and Definitions / § 107-11. Word usage and interpretation.**

§ 107-11. Word usage and interpretation.

- A. Except where specifically defined herein, all words used in these regulations shall carry their customary meanings. Words used in the present tense shall include the future tense. Words used in the singular number shall include the plural, and words used in the plural number 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 "lot" includes the word "plot" or "parcel." The word "person" includes a corporation and a partnership, as well as an individual.
- C. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE II,
Word Usage and Definitions / § 107-12. Definitions.**

§ 107-12. Definitions.

For the purpose of these regulations, certain words and terms used herein are defined as follows:

APPLICANT -- See "subdivider."

AGRICULTURAL DATA STATEMENT (ADS) -- A document, as set forth in § 283-a of New York State Town Law, to be submitted to the Planning Board as part of any application proposing the subdivision of a parcel which is wholly or partially located within an agricultural assessment district established pursuant to Article 25-AA of the New York State Agriculture and

Markets Law, and upon which is located an existing farm operation. The ADS shall include the following information: the name and address of the subdivider; a description of the proposed subdivision and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within 500 feet of the boundary of the property involved in the subdivision application; and a Tax Map or other map showing the site of the proposed project relative to the location of farm operations identified in the ADS. The purpose of the ADS is to aid the Planning Board in its review of a subdivision application, in making a determination of how the proposed subdivision may impact farm operations within the agricultural assessment district. Where possible, the Planning Board shall encourage the usage of existing application and environmental assessment forms for the purposes of presenting the data required in the ADS, either as part of such forms, or as an attachment(s) thereto.

BOARD -- See "Planning Board."

BUILDING INSPECTOR -- The Code Enforcement Officer of the Town of Esopus, New York, or duly authorized representative.

BUILDING LOT -- Any lot upon which a principal residential or commercial building can be constructed in conformance with the requirements of the Zoning Law/Ordinance.

BUILDING SETBACK LINE -- The line within a lot delineating the minimum distance between any part of a principal structure and an adjacent lot line or street line as required in the Town of Esopus Zoning Law/Ordinance.

CLERK OR SECRETARY OF PLANNING BOARD -- The person duly designated as Clerk or Secretary of the Planning Board.

CONSOLIDATION -- The combining or merger of adjoining but separate, individually recorded lots and parcels into a single tract of land in single ownership (see "lot line adjustment").

CURB -- A low baffle, usually along the pavement line of a street, road or highway, controlling surface drainage and separating vehicular areas from pedestrian and/or landscaped areas.

DETENTION BASIN OR POND -- A facility for the temporary storage of stormwater runoff.

DRIVEWAY -- A private roadway providing access for vehicles to a parking space, garage, dwelling or other structure on one lot.

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

ENGINEER -- The person duly designated as Engineer for the Planning Board on a permanent or consultant basis, and licensed as a professional engineer by the State of New York.

ENVIRONMENTAL ASSESSMENT FORM (EAF) -- A form used by the Planning Board to assist it in determining the environmental significance or nonsignificance of a proposed subdivision. A properly completed EAF should contain information to describe the proposed subdivision, the environmental setting, and the potential impacts of the proposed subdivision upon the environment. There are two types of environmental assessment forms:

- A. Full EAF: This is a detailed EAF that must be used by the Planning Board to determine the environmental significance or nonsignificance of a proposed subdivision that meets or exceeds the thresholds for a Type I action as established in the State Environmental Quality Review (SEQR) procedures. The Planning Board may also consider, and require submission of, a full EAF for a proposed subdivision that is classified as an "unlisted action" as established in the State Environmental Quality Review (SEQR) procedures but poses possible environmental impacts that the Planning Board may consider to be possibly significant or potentially adverse.
- B. Short EAF: This is a simplified EAF that may be used by the Planning Board to determine the environmental significance or nonsignificance of an unlisted action.

ENVIRONMENTAL IMPACT STATEMENT (EIS) -- A report containing the description of a proposed subdivision, its environmental setting, potential environmental impacts, ways to minimize the impacts, and reasonable alternatives. It serves as a public disclosure of the record used by the Planning Board in its environmental decision-making. There are two stages in an environmental impact statement:

- A. Draft EIS: This is a preliminary statement that is used for public review and comment.
- B. Final EIS: This is the completed document consisting of the draft EIS plus any revision, public comments and lead agency responses to the substantive comments.

FINAL PLAT -- The final drawing or drawings of a subdivision submitted to the Planning Board as prescribed in § 107-29 of these regulations which, if approved, may be duly filed in the office of the County Clerk.

FRONTAGE -- That part of a lot which is coincident with a street line.

IMPROVEMENT -- Any man-made, immovable item which becomes part of, is placed upon or is affixed to real estate, including, but not limited to, the creation of new streets, building sites, public walkways, parks and recreation areas, water supply, and waste disposal facilities.

LOT LINE ADJUSTMENT -- A transfer of property between two adjoining landowners where no new separate lots are created, or a consolidation.

MASTER PLAN -- See "Town Comprehensive Plan."

OFFICIAL DATE OF SUBMISSION -- The dates when a sketch plan, preliminary plat, or final plat shall be considered submitted to the Planning Board, hereby defined to be the date of the regular monthly meeting of the Planning Board at which an application is accepted as complete.

OFFICIAL MAP -- The map established by the Town Board pursuant to § 270 of New York State Town Law, showing streets, highways, parks and drainage, both existing and proposed, and additions thereto resulting from approval of subdivision plats by the Planning Board and the subsequent filing of such approved plats.

PERFORMANCE GUARANTEE -- The financial security which may be accepted by the municipality in lieu of the requirement that certain improvements be made and maintained before the Planning Board gives final approval to a subdivision plan. This security may take the form of a letter of credit, cash deposit or other form of financial surety, as set forth in § 277(9) of New York State Town Law, which is satisfactory to and approved by the Town Board and Attorney for the Planning Board.

PLANNING BOARD -- The Planning Board of the Town of Esopus.

PLANNING BOARD ATTORNEY -- A person duly designated as Attorney for the Planning Board on a permanent or consultant basis, and admitted to the bar in the State of New York.

PRELIMINARY PLAT -- A drawing or drawings clearly marked "preliminary plat," showing the layout of a proposed subdivision, including but not restricted to road and lot layout and approximate dimensions, key plan, topography and drainage, all proposed facilities unsized, including preliminary plans and profiles, at suitable scale and in such detail as prescribed in § 107-28 of these regulations.

PUBLIC HEALTH LAW -- Sections 1115 through 1119 of New York State Public Health Law.

RESUBDIVISION -- Any change of property lines or division of lots shown on a plat previously approved by the Planning Board and filed in the office of the County Clerk.

SKETCH PLAN -- A sketch showing the general features of a proposed subdivision as prescribed in § 107-27 of these regulations.

STATE ENVIRONMENTAL QUALITY REVIEW (SEQR) -- The rules, regulations and procedures set forth in 6 NYCRR (New York Code, Rules and Regulations), Part 617, which implement Article 8 of the New York State Environmental Conservation Law, where Article 8 establishes the requirement for environmental review of actions approved, funded or directly undertaken by state or local government.

STREET -- A parcel of land or right-of-way intended for vehicular traffic, whether designated as a road, avenue, lane, way, highway, or other similar name, which:

- A. Is an existing state highway, county road or Town highway; or
- B. Is a street shown upon a subdivision plat approved by the Planning Board; or
- C. Is a street shown on a plat duly filed and recorded in the office of the County Clerk prior to the creation of the Planning Board.

STREET, COLLECTOR -- A street which serves or is designed to connect minor streets to the major street system.

STREET, DEAD-END -- A street with only a single common point of ingress and egress.

STREET LINE -- The dividing line between a street and a lot.

STREET, MAJOR -- A street which serves or is designed to be primarily for fast moving or large traffic volumes.

STREET, MARGINAL ACCESS -- A minor street which is parallel to and adjacent to a major street and which provides access to abutting lots and provides protection from through traffic; also known as a "service street."

STREET, MINOR -- A street intended to primarily provide access to abutting lots.

STREET PARCEL -- A strip of land established by reservation, dedication, prescription or condemnation and intended to be occupied by a road and also by a sidewalk and utility lines.

STREET PAVEMENT -- The finished wearing or paved surface portion of the street parcel or right-of-way designed to be used by vehicular traffic.

STREET, PRIVATE -- A street that serves two or more lots which is not under the jurisdiction, of, or intended to be dedicated to, the Town or other government agency and is maintained by agreement amongst the owners of all lots having frontage on, and having a right of access to, such street.

STREET RIGHT-OF-WAY -- See "street parcel."

STREET WIDTH -- The width of a street parcel or right-of-way.

SUBDIVIDER -- Any person, firm, corporation, partnership, or association, fiduciary, trust or other legal entity, who, having an interest in land, either as owner, co-owner or authorized representative of the owner, shall, either directly or indirectly, lay out, for the purpose of development and/or sale, any subdivision, as defined herein, either for himself, herself, or itself, or for the other parties.

SUBDIVISION -- The division of any parcel of land into two or more lots, plots, sites or other division of land for the purpose, whether immediate or future, of transfer of ownership 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 four lots, each of at least the minimum size, as permitted by the Zoning Law, and 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.
- B. **MAJOR SUBDIVISION** -- Any subdivision not classified as a minor subdivision. A proposed subdivision involving the further division of a parcel previously approved as part of a minor subdivision shall also be considered a major subdivision if submitted to the Planning Board for approval within a period of one year from the date of the previous minor subdivision approval, unless the subdivider can demonstrate to the satisfaction of the Planning Board, by means of a sketch plan indicating the layout of the entire tract, that such further subdivision will not adversely affect the development of the remainder of the parcel or adjacent properties.

TOWN -- The Town of Esopus, Ulster County, New York.

TOWN BOARD -- The Town Board of the Town of Esopus.

TOWN COMPREHENSIVE PLAN -- A comprehensive master plan for the development of the Town prepared by the Planning Board, pursuant to § 272-a of the New York State Town Law, which indicates the general location 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.

TOWN PLANNER -- The person duly designated as Planner of the Town on a permanent or consultant basis.

TOWN SUPERINTENDENT OF HIGHWAYS -- The duly elected Superintendent of Highways of the Town of Esopus.

WATERCOURSE -- Any natural or artificial stream, river, creek, ditch, channel, canal conduit, drain, waterway, gully or ravine in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks.

WATERFRONT ADVISORY BOARD -- The Board established by Local Law No. 2 of 1987^{EN(60)} to advise Town agencies with regard to actions in the designated coastal zone under the New York State Coastal Management Program.

WETLANDS, DESIGNATED -- All freshwater wetlands as identified and/or mapped by the New York State Department of Environmental Conservation pursuant to Article 24 of the

Environmental Conservation Law, as may be amended from time to time, and Section 404 of the United States Clean Water Act (U. S. Code, Part 1344).

ZONING LAW -- The officially adopted Zoning Law of the Town,^{EN(61)} together with any and all amendments thereto, adopted in accordance with § 264 of New York State Town Law.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE III,
Procedure for Filing Subdivision Applications**

ARTICLE III, Procedure for Filing Subdivision Applications

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE III,
Procedure for Filing Subdivision Applications / § 107-13. General procedure.**

§ 107-13. General procedure.

Whenever any subdivision of land is proposed to be made, and before any contracts for the sale or lease of, or any offer to sell, any lots in such subdivision or any part thereof is made, and before any permit for erection of a structure in such proposed subdivision shall be granted, the subdivider or his or her authorized agent or contract vendee shall apply in writing for and secure approval of such proposed subdivision in accordance with the following steps (see attached Flow Chart^{EN(62)}):

A. Sketch plan review (optional):

- (1) Presubmission conference with Planning Board.
- (2) Sketch plan submission and review.
- (3) Field trip by Planning Board or its designee.
- (4) Action by Planning Board and classification of subdivision.

B. Preliminary plat (major subdivisions only):

- (1) Preliminary plat submission and review.
- (2) Review by agencies other than Planning Board.

- (3) Public hearing on preliminary plat.
- (4) Determination of environmental significance.
- (5) Planning Board action on preliminary plat.

C. Final plat.

- (1) Final plat submission and review.
- (2) Public hearing on final plat.
- (3) Determination of environmental significance. (minor subdivisions only).
- (4) Planning Board action on final plat.
- (5) Completion and maintenance of improvements or posting of letter of credit or suitable alternative surety.
- (6) Planning Board signing of final plat.
- (7) Filing of final plat with County Clerk.

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GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE III,
Procedure for Filing Subdivision Applications / § 107-14. General conditions.**

§ 107-14. General conditions.

- A. Site alterations. During the procedure of subdivision review in the above three steps, the construction of new roads shall not be started, nor shall any activities, except those directly related to obtaining any required approvals (e.g., surveying and the location of stakes), be undertaken that would disturb, remove, or relocate any existing features, including, but not limited to, stone walls, steep slopes, rock outcroppings, trees, general vegetation, streams or watercourses.
- B. State environmental quality review procedures. The procedure for subdivision review and approval shall run concurrently with the State Environmental Quality Review Act process. The Planning Board shall have the discretion to make adjustments to the time periods specified in these regulations in order to provide reasonable time for the preparation, review, and public hearings with respect to any required draft environmental impact statement. The Planning Board shall carry out the terms and requirements of 6 New York Codes, Rules and Regulations Part 617, implementing the State Environmental Quality Review Act with minimum procedural delay, shall avoid unnecessary duplication of reporting and review

requirements by providing, where feasible, for combined or consolidated proceedings, and shall expedite all proceedings under the State Environmental Quality Review Act in the interest of prompt review.

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GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE III,
Procedure for Filing Subdivision Applications / § 107-15. Sketch plan review
(optional).**

§ 107-15. Sketch plan review (optional).

- A. Purpose. In order to expedite the application review process, particularly for major subdivisions, the applicant may request a presubmission conference to review a sketch plan and to discuss relevant procedures and requirements which will be applicable during the review process. The subdivider should become familiar with the regulations, standards and requirements contained in these Land Subdivision Regulations, the Zoning Law, the New York State Environmental Quality Review Law, and the fee schedule established by the Town Board as well as with any other applicable Town, county, state and federal requirements.
- B. Presubmission conferences. Before preparing a detailed proposal, the subdivider may make an appointment at a regular meeting of the Planning Board to discuss the general features of the proposed subdivision, the requirements of these and other regulations, the policies of the Planning Board, and other information that may be pertinent to the subdivision.
- C. Sketch plan submission and review. Prior to filing a preliminary plat, the subdivider or his duly authorized representative may submit a sketch plan showing a basic proposed layout and other information required in Article V of these regulations. At least 10 copies of this sketch plan shall be delivered to the Clerk or other authorized official of the Planning Board at least 10 days before the next scheduled Board meeting.
- D. Field trip. After the regular Planning Board meeting at which the sketch plan is discussed and reviewed, the Planning Board may schedule a field trip to the site of the proposed subdivision, accompanied by the applicant or his/her agent.
- E. Planning Board action on sketch plan. The Planning Board shall inform the subdivider that the plans and data as submitted at this stage do or do not meet the objectives of these regulations. At the same time the Board shall classify the proposal as either a major or minor subdivision or lot line adjustment and shall so advise the applicant and shall make the appropriate notation on the sketch plan.

F. Consultation with other government agencies.

- (1) Town agencies. Prior to formally submitting a preliminary plat, the subdivider, or his or her duly authorized representative, may request that the Chairman or other authorized official of the Planning Board contact the Town Highway Superintendent, the Engineer for the Planning Board, the Waterfront Advisory Board and/or the Town Planner on the subdivider's behalf to discuss the proposed subdivision layout and its potential environmental effects.
- (2) County, state and other agencies. The subdivider should also be prepared to discuss the sketch plat with other agencies from whom approvals may be required. The subdivider should consult with the Ulster County Health Department, which is responsible for the adequacy of lots sizes and facilities for water supply and sewage disposal. Under certain conditions, the subdivider may also need to consult with the State Departments of Transportation and Environmental Conservation, the Ulster County Department of Public Works and the Ulster County Planning Board.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE III,
Procedure for Filing Subdivision Applications / § 107-16. Procedures for lot line
adjustments and minor subdivisions.**

§ 107-16. Procedures for lot line adjustments and minor subdivisions.

- A. Lot line adjustment. Where a subdivider proposes an exchange or transfer of land with an adjoining property, the Planning Board may waive the requirements for sketch plan and preliminary plat approval and the public hearing on such proposal only if the following conditions are met:
- (1) No additional lots will be created;
 - (2) Such exchange or transfer of lands does not preclude the proper future development, subdivision or resubdivision of the affected properties;
 - (3) Such exchange or transfer of lands shall not create any new nonconformity with the terms and regulations of the Esopus Zoning Law.
 - (4) The subdivider(s) has prepared and submitted for approval by the Planning Board a final plat prepared to the specifications set forth in § 107-29 of these regulations, except for plat details that are specifically waived by the Planning Board.
 - (5) The subdivider(s) has paid the final plat fee as set forth in § 107-30B of these

regulations.

B. Minor subdivisions.

- (1) If the subdivision sketch plan is classified by the Planning Board as a minor subdivision, the Planning Board may waive the requirements of filing a preliminary plat and holding a public hearing on a preliminary plat, in which case a final plat shall be submitted (see § 107-18) for which a public hearing will be held.
- (2) When the Planning Board determines, based on its own motion, or upon a written report by the Engineer for the Planning Board and/or Town Planner, that all of the requirements of a final plat have been met, the Planning Board shall declare the application to be complete and shall officially receive it at the Board's next regular meeting.
- (3) Ten copies of a final plat shall then be submitted to the Planning Board within six months of classification of the sketch plan (if submitted) along with payment of the final plat application fee as set forth in § 107-30B of these regulations.
- (4) The minor subdivision plat shall be prepared to the specifications set forth in § 107-29 of these regulations, except for plat details that are specifically waived by the Planning Board.
- (5) A public hearing on the minor subdivision plat shall be held by the Planning Board within 62 days from the official date of application of the minor subdivision plat. This hearing shall be advertised at least once in the newspaper of general circulation in the Town, at least five days before such hearing. In addition, the Planning Board shall cause notice of such hearing to be mailed to all owners of property adjoining the subject property at least five days prior to the public hearing. For any minor subdivision for which an agricultural data statement (ADS) has been prepared and submitted to the Planning Board, the Board shall cause notice of the proposed subdivision to be sent to all landowners listed in the ADS, along with a copy of the ADS. This notice shall be sent out in coordination with all other required notices as set forth above.
- (6) The Planning Board, within 62 days from either the public hearing, or the date of either a negative declaration of environmental significance or filing of a findings statement pursuant to the New York State Environmental Quality Review Act (SEQR), whichever occurs last, shall approve, modify and approve or disapprove such plat. Failure of the Planning Board to act within this sixty-two-day period shall constitute default approval of the preliminary plat.
- (7) Following approval, the subdivision shall be recorded with the County Clerk within 62 days of the date of approval.

- (8) Any plat not filed and recorded with the County Clerk within 62 days from the date upon which such plat is approved, or considered approved by reason of the failure of the Planning Board to act, shall become null and void.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE III,
Procedure for Filing Subdivision Applications / § 107-17. Preliminary plat.**

§ 107-17. Preliminary plat.

- A. Study of the plat. A preliminary plat shall be prepared and submitted, along with an environmental assessment form and supporting documentation, showing in detail how the subdivision is to be designed, the details of construction, any proposed covenants and other items required in Article V. The Board shall study the practicality of the preliminary plat taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location, and width of streets; the relation to the topography of the land; water supply, sewage disposal, drainage; lot sizes; shape and arrangement; the future development of adjoining lands as yet unsubdivided; and the requirements of the Town Plan, the Official Map, Zoning Regulations and other matters enumerated in § 277 of the Town Law.
- B. Proposed roads, lots and wetlands to be staked. To permit inspection and checking of a proposed subdivision by the Planning Board and its representatives, the subdivider shall stake out the subdivision as follows:
- (1) Along the center line of each proposed street at intervals of not more than 100 feet and at each point of beginning and ending of each curve. Each stake shall be identified by station marking to conform to the plans as presented and shall be so placed as to extend at least 30 inches above the ground surface. Inasmuch as these stakes are not permanent, a tolerance of up to one foot from the exact horizontal position will be allowed.
 - (2) The Planning Board may require that a stake be placed along the street frontage of each lot, at the intersection of the side lot line and the street right-of-way line, marked with the identifying numbers of the lots on each side, as shown on the preliminary layout.
 - (3) A stake shall be placed at the intersection of the center line of each proposed driveway and any proposed or existing street line.
 - (4) The location of wetlands as defined herein shall be clearly delineated in the field through the use of stakes and/or flags. Stakes and/or flags shall be placed at a height of not less than 30 inches above the ground and located in such a manner that the

boundaries of the wetlands and their buffer zones may be clearly distinguished.

- (5) When the digging of test holes or pits is required for any reason whatsoever, such holes or pits shall be excavated the minimum time necessary prior to inspection by the appropriate agency or its designated representative and shall be completely filled in within two working days following the date of such inspection. During the entire period of time that such test holes are open, they shall be completely enclosed for safety purposes by sturdy fence (such as typical "snow fence") at least four feet in height.
 - (6) All stakes referred to in this section shall be in position at the time application is made to the Planning Board for approval of the preliminary layout.
 - (7) All stakes removed or destroyed prior to the approval of the subdivision plat shall be replaced by the applicant if required by the Planning Board or its authorized representatives.
- C. Applicant to attend Planning Board meeting. The subdivider shall be prepared to attend a regular meeting of the Board to discuss the preliminary plat and the Board's tentative conclusions.
- D. Other agency review. Where review of subdivisions is required by other government agencies such as the State Departments of Transportation and Environmental Conservation, the County Health and Public Works Departments and the County Planning Board, tentative written recommendations of these agencies, subject to modification due to local conditions which may be brought forth at the public hearing, shall be filed by the subdivider, at the Planning Board's request, prior to the public hearing.
- E. Public hearing. The Board shall, within 62 days after the receipt of a properly completed preliminary plat, pursuant to all provisions of these regulations, as recorded by the Clerk's receipts therefor, conduct the public hearing required by law in accordance with § 276 of the Town Law. Such hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five days in advance of such hearing. In addition, the Planning Board shall cause written notice of hearing to be mailed to all owners of property adjoining the subject property and to such other persons as the Board may deem to be particularly affected. Certified mail, return receipt requested, may constitute proof of the required notification. For any subdivision application for which an agricultural data statement (ADS) has been prepared and submitted to the Planning Board, the Board shall cause notice of the proposed subdivision to be sent to all landowners listed in the ADS, along with a copy of the ADS. This notice shall be sent out in coordination with all other required notices as set forth above.
- F. Review by adjacent municipalities. If the parcel to be subdivided lies within 500 feet of any abutting municipality, a notice of the public hearing shall be mailed to the Clerk of that

municipality at least 10 days prior to the date of the hearing.

- G. Action on the preliminary plat. The Board's action shall be to approve, approve with modification, or disapprove the preliminary plat within 62 days of either the public hearing or the date of either a negative declaration of environmental significance or filing a findings statement pursuant to the New York State Environmental Quality Review (SEQR) Act, whichever occurs last. This period may be extended by mutual written consent of the subdivider and the Planning Board.
- H. Certification of decision. The decision of the Board shall be noted on two copies of the preliminary plat referenced and attached to any statement of modifications. One copy shall be returned to the applicant and one shall be retained by the Planning Board. Within five days of the resolution granting conditional approval of a preliminary plat, a copy of the resolution shall be certified by the Clerk to the Planning Board, and filed in the office of the Town Clerk, and a certified copy mailed to the subdivider.

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GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE III,
Procedure for Filing Subdivision Applications / § 107-18. Final plat.**

§ 107-18. Final plat.

- A. Procedure. Within six months after the approval of the preliminary plat, the subdivider shall file the plat in final form with the Planning Board, accompanied by required fees and information required in Article V. If the final plat and accompanying materials are not submitted within six months, approval of the preliminary plat may be revoked by resolution of the Planning Board.
- B. Other agency approvals. The final plat submitted to the Planning Board shall indicate all required approvals from other agencies, unless specifically waived by the Planning Board. Such approvals include, but are not limited to, the following:
 - (1) On-site water supply and septic system by the Ulster County Health Department, where stipulated by Article 11 of the New York State Department Public Health Law;
 - (2) Highway access locations by either the New York State Department of Transportation, Ulster County Public Works Department or Esopus Town Highway Department;
 - (3) New York State Department of Environmental Conservation and U.S. Army Corps of Engineers approvals.
- C. Public hearing.

- (1) The Planning Board shall not hold a public hearing on any final plat, if it finds that the final plat submitted is in substantial agreement with a preliminary plat approved under § 107-17, or is modified in accordance with requirements of such approval if such preliminary plat has been approved with modification.
- (2) If a final plat is submitted to the Board which is not in substantial agreement with a previously approved preliminary plat, the Planning Board shall, within 62 days of the submission of the final plat, hold a public hearing. Said hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing. In addition, the Planning Board shall cause written notice of such hearing to be mailed to all owners of property adjoining the subject property and to such other persons as the Planning Board may deem to be particularly affected. The Board (may/shall) also send notice of the hearing to all landowners identified on an agricultural data statement (ADS), if such statement was required to be submitted with the previously approved preliminary plat.
- (3) If the parcel to be subdivided lies within 500 feet of any abutting municipality, a notice of the public hearing shall be mailed to the Clerk of that municipality at least 10 days prior to the date of the hearing.
- (4) Any final plat submitted to the Planning Board which is not in agreement with a previously approved preliminary plat may require further review under the State Environmental Quality Review (SEQR) Act, and the Planning Board may rescind any previous determination of environmental significance made pursuant to SEQR.

D. Planning Board action.

- (1) The Planning Board shall by resolution conditionally approve, conditionally approve with or without modification, disapprove, or grant final approval and authorize the signing of such plat, within 62 days of its receipt by the Clerk of the Planning Board if no such hearing is held, or, in the event such hearing is held, within 62 days after the date of such hearing or the date of either a negative declaration of environmental significance or filing of a findings statement pursuant to the New York State Environmental Quality Review (SEQR) Act, whichever occurs last. If disapproved, the reasons for such disapproval shall be stated in the record of the Board.
- (2) Notwithstanding the foregoing provision of this subsection, the time in which the Planning Board must take action on such a plat may be extended by mutual consent of the subdivider and the Planning Board. In the event a Planning Board fails to take action on a final plat within the time prescribed therefor, the plat shall be deemed approved and a certificate of the Clerk of the Town as to the date of submission and the failure to take action within such prescribed time shall be issued on demand and shall be sufficient in

lieu of written endorsement or other evidence of approval herein required.

E. Conditional approval.

- (1) In the event the requirements of Article VI of these regulations or other conditions set forth by the Planning Board are not complete at the time of submission of the final plat, the Planning Board may conditionally approve the final plat. Within five days of such resolution granting conditional final plat approval, the plat shall be certified by the Clerk of the Planning Board as conditionally approved and a copy filed in the Clerk's office. A copy of the resolution shall be mailed to the subdivider, which copy shall include a statement of such requirements which, when completed, will authorize the signing of the conditionally approved plat. If conditionally approved, the reasons for such conditional approval shall be stated in the record of the Planning Board. Upon completion of such requirements the plat shall be signed by the duly authorized officer of the Planning Board as specified in § 107-19.
- (2) Conditional approval of a final plat shall expire within 180 days after the date of the resolution granting conditional approval unless such requirements have been certified as completed. The Planning Board may extend this time up to two additional ninety-day periods, only upon petition by the subdivider.

F. Division of subdivision plat into two or more sections. Prior to granting conditional or final approval of a plat in final form, the Town Planning Board may permit the plat to be subdivided into two or more sections and may, in its resolution granting conditional or final approval, state that such requirements as it deems necessary to insure the orderly development of the plat be completed before such sections may be signed by the duly authorized member of the Planning Board. Conditional or final approval of the sections of a final plat, subject to any conditions imposed by the Board, shall be granted concurrently with conditional or final approval of the plat. Any section shall encompass at least 10 percent of the total number of lots shown on the plat. If a subdivision is subdivided into two or more sections, the performance bond or other surety, as specified in Article VI of these regulations, shall be limited to those improvements required to service the proposed section for which final approval is requested.

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GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE III,
Procedure for Filing Subdivision Applications / § 107-19. Signing and filing of
approved final plat.**

§ 107-19. Signing and filing of approved final plat.

- A. **Signing and filing.** Upon completion of the requirements set forth in Article VI of these regulations, the final plat shall be signed by two Planning Board members and may be filed by the subdivider in the office of the County Clerk. Any plat not so filed or recorded within 62 days of the date upon which such plat is approved, or considered approved by reason of the failure of the Planning Board to act, shall become null and void.
- B. **Plat void if revised after approval.** No changes, erasures, modifications, or revisions shall be made in any final plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless the said plat is first resubmitted to the Planning Board and such Board approves any modifications. In the event that any such final plat is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceedings to have the plat stricken from the records of the County Clerk.
- C. **Reapproval of expired plats.**
 - (1) The Planning Board may reapprove any final plat for which a previously granted final approval by the Planning Board, pursuant to this article, has expired. The Planning Board may, in consideration of such reapproval, waive a public hearing on the plat, subject to making the following findings:
 - (a) That the final plat in question has been submitted to the Board for reapproval within one calendar year of the date of the previous final plat approval;
 - (b) That the final plat that has been submitted for reapproval is identical to the plat that had expired, in terms of the layout of the subdivision, the number of lots, proposed easements and encumbrances and the proposed improvements;
 - (c) That there have been no changes made, since the expiration date of the plat, to the applicable zoning regulations, environmental review regulations, or other laws or regulations that would have a substantial effect upon the design and layout of the proposal.
 - (2) In the event that the plat has been resubmitted with changes that are in substantial disagreement with the previously approved plat, or that the underlying regulations have changed since the date of expiration of the plat, the Planning Board shall take action on the plat only in accordance with the procedures set forth in this article, inclusive of holding a public hearing. For any final plat submitted for such reapproval which is not in agreement with the previously approved final plat, the Planning Board shall reconsider any prior determination of significance made pursuant to SEQR.

General Requirements and Design Standards

ARTICLE IV, General Requirements and Design Standards

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE IV, General Requirements and Design Standards / § 107-20. General considerations and standards; minimum requirements.

§ 107-20. General considerations and standards; minimum requirements.

The Planning Board, in considering an application for the subdivision of land, shall be guided by the following considerations and standards, which standards shall be deemed to be the minimum requirements for the convenience, health, safety and welfare of the Town. In all cases except where noted herein, the Planning Board shall be the determining agent.

- A. Character of land. 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. Land subject to such hazards shall not be subdivided nor developed for residential purposes, nor for such other uses as may endanger health, life or property, or aggravate a physical hazard, but such land may be set aside for uses as shall not involve such danger nor produce unsatisfactory living conditions.
- B. Conformity with Official Map and Town Comprehensive Plan. Subdivisions shall conform to the Official Map of the Town and Ulster County and shall be in harmony with the Town Comprehensive Plan, if such exist.
- C. Preservation of natural cover.
 - (1) Land to be subdivided shall be laid out and improved in reasonable conformity to existing topography, in order to minimize grading, cut and fill, and to retain, insofar as possible, the natural contours, to limit stormwater runoff, and to conserve the natural vegetative cover and soil. Wetlands shall remain undisturbed insofar as possible.
 - (2) No tree, topsoil, sand, gravel or other excavated material shall be removed from its natural position except where necessary and incidental to the improvement of lots and the construction of streets and related facilities in accordance with the approved plat.
- D. Preservation of existing features. Existing natural and cultural features which are of ecological, aesthetic, scenic or historic value to the site or the Town as a whole, such as individual trees, stands of trees, wetlands, watercourses, ponds, rock formations, historic

places, stone walls, and similar irreplaceable assets, shall be preserved, insofar as possible, through harmonious design of the subdivision, and, where appropriate, the Planning Board may require the inclusion of such features within permanent reservations.

- E. Specifications for required improvements. All required improvements shall be constructed or installed to conform to Town specifications, or to the specifications of the county, state or federal agency with jurisdiction over such facilities or improvements.
- F. Frontage on improved streets. Except as otherwise permitted in these regulations, the area proposed to be subdivided shall have frontage on and/or direct access to an improved street duly placed on the Official Map. If such street be private, it shall be improved to the satisfaction of the Engineer for the Planning Board and approved by the Planning Board or there shall be a bond or letter of credit held by the Town to guarantee such improvement, pursuant to the provisions of Article VI of these regulations.
- G. Average density development subdivision. Pursuant to § 278 of New York State Town Law, and the average density development (cluster) provisions of the Town of Esopus Zoning Law, the Planning Board may require, upon its own determination, the creation of lots not in accord with the specified requirements for lot size, lot width, and yards, as specified in the Zoning Law, where the creation of such lots would result in a more efficient layout of streets, lots and utilities, and also in the preservation of natural features, important views, significant open spaces or recreation opportunities. Average density development shall be approved by the Planning Board only in accordance with the procedures and standards of the Town of Esopus Zoning Law, in addition to the applicable standards of these regulations.
- H. Effects upon farm operations. For any proposed subdivision occurring wholly or partially within an agricultural assessment district established pursuant to Article 25-AA of New York State Agriculture and Markets Law, and which includes or is within 500 feet of an active farm operation within that agricultural district, the Planning Board, pursuant to § 283-a(2) of New York State Town Law, must make a determination of possible impacts, if any, arising from the proposed subdivision upon the functioning of farm operations within such agricultural district. In making its determination, the Planning Board shall utilize the agricultural data statement (ADS) that is required to be submitted under these circumstances, along with any other relevant documentation that is permitted by laws and regulations, including but not limited to this chapter, other regulations of the Town of Esopus, and the SEQR regulations.

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GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE IV,
General Requirements and Design Standards / § 107-21. Streets.**

§ 107-21. Streets.

- A. General. Streets shall be suitably located, of sufficient width, and adequately improved to accommodate the prospective traffic, and to afford satisfactory access to police, fire fighting, snow removal or other utility and road maintenance equipment, and shall be coordinated so as to compose a convenient system. All streets shall be properly related to the Town Comprehensive Plan and in conformance in location and design to the Official Map and the standards set forth in Chapter 88 of the Town Code.
- B. Relation to topography. Streets shall be logically related and conform insofar as possible to the original natural topography. A combination of steep grades and sharp curves shall be avoided.
- C. Temporary dead-ends and street continuations.
 - (1) The arrangement of streets shall provide for their continuation between adjacent properties where such continuation is determined necessary for proper traffic movement, effective fire protection, efficient provision of utilities, snow removal and other services, and/or where such continuation is in accordance with the Town Comprehensive Plan or is otherwise considered by the Planning Board to be in the public interest, so as to help create a convenient and safe system. Alternatively, if a street continuation is not determined to be warranted by the circumstances, including severe environmental constraints, or would result in unsafe traffic conditions or otherwise jeopardize the public safety and welfare, the Planning Board may designate such street as a "permanent dead-end" to be designed in accordance with the standards in § 107-21D.
 - (2) Where the continuation of a street beyond the boundaries of a subdivision is warranted but the adjacent property is undeveloped and the street must dead-end temporarily, the Planning Board may require that the right-of-way or street parcel and all improvements be extended to the property line. A temporary turnaround shall be provided on all temporary dead-end streets, with a notation on the plat that land outside the normal street right-of-way or street parcel shall revert to abutting property owners upon continuation of the street.
 - (3) The length of temporary public dead-end streets designed to minor, collector or arterial street standards shall be limited to not more than 12 times the minimum lot width for the zoning district in which it is located.
 - (4) Where a turnaround exists at the end of a street within an adjoining development to which a proposed street is to connect, the applicant may be required to remove the portions of the turnaround pavement outside of the normal width of the traveled way, perform any necessary extension and/or reconstruction of the pavement, construct

continuations of any existing driveway, sidewalks and curbs to the new pavement edge, and regrade, seed and drain the disturbed areas in such a manner as to blend them in with the surrounding landscape.

D. Permanent dead-end streets.

- (1) Where a street does not extend to the boundary of a subdivision tract and its future continuation is determined by the Board not to be necessary, in accordance with § 107-21C(1), it shall be separated from such boundary by a distance not less than the minimum required lot depth. The Planning Board may require the reservation of an easement extending from the end of the road to the boundary, sufficiently wide enough to accommodate utilities, drainage facilities and/or pedestrian traffic. A turnaround shall be provided at the end of a permanent dead-end street.
- (2) For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall be limited in length, exclusive of the turnaround, to 1,200 feet from the nearest connecting street.
- (3) No permanent dead-end may be constructed that provides access to more than 20 building lots.
- (4) The Planning Board may require that a permanent dead-end street in a subdivision be designed as an internal loop system, so as to provide efficient access to all building lots, and to avoid the need to create turnaround areas on the site.

E. Treatment of major streets.

- (1) In residential areas. Where a subdivision abuts or contains an existing or proposed major street, the Planning Board may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- (2) In business areas. In areas zoned or designed for commercial use, or where a change of zoning is contemplated for commercial use, the Planning Board may require that the street width be increased or that a service road be constructed, to assure the free flow of through traffic without interference by parked or parking vehicles, and to provide adequate and safe parking space for such commercial use.

F. Street names.

- (1) All streets shall be named and such names shall be subject to the approval of the Planning Board. Prior to Planning Board approval, all proposed road names should be reviewed by the Ulster County Real Property Tax Service Agency, which shall indicate

in writing its approval or disapproval of the proposed road name.

- (2) Names shall be sufficiently different in sound and spelling from other streets names in the Town and the local postal delivery area in which the subdivision is located, in order to avoid confusion. A street which is a continuation of an existing street shall bear the same name. As general policy, the use of personal names for new roads is discouraged. Historical names or names appropriate to the particular development or general neighborhood are preferred.

G. Intersections.

- (1) Design. Intersections of major streets by other streets shall be at least 800 feet apart. A distance of at least 150 feet shall be maintained between offset intersections. Within 40 feet of an intersection, streets shall be at right angles wherever possible, 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. When two streets intersect at an angle of less than 90°, special pavement, channelization, right-of-way and/or sight easement restrictions may be required by the Planning Board.
- (2) Sight triangles. On a corner lot, no fence, wall, hedge, structure or plantings more than 2 1/2 feet in height above the elevation of the street center line shall be erected, placed or maintained within the triangular area formed by the intersecting pavement lines of sufficient size to maintain stopping sight distance for the posted speed limit of each intersecting street. Sight easements on corner lots shall be described on the final plat as per § 107-29C(15)(b) of these regulations.

H. Design standards for streets. The requirements of this section will normally be considered as minimum standards. The Planning Board may, because of problems in a specific development, waive one or more of these requirements.

- (1) Minimum width of right-of-way or street parcel: See Chapter 88 of the Town Code.
- (2) Minimum width of pavement: See Chapter 88 of the Town Code.
- (3) Roadway curves and grades. Horizontal and vertical curves, tangents between curves, grades and sight distances shall be designed in accord with accepted engineering standards and Chapter 88 of the Town Code subject to review by the Engineer for the Planning Board and the Town Highway Superintendent.
- (4) Turnarounds for dead-ends. Turnarounds shall be provided at the end of permanent dead-end streets in accord with the provisions of Section 88 of the Town Code.
- (5) Minimum construction requirements for roads. All proposed public and private streets shall be built to the road construction standards adopted by the Town of Esopus

Highway Department and set forth in Section 88 of the Town Code. The Town Engineer, Town Superintendent of Highways and/or the Planning Board will not recommend, and the Town Board will not accept or establish any new road which does not meet these minimum requirements and standards. These requirements and standards must be met and paid for by the subdivider, and the Town shall hold both the subdivider and/or the contractor responsible for the proper completion of said proposed roads. The subdivider and/or contractor shall be responsible for obtaining and presenting to the Planning Board a certificate signed by a licensed professional engineer certifying that all roads and related improvements were built in accord with the approval plans and specifications.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE IV,
General Requirements and Design Standards / § 107-22. Improvements.**

§ 107-22. Improvements.

- A. Street improvements. Streets shall be graded and improved with pavement, street signs, sidewalks, streets lighting standards, curbs, gutters, street trees, water mains, sanitary sewers, storm drains, and fire hydrants, except where waivers may be requested, and the Planning Board may waive, where subject to appropriate conditions, such improvements as it considers are not requisite in the interest of the public health, safety and general welfare or may result in unnecessary hardship. Such grading and improvements shall be approved as to design and specifications by the Town Planning Board Engineer, who shall require that all pertinent Town standards and specifications shall be met.
- (1) Traffic control and street signs. Traffic signals, controls and street signs shall be provided by the subdivider and placed at all intersections, within the street parcel or right-of-way, and in other locations as required by the responsible approving authority. The type and location of all traffic control and street signs shall be approved by the Town Superintendent of Highways and/or by the appropriate state or county agency.
 - (2) Streetlighting standards. When required by the Planning Board, streetlighting standards, of a design and location specified by the Town Engineer or Town Superintendent of Highways, shall be provided and installed by the subdivider.
 - (3) Street trees. The Planning Board may require the planting of street trees. Such trees shall be of a species approved by the Planning Board and shall be at least three inches' caliper at a height of five feet above ground level. When required by the Planning Board, such trees shall be planted along both sides of the street, no more than five feet beyond the street parcel or right-of-way, on private property away from the sidewalk, curbing or

street, and spaced approximately 40 feet on center.

- (4) School bus pickup areas. The Planning Board may require that the subdivider reserve, clear, grade, pave and otherwise improve an area on a street of such size and location as will provide a safe and suitably sheltered place for the use of children awaiting school buses.
- B. Monuments and markers. Permanent monuments shall be placed in accord with the standards of Chapter 88 of the Town Code.
- C. Water and sewerage facilities. Facilities for water and sewerage shall be provided in each new subdivision in accordance with the requirements of the appropriate agency having jurisdiction over the planning and installation of these in the area of the subdivision; however, the following minimum requirements of the Town shall be met:
- (1) Central water supply systems shall be designed with adequate pressures, mains and fire hydrants to meet Association of Fire Underwriters specifications for a Class C protected area.
 - (2) All water mains shall be at least six inches in diameter.
 - (3) Sanitary sewers shall not be used for stormwater drainage.
 - (4) Central sewerage systems shall provide a four-inch-minimum-size connection to each lot.
 - (5) Any subdivision contiguous to an existing water or sewer district or contiguous to or within a planned expansion of an existing water or sewer district shall make application to become a part of or to be serviced by the existing district. No subdivision shall be approved where it is intended to use individual wells and/or septic tanks where the facilities of an existing water or sewer district may be utilized.
- D. Other utilities.
- (1) Underground utilities. In order to assure greater safety and improved appearance, all utility lines and related equipment for providing power and communication services shall be installed underground, in the manner prescribed by the regulations of the utility companies having jurisdiction. Underground utility lines shall be located outside of the paved roadway of the street but, except in unusual circumstances, within the street right-of-way or parcel, to simplify location and repair of the lines. Underground service connections shall be provided to the property line of each lot before the street is paved and may pass under the traveled way of the street. A plan showing the "as-built" locations of all utilities shall be filed with the Planning Board and the Highway

Department upon completion of all such improvements.

- (2) Overhead utilities.
 - (a) The placement of overhead utilities, such as electric and telephone and other communication distribution facilities, shall be permitted only upon demonstration by the subdivider to the Planning Board that the placement of these facilities underground is economically unfeasible and would create an unnecessary hardship.
 - (b) Utility poles shall be set in such a location that they will be as close to the right-of-way line as practical. Where overhead utility wires are to exist, trees of a type that will grow to a limited height and not interfere with the wiring shall be used.
- (3) Utility company service. The Planning Board shall require, as a condition of subdivision approval, that the applicant present evidence satisfactory to the Town Attorney and the Town Engineer that the appropriate utility company will provide services at the time of issuance of the first building permit for construction in the subdivision. Evidence of any security required by said utility for providing such service to the properties in the subdivision shall be provided to the Planning Board by the applicant prior to the signing of the final plat by the Planning Board Chairman.

E. Flood protection.

- (1) The Planning Board shall review subdivision proposals and other proposed new developments to assure that:
 - (a) All public utilities and facilities, such as sewer, gas, electrical, and water systems, are located, elevated, and constructed to minimize or eliminate flood damage.
 - (b) Adequate drainage is provided so as to reduce exposure to flood hazards.
- (2) The Planning Board shall require new or replacement water supply systems and/or sanitary sewerage systems to be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters, and require on-site waste disposal systems to be located so as to avoid impairment of them or contamination from them during flooding.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE IV,
General Requirements and Design Standards / § 107-23. Lots.**

§ 107-23. Lots.

- A. Lots to be buildable. The lot size, width, depth, shape and arrangement shall be appropriate for the type of development and use contemplated and shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the Zoning Law, as it may be adopted, or in providing access to buildings on such lots from an approved street. Dimensions of corner lots shall be large enough to allow for erection of buildings, observing the minimum front yard setback from both streets.
- B. Side lot lines. Side lot lines should be at right angles to street lines wherever possible. Lot lines should coincide with municipal boundaries rather than cross them wherever possible. Where extra width has been dedicated for widening an existing street, lot lines shall begin at such extra width line.
- C. Access from major streets. Lots should not have their vehicular access from a major street where other options are available. Where driveway access from a major street may be necessary for several adjoining lots, the Planning Board may require that such lots be served by a combined access drive in order to limit possible traffic hazard on such street. (See § 107-21E, Treatment of major streets.)
- D. Driveways. Driveway locations shall be shown on the plat. The maximum driveway gradient to the building site shall not exceed 12%, unless waived by the Planning Board, and the intersection of driveways with the road shall be so oriented and graded that vehicles may use the driveways safely. All proposed driveway access points on existing Town, county or state roads shall be reviewed and approved by the appropriate agency prior to final plat approval by the Planning Board. The Planning Board may require that the applicant submit necessary topographic and design information to demonstrate that the lot layout will allow driveways that meet these criteria and provide proper drainage. The finished surface of any driveway shall be of a dust-free material.
- E. Lot dimensions. Except as provided elsewhere in these regulations, lot area and dimensions shall comply with at least the minimum standards of the Zoning Law for the district in which they are located.
 - (1) Where lots are more than double the minimum required area, the Planning Board may require that they be arranged so as to allow for further subdivision and the opening of future streets where necessary to serve such potential lots, all in compliance with the Zoning Law and these regulations. Where, in the opinion of the Planning Board, lots of larger than minimum size are required for purposes of property drainage, water supply, waste disposal, or the preservation of important natural features, the Board may require such oversized lots to be deed restricted as a condition of plat approval.
 - (2) In the event that a sketch subdivision plat proposes the creation of one or more lots which will not comply with the minimum lot size or other bulk regulations set forth in

the Town of Esopus Zoning Local law, the subdivider may request approval of an average density development subdivision, as set forth in § 107-20G of these regulations. Alternatively, the subdivider may apply to the Esopus Zoning Board of Appeals for an area variance, pursuant to the Zoning Law, without the necessity of a decision or determination of the Building Inspector.

- (3) Where a proposed subdivision includes an existing residence larger in size than can appropriately be placed on a lot of the minimum size permitted in the zoning district, the Planning Board may require that the lot be of such size and relationship to the proposed street system that the structure will be an appropriate and harmonious part of the subdivision.
- F. Double-frontage lots. Lots fronting on two streets, other than corner lots, shall be avoided except where deemed essential by the Planning Board in order to provide separation of residential development from major or collector streets, or to overcome problems of topography or orientation. The Planning Board may require limitations and/or buffer landscaping for such double-frontage lots where the Board determines that such measures would be appropriate.
- G. Minimum frontage. All proposed lots shall have a minimum frontage on an existing street, or proposed subdivision street, as measured along the street line or right-of-way line in accord with § 123-21D and E of the Esopus Zoning Law.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE IV,
General Requirements and Design Standards / § 107-24. Drainage.**

§ 107-24. Drainage.

A. Watercourses.

- (1) Where a watercourse separates a proposed street from abutting property, provision shall be made for access to all lots by means of culverts or other structures or design approved by the Engineer for the Planning Board.
- (2) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way as required by the Engineer for the Planning Board, with such width as will be adequate to preserve natural drainage but in no case less than 20 feet in width. Such easements shall be maintained by the owners of the properties traversed by the easement and shall also provide for access by the Town when required to maintain public safety.

- (3) The costs for all reviews of drainage and engineering studies by the Engineer for the Planning Board shall be borne by the project applicant.
- B. Water bodies. If a tract being subdivided contains a water body or portion thereof, lot lines shall be so drawn as to distribute the ownership of the water body among the title fees of the adjacent lots. The Planning Board may approve an alternate plan where by the ownership of and responsibility for safe maintenance of the water body is so placed that it will not become a Town responsibility. No more than 25% of the minimum lot area required under zoning regulations if such exist may be satisfied by land under water.
- C. Required state and federal permits.
- (1) Any subdivider proposing to disturb or alter any state-designated protected stream as established pursuant to Article 15 of Environmental Conservation Law, or proposing to disturb or alter any state-designated wetland and buffer area as established pursuant to Article 24 of Environmental Conservation Law, must obtain the appropriate permits from the New York State Department of Environmental Conservation, as required for such disturbance or alteration activities as specified in Parts 608 and 663 through 665 of the New York Codes, Rules and Regulations.
 - (2) Any subdivider proposing to disturb or alter any federal designated wetland, as established pursuant to Section 404 of the United States Clean Water Act (United States Code, Part 1344), must obtain the appropriate regional, conditioned nationwide or individual permits from the New York District of the United States Army Corps of Engineers, as specified in Sections 320 through 330 of Part 33, Code of Federal Regulations.
- D. Removal of spring and surface water. The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring or surface water that may exist either previous to or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible or in perpetual unobstructed easements of appropriate width maintained by the owners of the properties traversed by the easement.
- E. Stormwater management. Every subdivider shall comply with the provisions of Chapter 106 of the Town of Esopus Code which addresses stormwater management, erosion and sediment control. [Amended 11-15-2007 by L.L. No. 8-2007]
- F. Land subject to flooding. Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy nor for such other uses as may increase danger to health, life or property or aggravate the flood hazard, but such land within the plat shall be set aside for such use as shall not be endangered by periodic or occasional inundation or improved in a manner satisfactory to the Planning Board to remedy said

hazardous condition.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE IV,
General Requirements and Design Standards / § 107-25. Reservations and
easements.**

§ 107-25. Reservations and easements.

A. Parks and open space.

- (1) General. In accordance with § 277(4) of the Town Law, the Planning Board may require either the reservation of land for park or recreational purpose or payment of a fee to a trust fund, administered by the Town of Esopus, to be used for recreation purposes in the area of the subdivision. The Planning Board must first determine that a proper case exists for requiring the provision of parkland or of a recreation fee payment. A proper case exists when the Planning Board has made a determination, in accordance with § 277(4)(b) of the Town Law, that due to the increase of population resulting from development and occupancy of the subdivision, the resultant demand for recreation space will not be able to be adequately served by existing Town facilities.
- (2) Reservation of land. The Planning Board may require the reservation of land for a park or recreational purposes to be reserved on the plat, but in no case to be more than 10% of the gross area of the subdivision. The location of such reservation shall be in accordance with the Town Comprehensive Plan or Official Map, if such exist, or otherwise when the Planning Board shall deem such reservation to be appropriate. In general, such reservations should have an area of at least two acres and have adequate street access.
- (3) Character of recreation sites. Land reserved for recreation purposes shall be of a character and land location suitable for use as a playground, playfield, or for other recreation purposes; and shall be improved by the developer to the standards required by the Planning Board, which improvements shall be included in the performance bond. The Planning Board may refer any subdivision proposed to contain a dedicated park to the local government official or department in charge of parks and recreation for a recommendation. All land to be reserved for dedication to the local government for park purposes shall have prior approval of the Town Board and shall be shown marked on the plat "Reserved for Park and/or Recreation Purposes."
- (4) Payment of money in lieu of land. In the event that the Planning Board determines in writing that a suitable park or parks of adequate size cannot be properly located in any

such plat or is otherwise not practical, the Planning Board may require a sum of money in lieu thereof, in an amount established in accordance with the fee schedule adopted by the Town Board. Any such monies required by the Planning Board in lieu of land for a park, playground or other recreational facility, pursuant to these regulations, shall be deposited into a trust fund to be used by the Town of Esopus exclusively for park, playground or other recreational facilities, including the acquisition of property for such facilities.

- B. Widening or realignment of existing streets. Where the subdivision borders an existing street and additional land is required for realignment or widening of such street as indicated on the Official Map or Town Comprehensive Plan, if such exist, or where the Planning Board deems such reservation necessary, the Planning Board may require that such areas be indicated on the plat and marked "Reserved for Street Realignment, Widening or Maintenance Purposes." Where such areas are intended to be dedicated to the Town or other government agency by the subdivider, deeds that describe such areas must be prepared by the subdivider and submitted to the Planning Board for review prior to dedication to the Town or other government agency.
- C. Easements for utilities and drainage. 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 and drainage shall be provided across property outside the street lines and with satisfactory access to the street. Such easements should be located along lot lines, where possible.
- 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. Easements for maintenance of slopes. Where steep slopes beyond the street right-of-way may require maintenance, an easement may be required for such purposes. This requirement shall be based upon a determination by the Engineer for the Planning Board, at the request of the Planning Board.
- F. Responsibility for ownership of reservations. Title to all reservations, if vested in interests other than the subdivider, shall be clearly indicated on the plat.
- G. Access to public lands. No reserve strip controlling access to land dedicated or to be dedicated for public use shall be permitted.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE IV,
General Requirements and Design Standards / § 107-26. Self-imposed**

restrictions.

§ 107-26. Self-imposed restrictions.

The subdivider may place restrictions on any of the land contained within the subdivision which are greater than those required by the Zoning Law/Ordinance. Such restrictions shall be indicated on the final subdivision plat.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE V,
Submission of Documents and Fees**

ARTICLE V, Submission of Documents and Fees

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE V,
Submission of Documents and Fees / § 107-27. Sketch plan.**

§ 107-27. Sketch plan.

- A. Number of copies. At least 10 paper copies of the sketch plan shall be delivered to the Planning Board.
- B. Drawing details. Since the purpose of the sketch plan is to provide the Planning Board and the applicant an opportunity to discuss the proposed subdivision during the formative stages, the nature and extent of the detail submitted will depend on data readily available. The following shall be considered guidelines rather than rigid requirements:
 - (1) The sketch shall be at a convenient scale of no more than 100 feet to the inch and shall contain the date of preparation, approximate true North point, title "sketch plan," and the graphic scale.
 - (2) The name and address of the owner or owners of the land to be subdivided, the name and address of the subdivider if other than the owner, the proposed name of the subdivision, and the words "Town of Esopus, Ulster County, New York."
 - (3) A map of the location of the tract with respect to surrounding properties and community facilities, such as roads, parks, and schools.
 - (4) All existing restrictions on the use of land, including easements, covenants, zoning

district lines, street lines, and required building setback lines.

- (5) A sketch layout of the proposed subdivision on a topographic map of the area to be subdivided and of all contiguous property owned or optioned by the subdivider showing in simple form the proposed layout of roads, lots, buildings, wells and septic locations, utilities and other features.
- (6) A table setting forth the area and setback regulations established for the zoning district in which the property is located.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE V,
Submission of Documents and Fees / § 107-28. Preliminary plat.**

§ 107-28. Preliminary plat.

A. General drawing requirements. The following items shall be required for preliminary and final approval:

- (1) All preliminary plats shall be submitted on paper copies. All plat details shall be drawn using permanent materials. Plat sheets shall not be larger than 34 inches by 44 inches. Horizontal scales of one inch equals no more than 100 feet and vertical scales of one inch equals no more than 20 feet shall be used. When more than one sheet is required to show the plat within the prescribed scale, an index sheet of the same size shall be submitted showing the entire proposed subdivision with lot and block numbers clearly legible, at a scale of one inch equals no more than 600 feet.
- (2) All plat submissions shall bear the following information: The proposed subdivision name, identifying title, the words "Town of Esopus, Ulster County, New York," the date of submission and survey, and the name and address of record owner. The plat shall also bear the names, addresses, certification and seals of registered engineers, surveyors, planners, and/or architects engaged to prepare drawings; approximate true North points; and graphic scales.
- (3) A location map showing the tract with respect to surrounding properties and community facilities, such as roads, parks and schools, at a scale in the range from 800 to 2,000 feet to the inch.
- (4) Spaces shall be provided on all plat submissions for required signature and endorsements by the Planning Board and other appropriate agencies.

B. Number of copies. At least 10 paper copies shall be submitted to the Planning Board.

- C. Details required. The preliminary plat shall show or be accompanied by the following information, except where requirements have been waived through sketch plan review:
- (1) All data required in § 107-27B, except it shall be clearly labeled "preliminary plat."
 - (2) The location, bearings and distances of the tract boundaries prepared by a licensed surveyor.
 - (3) Topographic conditions with contours indicated at intervals of 10, five or two feet as determined by the Planning Board.
 - (4) The names of all adjoining property owners of record, including landowners on the opposite side of any street abutting the subdivision site, and the names of adjacent developments.
 - (5) The location and dimensions of all public properties, street lines, easements, zoning boundaries, or restrictions on the property.
 - (6) Location of existing and proposed sewers, water mains, gas and other utility lines, leaching fields, wells, culverts, and storm drains, including pipe size and type, grades, and direction of flow. Location and ownership of wells and sewage disposal systems on adjacent sites within 100 feet of the property line shall also be shown.
 - (7) The location of all existing structures such as buildings and the stone walls and all pertinent natural features that may influence the design of the subdivision, such as watercourses, state and federal wetlands, flood hazard areas, rock outcropping, wooded areas, and single large trees eight or more inches in diameter measured three feet above the base of the trunk within the subdivision and within the 50 feet thereof. Where large trees occur in groupings or clusters, only the general outlines of said groups need be shown.
 - (8) A plan and profile showing the location, width and grade of all proposed streets.
 - (9) The area of the land included in the subdivision and the approximate location, dimensions, and area of all proposed or existing lots and land to be set aside for recreation and public purposes. The suggested location of buildings on lots will also be shown, and all lots shall be numbered.
 - (10) Proposed provision of water supply, fire protection, sanitary waste disposal, stormwater drainage, street trees, streetlighting, fixtures, signs, sidewalks, and easements.
 - (11) The location, dimensions, and status of all covenants, deed restrictions or easements proposed by the applicant.

- (12) Soils characteristics as determined by the U.S. Department of Agriculture, Natural Resource Conservation Service, through the Ulster County Soil and Water Conservation District where available.
- (13) Proposed methods of erosion and sediment control.
- (14) Proposed regrading plans.
- (15) Other data which may influence the design of the proposed subdivision and which may affect the health, safety, and welfare of future residents, such as photographs of the site, engineering reports and environmental impact studies as may be required by the Planning Board.

D. Supporting documents.

- (1) A project narrative report that describes or outlines the existing conditions of the site and the proposed development shall be submitted at the request of the Planning Board to supplement the preliminary plan and location map.
- (2) The subdivider shall also file a short environmental assessment form (short EAF), unless a full environmental assessment form is requested by the Planning Board.
- (3) For subdivisions involving properties wholly or partially within any agricultural assessment district in the Town established pursuant to Article 25-AA of New York State Agriculture and Markets Law, and which site further includes, or lies within 500 feet of, a farm operation located within the agricultural district, an agricultural data statement (ADS), as provided for in § 283-a of New York State Town Law, and further defined in these regulations, shall be prepared and submitted to the Planning Board.
- (4) For any building, clearing, grading, land development activity, project and/or any other activity or undertaking that is subject to the provisions in Chapter 106 of this Code, a stormwater pollution prevention plan (SWPPP) is required and shall be prepared in accordance with the standards, requirements and provisions of Chapter 106 of the Town of Esopus Code. If an SWPPP is not required, the subdivision plan will include global positioning system (GPS) reference data for stormwater outfalls and permanent structures built in accordance with the New York State Stormwater Management Design Manual. [Amended 11-15-2007 by L.L. No. 8-2007]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE V,
Submission of Documents and Fees / § 107-29. Final plat.**

§ 107-29. Final plat.

- A. General specifications. All final plats shall conform to the requirements set forth in § 107-28A and C of these regulations.
- B. Copies required. The subdivider shall submit to the Planning Board one transparency, as required in § 107-28A, which will be filed with the County Clerk, one transparency copy for the records of the Planning Board, and 10 paper copies.
- C. Drawing details required. The final plat shall show or be accompanied by the following information, except where requirements have been waived by the Planning Board:
 - (1) All data required under § 107-28A and C, except that it shall be clearly labeled "final plat."
 - (2) Bearings and distances of tract boundaries and all existing and proposed lot lines.
 - (3) To the extent possible, the current names of all adjoining property owners of record shall be indicated on the plat.
 - (4) The location and dimension of all public properties, streets, easements, zoning district boundaries, minimum required lot area and building setback lines, or other restrictions on the tract.
 - (5) The location, width and names of all proposed streets, including radii of all curves and lengths of arcs.
 - (6) The Planning Board may require a grading plan where steep slopes exist, showing present and proposed elevations of all proposed streets and adjacent property.
 - (7) Plans, profiles the location and a typical cross-section of all proposed streets and pavements, including curbs and gutters, sidewalks, manholes and catch basins; the location of street trees, streetlighting standards and street signs; the location, size and invert elevations of existing and proposed sanitary sewers, stormwater drains, and fire hydrants; the location of water wells, septic treatment and reserve areas and all soil test and percolation test holes; and the exact location and size of all water, gas and other underground utilities or structures.
 - (8) Proposed methods of erosion and sediment control.
 - (9) The area of the land included in the subdivision and the location, dimensions, and area (in square feet) of all existing or proposed lots and land to be set aside for recreation or public purposes. All lots shall be numbered for identification.

- (10) The location of all existing water bodies, state and federal wetlands, flood hazard areas and streams that will be retained or relocated or intended to be developed. Existing buildings which shall be retained or removed shall be so identified.
- (11) Sufficient data acceptable to the Engineer for the Planning Board to readily determine the location, bearing, and length of all lines and to reproduce such lines on the ground.
- (12) The location of all existing and proposed monuments and markers.
- (13) All plats shall include the following notes:

"All lots are subject to approval, by the Ulster County Health Department, of on-site sewage disposal systems."

"Lots may be subject to the requirements of Section 404 of the Federal Clean Water Act regarding wetlands."

- (14) The following endorsements shall be shown on the plat, where required:
 - (a) Endorsement by the Ulster County Health Department and any stipulations of that Department. (Only tentative written endorsement is necessary before the public hearing, but final endorsement on the plat is needed before filing with the County Clerk.)
 - (b) Endorsements by other government agencies where permit approvals are required from these agencies, including the New York State Departments of Transportation and Environmental Conservation, the Ulster County Public Works Department and the Esopus Town Highway Department.
 - (c) Endorsement of owner, as follows:

"I hereby grant my approval to this plat and consent to the filing of it in the office of the County Clerk."

Owner

Date

(15) The following easement notations shall be shown on the plat, where applicable:

(a) Explanation of drainage easements, as follows:

"The drainage easements (or the drainage discharge points) shown hereon establish the perpetual right to discharge stormwater runoff from the highway and from the surrounding area onto and over the affected premises by means of pipes, culverts, or ditches, or a combination thereof, together with the right of the holder of fee title to the highway, or his authorized representatives, to enter said premises for purpose of making such installations and doing such maintenance work as said holder of fee title may deem necessary to adequately drain the highway and surrounding area."

(b) Explanation of sight easements, as follows:

"The sight easement(s) shown hereon establish the perpetual right of the holder of fee title to the highway, or his authorized representatives, to clear, regrade and maintain the area within these easements at such elevation that there is a clear line of sight anywhere across the area between an observer's eye at an elevation of 2.5 feet above the surface at the nearest edge of the road and object one foot above the nearest edge of pavement on the intersecting road."

(c) Explanation of reservations, as follows:

"Reserved for highway purposes (or recreation purposes, or other approved purpose)."

(d) Explanation of slope easements, as follows:

"The slope easements shown hereon convey to the (insert here "Town of

Esopus," or "holder of fee title" or "the Highway Department" or other phrase as directed by the Planning Board) the right to enter said premises for the purpose of cutting and maintaining a stable earth slope."

quantity and unit cost used in making the estimate.

- (2) Offers of cession, in a form satisfactory to the Town Board, in accordance with Article VI of these regulations.
- (3) Any covenants, deed restrictions, easements, and other self-imposed restrictions that may be proposed by the subdivider.
- (4) For any building, clearing, grading, land development activity, project and/or any other activity or undertaking that is subject to the provisions in Chapter 106 of this Code, a stormwater pollution prevention plan (SWPPP) is required and shall be prepared in accordance with the standards, requirements and provisions of Chapter 106 of the Town of Esopus Code. If an SWPPP is not required, the subdivision plan will include global positioning system (GPS) reference data for stormwater outfalls and permanent structures built in accordance with the New York State Stormwater Management Design Manual. [Amended 11-15-2007 by L.L. No. 8-2007]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE V,
Submission of Documents and Fees / § 107-30. Fees.**

§ 107-30. Fees.

The developer will be responsible for payment of normal fees or the following:

- A. Sketch plan review: in accord with a fee schedule adopted by the Town Board.
- B. Preliminary and final plat: in accord with a fee schedule adopted by the Town Board.
- C. Additional fees for review. Upon adoption by the Town Board of relevant procedures and criteria, applicants shall be responsible for reasonable and customary fees, disbursements and/or costs, as may be determined by the Town Board from time to time, incurred by the Engineer for the Planning Board, Town Planner, and other specialists in the course of review of certain complex, major subdivisions.
- D. Environmental impact statement review. In event that the proposed subdivision has been determined, either by the Planning Board or by another governmental agency having approval jurisdiction over the subdivision, to have a potential significant effect upon the environment, as provided for in Title 6, New York State Codes, Rules and Regulations, Part 617 [State Environmental Quality Review (SEQR) Act], and an environmental impact statement must then be prepared and submitted, the applicant shall pay the reasonable fees, disbursements and/or cost incurred by the Engineer for the Planning Board, the Town Planner, and other specialists in the course of review of said environmental impact statement.

The amount of such fees shall be determined in accordance with the provisions of § 617.13 of the SEQR regulations.

- E. Road inspection fee. On-site inspections are required at various stages of road construction as determined by the Highway Superintendent. The fee charged for each inspection shall be in accord with a fee schedule adopted by the Town Board.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE VI,
Required Improvements and Agreements**

ARTICLE VI, Required Improvements and Agreements

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE VI,
Required Improvements and Agreements / § 107-31. Completion of
improvements or filing of performance guarantee.**

§ 107-31. Completion of improvements or filing of performance guarantee.

A. Improvements to be completed.

- (1) After adoption of a resolution approving a final subdivision plat, and before the plat is endorsed by the Planning Board Chairman and other duly authorized members, the subdivider shall be required to complete, at his expense and without reimbursement by the Town or any special district, all street and other improvements as shown on the approved construction plans, or otherwise specified in the resolution and to offer to dedicate same to the Town of Esopus free and clear of all liens and encumbrances on the property and public improvements thus dedicated.
- (2) All improvements shall be completed to the satisfaction of the Engineer for the Planning Board and approved by the Planning Board, in accordance with the approved construction plans and the requirements of these regulations, the Town road construction standards and other specifications.

B. Performance guarantee in lieu of improvements.

- (1) The Planning Board, at its discretion, may waive the requirement that the subdivider complete and dedicate all public improvements prior to the signing of the subdivision plat and may permit the subdivider to provide a performance guarantee, such as but not

limited to a letter of credit or other form of financial surety, at the time of application for final subdivision approval, in an amount estimated by the Planning Board as sufficient to secure to the Town the satisfactory construction, installation and maintained dedication of the incomplete portion of required improvements. Such guarantee shall be issued pursuant to the conditions of § 277(9) of the Town Law and shall state the period within which the required improvements must be completed, which period shall not exceed three years.

- (2) For purpose of establishing the amount of the performance guarantee, the subdivider or his engineer shall submit a cost estimate to the Engineer for the Planning Board, Town Attorney and/or other agent designated by the Planning Board, which estimated cost shall be verified by the Engineer for the Planning Board and modified as he may consider appropriate. All letters of credit or other forms of financial surety shall be approved by the Town Board, after review and recommendations by the Town Attorney, as to their form, sufficiency and manner of execution. In this regard, the Planning Board may recommend a bond in an amount up to 120% of the estimated construction costs so as to cover inflation and other contingencies.

C. Failure to complete improvements.

- (1) Where a performance guarantee is not filed. If all required improvements are not completed within the period specified in the Planning Board resolution of approval, such approval shall be deemed to have expired, unless, upon request of the applicant, the period has been extended by resolution of the Planning Board.
- (2) Where a performance guarantee is filed. If all required improvements are not completed within the term specified by the Planning Board and set forth in the filed performance guarantee, and if no application for the extension of such period and guarantee has been made by the subdivider and approved by the Planning Board, the Town Board may thereupon declare said performance guarantee to be in default and collect the sum remaining payable thereunder and, upon receipt of the proceeds thereof, the Town shall install such improvements as are covered by the performance guarantee and are commensurate with the extent of building development that has taken place in the subdivision, but not exceeding, in cost, the amount of such proceeds.

D. Modification of performance guarantee.

- (1) Extension of period specified in performance guarantee. The time period specified for the completion of all required improvements, as set forth in the performance guarantee, may be extended only by resolution of the Planning Board, upon written request by the subdivider setting forth, in detail, the amount of work which has been completed, reasons for failure to complete the remainder of the work within the specified period, the maximum estimated time required to complete the remainder of the work, and the time

period extension which is requested.

- (2) Reduction of amount of performance guarantee. A subdivider may request, in writing, that the Planning Board recommend to the Town Board the reduction in the amount of the performance guarantee. Such request shall itemize the extent of required improvements already completed, the estimated cost of improvements remaining to be completed, and the amount of performance guarantee reduction requested. Then, upon recommendation of both the Planning Board and the Town Attorney, and after due notice and public hearing, the Town Board may, if it determines that sufficient required improvements have been installed to warrant such action, reduce the face amount of the performance guarantee by an appropriate amount so that the new amount will cover up to twice the cost of the estimated cost in full of all required improvements remaining to be completed, and any security deposited with the performance guarantee may be reduced proportionately. In no case shall a performance guarantee be reduced below 25% of the original principal amount.
- E. Modification of improvements. If, at any time, either before or during the course of construction of the required improvements, it is determined by the Planning Board that unforeseen conditions make it necessary to modify the location or design of any improvements, the Board may modify the terms and conditions of the approval so as to require such changes as may be necessary to comply with the spirit and intent of the Planning Board's original approval and to conform to accepted engineering practices. If such modification affects the scope of work covered by a performance guarantee, the Board may recommend to the Town Board that it approve appropriate modification of such performance guarantee.
- F. Escrow deposits with Building Inspector when performance guarantee is not provided.
- (1) Whenever, by reason of the season of the year, any required improvements cannot be undertaken or completed, the Building Inspector may, nevertheless, issue a temporary certificate of occupancy, provided there is no danger to health, safety or general welfare, upon acceptance by the Town of a cash escrow deposit from the subdivider, in an amount to be determined by the Engineer for the Planning Board and by the Highway Superintendent, for the cost of completing said improvements. At the time of request to deposit escrow monies with the Town and prior to the issuance of a temporary certificate of occupancy to the subdivider, the subdivider shall obtain and file with the Building Inspector a notarized statement from the purchaser or purchasers of the subject property or properties, authorizing the Town to install the improvements in the event that the same have not been duly installed by the subdivider.
 - (2) Time for completion. All required improvements for which escrow monies have been accepted by the Town at the time of issuance of a certificate of occupancy shall be

installed by the subdivider within a period of nine months from the date of deposit and issuance of the certificate of occupancy. In the event that said improvements have not been properly installed at the end of said time period, the Building Inspector shall give 14 days' written notice to the subdivider, by certified mail, return receipt requested, requiring him to install same, and, in the event that same are not installed properly, the Building Inspector may request the Town Board to authorize the Town to proceed to contract out the work for the installation of the necessary improvements in a sum not to exceed the amount of the escrow deposit.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE VI,
Required Improvements and Agreements / § 107-32. Inspection of
improvements.**

§ 107-32. Inspection of improvements.

- A. The applicant's engineer shall be responsible for inspecting required improvements during construction to insure their satisfactory completion and, upon such completion, shall furnish the Planning Board with a statement by a licensed professional engineer to that effect. If the Engineer for the Planning Board or the Highway Superintendent determines that any of the required improvements have not been constructed in accordance with the approved plan, the subdivider shall be responsible for properly completing said improvements. Failure of the Engineer for the Planning Board, Highway Superintendent, or their designee(s) to carry out inspections of required improvements during construction shall not in any way relieve the subdivider of any responsibilities related to the proper construction of such improvements.
- B. Inspection of stages of construction.
 - (1) To facilitate inspection of required improvements during construction, the subdivider shall notify the Engineer for the Planning Board, or his designee, at least three working days before reaching each of the following stages of construction:
 - (a) Clearing and grubbing.
 - (b) Rough grading completed.
 - (c) Drainage and other underground facilities installed, but prior to backfilling.
 - (d) After gravel base is spread and compacted.
 - (e) When each paved course is being applied.

- (f) After completion of all improvements.
 - (2) The Engineer for the Planning Board, the Highway Superintendent, or their designee(s), may inspect the work at such progressive stages as deemed necessary and report to the Planning Board that the work was inspected and was, or was not, in accordance with the approved plans and specifications.
- C. As-built drawings necessary.
- (1) At such time as the subdivider has completed construction of all required improvements, he shall furnish to the Engineer for the Planning Board three copies of as-built plans and profiles which show the actual location of all paved streets, culverts, headwalls, drains, manholes, catch basins, sidewalks, curbs, utility lines and equipment, monuments, streets signs, street trees, and all other required improvements, as constructed, and all other pertinent information, such as cross sections of the streets at intervals determined by the Engineer for the Planning Board, the culvert and drain grades, sewer grades, sidewalk and curb grades, and invert elevations at manholes. Such plans and profiles shall bear a dated certification by a professional engineer or licensed surveyor to the effect that the data shown thereon was installed and its location was shown accurately on as-built drawings accurately determined by field survey.
 - (2) If the location of improvements does not, in the opinion of the Engineer for the Planning Board, fully comply with the approved construction plans and specifications, the Planning Board shall have the right to refuse to sign the final plat or release the bond or other security, nor shall the Town Board accept dedication of any required improvements until either such situation is corrected to the satisfaction of the Engineer for the Planning Board or the Town Planning Board formally approves of modification of improvements in accordance with § 107-31E of these regulations.
- D. Inspection fee. To offset the costs incurred by the Town in conducting inspections, subdividers seeking approval of submissions involving the construction of streets and/or other improvements shall be required to submit an inspection fee, as set forth in § 107-30E of these regulations.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE VI,
Required Improvements and Agreements / § 107-33. Future status of streets,
parks and easements.**

§ 107-33. Future status of streets, parks and easements.

- A. Offers of cession. All streets, parks and easements shall be indicated on the plat. In

accordance with § 279 of the Town Law, the subdivider may add as part of the plats notation, if he so desires, to the effect that no offer or dedication of such streets or park, or any of them, is made to the public. All offers of cession to the public of all streets and parks not so marked shall be filed with the Planning Board at the time of submission of the final application.

- B. Petition for dedication. Upon completion of the subdivision and the road(s), a petition in the form required by the Town Board shall be filed by the subdivider with such Board for the acceptance of offered streets and parks or any other reservations or easements.
- C. Acceptance by Town. Acceptance of any offer of cession of streets or parks shall rest with the Town Board. The approval by the Planning Board of a subdivision plat shall not be deemed to constitute nor imply the acceptance by the Town of any streets, parks or other areas shown on said plat, and the Planning Board may require the addition of appropriate notes to this effect on the plat.
- D. Maintenance for dedicated improvements. At the time of dedication of any required improvements, and in order to guarantee maintenance of such improvements prior to acceptance, the Town Board shall require the subdivider to deliver a sum of money equal to 15% of total construction cost of all required improvements, which shall be held in an escrow account for a period not exceeding one year. One month prior to the end of such year, as may be extended by the Planning Board for reasons of inclement weather or similar due cause, the Engineer for the Planning Board shall inspect all such required improvements and, prior to the release of such maintenance account, make a report to the Town Board regarding the condition of the dedicated improvements.
- E. Maintenance for improvements not to be dedicated. In the event that no offer of cession to the public is made for the streets, parks and required easements shown on the plat, there shall be submitted, with the final application, copies of agreements or other documents providing for the suitable maintenance of such facilities and a statement of all rights which exist with respect to each of them. The adequacy of such documents shall be subject to the approval of the Town Attorney.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE VI,
Required Improvements and Agreements / § 107-34. Waiver of required
improvements.**

§ 107-34. Waiver of required improvements.

The Planning Board may, in writing, grant waivers, subject to appropriate conditions, to the

provision of any or all such improvements and requirements, in accordance with the criteria and procedures set forth in § 107-7 of these regulations.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / ARTICLE VI,
Required Improvements and Agreements / § 107-35. Certificates of occupancy
for structures fronting on streets not yet dedicated.**

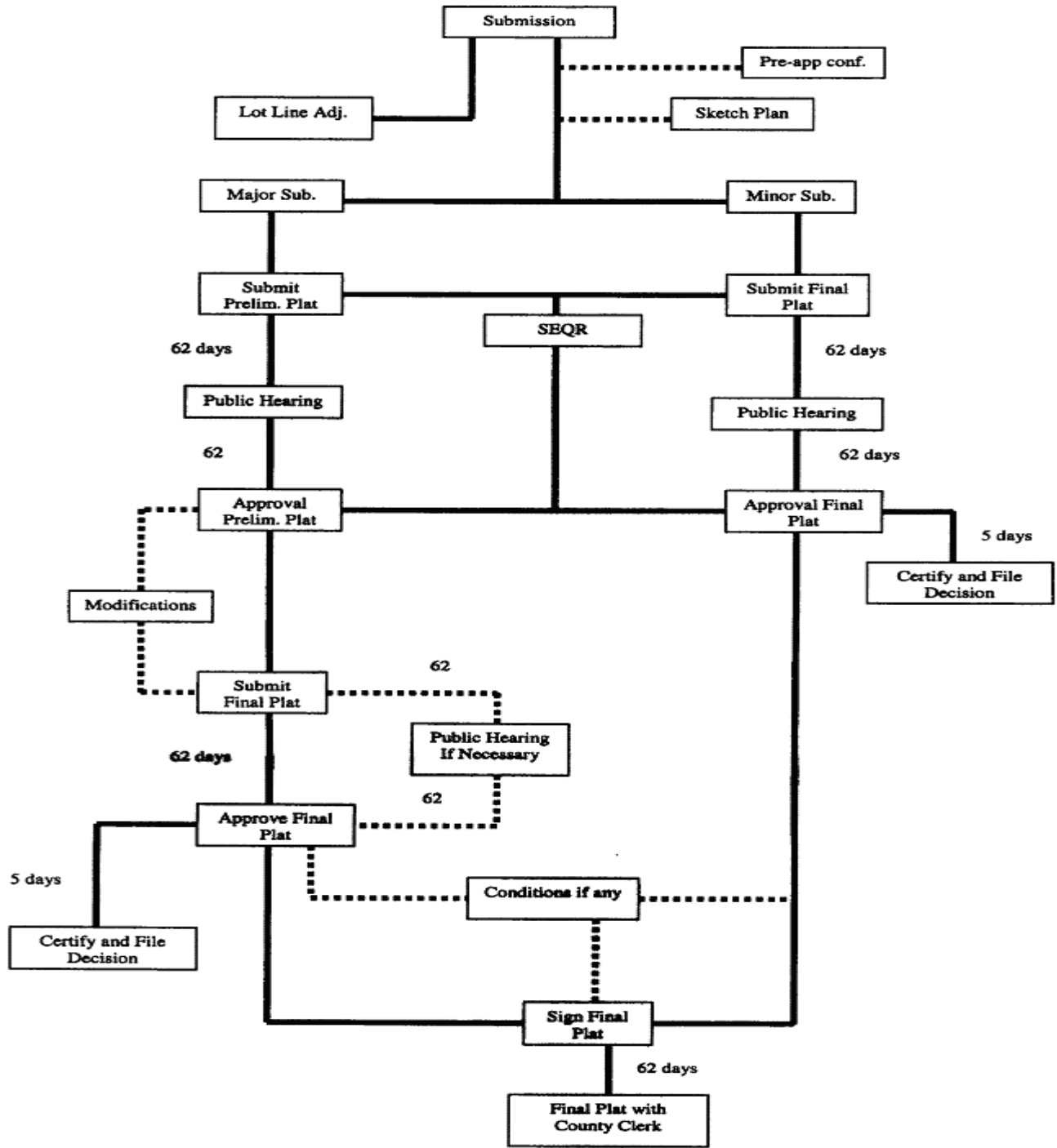
§ 107-35. Certificates of occupancy for structures fronting on streets not yet dedicated.

A certificate of occupancy shall not be issued for a structure within a subdivision where the improvements are guaranteed by a performance bond unless it is determined by the Planning Board that both of the following conditions have been complied with:

- A. Status of street improvements. The improvement of the street or streets giving access to a structure has progressed to a stage deemed adequate by the Planning Board to render safe all-weather vehicular access for both routine and emergency purposes.
- B. Maintenance agreements. Written agreements have been filed providing for the maintenance of the bonded street or streets in such all-weather passable condition, including snow removal and sanding, during the period between the issuance of the certificate of occupancy and the acceptance of the fully completed street by the Town Board. If the street is not to be offered for dedication to the Town, such an agreement will have been required in accordance with § 107-33 of these regulations.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 107, SUBDIVISION OF LAND / FLOW CHART
FOR SUBDIVISION REVIEW**

FLOW CHART FOR SUBDIVISION REVIEW



Key:
 ————— Mandatory
 Optional

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 109, TAXATION**

Chapter 109, TAXATION

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

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 109, TAXATION / ARTICLE I, Senior Citizens
Tax Exemption [Adopted 12-2-1970]**

ARTICLE I, Senior Citizens Tax Exemption [Adopted 12-2-1970]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 109, TAXATION / ARTICLE I, Senior Citizens
Tax Exemption [Adopted 12-2-1970] / § 109-1. Grant of partial exemption.
[Added 12-30-1993 by L.L. No. 10-1993EN]**

§ 109-1. Grant of partial exemption. [Added 12-30-1993 by L.L. No. 10-1993^{EN(63)}]

Real property owned by one or more persons, each of whom is 65 years of age or over, or real property owned by husband and wife, one of whom is 65 years of age or over, shall be exempt from taxation by the Town of Esopus to the extent of 50% of the assessed valuation thereof, provided that 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 such exemption does not exceed the sum of \$15,000. This section shall take effect starting with the 1995 fiscal year.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 109, TAXATION / ARTICLE I, Senior Citizens
Tax Exemption [Adopted 12-2-1970] / § 109-2. Definitions.**

§ 109-2. Definitions.

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

INCOME -- Includes social security and retirement benefits, interest, net rental income, salary or earnings and net income from self-employment, but shall not include gifts or inheritances.

INCOME TAX YEAR -- 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.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 109, TAXATION / ARTICLE I, Senior Citizens
Tax Exemption [Adopted 12-2-1970] / § 109-3. Limit of combined income.
[Amended 9-14-1977; 11-14-1979; 12-15-1982; 5-11-1988 by Ord. No. 8-1988;
5-11-1988 by Ord. No. 9-1988]**

**§ 109-3. Limit of combined income. [Amended 9-14-1977; 11-14-1979; 12-15-1982;
5-11-1988 by Ord. No. 8-1988; 5-11-1988 by Ord. No. 9-1988]**

- A. Where title is vested in either the husband or wife, their combined income may not exceed the income range set forth in § 109-1.
- B. Income shall include social security, retirement benefits, interest, dividends and other usual forms of income.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 109, TAXATION / ARTICLE I, Senior Citizens
Tax Exemption [Adopted 12-2-1970] / § 109-4. Required period of ownership.
[Amended 4-16-1981 by L.L. No. 4-1981]**

§ 109-4. Required period of ownership. [Amended 4-16-1981 by L.L. No. 4-1981]

To be entitled to such exemption, the owner or all of the owners of the property shall have been vested with title for the last 24 consecutive months prior to the date of making application for exemption; provided, however, that in the event of the death of either a husband or wife in whose name title of the property shall have been vested at the time of death and then becomes vested solely in the survivor by virtue of devise by or descent from the deceased husband or wife, the time of ownership of the property by the deceased husband or wife shall be deemed also a time of ownership by the survivor and such ownership shall be deemed continuous for the purposes of computing such period of 24 consecutive months, and provided further that where real property of the owner or owners has been acquired to replace property formerly owned by such owner or owners and taken by eminent domain or other involuntary proceeding, except a tax sale, the period of ownership of the former property shall be combined with the period of ownership of the property for which the application is made for exemption, and such period of ownership shall

be deemed to be consecutive for purposes of this section.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 109, TAXATION / ARTICLE I, Senior Citizens
Tax Exemption [Adopted 12-2-1970] / § 109-5. Property not used exclusively for
residential purposes.**

§ 109-5. Property not used exclusively for residential purposes.

An applicant shall not be entitled to such exemption if his property is used other than exclusively for residential purposes.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 109, TAXATION / ARTICLE I, Senior Citizens
Tax Exemption [Adopted 12-2-1970] / § 109-6. Occupancy by owners required.**

§ 109-6. Occupancy by owners required.

An applicant shall not be entitled to said exemption unless the real property is the legal residence of and is occupied in whole or in part by the owner or all of the owners of the property.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 109, TAXATION / ARTICLE I, Senior Citizens
Tax Exemption [Adopted 12-2-1970] / § 109-7. Exemption for school purposes.**

§ 109-7. Exemption for school purposes.

Exemption from taxation for school purposes shall not be granted in the case of real property where a child resides if such child attends a public school of elementary or secondary education.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 109, TAXATION / ARTICLE I, Senior Citizens
Tax Exemption [Adopted 12-2-1970] / § 109-8. Application for exemption.**

§ 109-8. Application for exemption.

Application for such exemption must be made by the owner or all of the owners of the property, on forms prescribed by the State Board to be furnished by the appropriate assessing authority,

and shall furnish the information and be executed in the manner required or prescribed in such forms and shall be filed in such Assessor's office on or before the appropriate taxable status date.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 109, TAXATION / ARTICLE I, Senior Citizens
Tax Exemption [Adopted 12-2-1970] / § 109-9. Notice by assessing authority.**

§ 109-9. Notice by assessing authority.

At least 60 days prior to the appropriate taxable status date, the assessing authority 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 the taxable status date and be approved in order for the exemption to be granted. Failure to mail any such application form and notice 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.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 109, TAXATION / ARTICLE I, Senior Citizens
Tax Exemption [Adopted 12-2-1970] / § 109-10. Statutory authority.**

§ 109-10. Statutory authority.

This article is enacted pursuant to authority vested in the Town Board of the Town of Esopus by the Real Property Tax Law § 467 and is adopted subject to any further provisions set forth in said section.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 109, TAXATION / ARTICLE II, Real Property of
Nonprofit Organizations [Adopted 6-23-1982 by L.L. No. 3-1982]**

**ARTICLE II, Real Property of Nonprofit Organizations [Adopted 6-23-1982 by L.L.
No. 3-1982]**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 109, TAXATION / ARTICLE II, Real Property of
Nonprofit Organizations [Adopted 6-23-1982 by L.L. No. 3-1982] / § 109-11.**

Purpose.

§ 109-11. Purpose.

The purpose of this article is to subject to taxation real property owned by nonprofit corporations or associations specified in § 109-12 of this article, as authorized by § 420-b of the Real Property Tax Law.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 109, TAXATION / ARTICLE II, Real Property of
Nonprofit Organizations [Adopted 6-23-1982 by L.L. No. 3-1982] / § 109-12.
Certain property to be taxable.**

§ 109-12. Certain property to be taxable.

Real property owned by a corporation or association which is organized exclusively for bible, tract, benevolent, missionary, infirmary, public playground, scientific, literary, bar association, medical society or patriotic purposes or for the enforcement of laws relating to children or animals, or for two or more such purposes, shall be taxable.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 109, TAXATION / ARTICLE II, Real Property of
Nonprofit Organizations [Adopted 6-23-1982 by L.L. No. 3-1982] / § 109-13.
Property subject to special levies.**

§ 109-13. Property subject to special levies.

Real property which is taxable pursuant to this article shall be subject to special ad valorem levies and special assessments which are imposed to defray the costs of improvements or services furnished by the Town of Esopus or by a special or improvement district established pursuant to the Town Law.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 109, TAXATION / ARTICLE III, Alternative
Veterans Tax Exemption [Adopted 2-19-1998]**

ARTICLE III, Alternative Veterans Tax Exemption [Adopted 2-19-1998]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 109, TAXATION / ARTICLE III, Alternative
Veterans Tax Exemption [Adopted 2-19-1998] / § 109-14. Exemption established.**

§ 109-14. Exemption established.

Whereas, the Ulster County Director of Veterans Service Agency has requested that the current real property tax exemptions for veterans be amended to conform to the New York State Real Property Tax law, Chapter 477 (1996) and Chapter 417 (1997),^{EN(64)} and whereas, such amendment will increase the home value cap for the New York State Veterans Real Property Exemption to \$120,000, with maximum exemption limits being at \$12,000, \$18,000 and \$60,000 in each of the three prescribed exemption categories, Therefore, be it resolved, that the Esopus Town Board hereby establishes the above veterans exemptions for real property in the Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 113, VEHICLES, ABANDONED**

Chapter 113, VEHICLES, ABANDONED

[HISTORY: Adopted by the Town Board of the Town of Esopus 5-28-1981 by L.L. No. 7-1981; amended in its entirety 1-11-1995 by L.L. No. 2-1995. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

**Junkyards -- See Ch. 90.
Landfills -- See Ch. 92.
Vehicles and traffic -- See Ch. 115.**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 113, VEHICLES, ABANDONED / § 113-1.**

Purpose.

§ 113-1. Purpose.

The outdoor storage of abandoned, junked, discarded and unlicensed motor vehicles and the sale of motor vehicles upon privately owned properties within the Town of Esopus is dangerous, unsightly and a detriment to the preservation of public health, the protection of property and the

safety and welfare of the residents of the Town of Esopus. The outdoor storage of abandoned, junked, discarded and unlicensed motor vehicles and the sale of motor vehicles upon privately owned properties within the Town of Esopus constitutes an attractive nuisance to children and a peril to their safety. Such storage constitutes a threat to the safety and welfare of the residents of the Town of Esopus since the fuel tanks frequently contain gasoline or gasoline fumes and may be subject to explosion in case of fire. Such storage depreciates the value of neighboring properties and is unsightly and discourages the orderly, progressive development of the Town of Esopus. The control of the outdoor storage of abandoned, junked, discarded and unlicensed motor vehicles and the sale of motor vehicles upon privately owned properties within the Town of Esopus is therefore regulated for the preservation of the public health, safety and welfare of the residents of the Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 113, VEHICLES, ABANDONED / § 113-2.
Definitions.**

§ 113-2. Definitions.

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

ABANDONED -- The intent of the owner of a motor vehicle not to use the motor vehicle on the public highways. The intent of the owner of the motor vehicle may be determined by the physical condition of the motor vehicle, the statements of the owner of the motor vehicle, the length of time since the motor vehicle was last used on the public highway and whether the motor vehicle is licensed or unlicensed. With respect to motor vehicles not required to be licensed or motor vehicles not customarily used on the public highway, the intent of the owner may be determined by the physical condition of the motor vehicle, the length of time since it was last used for the purposes intended and the statement of the owner.

DEALER -- A person engaged in the business of buying, selling or dealing in motor vehicles, motorcycles or trailers, including mobile home trailers, at retail or wholesale. Any person who sells or offers for sale more than five motor vehicles, motorcycles or trailers in a calendar year or who displays or permits the display of two or more motor vehicles, motorcycles or trailers for sale at any one time or within any one calendar month upon the premises owned or controlled by him, if such vehicles were purchased, acquired or otherwise obtained by such person for the purpose of resale, will be regarded as a dealer.

DISCARDED -- Any motor vehicle which the owner thereof does not intend to recover possession thereof or any motor vehicle to which ownership cannot be reasonably determined with due inquiry.

JUNKED -- Any motor vehicle in such condition as to cost more to repair in order to place such motor vehicle in operating condition than the value of the motor vehicle at any given time.

MOTOR VEHICLE -- Every motor vehicle operated or driven or capable of being driven or operated upon a public highway by any power other than muscular power. For the purposes of this chapter, "motor vehicles" shall include tractors used exclusively for agricultural purposes, self-propelled combines, self-propelled corn- and hay-harvesting machines and self-propelled Caterpillar or crawler-type equipment and shall also include motorcycles, omnibuses, trailers and house trailers.

OWNER OF MOTOR VEHICLE -- A person having property in or title to a motor vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person and also includes any lessee or bailee of a motor vehicle having the use thereof under lease or otherwise.

OWNER OF PRIVATE PROPERTY -- Includes the legal owner, contract purchaser, tenant, lessee, occupant, undertenant, receiver or assignee of premises or property located within the Town of Esopus.

PREMISES -- Includes all parcels of real property situate in the Town of Esopus, whether occupied or vacant, irrespective of size of topography.

UNLICENSED MOTOR VEHICLE -- Any motor vehicle which has not been licensed with the proper authorities for a period of at least 30 days from the expiration of the last valid licensing, with the exception of those motor vehicles in the possession of authorized used car dealers or garagemen for the purpose of sale or repair.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 113, VEHICLES, ABANDONED / § 113-3.
Outdoor storage on private lands prohibited.**

§ 113-3. Outdoor storage on private lands prohibited.

- A. It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise of any private property within the Town of Esopus, to store or deposit or cause or permit to be stored or deposited an abandoned, junked, discarded or unlicensed motor vehicle or vehicles upon any private land within the corporate limits of the Town of Esopus.
- B. Anything to the contrary notwithstanding, one roadworthy unlicensed vehicle or one unlicensed antique car in the process of restoration may be stored on private property in the

Town of Esopus for a maximum of 12 months.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 113, VEHICLES, ABANDONED / § 113-4. Sale
of motor vehicles.**

§ 113-4. Sale of motor vehicles.

- A. It shall be unlawful for any person, firm or corporation, either as owner, occupant, lessee, agent, tenant or otherwise of any property within the Town of Esopus, to sell more than five motor vehicles in a calendar year and not more than two such motor vehicles at any one time within any calendar month, except as set forth below. A New York State registered dealer, as set forth in the Vehicle and Traffic Law, may sell such motor vehicles as permitted by law, but may only do so at locations designated as a place of business on the New York State dealer's registration, and provided that the necessary approvals as set forth in this chapter are obtained.
- B. The dealer shall provide, upon twenty-four-hour notice by the Town of Esopus Zoning Officer or Building Inspector, such inventory books and MV-50 forms as requested. The dealer shall display his New York State dealer's registration sign as required by New York State law at each location motor vehicles are located.
- C. Any person selling vehicles contrary to the provision of the Vehicle and Traffic Law shall also constitute a violation of this chapter and shall be deemed an offenses as set forth below.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 113, VEHICLES, ABANDONED / § 113-5.
Notice of violation.**

§ 113-5. Notice of violation.

If the provisions of the foregoing section are violated, the Zoning Enforcement Officer or the Building Inspector shall serve written notice, either personally or by mail, upon the owner, occupant or person having charge of any such private property to comply with the provisions of this chapter. The aforesaid town official may determine ownership of any parcel of land within the Town of Esopus from the then-current tax rolls of the Town of Esopus and may serve written notice upon such owner by mailing such notice by regular mail to the owner of the address listed in the then-current tax rolls. In the event that the aforesaid town official cannot determine the owner or address of the owner of a parcel of land within the Town of Esopus, the aforesaid town official may serve written notice by publishing said written notice in the official newspaper of

the Town of Esopus for two consecutive weeks. The notice shall be in substantially the following form:

To the owner, occupant or person having charge of land within the Town of Esopus known as: (insert Tax Map No. or Account No.)

Notice is hereby given that an abandoned, junked, discarded, unlicensed or for-sale motor vehicle(s) has been stored or deposited on the above-described property in the Town of Esopus. This or these vehicles(s) must be removed within 10 days from the date of this notice.

In the event that this notice is served upon you by publication, the vehicle(s) must be removed within 24 days from the first date of publication of this notice.

In case you fail or refuse to comply with this notice on or before the expiration of said 10 days from the date of this notice or before the expiration of said 24 days from the date of this notice, in the event it is served upon you by publication, you are hereby summoned to appear before the Town Justice of the Town of Esopus on to show cause why the Town of Esopus, acting through its duly authorized agents, servants, officers and employees, should not enter upon your land and remove said motor vehicle(s) and cause the same to be destroyed. In the event that the Town Justice of the Town of Esopus orders the aforementioned motor vehicle(s) to be removed and destroyed, the expense incurred by the Town of Esopus will be assessed against the above-described property and shall constitute a lien thereon and be collected as provided by law.

Dated:

Town of Esopus Zoning Enforcement
Officer/Building Inspector

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 113, VEHICLES, ABANDONED / § 113-6.
Penalties for offenses.**

§ 113-6. Penalties for offenses.

A violation of this chapter shall be deemed an offense, and all persons, including corporations, found in violation shall be subject to a fine of not more than \$250 or to imprisonment for a term of not more than 15 days, or both.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 115, VEHICLES AND TRAFFIC**

Chapter 115, VEHICLES AND TRAFFIC

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

GENERAL REFERENCES

Appearance tickets -- See Ch. 50.
Vehicular traffic in parks -- See Ch. 98.
Abandoned vehicles -- See Ch. 113.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 115, VEHICLES AND TRAFFIC / ARTICLE I,
Stop Intersections EN [Adopted 5-10-1989 by L.L. No. 3-1989]**

ARTICLE I, Stop Intersections EN⁽⁶⁵⁾ [Adopted 5-10-1989 by L.L. No. 3-1989]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 115, VEHICLES AND TRAFFIC / ARTICLE I,
Stop Intersections EN [Adopted 5-10-1989 by L.L. No. 3-1989] / § 115-1. Stop
intersections.**

§ 115-1. Stop intersections.

Stop signs shall be erected at certain intersections in the Town of Esopus from time to time by resolution of the Town Board.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 115, VEHICLES AND TRAFFIC / ARTICLE II,
Removal of Vehicles; Winter Parking [Adopted 7-13-1994 by L.L. No. 2-1994]**

ARTICLE II, Removal of Vehicles; Winter Parking [Adopted 7-13-1994 by L.L. No. 2-1994]

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 115, VEHICLES AND TRAFFIC / ARTICLE II, Removal of Vehicles; Winter Parking [Adopted 7-13-1994 by L.L. No. 2-1994] / § 115-2. Definitions.

§ 115-2. Definitions.

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

RIGHT-OF-WAY -- Includes all portions of the town highway owned or maintained by the town or used for public travel (including licensed or unlicensed vehicles and excepting devices moved by human power or used exclusively upon stationary rails or tracks).

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 115, VEHICLES AND TRAFFIC / ARTICLE II, Removal of Vehicles; Winter Parking [Adopted 7-13-1994 by L.L. No. 2-1994] / § 115-3. Removal of vehicles.

§ 115-3. Removal of vehicles.

- A. The Town of Esopus shall have the power to cause the removal and disposal of any vehicle left unattended for more than 24 hours within the right-of-way of any town highway of the town or any other public property of the town.
- B. The Town of Esopus shall have the power to cause the immediate removal from the right-of-way of any town highway any vehicle which obstructs or interferes with the use of such a highway for public travel or which obstructs or interferes with any operation of the Town Highway Department.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 115, VEHICLES AND TRAFFIC / ARTICLE II, Removal of Vehicles; Winter Parking [Adopted 7-13-1994 by L.L. No. 2-1994] / § 115-4. Prohibition of parking.

§ 115-4. Prohibition of parking.

The parking of vehicles is hereby prohibited on all highways or any other property of the town between the hours of 10:00 p.m. and 6:00 a.m. beginning on the first day of November in each year and continuing through the 15th day of March in the next succeeding year.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 115, VEHICLES AND TRAFFIC / ARTICLE II,
Removal of Vehicles; Winter Parking [Adopted 7-13-1994 by L.L. No. 2-1994] / §
115-5. Penalties for offenses; fees for towing.**

§ 115-5. Penalties for offenses; fees for towing.

- A. Any violation of this article shall be deemed an offense against this article and a violation of the winter months parking regulations.
- B. Any vehicle not removed in accordance with §§ 115-3 and 115-4 above will be ticketed and removed at the owner's expense. Local private towing operators will be used on a rotating basis. Towing operators must show proof of insurance to the Town Clerk.

Fee Schedule	
Service	Fee
Show up	\$25.00
Hook up	\$50.00
Tow away	\$3.00 per mile (first mile free)
Storage	\$30.00 per day

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 115, VEHICLES AND TRAFFIC / ARTICLE III,
Yield Intersections [Adopted 9-8-1982 by L.L. No. 6-1982]**

ARTICLE III, Yield Intersections [Adopted 9-8-1982 by L.L. No. 6-1982]

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 115, VEHICLES AND TRAFFIC / ARTICLE III, Yield Intersections [Adopted 9-8-1982 by L.L. No. 6-1982] / § 115-6. Yield intersections designated.

§ 115-6. Yield intersections designated.

Yield signs shall be erected at certain intersections in the Town of Esopus as follows:

Yield Sign on	Direction of Travel	At Intersection of
Soper Road	Northerly	Hardenburg Road
Soper Road	Southerly	Old Post Road

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 115, VEHICLES AND TRAFFIC / ARTICLE IV, One-Way Streets [Adopted 12-11-1985 by L.L. No. 8-1985]

ARTICLE IV, One-Way Streets [Adopted 12-11-1985 by L.L. No. 8-1985]

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 115, VEHICLES AND TRAFFIC / ARTICLE IV, One-Way Streets [Adopted 12-11-1985 by L.L. No. 8-1985] / § 115-7. One-way streets designated.

§ 115-7. One-way streets designated.

Old Route 32 is hereby designated one-way traffic from Polyphene Road north to its intersection

with Route 32; southerly traffic from Route 32 to Polyphene Road is prohibited.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 115, VEHICLES AND TRAFFIC / ARTICLE V,
Stopping, Standing and Parking [Adopted 6-11-1986 by L.L No. 2-1986]**

**ARTICLE V, Stopping, Standing and Parking [Adopted 6-11-1986 by L.L No.
2-1986]**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 115, VEHICLES AND TRAFFIC / ARTICLE V,
Stopping, Standing and Parking [Adopted 6-11-1986 by L.L No. 2-1986] / § 115-8.
Promulgation of regulations.**

§ 115-8. Promulgation of regulations.

Pursuant to the authority of § 1660, Subdivision (a)18 of the Vehicle and Traffic Law, the Town Board of the Town of Esopus may, by resolution, prohibit, regulate, restrict or limit the stopping, standing or parking of vehicles in specified areas in the Town of Esopus as local conditions may require for the public health, safety and welfare.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER**

Chapter 120, WATER

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

GENERAL REFERENCES

- Appearance tickets -- See Ch. 50.**
- Building construction -- See Ch. 56.**
- Excavations -- See Ch. 74.**
- Fees -- See Ch. 76.**
- Sewers -- See Ch. 104.**
- Subdivision of land -- See Ch. 107.**
- Zoning -- See Ch. 123.**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973]**

**ARTICLE I, General Provisions [Adopted 10-7-1959; amended in its entirety
2-14-1973]**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-1. Board of Water
Commissioners.**

§ 120-1. Board of Water Commissioners.

- A. A Board of Water Commissioners shall be constituted to be composed of five members, one of whom shall be designated as Chairman of the Board of Water Commissioners. The term of the Chairman shall be two years and that of the members four years. Appointment of the Chairman and two members shall be made by the Town Board at the organization meeting of the Town Board held in January of the year following the general town election. The Board of Water Commissioners shall serve without salary.
- B. The Board of Water Commissioners shall hold monthly meetings at a time to be designated by the Commissioners, but within one week of and prior to the regular monthly Town Board meeting. The Water Commissioners are to be held responsible to the Town Board for the general operation of the Port Ewen Water District and to prepare its annual budget and monthly reports to the Town Board. No change in the rules and regulations of the Port Ewen Water District will be made without the approval of the Town Board.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-2. Superintendent
of the Water District.**

§ 120-2. Superintendent of the Water District.

The Superintendent of the Water District shall generally act as agent for the Board of Water Commissioners in the issuance of permits, billing for service and inspection of work. All money

in payment for permits or services shall be paid to the Town Clerk at the Town Hall, Port Ewen. In the case of permits for connections, use of water for construction or the like, a receipt for any fees stipulated, signed by the Town Clerk, must be in the hands of the Superintendent of the Water District before work proceeds. The Superintendent of the Water District and the Town Clerk shall report to the Board of Water Commissioners at each regular meeting, covering work done and money received.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-3. Deposit of
receipts.**

§ 120-3. Deposit of receipts.

All money received on behalf of the Port Ewen Water District shall be deposited in the bank designated as the depository of town funds.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-4. Claims and
charges against district.**

§ 120-4. Claims and charges against district.

Claims and charges against the district shall be audited by the Board of Water Commissioners, submitted to the Town Board and paid by the Supervisor.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-5. Application and
permit. [Amended 4-16-1981 by L.L. No. 5-1981]**

§ 120-5. Application and permit. [Amended 4-16-1981 by L.L. No. 5-1981]

No person or corporation shall use the water supplied by the district for any purpose whatsoever without having first obtained a permit upon written application therefor, after having first paid the charges pertaining to the introduction of water to the premises. No permit for water will be issued until the Superintendent of the Water District receives written approval from the Building Department. All applications for introduction of water to any premises or for the use of water

shall be made upon a blank furnished by the district for such purpose and shall be signed by the owner or his or her or its duly authorized agent. Such application shall contain a statement of all uses for which water is desired. If usage beyond that stated in the application occurs, the Water Commissioners will assume that fraud was intended and may, at their discretion, bring charges of such against the applicant, and a fine may be imposed. Should it be found that the applicant misjudged the usage, the Water Commissioners are empowered to make such adjustments and changes, subject to the best interests of the Water District as a whole.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-6. Work on service
pipes to be done by authorized personnel only.**

§ 120-6. Work on service pipes to be done by authorized personnel only.

- A. No person shall make any attachment to or connection with any of the pipes or mains of the district, nor make any repairs, additions or alterations to the service pipes, except on the consumer's side of the meter, unless he is an employee of the district or a person or corporation authorized so to do by the Board of Water Commissioners. A list of persons authorized shall be on file in the office of the Town Clerk, Town Hall, Port Ewen.
- B. All persons authorized will be required to carry adequate public liability insurance coverage, specifically protecting the Water District and the Town of Esopus, in the minimum amount of \$500,000/\$1,000,000. [Amended 4-16-1981 by L.L. No. 5-1981]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-7. Application for
authorization; bond.**

§ 120-7. Application for authorization; bond.

Any person or corporation may make application to the Board of Water Commissioners for the purposes set forth in § 120-6. The application shall be accompanied by a bond in such sum as shall be fixed by the Board of Water Commissioners in a minimum amount of at least \$10,000. with one or more sureties acceptable to the Board, conditional that he, she or it will comply with these regulations, rules and ordinances, will pay to the district all fees, penalties or other charges required hereby in consequence of the work undertaken and that he, she or it will restore openings made in streets, roads, lanes and other public places and pavement thereon and therein, to the same standard of condition as before the work started, and keep and maintain the same in

such condition for a period of one year after the work has been completed and, in case of failure so to do, will pay to the proper authority in the premises the cost of putting the same in such condition, or it may be arranged with the Superintendent of Highways to complete the restoration of the opening. The Board of Water Commissioners may, in its discretion, grant or deny such application. Such permission, so given, may be revoked by the Board of Water Commissioners at any time.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-8. Tapping mains;
fee.**

§ 120-8. Tapping mains; fee.

- A. No person shall tap any main or distributing pipe or make or interfere with any connection with the water system unless under the direction of and in the presence of the Superintendent or unless he is an employee of the district or unless specific permission in each case is given by the district, nor shall any person make any alterations or additions in and about water pipes, other than on the consumer's side of the meter, unless a written permit shall have been given by the district upon written application therefor.
- B. A minimum fee of \$100 shall be made for domestic taps (3/4 inch). The Water Commissioners may charge an additional amount if the tap is larger or of an unusual nature. [Amended 1-1-1998]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-9. Street
openings.**

§ 120-9. Street openings.

- A. No street or public place shall be opened by any person for the purpose of making a connection with the mains or for laying of water pipe or fixtures unless permission shall have been granted by the authority having jurisdiction therein.
- B. The Town Superintendent of Highways for town roads, the County Superintendent of Highways for county roads and the State Regional Highway Engineer for state roads, also the local Fire Department, must be notified and necessary clearance obtained in writing.

- C. Whenever any street or public place shall have been opened for the purpose of making a connection with the mains or for the laying of water pipes or fixtures, the applicant shall have proper regard for the public safety and convenience, and said street or place shall be restored to its original condition as soon as practicable. Open trenches shall be guarded with barricades, and sufficient warning lights or flares shall be displayed at night.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-10. Service pipes.**

§ 120-10. Service pipes.

- A. Service pipes shall be laid at least four feet below the surface of the ground at all points. The curb cock shall be installed within the property line. The meter shall be installed within the building to be served, as close as practicable to the point where the service pipe enters, unless otherwise directed or permitted by the district, and shall be set with the inlet and outlet in a horizontal line with the register on top and shall be so located as to be readily accessible at all times for reading, inspection or repair. A stop valve shall be provided within the building on the inlet side of the meter. Provision shall be made to prevent hot water from reaching the meter. No red or white lead or joint compound shall be used on joints between the main and the meter. No tee or other fitting through which water can be taken will be permitted on the service pipe between the main and the meter. Meters may be set outside of buildings in underground pits only by special permission of the district, and the method of setting the meter shall conform to the directions which will be furnished by the district for each specific instance.
- B. In the event that a change in ground elevation leaves a service pipe insufficiently buried or results in the curb box projecting above the ground or being covered with earth, the consumer shall promptly lower or raise his service pipe and curb box to conform to the new ground elevation. In case the consumer fails or neglects to make such alterations promptly, the supply of water will be shut off until the alterations are completed, and a service charge of \$5 will be made to cover the labor and expense of the district. Should it be necessary for the Water District to make these necessary alterations, the resulting expense, both labor and material, shall be added to the next water bill and be paid in like manner as regular water charges.
- C. Only flared joints may be used between the main and meter spud. Mains shall be buried no more than six feet below the surface of the ground level at any point or section.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II

**GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-11. Meters.**

§ 120-11. Meters.

- A. Permanent water service shall be rendered by meter only. In order that there may be a uniformity of make and design and to give the greatest efficiency in operation and maintenance, all meters shall be of such make and type and size as, from time to time, may be approved by the Board, and shall be provided by the district.
- B. Service pipes and meters and the appurtenances thereto shall be kept in good repair and protected from the frost by the consumer at his own expense.
- C. EN(66)Where a water meter fails to register the correct quantity of water delivered through it or where it otherwise becomes out of order, notice thereof shall be given to the district. In the case of residential users, another meter will be loaned to the consumer while the original meter is not in use. Cost of repairs or necessary replacement shall be borne by the Water District if found that such breakdown is due to normal usage. Should a consumer complaint be found to be unwarranted, then, in that event, the cost of removal, inspection and replacement shall be at the consumer's expense. In such event, the minimum fee to the consumer shall be \$10. In the case of commercial or industrial users, a spool piece may be inserted to allow for repair, replacement or rebuilding of the meter. All costs for removal, shipping, testing and repair shall be borne by the user. Notice as to the accuracy of the new or rebuilt meter from a reputable meter company must be given to the Water Department at the time the meter is reinstalled. All water use charges for the period of time the meter is not working properly or is removed from service shall be determined by taking the total water consumption for the twelve-month period immediately prior to the meter malfunction or removal and dividing this total by four for quarterly charges or by 365 for daily charges. [Added 3-14-1984 by L.L. No. 2-1984]
- D. Meters supplied by the district free of charge to the consumer (residences) shall be no larger than three-fourths-inch fitting. In cases where larger meters are necessary, as in commercial use, then the consumer shall pay for the meter at the time of making application for such water service. Such charge for this meter larger than 3/4 inch shall be made to the consumer in an amount equal to the cost of the meter to the district, plus shipping costs to the Water District. [Amended 4-16-1981 by L.L. No. 5-1981]

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-12. Notice of
vacancy; abandonment.**

§ 120-12. Notice of vacancy; abandonment.

- A. In case a house or other building is to be closed or become vacant, notice thereof should be given to the district in order that the meter may be read and the curb cock closed. Where such notice is not given and pipes burst from freezing or other cause, the value of water lost by reason thereof, as estimated by the District Superintendent, together with the additional sum of \$10 to cover labor and expense to the district, shall be added to the next bill and be paid in like manner as regular water charges. If an owner's name is removed from the Water District ledger, a ten-dollar reinstallation charge will be made and collected before the water is turned on and the meter reinstalled.
- B. When, for any reason, a service line to a property is to be abandoned, the property owner shall notify the Water District immediately. The owner shall then have such service line disconnected at the main and the corporation stop shut off. The disconnection of the service line shall be done only under the supervision of the Water District.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-13. New
connections.**

§ 120-13. New connections.

- A. Where a new connection is made with street mains and where new extensions or attachments are made in unoccupied houses, the curb cock shall be closed by the person making the connection, extension or attachment. Notice of the completion of the work shall be given to the district, and the curb cock shall not again be opened until the work has been inspected and approved by the district and the meter read. Pipes and connections between the main and meter shall not be covered until so inspected and approved.
- B. No new construction shall create dead ends, unless circumstances warrant it with the permission of the Water Board.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-14. Corporation
and curb cocks.**

§ 120-14. Corporation and curb cocks.

- A. Each service shall be provided with a corporation cock, curb cock and box and service pipe from the street main to a point within the property line. The curb cock and box shall be located as designated by the Superintendent of the Water District. The service shall be installed by the property owner or his agent and maintained by the property owner.
- B. The service pipe and fittings and the meter settings shall be of a make, size and pattern determined by the Water District.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions [Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-15. Fire hydrants; water main valves.

§ 120-15. Fire hydrants; water main valves.

- A. No person or persons shall open a fire hydrant or draw water therefrom except the Superintendent of the Port Ewen Water District and persons under his direction or with his permission, except in case of fire, when the Chief of the Fire Department, his assistants, officers and members of the Fire Department shall have free and entire control of the hydrant for the purpose of extinguishing fires.
- B. No person or persons except the Superintendent and employees under his direction shall open or close any valve or gate in any water main or street pipe or in any manner interfere with or obstruct the same.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions [Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-16. Resumption of service after termination.

§ 120-16. Resumption of service after termination.

Where water has been turned off by direction of the district, it shall not be turned on without permission of the district.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions

[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-17. Charges for service. EN

§ 120-17. Charges for service. EN(67)

- A. The following charges for water service are hereby established: [Amended 7-9-1975]
 - (1) Twelve dollars minimum charge for zero to 4,000 gallons. [Amended 1-9-1980; 12-8-1993]
 - (2) Two dollars and seventy-six cents per thousand gallons for all usage beyond 4,000 gallons. [Amended 1-9-1980; 12-8-1993; 1-1-1998]
 - (3) All water supplied for the purpose of building, filling cisterns and like purposes shall be at the rate of \$0.75 per 1,000 gallons, with a two-dollar minimum.
- B. For purposes not named in the aforesaid schedule and for special circumstances, special assessments or contracts for the use of measured or estimated water may be made by the Superintendent with the approval of the Board of Water Commissioners.
- C. Meters will be read at the end of each quarter. Individuals renting and not owning properties in which they reside and who are customers of the Water District will be required to make a deposit for two quarters at the minimum rate in advance prior to obtaining water service. This deposit will be refundable when water service is terminated.
- D. It is the responsibility of the property owner or landlord to notify the Water Department of any changes of occupancy.
- E. Apartment developments or other complexes serviced with one meter shall be subject to the same rules applying to multiple dwellings in § 120-20.
- F. Buildings with sprinkler systems shall pay, in addition to charges listed above, a minimum of \$100 per year for each six-inch main and \$200 per year for each eight-inch main.
- G. The foregoing schedule of rates is subject to changes as from time to time may be adopted by the Board of Water Commissioners.
- H. All persons, firms or corporations requesting water service shall pay an initial hook-up fee to the Port Ewen Water District. [Added 6-11-1986 by L.L. No. 3-1986]
 - (1) The fee shall be set from time to time by resolution of the Town Board.
 - (2) The Port Ewen Water District shall not make or allow any connection to be made unless the owner shall simultaneously pay the hook-up fee.

- (3) The initial hook-up fees shall be deposited in a special account to be used solely for capital improvements in the Port Ewen Water District.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-18. Bills.**

§ 120-18. Bills.

Bills for water service shall become due and payable to the district, and such payment shall be paid to the Town Clerk at the Town Hall office quarterly. The bills are due when presented. A penalty of 10% shall be charged on all bills 30 days overdue. The Board of Water Commissioners may order service discontinued to consumers 60 days in arrears. If the service is discontinued for arrears in payment, the service will not be restored until the amount due for water, plus the ten-percent penalty, plus the sum of \$10 to cover the expense of discontinuance and restoration of service, is paid.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-19. Rents, charges
and penalties to be a lien.**

§ 120-19. Rents, charges and penalties to be a lien.

Water rents, charges and penalties thereon shall be a lien upon the real property on which water is used. The Water Superintendent shall prepare and file with the Supervisor a statement showing all water rents and charges, with penalties thereon, unpaid for more than 60 days. This statement shall contain a brief description of the property to which the water was supplied or upon which charges were incurred and the name of the property owner liable to pay the same, for the purpose of levying the same as a tax against the property.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-20. Separate
meters required; exception.**

§ 120-20. Separate meters required; exception.

- A. Each dwelling, house trailer or building, or part thereof having unrelated occupancy or

distinctive use, shall have a separate meter.

- B. However, where a dwelling is a multiple dwelling and the landlord supplies water to tenants, one meter shall be considered ample. It shall be at the discretion of the Water Commissioners whether such multiple dwellings shall be considered commercial and whether three-fourths-inch service is in order.^{EN(68)}

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-21. Right of entry.**

§ 120-21. Right of entry.

The Superintendent of the district or his authorized agents shall have full power to enter the premises of any consumer, at all reasonable hours, to read meters or to examine fixtures, plumbing and manner of using water.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-22. Steam boilers.**

§ 120-22. Steam boilers.

In all places where steam boilers or hot water tanks are supplied with water from the water system, the responsibility rests with the owner or consumer to see that the plumber places a suitable safety valve, vacuum valve or other proper device to prevent damage from collapse or explosion when water is shut off. The district shall not be liable for any damage resulting from sudden shutting off of the supply of water from any steam boiler or other fixture deriving its supply from the water system.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-23. Right to limit
or shut off service.**

§ 120-23. Right to limit or shut off service.

The district reserves the right to limit the amount of water furnished to any consumer should circumstances seem to warrant such action, although no limit may be stated in the application or

permit for use; or said district may entirely shut off the water supply used for any manufacturing purposes or for furnishing power or for lawn sprinkling at any time by giving reasonable notice of such intended action; or, in case of making or constructing new work or in making repairs or in an emergency, the right is reserved to shut off the water to any consumer without notice for as long a period as may be necessary.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-24. District not
liable for damage due to water pressure change.**

§ 120-24. District not liable for damage due to water pressure change.

The district shall not be liable for any damage or loss of any name or kind to property or persons which may arise from or be caused by any change, diminution in or increase of water pressure from any cause whatever.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-25. Air
conditioners.**

§ 120-25. Air conditioners.

All air-conditioning units using circulating water will be required to be so equipped that the initial supply of water may be recirculated through the unit.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-26. Service pipes;
conditions for granting of application.**

§ 120-26. Service pipes; conditions for granting of application.

- A. All service pipes, from 3/4 inch to and including two inches, between the main and the curb stop shall be domestic Type K soft copper tubing. The minimum size of service from the main to the premises shall be 3/4 inch. All services three inches and above shall be cast-iron or ductile iron pipe, cement-lined to conform to the standards of the Port Ewen Water

District for its mains.

- B. All service pipes to any premises shall be laid at least four feet below the surface of the grade lines of the street and shall extend at right angles from the street main to the inside of the curblines where a curb cock shall be attached and valve box placed.
- C. There shall be a stop and waste valve placed on every supply pipe just inside the building or collar.
- D. Every connection or service pipe must be laid with not less than six inches slack, such slack to not be more than two feet from the main, and in such a manner as to prevent rupture from settlement.
- E. No service application will be granted for any premises or property, including trailers, which is not served by approved types of sanitary facilities.
- F. In all new construction or in any renovation or repair of waterlines, an approved pressure-reducing device shall be installed. [Added 11-9-1988 by L.L. No. 15-1988^{EN(69)}]
- G. No application for water service will be granted for any premises or property which cannot comply with the foregoing provisions. The installation of so-called private waterlines is prohibited.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-27. Violation of
provisions.**

§ 120-27. Violation of provisions.

Whenever any of the provisions of these rules and regulations and this article are violated, the Board of Water Commissioners may order the Superintendent of Water to shut off the water and remove the meter. In case of leakage causing wastage of supply, the Superintendent may, in his discretion, act before consulting the Board of Water Commissioners.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions
[Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-28. Penalties for
offenses. [Amended 4-16-1981 by L.L. No. 5-1981]**

§ 120-28. Penalties for offenses. [Amended 4-16-1981 by L.L. No. 5-1981]

- A. Any violation of the rules, regulations and provisions of this article is hereby declared to be an offense, punishable by a fine not to exceed \$250 or by imprisonment not to exceed 15 days, or by both said fine and imprisonment.
- B. Any willful act whereby the said Port Ewen Water District or any property, apparatus or appliances pertaining thereto shall be injured or the supply of water obstructed, impaired or made less pure shall be deemed a violation, punishable as provided for in the first subsection of this section.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE I, General Provisions [Adopted 10-7-1959; amended in its entirety 2-14-1973] / § 120-29. Amendments; special cases.

§ 120-29. Amendments; special cases.

The right is reserved to change and amend these rules and regulations and this article to make special rates, variations and contracts in all proper cases or to turn off the water supply without notice in case of extensive repairs or other necessity without liability for damages for lack of water or for any damage which may result from the turning off of the water supply. Every effort will be made by the Water Superintendent to notify affected areas of such work, and he will use whatever means he feels the situation warrants.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE II, Drought Emergencies [Adopted 5-10-1989]

ARTICLE II, Drought Emergencies [Adopted 5-10-1989]

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE II, Drought Emergencies [Adopted 5-10-1989] / § 120-30. Stage I emergency regulations.

§ 120-30. Stage I emergency regulations.

A. No person or entity shall cause, permit or allow:

- (1) The continuing of any leak of water from any water pipe, valve, faucet, conduit, equipment, facility or device connected to the Port Ewen Water and Sewer District or which utilizes the Port Ewen Water and Sewer District on or in any premises owned, leased, managed, operated or controlled by such person or entity.
- (2) The washing of any vehicle by means of a hose, fire hydrant or other active source connected to the Port Ewen Water and Sewer District, except a commercial vehicle washing operation, if equipment has been installed and is utilized so that at least 50% of the water used is recirculated by means of a system approved by the Port Ewen Water and Sewer District.
- (3) The washing of any street, sidewalk, driveway, outdoor areaway, outdoor steps, building exterior or other structure by means of a hose, fire hydrant or other active source connected to the Port Ewen Water and Sewer District or which utilizes town water.
- (4) The use of water from any source for any ornamental purpose, including, but not limited to, use in fountains, artificial waterfalls, reflecting pools, lakes and ponds.
- (5) The use of water from the Port Ewen Water and Sewer District to water any lawn, golf course, ornamental shrub, plant or tree, except that:
 - (a) Town water may be used to water any lawn, tree, shrub, garden or golf course greens and trees only from 4:00 p.m. to 5:00 p.m. and 9:00 p.m. to 10:00 p.m.
 - (b) Town water may be used at any time to irrigate, from a hand-held container, vegetables or fruits grown for human consumption.
 - (c) Plant nurseries and other commercial users engaged in the business of growing, distributing or selling plants may use such water on their business premises for watering ornamental shrubs, plants or trees, provided that each such user reduces its use of water by 15% or such other percentage as may hereafter be prescribed for nonresidential water users.
- (6) The opening or use of any fire hydrant, or of the water therefrom, for any purpose other than fire protection, except in accordance with a permit obtained from the Water District and only for the period of and the purpose authorized by such permit and in strict adherence to all terms and conditions set forth therein.
- (7) The operation of an air-conditioning system utilizing water from the Water District in a cooling tower, unless, within 30 days from the effective date of this regulation, a separate meter is installed to continuously measure the flow of water to the cooling

tower.

- (8) The operation of any air-conditioning system in excess of two tons of rated capacity or greater or any refrigeration unit rated at 10 horsepower or greater using water from the Water District, unless such air-conditioning system or refrigeration unit is equipped with a water-recirculating device approved by the Water District.
- (9) The use of water from the Water District to fill or maintain the water level in any swimming pool, except that, provided that the pool is operated with recirculating equipment, town water may be used to fill the pool once during each calendar year and thereafter may be used as necessary to maintain the water level in such pool.

B. Water consumption reduction plans.

- (1) Each nonresidential user of water from the Port Ewen Water and Sewer District shall prepare and retain a water-consumption-reduction plan enabling it to reduce its use of water in stages of 15%, 20% and 25%, based upon its water consumption during the calendar year.
- (2) Such plans shall be designed so as to achieve and maintain the fifteen-percent reduction promptly and to achieve the twenty-percent and twenty-five-percent reductions immediately upon the declaration of a Stage II and Stage III emergency, respectively. Each such user shall promptly implement the first phase of its plan during Stage I and shall reduce its consumption by 15%. On and after 30 days from the effective date of this article, each such user shall have its water-consumption-reduction plan available at all times for inspection and copying by employees of the Water District.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE II, Drought
Emergencies [Adopted 5-10-1989] / § 120-31. Stage II emergency regulations.**

§ 120-31. Stage II emergency regulations.

If, at any time the Water Superintendent determines that the measures set forth under § 120-30 of this article have not resulted in a sufficient level of conservation in light of existing water supply conditions, a Stage II drought emergency shall be declared. Upon declaration of a Stage II emergency, in addition to those measures set forth hereinabove and in place of § 120-30A(5) through (10).

A. No person or entity shall cause, permit or allow:

- (1) The user of water from the Port Ewen Sewer and Water District to fill or maintain the

water level in any swimming pool.

- (2) The use of water from the Port Ewen Water and Sewer District to water any lawn, golf course, ornamental shrub or plant, except that town water may be used to irrigate, from a hand-held container only, vegetables or fruits grown for human consumption.
- B. Each nonresidential user of water from the Port Ewen Water and Sewer District shall fully implement its Stage II water-consumption plan and shall immediately reduce use of water by no less than 20%.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE II, Drought
Emergencies [Adopted 5-10-1989] / § 120-32. Stage III emergency regulations.**

§ 120-32. Stage III emergency regulations.

If, after the imposition of the measures set forth in § 120-31 of this article, the Water Superintendent finds that water consumption must be further reduced, a Stage III emergency shall be declared, and in addition to the measures set forth hereinabove:

- A. All nonresidential users of water from the Port Ewen Water and Sewer District shall reduce their consumption by no less than 25%.
- B. All users, both residential and nonresidential, shall install water-flow-restricting devices in all shower heads.
- C. All air-conditioning systems utilizing water from the Port Ewen Water and Sewer District shall be operated only in accordance with hourly restrictions established by the Water Superintendent.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE II, Drought
Emergencies [Adopted 5-10-1989] / § 120-33. Penalties for offenses.**

§ 120-33. Penalties for offenses.

- A. Violations of this regulation shall be punishable by fines of a minimum of \$50 and a maximum of \$250 for the first infraction, and a minimum of \$250 and a maximum of \$500 for every infraction thereafter.
- B. In addition to any penalties which may be imposed by the Town Justice, where a leak-and-waste notice has been served in accordance with Water District rules and the

condition to which such notice relates has not been corrected, a penalty of up to \$50 per day may be imposed by the Water Superintendent and added to the water rents relieved on the tax roll.

- C. Water service may be terminated for violation of any provision of this article or for any waste of water.
- D. The Water Superintendent shall be authorized to issue appearance tickets for a violation of these drought emergency rules and regulations.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE II, Drought
Emergencies [Adopted 5-10-1989] / § 120-34. Variances.**

§ 120-34. Variances.

- A. Upon the application of any person or entity, the Town Board may, at its discretion, grant a variance relieving such person or entity from compliance with any of the requirements of this article, if such person or entity demonstrates to the satisfaction of the Town Board:
 - (1) That undue hardship would otherwise result;
 - (2) That there are no possible alternatives;
 - (3) That the applicant has taken and will take all possible measures to conserve water, with a complete description of such measures and the water savings to be effected; and
 - (4) That such variance is not inconsistent with the purposes of this emergency article.
- B. In connection with any variance which may be granted, the Board shall impose such terms and conditions as it deems appropriate.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE II, Drought
Emergencies [Adopted 5-10-1989] / § 120-35. When effective.**

§ 120-35. When effective.

This article may be placed in effect at the request of the Town Superintendent and after presentation and resolution of the Town Board and shall remain in effect until modified or until the Superintendent of the town shall declare said drought emergency terminated.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE III, Cross-Connection
and Backflow Prevention [Adopted 6-13-1990 by L.L. No. 4-1990]**

**ARTICLE III, Cross-Connection and Backflow Prevention [Adopted 6-13-1990 by
L.L. No. 4-1990]**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE III, Cross-Connection
and Backflow Prevention [Adopted 6-13-1990 by L.L. No. 4-1990] / § 120-36.
Purpose.**

§ 120-36. Purpose.

The purpose of this article is to:

- A. Protect the public potable water supply of the Port Ewen Water District from the possibility of contamination by isolating within its customers' internal distribution system or its customers' private water system such contaminations or pollutants which could backflow into the public water supply system.
- B. Comply with the requirements of the New York State Sanitary Code § 5-1.31.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE III, Cross-Connection
and Backflow Prevention [Adopted 6-13-1990 by L.L. No. 4-1990] / § 120-37.
Definitions.**

§ 120-37. Definitions.

- A. For the purpose of this article, unless it is plainly evident from the context that a different meaning is intended, certain terms used herein are defined as follows:

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 watertightness. The face of the closure element and valve seat must be bronze, composition or other noncorrodible material which will seat tightly under all prevailing conditions of field use. Pins and brushings shall be of bronze or other noncorrodible, nonsticking material, machined for easy, dependable operation. The closure element (e.g., clapper) shall be internally weighted or otherwise internally equipped to promote rapid and positive closure in all sizes where this feature is obtainable.

APPROVED DOUBLE-CHECK-VALVE ASSEMBLY -- An assembly of at least two independently acting approved check valves, including tightly closing shutoff valves on each side of the check valve assembly and suitable test cocks, plus connections available for testing the watertightness of each valve.

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

APPROVED WATER SUPPLY -- Any water supply approved by or under the public health supervision of a public health agency of the State of New York, the County of Ulster or the Town of Esopus. In determining what constitutes an approved water supply, the Department of Public Health of the State of New York (herein called the "State Health Department") shall have the final judgment as to its safety and potability.

AUXILIARY WATER SUPPLY -- Any water supply on or available to the premises other than the town water supply.

CONSUMER -- Any person to whom water is sold and furnished from the Port Ewen Water District.

CONTAMINATION -- An impairment of the quality of the town water supply by the presence of any foreign substance (organic, inorganic, radiological or biological) to a degree which creates a hazard to the public health.

COUNTY HEALTH OFFICER -- The Ulster County Health Officer, his assistants or authorized

deputies acting as, or any other person appointed as, Health Officer of the County of Ulster.

CROSS-CONNECTION -- Any unprotected connection between any part of the Port Ewen Water Department's waterworks system used or intended to supply water for drinking purposes and any source or system containing water or substance that is not or cannot be approved as safe, wholesome and potable for human consumption.

NONTOXIC SUBSTANCE -- Any substance of a nonpoisonous nature that may create a moderate or minor hazard to the water supply system.

PERSON -- Any natural person, firm, association, organization, partnership, trust or association of persons, joint venture, corporation or company, and includes the United States, the State of New York, the County of Ulster, any special purpose district and any officer or agent thereof.

PREMISES -- Integrated land area, including improvements thereon, undivided by public thoroughfares or water distribution mains of the Port Ewen Water District, and where all parts of the premises are operated under the same management and for the same purpose.

PROTECTIVE DEVICE -- Any of the following devices:

- (1) Air-gap separation.
- (2) Approved reduced-pressure-principle backflow prevention device.
- (3) Approved double-check-valve assembly.

SERVICE CONNECTION -- The terminal end of a service connection from the town water supply at its point of delivery to the consumer. If a meter is installed, "service connection" means the downstream end of the meter. No unprotected takeoffs from the service line ahead of any meter or backflow-protective device located at the point of delivery to the consumer shall be permitted.

SUPERINTENDENT -- The Superintendent of the Port Ewen Water District or his authorized representative.

TOXIC SUBSTANCE -- Any substance (liquid, solid or gaseous), including raw sewage and lethal substances, that, when introduced into the water supply system, creates or may create a danger to the health and well-being of the consumer.

WATER SUPPLY -- An approved water supply sold and delivered to the consumers' premises through the waterworks system of the Port Ewen Water District.

B. "Shall" is mandatory; "may" is permissive.

GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE III, Cross-Connection and Backflow Prevention [Adopted 6-13-1990 by L.L. No. 4-1990] / § 120-38. Protection requirements.

§ 120-38. Protection requirements.

- A. Auxiliary water supply. Each service connection from the Port Ewen Water Department water supply for furnishing water to premises having an auxiliary water supply shall be protected against backflow of water from the premises into the water supply of the Port Ewen Water Department.
- (1) If the auxiliary water supply is handled in a separate piping system with no known cross-connection, the Port Ewen Water Department water supply shall be protected by an approved double-check-valve assembly installed at the service connection to the premises. When the auxiliary water supply may be contaminated, the Superintendent may order the water supply protected by an air-gap separation or an approved reduced-pressure-principle backflow prevention device installed at the service connection.
 - (2) If the auxiliary water supply is handled in a separate piping system and cross-connections are known to exist between the Port Ewen Water Department water supply and the auxiliary water supply which cannot presently be eliminated, the Port Ewen Water Department water supply shall be protected by an approved reduced-pressure-principle backflow prevention device installed at the service connection to the premises. When the auxiliary water supply may be contaminated, the Superintendent may order the Port Ewen Water Department water supply protected by an air-gap separation installed at the service connection.
- B. Toxic or hazardous substances under pressure. 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 Port Ewen Water Department water supply shall be protected by an air-gap separation. The air gap shall be located as close as practicable to the water meter, and all piping between the water meter and receiving tank shall be entirely visible. If these conditions cannot reasonably be met, the Port Ewen Water Department water supply shall be protected with an approved reduced-pressure-principle backflow prevention device which is acceptable to both the Superintendent and the County Health Officer.
- C. Toxic or hazardous substances not under pressure. At the service connection to any premise on which any material dangerous to health or toxic substance in toxic concentration is not handled under pressure but is otherwise handled in such a manner as to constitute a cross-connection, the Port Ewen Water Department water supply shall be protected by an approved reduced-pressure-principle backflow prevention device unless such

cross-connection is abated to the satisfaction of the Superintendent and approved by the County Health Officer.

- D. Nonhazardous substances. 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 Port Ewen Water Department water supply is handled in such a manner as to constitute a cross-connection, the Port Ewen Water Department water supply shall be protected by an approved double-check-valve assembly.
- E. Sewage treatment plants and pumping stations. At the service connection to any sewage treatment plant or sewage pumping station, the Port Ewen Water Department water supply shall be protected by an air-gap separation. The air gap shall be located as close as practicable to the service connection, and all piping between the service connection and receiving tank shall be entirely visible. If these conditions cannot be reasonably met, the Port Ewen Water Department water supply shall be protected with an approved reduced-pressure-principle backflow prevention device, provided that this alternative is acceptable to both the Superintendent and the County Health Officer. A final decision in this matter shall be made by the State Health Department.
- F. Fire systems. At the service connection to any premises in which a fire-protection system is installed, the Port Ewen Water Department water supply shall be protected based on the water source and arrangement of supplies in accordance with the following classifications:
 - (1) Class 1:
 - (a) Direct connection from public water mains only; no pumps, tanks or reservoirs; no physical connections from auxiliary water supplies; no antifreeze or other additives of any kind; all sprinkler drains discharging to atmosphere, dry wells or other safe outlets.
 - (b) Protection: double-check-valve assembly.
 - (2) Class 2:
 - (a) Same as Class 1, except that booster pumps may be installed in the connections from the street mains.
 - (b) Protection: double-check-valve assembly.
 - (3) Class 3:
 - (a) Direct connection from public water supply main, plus one or more of the following: elevated storage tanks; fire pumps taking suction from aboveground covered reservoirs or tanks; and pressure tanks.

(b) Protection: double-check-valve assembly.

(4) Class 4:

(a) Directly supplied from public mains similar to Classes 1 and 2 and with an auxiliary water supply on or available to the premises; or an auxiliary supply may be located within 1,700 feet of the pumper connection.

(b) Protection: air gap or reduced-pressure-principle backflow prevention device.

(5) Class 5:

(a) Directly supplied from public mains and interconnected with auxiliary supplies, such as pumps taking suction from reservoirs exposed to contamination, or rivers and ponds; driven wells; mills or other industrial water systems; or where antifreeze or other additives are used.

(b) Protection: air gap or reduced-pressure-principle backflow prevention device.

(6) Class 6:

(a) Combined industrial and fire-protection systems supplied from the public water mains only, with or without gravity storage or pump suction tanks.

(b) Protection: determined by the Superintendent upon review of engineering drawings of the system.

G. Pier and dock hydrants. At the service connection to any pier or dock hydrant used for supplying vessels at piers or waterfronts, the Port Ewen Water Department water supply shall be protected by an approved reduced-pressure-principle backflow prevention device.

H. Lawn-sprinkling systems. At the service connection to any permanently installed lawn-sprinkling system, the Port Ewen Water Department water supply shall be protected by an approved double-check-valve assembly. If the lawn-sprinkling system handles liquid fertilizers or other chemicals, the Port Ewen Water Department water supply shall be protected by an approved reduced-pressure-principle backflow prevention device.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE III, Cross-Connection
and Backflow Prevention [Adopted 6-13-1990 by L.L. No. 4-1990] / § 120-39.
Responsibility.**

§ 120-39. Responsibility.

- A. Consumer responsibility. It shall be the responsibility of each consumer, at his own expense, to furnish, install and keep in good working order and safe condition any and all protective devices required in this article. The Port Ewen Water Department shall not be responsible for any loss or damage directly or indirectly resulting from or caused by the improper or negligent installation, operation, use, repair or maintenance of, or interfering with, any protective device by any consumer or any other person.

- B. Conflicts. Whenever two or more conditions exist on any premises for the correction of which different protective devices are required in this article, the consumer shall be required only to install the protective device which, in the opinion of the Superintendent and County Health Officer, affords the maximum protection to the Port Ewen Water Department water supply.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE III, Cross-Connection
and Backflow Prevention [Adopted 6-13-1990 by L.L. No. 4-1990] / § 120-40.
Inspections; records; costs.**

§ 120-40. Inspections; records; costs.

The consumer on whose premises any protective device is installed shall have each such device inspected annually. If successive inspections disclose repeated failures in the operation of any device, the Superintendent may require more frequent inspections. Each device shall be repaired, overhauled or replaced at the expense of the consumer whenever it is found to be defective. Records of such tests, repairs and overhauls shall be kept, and a copy of such records shall be forwarded to the Superintendent on an annual basis. The Superintendent shall have the duty of determining that the inspections required herein are performed properly. If, following demand therefor, the consumer fails to have any of the inspections made as required herein or to make the above-described records available, the Superintendent shall have the right to inspect the device, and the consumer shall pay the cost thereof. The cost of any inspection made by the Superintendent shall be included as a part of the next ensuing municipal water bill presented to the consumer.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE III, Cross-Connection
and Backflow Prevention [Adopted 6-13-1990 by L.L. No. 4-1990] / § 120-41.
Compliance required; discontinuance for noncompliance; notice.**

§ 120-41. Compliance required; discontinuance for noncompliance; notice.

- A. No water service connection shall be installed on the premises of any consumer unless the Port Ewen Water Department water supply is protected as required by this article.
- B. Delivery of water to the premises of any consumer may be discontinued by the Superintendent if any protective device required by this article has not been installed, inspected, tested and maintained or is defective or has been removed or bypassed.
- C. Delivery of water shall be discontinued immediately and without notice to the consumer if the Superintendent or County Health Officer determines that the Port Ewen Water Department water supply is being contaminated or is in immediate danger of contamination, a protective device required by this article has not been installed or is defective or has been removed or bypassed and the consumer cannot immediately be located. Delivery of water shall not be resumed until any protective device required by this article and approved by the Superintendent has been properly installed or until conditions at the consumer's premises causing the contamination or danger or contamination have been abated or corrected to the satisfaction of the Superintendent and County Health Officer.
- D. Except as provided in Subsection C, delivery of water shall not be discontinued until written notice thereof has been given to the consumer.
 - (1) The notice shall state:
 - (a) The conditions or defects which must be corrected.
 - (b) The manner in which the stated conditions or defects are to be corrected.
 - (c) The date on or after which delivery of water will be discontinued, which shall not be less than 15 nor more than 90 days following the date of delivery of mailing of the notice. The Superintendent may grant the consumer an extension of an additional period not to exceed 90 days if he determines the consumer has exercised due diligence but has been unable to comply with the notice within the time originally allowed.
 - (2) The notice shall be given by delivering the same to the consumer, the manager or agent thereof or to any person in charge of or employed in the place of business of the consumer, or, if the consumer has no place of business, then at the place of residence of the consumer, if known, or by leaving the notice at either the place of business or the residence of the consumer or by mailing a copy of the same to the consumer's last known address. If the consumer cannot be found, service of the notice shall be mailed, certified mail, return receipt requested, postage fully prepared, addressed to the consumer at the place of business or residence set forth in the application of the consumer for water service in the records of the Port Ewen Water Department.
- E. Once discontinued, delivery of water shall not be resumed until any protection device

required by this article and approved by the Superintendent has been properly installed or until the conditions at the consumer's premises creating the need for a protective device have been abated or corrected to the satisfaction of the Superintendent and the County Health Officer.

- F. For the purpose of making any inspections or discharging the duties imposed by this article, the Superintendent and County Health Officer shall have the right to enter upon the premises of any consumer. Each consumer, as a condition of the continued delivery to his premises of water from the Port Ewen Water Department water supply, shall be considered as having stated his consent to the entry upon his premises of the Superintendent and County Health Officer for the purposes stated herein.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 120, WATER / ARTICLE III, Cross-Connection
and Backflow Prevention [Adopted 6-13-1990 by L.L. No. 4-1990] / § 120-42.
Existing devices.**

§ 120-42. Existing devices.

All presently installed prevention devices which do not meet the requirements of this section but were approved devices for the purposes described herein at the time of installation and which have been properly maintained shall, except for the inspection and maintenance requirements under § 120-40, be excluded from the requirements of these rules so long as the Superintendent is assured that they will satisfactorily protect the Port Ewen Water Department's water supply. Whenever the existing device is moved from the present location or requires more than minimum maintenance which constitutes a hazard to health, the unit shall be replaced by a backflow prevention device meeting the requirements of this article.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING**

Chapter 123, ZONING

[HISTORY: Adopted by the Town Board of the Town of Esopus 1-11-1995 by L.L. No. 1-1995. This local law also superseded former Ch. 123, Zoning, adopted 8-20-1980 by L.L. No. 19-1980. Amendments noted where applicable.]

GENERAL REFERENCES

Environmental Board -- See Ch. 9.

- Planning Board -- See Ch. 34.
- Waterfront Advisory Board -- See Ch. 43.
- Appearance tickets -- See Ch. 50.
- Blasting -- See Ch. 54.
- Building construction -- See Ch. 56.
- Unsafe buildings -- See Ch. 59.
- Compensation for planning and zoning review costs -- See Ch. 71.
- Fire prevention -- See Ch. 77.
- Flood damage prevention -- See Ch. 80.
- Subdivision of land -- See Ch. 107.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE I, Scope and
Purposes**

ARTICLE I, Scope and Purposes

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE I, Scope and
Purposes / § 123-1. Scope.**

§ 123-1. Scope.

This Zoning chapter, hereby enacted for the Town of Esopus, New York, shall regulate or restrict the height and size of buildings, the percentage of a lot that may be occupied, the size of yards, courts and open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes as empowered by § 261 of the Town Law of the Consolidated Laws of the State of New York. In order to accomplish the purpose of this chapter and to further the comprehensive plan for the entire town, the Town shall be divided into several districts, the regulations of which shall be administered uniformly within each district.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE I, Scope and
Purposes / § 123-2. Purposes.**

§ 123-2. Purposes.

This Zoning chapter is created in accordance with and as a means of effectuating a comprehensive plan for protecting and promoting public health, safety, comfort, convenience,

economy and general welfare. Specifically, this chapter is intended to carry out the following goals, among others:

- A. To promote the use of land for its most appropriate, reasonable and beneficial purposes.
- B. To promote and protect the character, rights and stability of established residences and businesses.
- C. To enhance the value of land and conserve the value of buildings.
- D. To enhance the physical environment of the Town and preserve its natural, scenic and cultural resources.
- E. To improve design and adequacy of transportation facilities, traffic circulation and parking and loading facilities.
- F. To prevent excessively dense and inefficiently spaced development.
- G. To provide adequate light and air to all buildings and to prevent overcrowding of structures.
- H. To assure privacy for residences.
- I. To facilitate the proper administration and appropriate and effective enforcement of this chapter.
- J. To separate and cluster uses to their mutual advantage and to encourage flexibility in design and land use patterns so that development is most appropriate with respect to the characteristics of the land.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE I, Scope and
Purposes / § 123-3. Effect on other provisions.**

§ 123-3. Effect on other provisions.

This chapter is not intended to abrogate, render invalid or interfere with the application and administration of any other lawful statute, ordinance, regulation, easement, private agreement, covenant, deed restriction or other legal relationship, public or private. Wherever any lawful statute, ordinance, regulation, easement, private agreement, covenant, deed restriction or other legal relationship, public or private, imposes controls which are inconsistent with any provisions of this chapter, then those provisions which are the most restrictive or impose higher standards shall take precedence.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE II, Enacting Clause;
Short Title**

ARTICLE II, Enacting Clause; Short Title

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE II, Enacting Clause;
Short Title / § 123-4. Enacting clause.**

§ 123-4. Enacting clause.

The Town Board of the Town of Esopus in Ulster County, New York, acting under the authority of the Municipal Home Rule Law of the State of New York, hereby adopts and enacts this chapter as the Comprehensive Zoning Law of the Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE II, Enacting Clause;
Short Title / § 123-5. Short title.**

§ 123-5. Short title.

This chapter shall be known and may be cited and referred to as the "Town of Esopus Zoning Law."

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE III, Establishment of
Districts**

ARTICLE III, Establishment of Districts

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE III, Establishment of
Districts / § 123-6. Zoning district purposes.**

§ 123-6. Zoning district purposes.

In order to fulfill the purpose of this chapter, the Town of Esopus establishes and is hereby divided into the following zoning districts for the intent indicated. The specific uses permitted in each district are listed in § 123-10, Schedule of District Use Regulations.

- A. RF-1 Riverfront District. The Riverfront Estate District has been established to preserve the unique character of the area located between the Hudson River shoreline and Route 9W in the central area of the town's waterfront, which consists of large undeveloped tracts and private and institutional estates. This low-density area has scenic and cultural values for not only the town, but also the mid-Hudson Region. Single-family homes may be developed at a density of one unit for each five acres. However, the regulations provide opportunities to preserve open space by clustering development and to preserve large, existing landmark structures by allowing their use for purposes appropriate to the structure and the purposes of the district, such as corporate offices, inns and conference centers.
- B. RF-2 Riverfront District. The Riverfront District has been established to regulate development in low-density areas adjacent to the Hudson River which are already developed at a low density or which are visible from the water but do not have direct river frontage. This district is intended to complement the RF-1 District; the density allowed for single-family homes is one for each 2.5 acres. Clustered development is allowed to preserve open space but, since there are few large landmark structures, the range of nonresidential uses is limited.
- C. R-40 Residential District. The R-40 Residential District includes most of those areas of the Town which are generally not served by central sewer or water systems and exclude the denser hamlets in town. The regulations of this district will permit development at a suburban density of one family per acre, where possible.
- D. R-12 Moderate Density/Hamlet Residential District. The Moderate Density/Hamlet Residential District has been established to regulate development in two distinct categories of town: the areas in and around Port Ewen developed within the water and sewer districts and the rural hamlet areas in the southern part of Town which were developed at a higher density than the surrounding area but which lack central utilities. To reflect the varied utility services in this district, development density is based on a sliding scale, geared to the availability of central water and/or sewer service, ranging from 1/3 of an acre to one acre per dwelling unit. Two-family homes are also permitted and multifamily housing is permitted under certain conditions.
- E. NC Neighborhood Commercial District. The Neighborhood Commercial District has been designated to include businesses which provide goods and services for residents of the

surrounding neighborhood. The districts are located primarily in the rural hamlets of the Town which do not have other nearby shopping areas. The businesses permitted are limited to those of a convenience nature and subject to standards to ensure that surrounding residential areas will not be adversely effected.

- F. BC Broadway Commercial District. The Broadway Commercial District has been delineated to recognize the unique character of the established business area in the center of Port Ewen. Unlike any other business district in town, businesses in this area have developed on small lots with little or no setbacks or on-site parking and are served by central water and sewer systems. The district regulations have been established to maintain this higher density, pedestrian scale business area.
- G. GC General Commercial District. The General Commercial District has been established to include a wide range of business uses on the town's major highways, primarily Route 9W, which serve not only Town residents but also through traffic and visitors as well. The development standards are intended to provide adequate parking, separation of access drives and protection to adjacent residential areas.
- H. LI Light Industrial District. The Light Industrial District has been established to regulate the development of office, storage, research and light manufacturing (such as assembly or finishing, but excluding chemical or heat transformation) at a low density and lot coverage, with ample buffers, so as to provide employment opportunities while protecting the residential environment.
- I. HI Heavy Industrial District. The Heavy Industrial District has been established to regulate the industries which process or extract raw materials or engage in manufacturing using chemicals, heat or similar processes to transform materials. Such uses require large sites, ample buffers and performance standards to ensure that activities do not have effects beyond the site.
- J. W Waterfront District. The Waterfront District has been established to regulate the areas on the Rondout Creek which are the historic location of water-dependent commercial activities, such as boatyards, marinas and uses dependent on transportation of goods by water. Since suitable sites for such uses are limited, other nonwater-dependent uses are precluded except for accessory uses.
- K. WR Waterfront Recreation District. The Waterfront Recreation District includes those areas along the Rondout Creek and Hudson River which are suitable for water-dependent recreation uses, such as parks, boat launches and marinas, but due to their sensitive environmental resources, cannot support more intensive types of uses.
- L. MH Mobile Home Overlay District. The Mobile Home Overlay District has been established to designate the areas in which mobile homes and mobile home parks are permitted. As an

overlay district, all other regulations of the underlying district also apply.

- M. Rt. 9W Overlay District. The Rt. 9W Overlay District has been created to regulate expanded opportunities for commercial development along the Rt. 9W corridor by establishing additional standards and review procedures to protect residential uses, maintain traffic safety and preserve the scenic and historic settings in this area. (See § 123-17.)
- N. PUD Planned Unit Development District. The PUD District provides the opportunity for development of large, mixed use, self-contained developments upon approval of specific proposals by the Town Board. (See § 123-52.)

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE III, Establishment of
Districts / § 123-7. Official zoning map.**

§ 123-7. Official zoning map.

The location and boundaries of the zoning districts established in § 123-6 are shown on the map entitled "Official Zoning Map of the Town of Esopus." Said Map, together with everything shown thereon and all amendments thereto, is hereby adopted by reference and accompanies and is declared to be an appurtenant part of this chapter. Said Map indicating the latest amendments shall be kept up-to-date in the office of the Town Clerk for the use and benefit of the general public.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE III, Establishment of
Districts / § 123-8. Interpretation of district boundaries.**

§ 123-8. Interpretation of district boundaries.

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

- A. Along center lines and right-of-way lines. Where district boundaries are indicated as approximately following the center lines or right-of-way lines of streets, highways or public utility easements, said boundaries shall be construed to be coincident with such lines. Said boundaries shall be deemed to be moved automatically if a center-line or right-of-way line of such street, highway or public utility easement is moved a maximum of 20 feet.
- B. Along lot or boundary lines. Where district boundaries are indicated as approximately following the Town boundary line, property lines, lot lines or projections thereof, said

boundaries shall be construed to be coincident with such lines or projections thereof.

- C. Parallel to lot or boundary lines. Where district boundaries are so indicated that they are approximately parallel to the Town boundary line, street lines, property lines, lot lines or center lines of public utility easements, lands or structures or projections thereof, said boundaries shall be construed as being parallel thereto and at such distances therefrom as are indicated on the Zoning Map or as shall be determined by the use of the scale shown on the Zoning Map.
- D. Watercourses. Where district boundaries are indicated as following a river or stream, said boundaries shall be construed to be coincident with the center line of such river or stream, and said boundaries shall be deemed to be automatically moved if the main channels of such streams or rivers are moved by natural or artificial means up to a maximum of 50 feet.
- E. Existing physical markers. Where a street, highway, railroad or public utility easement center line or right-of-way line is coincident with a zoning boundary line and varies from the actual on-the-ground physical monument or mark, then such on-the-ground physical monument or mark shall determine said zoning boundary.
- F. Lots divided by zoning district lines. Where a lot is divided by a district boundary line, the regulations for each respective district shall apply, except that, where a district boundary line is located not farther than 50 feet away from a lot line of record, the regulations applicable to the greater part of the lot shall be deemed to apply to the entire lot.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE III, Establishment of
Districts / § 123-9. Effect of establishment of districts.**

§ 123-9. Effect of establishment of districts.

Following the effective date of this chapter:

- A. No building shall be erected, moved, altered, rebuilt or enlarged, nor shall any land or building be used, designed or arranged to be used for any purpose or in any manner except in conformity with all regulations, requirements and/or restrictions specified in this chapter for the district in which such building or land is located.
- B. No yard or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot.
- C. No lot shall be formed from part of a lot already occupied by a building unless such building, all yards and open spaces connected therewith and the remaining lot comply with all

requirements prescribed by this chapter for the district in which said lot is located. No permit shall be issued for the erection of a building on any new lot thus created, unless such building and lot comply with all the provisions of this chapter.

D. Plans approved prior to adoption.

(1) Nothing contained in this chapter shall require any change in the plans, construction or designated use of land or buildings complying with and approved in accord with existing law, in the following cases: (1) A building permit or certificate of occupancy shall have been duly issued prior to the effective date of this chapter and have not expired or been revoked and the entire building shall be completed in accordance with such plans as have been filed within one year from the effective date of this chapter; or (2) A site plan, a conditional use permit or a PUD designation shall have been approved prior to the effective date of this chapter and shall remain valid at the time of passage of this chapter.

(2) See also § 123-36, Exemption of lots on approved subdivision plats.

E. Any uses not specifically permitted herein shall be deemed to be prohibited. Any list of prohibited uses contained in any section of this chapter shall not be deemed to be an exhaustive list, but to have been included for the purposes of clarity and emphasis and to illustrate, by example, some of the uses frequently proposed that are deemed undesirable and incompatible in the particular district.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE IV, Regulations and
Standards Governing Use**

ARTICLE IV, Regulations and Standards Governing Use

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE IV, Regulations and
Standards Governing Use / § 123-10. Schedule of District Use Regulations.**

§ 123-10. Schedule of District Use Regulations.

A. The attached Schedule of District Use Regulations is hereby incorporated into and made part of these zoning regulations and shall be referred to as the "Use Schedule."^{EN(70)} The general purpose of each district is set forth in § 123-6.

- B. The Use Schedule is based on the categories and terminology used in the Standard Industrial Classification (SIC) Manual published by the Federal Office of Management and Budget (1987 Edition). In the case of a question or interpretation as to the classification of a particular use, the definitions and categories used in the SIC Manual shall prevail, unless otherwise specifically defined in § 123-61 of this chapter, in which case the use is noted with an asterisk (*).
- C. If the same use regulations apply to all activities falling within a general heading, then only that heading and its two-digit SIC Group Code is listed. If the use regulations are different for specific uses within a general category, then the more specific activities with their respective three or four digit codes are listed. "NI" indicates "not included" and precedes an activity if that particular activity requires different regulations than those for the group within which it belongs. "Except" indicates that a specific activity within a larger group of permitted uses is prohibited. Economic activities not shown on this use schedule are also prohibited.
- D. The Use Schedule is organized by the following major categories:
 - (1) A: Residential.
 - (2) B: Agricultural, extractive and building trades.
 - (3) C: Manufacturing.
 - (4) D: Transportation and utilities.
 - (5) E: Wholesale and retail trade.
 - (6) F: Financial, insurance and real estate services.
 - (7) G: Professional, personal and business services and public administration.
 - (8) H: Accessory uses.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE IV, Regulations and
Standards Governing Use / § 123-11. Supplementary regulations on use.**

§ 123-11. Supplementary regulations on use.

- A. Principal buildings per lot. No more than one one- or two-family dwelling may be placed on a lot in any district where such use is permitted.
- B. Home occupations. Any person may conduct one or more businesses, trades or professions

from his residence, as an accessory use, in accord with the following standards:

- (1) There shall be no permanent indication of a home occupation from any adjacent property or street. One freestanding sign not exceeding six square feet per face in area and one wall sign not exceeding four square feet shall be permitted for any property. Such signs shall not be illuminated, and a freestanding sign may not exceed a height of four feet.
 - (2) Home occupations shall be conducted only within the principal building on the lot and/or an accessory structure. [See § 123-21C(5).]
 - (3) The total floor area designed for and allotted to all home occupations shall not exceed 40% of the ground floor area of the principal building on the site.
 - (4) No more than two persons who are not residents of the dwelling unit shall be employed in the home occupations.
 - (5) Materials or equipment used in the home occupations shall not be stored or displayed outside the dwelling or permitted accessory structure, except if such storage is screened from the view of adjacent properties and streets.
 - (6) Parking spaces shall be provided for home occupations, in addition to those required for the principal residential use. Such spaces may be provided in the driveway but not elsewhere in any required front yard. Parking lots for more than five cars shall be screened from the view of adjacent properties. Parking on a public street shall not be considered as satisfying this requirement.
 - (7) The home occupation shall not result in traffic, noise, vibration, odor, fumes, dust, smoke, glare, radiation or interference with radio or television reception beyond that normally generated by permitted uses in the same zoning district.
- C. Agricultural uses and riding stables. The following provisions shall apply only to agricultural uses and accessory uses thereto, including irrigation, where plants or animals are produced, kept or maintained for sale or lease, provided that there shall be no storage of manure or other odor- or dust-producing substance or use, except spraying and dusting to protect vegetation, within 150 feet of any street or lot line:
- (1) The raising (storage and packaging) of field and garden crops, truck gardens, the maintenance of vineyard and orchard farming and nursery or commercial greenhouses. The seasonal sale of agricultural products is subject to the requirements of § 123-11E.
 - (2) The keeping, breeding and raising of cattle (including dairies), sheep, goats, pigs and horses and rental of horses shall conform to the following special requirements:

- (a) A maximum of two such domestic animals per acre shall be allowed on lots of over one and under 10 acres. There shall be no stable, similar animal housing or confining areas closer than 50 feet to all street or lot lines for lots under five acres and closer than 150 feet to all street or lot lines for lots over five and under 10 acres.
 - (b) On lots over 10 acres and on said lots where there exist over 100 such domestic animals, there shall be no stable, similar animal housing or confining areas closer than 750 feet to the nearest residence building on an adjoining lot. In no instance shall the minimum distance from any street or lot line be less than 150 feet.
- (3) The keeping, breeding and raising of fowl shall conform to the following special requirements:
- (a) A maximum of 24 fowl per acre shall be allowed on lots of over one and under five acres, with high-density confining shelters prohibited.
 - (b) A maximum of 30,000 fowl shall be allowed on lots of over five and under 10 acres, with high-density confining shelters for fowl permitted with dry litter disposal operation only and with temporary storage of waste permitted for periods not to exceed 30 days.
 - (c) High-density confining shelters for fowl on lots of 10 acres or more shall be permitted, with dry litter disposal operations, and all buildings containing fowl or litter shall be not closer than 150 feet to any street or lot line. Wet litter disposal operations are permitted subject to the following special requirements:
 - [1] All buildings containing fowl or litter shall be no closer than 150 feet from all street or lot lines and no closer than 750 feet from the nearest residence building on an adjacent lot.
 - [2] The disposal of litter on the property shall not exceed 20 tons per acre per year, and not more than two applications for such operations shall be granted annually.
 - [3] The storage area of the liquid storage tanks shall be no smaller than the floor area of the confine.
 - [4] The liquid storage tanks shall be at least six feet deep.
 - [5] Sludge or other products produced by the operation must be stored in a tank or suitable container until removed.
- (4) Barns, silos, storage buildings and other related structures accessory to any aforementioned use.

- D. Crafts uses. Certain uses which may be included as manufacturing uses in SIC Groups 23, 25, 31, 322, 323, 326, 328, 391, 393, 394 and 396 are permitted in NC, GC and BC Districts. The intent of this provision is to permit the establishment of craft shops, including, but not limited to, furniture making, pottery and glass making, leather crafting, jewelry making and similar uses. Such uses are permitted subject to the following conditions:
- (1) At least 25% of the goods produced on the premises are available for retail sale on the premises in space designed for display and sale of goods.
 - (2) No more than five persons whose primary function is the manufacture of goods are employed.
 - (3) The use does not generate noise, vibration, light, glare, smoke or similar emissions beyond those normally associated with retail use.
 - (4) There is no external storage or display of unfinished goods or raw materials.
- E. Roadside farm stands. When located in a residential district, roadside farm stands shall comply with the following standards. In all districts, the bulk, area and parking standards of the district shall apply.
- (1) At least five off-street parking spaces shall be provided.
 - (2) Ingress to and egress from such use shall be so arranged as to provide minimum interference with through traffic on the street.
 - (3) The gross floor area under a roof shall not exceed 2,000 square feet and at least 20% of the products for sale shall be grown on the premises or other premises owned by the operator.
- F. Logging operations.
- (1) Applicability. The provisions of this section shall apply to all parcels of three or more acres on which logging operations are proposed, whether on one lot to be harvested or two or more contiguous lots. Persons or corporations permitted to undertake logging operations shall only be those on the current list of cooperating timber harvesters, as maintained by the New York State Department of Environmental Conservation, or the property owner if undertaking the logging himself without paid employees.
 - (2) Exemptions. These provisions shall not apply to the following:
 - (a) Harvesting of trees and firewood for the personal use of the property owner on the same site.
 - (b) Reasonable site clearing preparatory to construction of a building for which a

building permit has been issued or a site plan or subdivision plat approved.

- (c) Clearing of land for rights-of-way for utilities.
 - (d) Clearing and maintenance of land for agricultural purposes.
 - (e) Harvesting of Christmas trees.
 - (f) Any other removal of timber from a lot in quantities of less than 20 standard cords of wood, 2,000 cubic feet or 10,000 board feet, as measured by the international one-fourth-inch log rule, within any given calendar year.
- (3) Properties in state programs exempted. Lands anywhere in the Town which are enrolled under § 480-a of the New York State Real Property Tax Law, are exempted from these provisions, provided that:
- (a) A copy of a valid certificate of approval of enrollment in § 480-a is presented to the Zoning Enforcement Officer or the Logging Inspector, if one is designated by the Town Board, prior to the commencement of any commercial logging operations.
 - (b) A copy of the renewal forms certifying continued enrollment of a parcel in the § 480-a program is filed annually in years of active logging with the Zoning Enforcement Officer.
 - (c) A copy of file maps and management plan from § 480-a is submitted in conjunction with a certificate of approval.
 - (d) The standards below, pertaining to buffers and hours of operations, are complied with in full, irrespective of the requirements of § 480-a.
- (4) Submission procedure.
- (a) The Zoning Enforcement Officer shall issue the applicant a copy of Timber Harvesting Guidelines for New York and model logging contract as published by the New York State Department of Environmental Conservation and other relevant information.
 - (b) The applicant or his representative shall submit the following information to the Zoning Enforcement Officer in a form established by the Zoning Enforcement Officer:
 - [1] The name and address of the property owner and the logger.
 - [2] The date on which logging is proposed to begin.
 - [3] A copy of the most recent tax map indicating the boundaries of the property to

be logged.

- [4] A management plan and necessary agreements as described in Subsection F(5) and (6) below.
 - [5] If the applicant is not the property owner, an authorization signed by the property owner authorizing the applicant to act on his or her behalf and acknowledging receipt of the materials set forth in Subsection F(4)(a) above.
- (c) The Zoning Enforcement Officer shall identify the owners of all property adjacent to the proposed logging operation from the most recent tax rolls and cause a notice to be mailed, by certified mail (return receipt requested), to each such property owner at least 20 days prior to the first date on which logging is proposed to begin. Such notice shall include the items provided for in Subsection F(4)(b)[1], [2] and [3] above.
- (d) Upon approval of the management plan and proof that all surety and insurance [as set forth in Subsection F(6), (8) and (12) below] has been provided, the Zoning Enforcement Officer shall issue a logging permit.
- (5) Management plan.
- (a) A commercial forest management plan shall be submitted that shows the following information and that is consistent with the Timber Harvesting Guidelines for New York or with Section 11 of the Timber Harvesting Standards of New York State Forest Practice Board's Recommended Model Timber Harvesting Ordinance:
 - [1] Land area of the site to be logged.
 - [2] Location of the site on a tax map, a USGS topographic map and a USDA soils survey map.
 - [3] Approximate existing number of trees.
 - [4] Approximate number of trees to be harvested.
 - [5] Location of streams, water bodies and wetlands on the site and the impact of logging activities upon these features.
 - [6] Identification of specific soil types and slopes present on the site and of erosion and stormwater control measures to be implemented.
 - [7] Maintenance and repair of public roads.
 - [8] Clearly defined and marked property lines and establishment of buffer zones to

ensure that logging operations will not extend beyond the property line.

[9] Cleanup and reclamation plans.

[10] The location of major skid roads and loading areas.

[11] A time schedule for all of the above activities.

- (b) The Zoning Enforcement Officer may engage a forestry consultant from the list of Cooperative Consultant Foresters, as maintained by the New York State Department of Environmental Conservation, to review the commercial logging proposal.
- (6) Necessary agreements. Prior to final approval, the applicant shall present to the Zoning Enforcement Officer a copy of a signed contract between the logger and property owner(s), which shall include a performance bond or other form of surety to ensure proper cleanup and implementation of the forest management plan and to ensure consistency with the Timber Harvesting Guidelines for New York, or Section 11 of the Timber Harvesting Standards of New York State Forest Practice Board's Recommended Model Timber Harvesting Ordinance. However, any financial arrangements between the logger and the property owner(s) may be deleted from the copy of the signed contract submitted.
- (7) State regulations. All regulations promulgated by the New York State Department of Environmental Conservation shall be strictly adhered to, and all required stream or wetland disturbance permits shall be secured and in effect before the commencement of logging.
- (8) Access.
 - (a) Where a proposed commercial logging operation is to use or develop an access onto a Town highway, such proposal shall be referred to the Town Highway Superintendent, who shall approve such access, subject to the following conditions:
 - [1] Proper posting of site entrance and exit signs including "truck entrance" signs.
 - [2] No skidding of timber shall be permitted across Town highways as part of the logging operation at any time.
 - [3] The Town highway shall be cleared of dirt, mud and vegetation debris on a daily basis to the satisfaction of the Town Highway Superintendent.
 - [4] The logging contractor or operator shall be held responsible for any damage to the pavement, shoulder or drainage facilities of a Town highway, and the Town Highway Superintendent shall inspect the logging operation on a frequent basis

to determine if such damage has occurred.

[5] A cash bond, letter of credit, certified check or other form of financial surety in an amount recommended by the Highway Superintendent (but not less than \$2,500) shall be provided, payable to the Town for each logging operation or loading area location. The loading area shall consist of not more than 100 linear feet adjacent to one side of a Town highway. The requirement of providing financial surety may be waived only upon a written determination by the Town Highway Superintendent that such surety is not necessary.

[6] The Highway Superintendent may issue any appropriate directive to prevent or repair damage to any Town road or bridge, caused by the logging operation.

(b) Logging operations having access onto a state highway or county road shall have the access reviewed and approved by either the State Department of Transportation or the County Department of Public Works, and such access shall adhere to the conditions, including performance bonds, that these agencies may require.

(9) Buffers.

(a) No logging shall take place within 50 feet of any street line or 75 feet from any pavement center line of any public street in the town.

(b) All logging operations shall generally be located no closer than 50 feet from any property line, except to clean out dead or downed trees at the direction of the Highway Superintendent. A "logging operation" shall include the terms "landing," "logging debris" and "logging operation" as defined in Section 2 of the New York State Forest Practice Board's Recommended Model Timber Harvesting Ordinance.

(c) An off-street parking area for logging equipment and other vehicles shall be located on the logging site and no closer than 50 feet to any street line.

(10) Hours of operation.

(a) No logging operations shall take place between 7:00 p.m. and 7:00 a.m. local time.

(b) Because of narrow roads and potential conflicts with school bus operations, the Highway Superintendent may recommend alternate hours during which logs may be transported over the public highway system.

(11) Site cleanup.

(a) All debris resulting from logging operations, within 50 feet of the highway, shall be cleaned and removed by the applicant, the forester and/or the logger.

(b) No equipment shall be abandoned, nor shall any solid or liquid waste be dumped or otherwise deposited on the site under the penalty of forfeiture of surety.

(12) Insurance and liability. The applicant of any logging operation shall file a certificate of insurance with the Town Clerk, naming the Town as the co-insured or additional insured party. The liability shall hold the Town harmless in any logging operation and shall be in an amount determined by the Town Board and shall include attorney's and other legal fees.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE IV, Regulations and
Standards Governing Use / § 123-12. Billboards.**

§ 123-12. Billboards.

Billboards are prohibited in any zoning district in the Town of Esopus, following the date of enactment of this chapter, except that a billboard erected prior to enactment of this chapter may remain in place and may be relettered, painted or maintained. A billboard shall not be enlarged and, once removed, shall be deemed permanently removed and may not be replaced.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE IV, Regulations and
Standards Governing Use / § 123-13. Uses requiring conditional use permits.**

§ 123-13. Uses requiring conditional use permits.

The uses set forth below shall satisfy the following criteria, in the districts where such a permit may apply, in addition to the criteria set forth in § 123-46 and the relevant standards of the Area and Bulk Schedule.^{EN(71)}

A. Two-family dwellings.

- (1) Lot area. A two-family dwelling, where permitted, shall be situated on a lot with an area at least 1.5 times the minimum lot area required for a single-family home in the same district.
- (2) Two-family dwellings shall be permitted in the R-40 District only by conversion of an existing residential structure.

B. Multifamily dwellings.

- (1) Applicability.
 - (a) These regulations shall apply to the following:
 - [1] New construction of multifamily dwellings.
 - [2] Conversion of any existing residential structure into a multifamily dwelling having three or more dwelling units.
 - [3] Conversion of any existing nonresidential structure into a multifamily dwelling.
 - (b) Multifamily dwellings in the RF-1 and RF-2 Districts are only permitted in accord with the provisions of §§ 123-13R and S.
- (2) Area and density.
 - (a) A multifamily dwelling shall be located on a lot of at least two acres or a lot of the minimum size of the district in which it is located, whichever is greater.
 - (b) Multifamily apartment and townhouse dwellings shall comply with the minimum lot area per dwelling unit for the district in which they are located. For purposes of this section, dwelling units shall be computed using the following equivalents:
 - [1] Efficiency apartment: 0.4.
 - [2] One-bedroom apartment: 0.5.
 - [3] Two-bedroom apartment: 0.7.
 - [4] Three-bedroom apartment: 1.0.
 - [5] Four-or-more bedroom apartment: 1.2.
 - (c) Multifamily dwellings over four units per lot must be served by municipal sewer and water systems.
- (3) Traffic and parking.
 - (a) Off-street parking shall be provided on the same lot in accordance with § 123-24 of this chapter.
 - (b) Off-street parking for multifamily dwellings shall not be located in a front yard or any other yard abutting a street, except in a driveway, and shall be screened from adjacent properties by a fence, wall or vegetative buffer of at least six feet in height.
 - (c) Vehicular entrances and exits shall be clearly visible from the street and at least 75 feet from any street intersection. Two access points onto a street, separated by at

least 200 feet, shall be provided for any multifamily development of over 50 dwelling units.

- (d) Traffic generated by multifamily dwellings shall not add undue traffic volumes onto minor or local streets serving single-family residential areas.
- (4) Bulk and screening requirements.
 - (a) Multifamily dwellings shall comply with the minimum front yard, side yard, rear yard, coverage and maximum height requirements specified in § 123-20 of this chapter.
 - (b) No building shall exceed 200 feet in length.
 - (c) Maximum land coverage shall be 20%.
- (5) Recreation areas. For multifamily dwellings of over four units, there shall be located on the same lot, a recreation area suitable in size and facilities to meet the needs of the future residents.
- (6) Accessory signs. Signs accessory to a multifamily dwelling development are permitted.
- (7) Mix of housing types. Any given development of multifamily dwellings or any building located in such a development may contain a combination of townhouse and apartment style dwellings, provided that all requirements of this section are satisfied.

C. Commercial kennels and veterinarians.

- (1) Commercial kennels.
 - (a) Minimum site area. Commercial boarding or breeding kennels must be located on a lot having at least 10 acres.
 - (b) Density of animals. Commercial boarding and breeding kennels shall provide a total of 100 square feet of enclosure for each animal. No less than 30% of the enclosure area shall consist of protected indoor space.
 - (c) Setbacks. All buildings housing animals, pens, runs and structures shall be located no closer than 300 feet from any lot or street line and shall also be located no closer than 500 feet from any residential dwelling that is located off the site.
 - (d) Noise and quiet hours. All dogs and other animals which present a potential nuisance by barking or other noises shall be contained within buildings between the hours of 8:00 p.m. and 8:00 a.m., local time, each day, so that such noise is not discernible beyond 100 feet of the building.

- (e) Sanitary and veterinary review. In all instances, all animals shall be adequately housed, fed, controlled, fenced, inoculated and otherwise maintained in a sanitary and safe manner so as not to create a nuisance, health or safety hazard to nearby properties, property owners or inhabitants of the neighborhood or the dogs themselves. The Planning Board may require that a conditional use permit for a kennel be reviewed annually, and may additionally require an inspection, at the owner's expense, of the premises by a licensed veterinarian, who shall prepare and submit to the Planning Board his observations on the operation of the kennel.
 - (f) Limitations. The conditional use permit for a kennel shall apply to the entire property on which it is situated. If any part of the site property is subdivided or sold, the conditional use permit for the kennel shall become null and void.
- (2) Veterinarians. A veterinarian's office or animal hospital shall not be subject to the requirements for commercial kennels set forth above so long as:
- (a) No runs, pens or similar enclosures are located outside the structure.
 - (b) Only animals receiving or recovering from medical care are housed on the premises.
- D. Accessory apartments. Apartments accessory to the principal permitted use of a building are permitted in all districts, subject to the issuance of a special permit and the regulations and standards set forth below. It is the intent of this provision to allow more efficient use of existing buildings and to expand rental housing opportunities in the town, particularly for small families. In furtherance of this objective, a second dwelling unit is permitted in an existing residential building or a dwelling unit in a former residential building now used for nonresidential purposes, subject to the following conditions, without an increase in lot area.
- (1) Size and location of structure. An accessory apartment shall be located in the principal dwelling, provided that such principal building contains a minimum of 1,500 square feet of habitable space, or in a permitted accessory structure. Such building or structure must have existed at the date of first enactment of Zoning in the Town of Esopus (April 12, 1971).
 - (2) Lot size. Any structure housing an accessory apartment must be located on a lot at least one acre in area, unless served by a central sewer and/or water system and conforming to the lot area required in the area and bulk regulations.^{EN(72)}
 - (3) Apartment size. The minimum floor area for an accessory apartment shall be 350 square feet, but in no case shall it exceed 25% of the habitable area of the building in which it is located or 600 square feet, whichever is less. The accessory apartment shall have no more than one bedroom.
 - (4) Number of accessory apartments and dwelling units. There shall be no more than one

accessory apartment or a total of two dwelling units per residential building or lot under this section.

- (5) Water and sewer service. Prior to the issuance of a building permit for the establishment of an accessory apartment in a principal dwelling, approval of the proposed method of water supply and sewage disposal shall be obtained.
- (6) Off-street parking. At least one additional off-street parking space shall be provided for the accessory apartment. In no case shall there be parking space for fewer than a total of three cars on the property.

E. Public utility stations and structures.

- (1) Community or neighborhood need. Such use must be shown by the applicant to be reasonably necessary for the service, convenience or welfare of the neighborhood in which it is to be located, and to the general public, and the applicant must show that such use cannot be located in another district. The Planning Board must find that the use will not alter or otherwise be detrimental to the character of the neighborhood.
- (2) Minimum lot size. The minimum lot area for a public utility structure may be less than the minimum lot area otherwise required for the district in which it is located and can be the minimum needed not only to serve the needs of the applicant but also to comply with the standards of this section.
- (3) Setbacks, buffers and design.
 - (a) All public utility structures must comply with the minimum setback, maximum coverage, building height and other standards of the district in which such use is located, except that water towers and standpipes are exempt from the height regulations.
 - (b) All buildings and enclosed structures shall, wherever practicable, have the exterior appearance of a residential building if located in the RF-1, RF-2, R-40, R-12 or NC District.
 - (c) All unenclosed structures, platforms, switching gear and exposed equipment shall comply with building setback requirements to the maximum extent possible and shall be suitably screened from any public street or adjoining property.
- (4) Restriction on use. No business office may be established on the same site as a public utility structure in any residential district. No garage, storage building or equipment or storage yard is permitted on the same site as a public utility structure except in the GC, LI, HI or W District.

- F. Commercial communications towers. No commercial communications tower shall hereafter be used, erected, moved, reconstructed, changed or altered unless in conformity with these regulations. No existing structure shall be modified to serve as a commercial communications tower unless in conformity with these regulations.
- (1) Site plan. An applicant shall be required to submit a site plan in accordance with § 123-47. The site plan shall show all existing and proposed structures and improvements, including roads, buildings, tower(s), guy wire anchors, parking and landscaping and shall include grading plans for new facilities and roads.
 - (2) Supporting documentation. The Planning Board shall require that the site plan include a completed visual environmental assessment form (Visual EAF; available from the Planning Board) and documentation on the proposed intent and capacity of use as well as a justification for the height of any tower or antenna and justification for any clearing required. The Planning Board may require submittal of a more detailed visual analysis based on the results of the Visual EAF in addressing this subsection and Subsection F(7) and (8) below.
 - (3) Shared use of existing towers. At all times, shared use of existing towers shall be preferred to the construction of new towers. An applicant shall be required to present an adequate report inventorying existing towers within reasonable distance of the proposed site and outlining opportunities for shared use of existing facilities as an alternative to the proposed use.
 - (a) An applicant proposing to share use of an existing tower shall be required to document intent from an existing tower owner to allow shared use.
 - (b) The Planning Board may consider a new commercial communications tower where the applicant demonstrates that shared usage of an existing tower is impractical. The applicant shall be required to submit a report demonstrating good faith efforts to secure shared use from existing towers as well as documentation of the physical and/or financial reasons why shared usage is not practical. Written requests and response for shared use shall be provided.
 - (4) Shared usage of site with new tower. Where shared usage of an existing tower is found to be impractical, the applicant shall investigate shared usage of an existing tower site for its ability to accommodate a new tower and accessory uses. Documentation and conditions shall be in accordance with Subsection F(2) above. Any new commercial communications tower approved for an existing tower site shall be subject to the standards of Subsections F(5) through (14) below.
 - (5) New tower at a new location. The Planning Board may consider a new commercial communications tower on a site not previously developed with an existing tower when

the applicant demonstrates that shared usage of an existing tower site is impractical, and submits a report as described in Subsection F(3)(b) above.

- (6) Future shared usage of new towers. The applicant must examine the feasibility of designing a proposed commercial communications tower to accommodate future demand for commercial broadcasting and reception facilities. The scope of this analysis shall be determined by the Planning Board. This requirement may be waived, provided that the applicant demonstrates that provisions of future shared usage of the facility is not feasible and an unnecessary burden, based upon:
 - (a) The number of Federal Communications Commission (FCC) licenses foreseeably available for the area.
 - (b) The kind of tower site and structure proposed.
 - (c) The number of existing and potential licenses without tower spaces.
 - (d) Available spaces on existing and approved towers.
 - (e) Potential adverse visual impact by a tower designed for shared usage.
- (7) Setbacks for new towers. All proposed commercial communications towers and accessory structures shall be set back from abutting residential parcels, public property or street lines a distance sufficient to contain on-site substantially all icefall or debris from tower failure and preserve the privacy of adjoining residential properties.
 - (a) All tower bases must be located at a minimum setback from any property line at a distance equal to 20% of the tower height or the distance between the tower base and guy wire anchors, or the minimum setback of the underlying zoning district, whichever is greater.
 - (b) Accessory structures must comply with the minimum setback requirements in the underlying district.
- (8) Visual impact assessment. The Planning Board shall require the applicant to undertake a visual impact assessment of any proposed new towers or any proposed modifications of an existing tower that will increase the height of the existing tower. Construction of a new tower or modification of an existing tower shall be subject to the relevant guidelines and criteria below that are determined by the Planning Board at the presubmission conference to be appropriate.
 - (a) Assessment of before and after views from key viewpoints both inside and outside of the town, including state highways and other major roads, from state and local parks, other public lands, from any privately owned preserves and historic sites normally

open to the public and from any other location where the site is visible to a large number of visitors or travelers.

- (b) Assessment of alternative tower designs and color schemes, as described in Subsection F(9) below.
 - (c) Assessment of visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.
- (9) New tower design. Alternate designs shall be considered for new towers, including lattice and single pole structures. The design of a proposed new tower shall comply with the following unless superseded by the regulations of another agency:
- (a) Unless specifically required by other regulations, all towers shall have a neutral, earth tone or similar painted finish that will minimize the degree of visual impact that the new tower may have.
 - (b) Towers shall not be artificially lighted unless required by the Federal Aviation Administration (FAA).
 - (c) Towers shall be the minimum height needed to provide future shared usage.
 - (d) The Planning Board may request a review of the application by a qualified structural engineer for evaluation of the need for and design of any new tower.
 - (e) Accessory facilities shall maximize use of building materials, colors and textures designed to blend with the natural surroundings.
- (10) Existing vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four inches in diameter (measured at a height of feet off the ground) shall take place prior to approval of the special permit. Clear cutting of all trees in a single contiguous area exceeding 20,000 square feet shall be prohibited.
- (11) Screening. Deciduous or evergreen tree plantings may be required to screen portions of the tower from nearby residential property as well as from public sites known to include important views or vistas. Where the site abuts residential or public property, including streets, the following vegetative screening shall be required. For all towers, at least one row of native evergreen shrubs or trees capable of forming a continuous hedge at least 10 feet in height within two years of planting shall be provided to effectively screen the tower base and accessory facilities. In the case of poor soil conditions, planting may be required on soil berms to assure plant survival. Plant height in these cases shall include the height of any berm.

(12) Access. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

(13) Parking. No parking space shall be located in any required yard.

(14) Fencing. Sites of proposed new towers and sites where modifications to existing towers are proposed shall be adequately fenced to prevent unauthorized access, unless the applicant demonstrates to the Planning Board that such measures are unnecessary to ensure the security of the facility.

G. Bulk fuel storage. No outdoor storage of bulk fuel for sale or distribution shall be located within 100 feet of any residence district boundary line.

H. Gasoline sales, automotive and marine.

(1) The storage of gasoline or flammable oils in bulk for the purpose of retail sale on-site to automobiles, trucks, other land vehicles and watercraft shall be located fully underground and not nearer than 50 feet from any lot line other than the street line, except where superseded by the DEC or other regulating agency.

(2) No gasoline pumps shall be located nearer than 25 feet to any street line or 50 feet from any other property line, except where superseded by the DEC or other regulating agency.

(3) In the W District, retail sale of gasoline shall be limited to marine vessels only.

I. Cemeteries.

(1) Minimum site area. Where it is not accessory to a house of worship, a cemetery shall have a minimum area of one acre.

(2) Setbacks.

(a) Setbacks for plats. No burial or memorial plots or buildings shall be located closer than 50 feet to any residential lot line, except that when a dense evergreen hedge or a wall or landscaped strip of at least six feet in height, providing complete visual screening from all adjacent residential properties, is provided, burial or memorial plots less than six feet in height may be located no closer than 20 feet from any residential lot line.

(b) Setbacks for mausoleums. All mausoleum buildings shall be located no closer to any

lot or street line than twice the minimum setback for any nonresidential structure permitted in the zoning district in which the mausoleum is to be located.

- (3) Human crematories. Crematories for human remains shall be located only in the LI and HI Districts.
- (4) Animal crematories. Crematories for animal remains shall be subject to the following:
 - (a) The facility must be owned and operated as an accessory use by a licensed veterinarian practicing in the Town of Esopus.
 - (b) The facility shall be located only in the LI and HI Districts.

J. Automotive repair garages.

- (1) The minimum lot size for such establishments shall be 15,000 square feet, and the minimum street frontage shall be 100 feet.
- (2) Entrance and exit driveways shall have restricted widths of not less than 16 feet and not more than 24 feet, shall not be located nearer than 10 feet from any lot or street line and shall be so laid out as to avoid the necessity of any vehicle backing out across any public right-of-way.
- (3) Vehicle lifts or pits and all parts or supplies shall be located within a building enclosed on all sides.
- (4) No building permit shall be issued for any such establishment within a distance of 200 feet of a school, church, hospital or other place of public assembly designed for occupancy by more than 50 persons, between the nearest points of each of the lots or premises, regardless of the district where either premises is located.

K. Lodging places other than summer cottage colonies.

- (1) The minimum lot area shall be two acres for motels, for hotels and for tourist homes, except that residences which have been occupied as residences only for at least three years prior to becoming tourist homes may be converted to such use without lot size restrictions.
- (2) The minimum lot depth shall be 200 feet, and 2,000 square feet of additional lot area is required for each guest room over 10 units.
- (3) No building or part thereof or parking or loading area shall be situated within 30 feet of any street or lot line, except that this distance shall be increased to 50 feet when abutting a lot in residential use or a residence district boundary line.
- (4) One off-street parking space shall be provided for each guest room and one additional

space shall be provided for each employee.

- (5) All areas occupied by buildings shall be suitably landscaped and maintained in accordance with § 123-47B(3) and (4).
- (6) Accessory to motel or hotel, the following uses are permitted:
 - (a) A restaurant or coffee shop covering not more than 10% of the gross floor area on the site and providing one off-street parking space for every five seats accommodated.
 - (b) Swimming pools, as regulated in § 123-21C, and related facilities for the exclusive use of guests of the motel or hotel.
 - (c) Recreation facilities for use of guests, not to be located within 50 feet of any lot line.
- (7) Lodging places in the RF-1 District shall only be permitted in accord with the provisions of § 123-13R.

L. Summer cottage colonies.

- (1) Minimum area. The minimum lot area for a summer cottage or bungalow colony shall be 10 acres.
- (2) Occupancy. Such bungalows, cabins and cottages shall be designed for occupancy by either one or two families per building.
- (3) Bulk and density requirements of the site.
 - (a) No building or structure or parking or recreation facility shall be located closer than 100 feet from any lot or street line or the Hudson River or the Rondout Creek.
 - (b) All buildings must be spaced at least 15 feet apart.
 - (c) Maximum site density shall be no greater than two dwelling units per acre.
- (4) Ownership. The entire site shall be in single, common or corporate ownership and used for recreational and lodging purposes only.
- (5) Utilities. Water supply and means of wastewater treatment shall be approved by the Ulster County Health Department.
- (6) Lighting. Outdoor lighting shall be arranged so as to eliminate the glare of lights toward or onto adjacent residential properties. All outdoor lighting, except that which is needed for security purposes, shall be extinguished by 11:00 p.m., local time, or completely shielded from the view of any adjacent property.

- (7) Noise. Outdoor public address systems, loudspeakers and similar equipment shall be arranged so as to eliminate sound from being heard on any adjacent property and shall only be used between the hours of 8:00 a.m. and 8:00 p.m., local time.

M. Children's camps.

- (1) No building, tent, activity area or recreation facility shall be less than 200 feet from any lot line and such shall be effectively screened therefrom as required by the Planning Board.
- (2) All outdoor lighting shall be arranged so as to eliminate the glare of lights toward nearby residential lots.
- (3) Public address systems and loudspeakers shall be arranged so as to prevent objectionable sound from being heard on any adjacent property.
- (4) No structure or part of the site shall be used as a permanent residence, except for one dwelling unit which may be used by the owner or by a caretaker.

N. Membership recreation clubs and commercial recreation facilities open to the public.

- (1) No building or part thereof or any parking or loading area shall be located within 100 feet of any street or lot line.
- (2) The sum of all areas covered by principal and accessory buildings shall not exceed 20% of the area of the lot.
- (3) Any such uses shall occupy a lot with an area of not less than five acres.
- (4) The direct source of all exterior lighting shall be shielded from the view of surrounding residential lots.
- (5) Noise. Outdoor public address systems, loudspeakers and similar equipment shall be arranged so as to eliminate sound from being heard on any adjacent property and shall only be used between the hours of 8:00 a.m. and 8:00 p.m., local time.

O. Institutional uses. Certain medical, educational and social service uses that would be classified in SIC Industry Groups 805, 806, 821, 822, 835 and 836 and which would include, but are not limited to, nursing homes and personal care facilities, hospitals, elementary and secondary schools, colleges and professional schools, child day-care centers and nursery schools and nonmedical residential care facilities, such as adult or child foster care homes, transitional service facilities and halfway and group homes, are permitted, subject to the following conditions:

- (1) No building or part thereof or any parking or loading area shall be located within 100

feet of any street or lot line.

- (2) The sum of all areas covered by principal and accessory buildings shall not exceed 20% of the area of the lot. Minimum lot size shall be two acres, except as provided below.
- (3) The entire lot, except for areas covered by buildings, parking or loading areas shall be suitably landscaped and property maintained.
- (4) Sufficient exterior illumination of the site shall be required to provide convenience and safety. All such illumination shall be shielded from the view of all surrounding streets and lots.
- (5) Any nursing home, hospital or sanitarium shall meet the following standards:
 - (a) Minimum lot size shall be 10 acres.
 - (b) All buildings shall be of fire-resistive construction.
 - (c) All such uses shall be served by adequate water and sewer systems approved by the Ulster County Department of Health.
 - (d) Patients suffering from communicable diseases shall not be permitted in any nursing home or sanitarium. (Communicable diseases are defined by the Sanitary Code of the Public Health Council of the State of New York.)
- (6) Any elementary, secondary or nursery school permitted in this section shall occupy a lot with an area of not less than five acres, plus one acre for each 100 pupils for which the building is designed and shall be:
 - (a) A nonprofit organization within the meaning of the Internal Revenue Act and shall be registered as such thereunder; or
 - (b) A nursery school licensed by the State Department of Education.

P. House of worship.

- (1) Permitted accessory structures include parish houses and meeting halls, rectories and parsonages.
- (2) All new structures shall be located at a distance of at least 1 1/2 times the minimum setback requirements for the district in which it is located.

Q. Religious communities.

- (1) Minimum lot size shall be four acres. However, where a school or medical or social institution is to be accessory to the religious community, the minimum lot size shall be

10 acres.

- (2) Maximum coverage by principal and accessory buildings shall not exceed 20% of the area of the lot.
- (3) Setbacks, landscaping and illumination shall be in compliance with § 123-13O(1), (3) and (4).
- (4) All hospitals and schools shall have all necessary approvals and licenses by the appropriate state authorities.

R. Conversion and reuse of large, existing landmark structures in the RF-1 District.

- (1) Intent and purpose. The intent of this subsection is to allow usage of large existing landmark structures for a variety of appropriate uses (See § 123-10, Schedule of Permitted Uses.) while maintaining the unique scenic, aesthetic and architectural character of properties in the RF-1 District.
- (2) Uses permitted. Allowable uses in existing structures include the following and are subject to the provisions in Subsection R(3) below:
 - (a) Multifamily apartment residences.
 - (b) Corporate or professional offices.
 - (c) Conference centers.
 - (d) Inns.
 - (e) Transient housing accommodations.
- (3) Conditions.
 - (a) The structure must have been in existence prior to January 1, 1985.
 - (b) Gross site area shall be at least 25 acres, and gross floor area of existing buildings shall be at least 5,000 square feet. Maximum density shall be computed as in § 123-13S(2)(b) below.
 - (c) The scale and character of the existing building shall not be substantially altered in terms of architectural detailing, size and shape of door and window openings, exterior materials and colors and similar features. Additions to eligible structures shall be kept to a minimum, and in no case shall additions to any structure exceed 20% of its aggregate floor area or cubic volume.
 - (d) All required off-street parking in excess of five spaces shall be located at least 200

feet from adjacent streets and properties and shall be fully screened therefrom.

- (e) The Planning Board shall also consider the guidelines set forth in § 123-13S(2)(g) when reviewing proposals.

S. Clustered single-family and townhouse dwellings in RF-1 and RF-2 Districts.

- (1) Uses permitted: clustered single-family and townhouse dwellings.

- (2) Conditions.

- (a) The minimum gross site area shall be 25 acres.
- (b) The maximum number of dwelling units permitted shall be determined by reducing the gross site area by (excluding lands under water or an easement which precludes other use) 25% and dividing the remaining area by 40,000 square feet.
- (c) No structures shall exceed 30 feet in height.
- (d) All structures shall be set back at least 500 feet from the river's edge, except those requiring a waterfront site (i.e., boathouse, water plant, etc). This setback may be reduced to 300 feet upon a finding by the Planning Board that due to the nature of the site, such reduction will not adversely affect the guidelines set forth in Subsection S(2)(g) below. Structures shall also be set back at least 200 feet from all streets or property lines at the perimeter of the site to be developed.
- (e) The Planning Board shall consider the size and configuration of lots during its review in terms of the criteria set forth in Subsection S(2)(g) below and the provision of adequate water supply and sewage disposal systems.
- (f) At least 1/2 the gross site area in the RF-1 District and 1/3 in the RF-2 District shall be preserved as permanent open space by appropriate legal covenants and recorded as such on all filed maps. The Town may, at its discretion, accept all or part of such open space if offered for dedication. At least 1/2 of such open space shall be preserved in its natural state. The remainder may be used for active recreation facilities and may also contain water supply or sewage disposal systems if they are designed so as to preserve the scenic or functional purposes to which said open space is devoted. Open space required to satisfy this condition must have a minimum dimension of at least 200 feet at all points.
- (g) In addition to the criteria contained in §§ 123-46 and 123-47, the Planning Board shall also consider the following guidelines and criteria in its review of a cluster development under this section:

- [1] Open spaces preserved through clustering shall be designed and located so as to

preserve significant natural features, such as streams, hillsides, ridgetops, natural wooded areas and rock outcrops, and existing landscaping.

- [2] The visual impact of proposed development shall be minimized in terms of views from the site and adjacent roads to the river and from the river and the opposite shore to the site. Analysis shall consider the materials used, the massing of buildings, the scale of development, the use of landscaping and natural growth, etc. The possible intrusion of new development on the visual setting of estates, institutions and historic structures on nearby properties shall also be evaluated.
 - [3] Site design and construction management shall be undertaken in a manner so as to prevent adverse effects from erosion, siltation, flooding, etc.
 - [4] Provision of public access to and along the shoreline is to be encouraged, and review of site plans will include consideration of opportunities to incorporate the development of such access.
- (h) The Planning Board may require submission of a clustered development plan, in accord with the provisions of this subsection, if it finds that such type of development is necessary to preserve specific features of the site and the general character of the district. However, the Planning Board may not require the development of multifamily dwellings in place of single-family homes.
- (i) Site plan review under the provisions of this section shall suffice for Planning Board review of subdivisions under Chapter 107, Subdivision of Land, subject to the following conditions:
- [1] The developer shall prepare sets of subdivision plats suitable for filing with the office of the Ulster County Clerk, in addition to those drawings required under §§ 123-46 and 123-47.
 - [2] The developer shall plat the entire development as a subdivision: however, projects being developed in stages may be platted and filed in the same stages.
 - [3] Final site plan approval under § 123-47 shall constitute final plat approval under the Town Subdivision Regulations, and the provisions of § 276 of the Town Law requiring that the plat be filed with the Ulster County Clerk within 62 days of approval shall apply.
- T. Marinas and boatyards. The following requirements and standards shall apply to new marinas, to the expansion of existing marinas and to related uses, such as sale of marine supplies, services, fuel, equipment, boatyards, boat repairs or manufacture, assembly or repair of marine products, such as boats, sails and hardware, charter boats and fishing guide

operations, boat rentals or annual membership clubs which are water dependent.

- (1) Location. Marinas shall be located in areas where physical attributes required by marinas already exist or can be created with minimal impact and where minimal initial and subsequent maintenance dredging will be required. Such physical attributes include natural depths at or exceeding minimal navigable depths, low rates of sediment transport and sufficient tidal action to promote flushing. Dredging shall be limited to the minimum dimensions necessary for the project. Marinas shall not be permitted in areas that would require frequent maintenance dredging that would harm aquatic life or would prevent the relocation of benthic organisms. Such areas would include those which would require maintenance dredging more often than once every five years.
- (2) Design objectives.
 - (a) To the extent feasible, marina basins shall be designed for maximum tidal flushing and circulation due to both river/creek currents and the action of wind, while maintaining safe levels of wave action within the protected basin. The following minimum design criteria to promote flushing shall be applied to the maximum extent practical:
 - [1] Basin and channel depths shall not be deeper than the prevailing depths in the water body to which they connect.
 - [2] Basin and channel depths shall gradually increase toward open water or basin entrances.
 - [3] Openings shall be provided at the opposite ends of enclosed basins to establish flow-through circulation. Only one opening must be navigable; the other opening or openings shall be as large as practicable to promote circulation. Culverts or other enclosed conduits may be used in place of open channels.
 - [4] The configuration chosen shall minimize or prevent the formation of stagnant water zones that tend to collect debris or cause shoaling or flushing problems.
 - (b) The introduction of contaminants into the coastal waters from rainfall runoff polluted with oils, greases, organic and inorganic wastes and other potentially harmful substances shall be limited to the extent feasible. Therefore, new parking areas shall utilize porous pavements or other approved measures to reduce rainfall runoff, and marinas must incorporate best management practices in their design, including but not limited to the following:
 - [1] Pervious land surface and vegetative cover shall be used wherever possible to minimize stormwater runoff and to prevent polluted water from reaching adjacent waters and wetlands, to the extent feasible, by site grading or other

methods.

- [2] Runoff from parking lots, maintenance, fueling and washdown areas must be treated in a manner that prevents oils, grease and detergents from reaching adjacent waters and wetlands. Accepted treatment methods include oil and grease filtering catch basins, retention areas and exfiltration systems.
 - (c) Structures shall be sited inland from the water's edge as much as possible to maintain open space along the waterfront, to minimize exposure to flooding and to reduce runoff and nonpoint source water pollution.
- (3) Development standards.
- (a) Applicants must demonstrate that there are adequate water supply and sewage disposal facilities to serve all of the project's needs.
 - (b) Sewage pumpout facilities shall be provided at new marinas and expansion of existing marinas at a minimum rate of one pumpout station for every 100 boats accommodated or major fraction thereof.
 - (c) Adequate restroom facilities for marina users will be required to discourage any overboard discharge of sewage from boats in order to protect water quality. The number of toilets required for any given marina shall be determined by the nature and size of the marina.
 - (d) Signs must be provided to identify the location of public restrooms and pumpout facilities. Signs must also fully explain the procedures and rules governing use of the pumpout facilities.
 - (e) Trash receptacles shall be located conveniently to encourage the proper disposal of trash and waste. A maximum spacing of 100 feet between receptacles shall be maintained on all piers and docks.
 - (f) Parking spaces shall be provided at a minimum rate of 0.60 spaces per slip, plus one additional space for each two employees and additional spaces required by this code for separate retail or other uses on premises.
 - (g) The underwater members of piers and docks, including piles, shall not be constructed using creosote treated lumber.
 - (h) All marinas shall institute spill prevention emergency response plans. Automatic cut-offs for hoses in the event of an accident are mandatory.
- (4) On-board residency. Nothing in these regulations shall prevent the owner of a boat docked at a marina from living on-board for an extended period of time, subject to the

following:

- (a) Any such occupancy shall comply with all standards of this chapter as well as all other applicable health and safety regulations.
- (b) Any boat docked at a marina shall be maintained in a seaworthy condition and shall be required to leave its dock or mooring under its own power or sail at least once every six months for a period of at least 72 hours.

U. Excavation and quarries. In those districts where excavation and quarries are permitted, such activities shall be regulated as follows:

- (1) Excavation and quarrying of more than 1,000 tons of minerals during 12 successive months is regulated under the New York State Mined Land Reclamation Law^{EN(73)} and shall conform to all standards set forth in that law. In its review of an application for a conditional use permit, the Planning Board shall consider the proposed reclamation plan, the location of entrances and exits on Town roads and the designation of Town roads for hauling. The Planning Board may also make recommendations to the New York State Department of Environmental Conservation regarding setbacks, barriers to restrict access, dust control and hours of operation.
- (2) Excavation of less than 1,000 tons of minerals during 12 successive months may be authorized by the Planning Board upon review of a mining plan which establishes setbacks, hours of operation and a detailed reclamation plan.

V. Senior citizen housing. [Added 11-17-2005 by L.L. No. 1-2005]

- (1) Permitted uses. The following uses are permitted within a site designated for senior citizen housing, upon approval of a conditional use permit:
 - (a) Multiple, attached or detached dwelling units for occupancy by senior citizens and their immediate families. Such occupancy does not include nursing homes, group residences or rooming houses or boardinghouses.
 - (b) Accessory structures/uses. The following accessory structures and uses are permitted:
 - [1] Any facilities necessary to meet the proper maintenance, security, storage and utility needs of the development or its residents.
 - [2] Ancillary uses providing services or amenities only for site residents, such as, but not limited to, recreation rooms, lounges, self-service laundries, exercise rooms and similar facilities.

- (2) Occupancy.
- (a) Occupancy of dwelling units in senior citizen housing shall be limited to the following:
 - [1] A person who has attained the age of 55 years.
 - [2] A husband or wife who is residing with his or her spouse who qualifies as a senior citizen.
 - [3] A live-in caregiver residing with a qualified senior citizen, provided that said caregiver is 18 years of age or older.
 - [4] The surviving spouse who was residing with a qualified senior citizen at the time of his or her death.
 - (b) Exception. Notwithstanding the provisions above, one unit in a senior citizen housing site may be occupied by a project superintendent or manager and his or her family.
- (3) Development standards. Senior citizen housing shall be subject to the following standards as well as other applicable standards of this Subsection V:
- (a) Minimum lot area: five acres.
 - (b) Location in R-40 District: Senior citizen housing in the R-40 District shall be allowed only in the area east of the main line of the CSX Railroad or east of Route 9W, south of Floyd Ackert Road.
 - (c) Dwelling size: No dwelling shall contain more than two bedrooms.
 - (d) Minimum yards: same as the district in which the site is located, except that no building shall be located within 50 feet of an existing residential structure on another lot.
 - (e) Maximum density: The number of dwelling units on a site shall not exceed eight units per adjusted gross acre. Adjusted gross acreage shall be determined by deducting the following from the total site area:
 - [1] All designated state and federal wetlands.
 - [2] All easements.
 - [3] Fifty percent of all land in a designated flood hazard area.
 - [4] Fifty percent of all land with a slope in excess of 20%.

- (f) Minimum parking: two spaces for every three dwelling units. In addition to the parking actually provided, an additional area capable of creating a total of one parking space per dwelling unit shall be indicated on the approved site plan and graded and planted with grass. The Planning Board may require, in the future, that such area be paved to meet demonstrated parking demand.
- (g) Buffer zone: An area at least 25 feet wide shall be established along the boundary of all properties in residential use, which shall be landscaped or maintained as natural vegetation and shall not contain driveways or off-street parking or other paved surfaces. The only exception shall be entrance drives from the street and sidewalks not exceeding five feet in width.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE IV, Regulations and
Standards Governing Use / § 123-14. Mobile homes and mobile home courts.**

§ 123-14. Mobile homes and mobile home courts.

- A. Purpose. It is the purpose of this section to promote the health, safety and welfare of the inhabitants of the Town of Esopus and regulate the maintenance of mobile (or trailer) homes and mobile home (or trailer) courts within the Town of Esopus and to prescribe regulations for said courts, to regulate the parking and location of trailers with the Town of Esopus and require that mobile home courts within the Town of Esopus be laid out and constructed in accordance with approved plans.
- B. General regulations applying to all mobile homes.
 - (1) General requirements. Wherever permitted by these regulations, an individual mobile home on its own lot shall comply with all area, bulk and parking requirements as apply to a one-family dwelling in the same district. An individual mobile home is any such home not located in an approved mobile home court.
 - (2) Mobile home standards. Only mobile homes which are certified as meeting the Mobile Home Construction and Safety Standards of the United States Department of Housing and Urban Development and also as meeting relevant provisions of the Town of Esopus Building Construction Code and Fire Prevention Code^{EN(74)} are permitted for occupancy and only on individual lots or in approved mobile home courts in the Mobile Home Overlay District.
 - (3) Existing nonconforming mobile homes.
 - (a) Existing occupied mobile homes that do not comply with the federal and local

construction standards as summarized in Subsection B(2) above, are considered to be legal nonconforming structures and may remain on the premises on which they were originally established and may continue to be used for residential purposes.

- (b) Existing occupied mobile homes that are not located in the Mobile Home Overlay District are considered to be legal nonconforming uses and may continue to be used for residential purposes.
 - (c) A nonconforming mobile home, legally established prior to March 19, 1973, may be replaced with a mobile home that meets federal and local construction standards. However, if such mobile home is located outside of the Mobile Home Overlay District, any replacement of such home must be installed within 180 days of removal of the original mobile home or the right to replace it shall expire. However, upon written notice to the Building Inspector, an additional 180 days shall be granted during which such mobile home may be replaced.
- (4) Mobile homes used as temporary dwellings. In the event that a one-family dwelling is partially destroyed by fire or violent acts of nature, the owners may, upon application to the Building Inspector, place a mobile home on the property until the principal residence is rebuilt. However, the mobile home and all foundation and related appurtenances must be removed within two years, and a bond or letter of credit to insure removal must be posted with the Town Clerk in an amount in accordance with the fee schedule adopted by the Town Board, as amended, before the Building Inspector may act upon the application. Said bond is to defray all of the expenses of the town, including reasonable attorneys fees, to cause the removal of the mobile home.
 - (5) Office trailers and mobile homes used for nonresidential purposes. In order to provide temporary space for a permitted nonresidential use during construction of a permanent facility for such use on the same site, an individual office trailer or a mobile home to be used for nonresidential purposes may, upon application to the Building Inspector, be permitted in the NC, GC, BC, LI and HI Districts on a temporary basis, for a period not to exceed two years. All trailers to be used for nonresidential purposes must comply with current state and local building and fire prevention regulations. A bond or letter of credit to insure removal of the trailer must be posted with the Town Clerk as provided in Subsection B(4) above. These regulations are not intended to apply to trailers at construction sites used for offices by the contractor(s).
 - (6) Sanitary facilities. All mobile homes shall have a permanent supply of potable water and an approved sewage disposal system in accordance with the requirements of the Ulster County Health Department.
 - (7) Required permit. Mobile homes are subject to all applicable provisions of these regulations pertaining to building permits and certificates of occupancy (§§ 123-27 and

123-28).

C. Mobile home court permits.

- (1) Summary of requirements. Operation of a mobile home court in the Town of Esopus requires, at the minimum, the following:
 - (a) Site plan and conditional use permit approval from the Town Planning Board.
 - (b) Approved means of water supply and wastewater treatment by the County Health Department, State Department of Environmental Conservation and/or any municipal sewer and water districts of the Town of Esopus.
 - (c) Approved access onto a public highway from the appropriate town, county or state agency.
 - (d) Building permit from the Building Inspector.
- (2) Application. An application for a mobile home court shall be submitted in accord with § 123-46, Conditional use permits, and § 123-47, Site plan approval.
- (3) Expiration and renewal of conditional use permit. Each permit or renewal thereof shall expire on May 1 next following its issuance and may be renewed for a period of one year from the date of expiration after application and payment of the fees required.
- (4) Display of permit required. A permit to establish, maintain, operate or conduct a mobile home court shall always be on display in the office of the mobile home court.
- (5) Revocation of permit. The Planning Board may revoke or suspend the permit granted under the authority of this chapter for failure to comply with any provision of this chapter or any laws or regulations relating to any such mobile home court.
- (6) Issuance of permit not waiver. The issuance of a mobile home court permit pursuant to the provisions of this article shall not be deemed to waive compliance by the holder thereof, by the property owner or by the occupants of said court with any statute of the State of New York or ordinance or health regulation of the Town of Esopus.

D. Design standards and regulations for mobile home courts.

- (1) Court site.
 - (a) Minimum size. No mobile home court shall be established, maintained, operated or conducted within the Town of Esopus, on any lot or parcel of land except in the Mobile Home Overlay Zone, and then only on a lot or parcel of land with an area of five acres or greater.

- (b) Frontage and access. A mobile home court site shall have a minimum frontage of 150 feet and direct access onto a state highway, county road or onto a Town highway that is designated as a collector street in the Town Development Plan and/or Official Map. Each mobile home court containing 50 or more mobile home sites shall have at least two access points onto the public highway system. All access points shall be well marked and so arranged as not to constitute a traffic hazard.
 - (c) Exterior site buffering. Each mobile home court site shall have a landscaped area of at least 20 feet wide along exterior lot lines and street lines, suitably planted and maintained to provide visual screening from adjacent properties.
- (2) Court plan. Each mobile home court constructed, altered or extended after the effective date of this chapter shall be marked off into mobile home plots numbered consecutively, the number being conspicuously posted on each plot. Each plot shall be in conformance with the requirements below.
- (a) Minimum plot size.
 - [1] Where the Mobile Home Overlay District is mapped in the R-12 District, no mobile home shall be located on a plot of less than 5,000 square feet in area and have less than 50 feet of frontage on an interior access road, where municipal sewer and water are available. Where only municipal water is available, the minimum plot size shall be 7,500 square feet, and minimum frontage on an interior access road shall be 75 feet.
 - [2] Where the Mobile Home Overlay District is mapped where there is no municipal sewer or water, no individual mobile home plot shall be less than 15,000 square feet in area and have less than 100 feet of frontage on an interior access road.
 - (b) Occupancy. No more than one mobile home shall be permitted to occupy any one court unit.
 - (c) Setbacks.
 - [1] Each mobile home shall be at least 30 feet from any other mobile home. In computing these setbacks, fully enclosed lean-tos, auxiliary rooms and similar accessories connected to the mobile home shall be considered as part of the mobile home.
 - [2] Every mobile home within a mobile home court shall be at least 50 feet from the property or street line forming the perimeter boundary of the court.

[3] Each mobile home shall be at least 20 feet from any interior access road.

- (d) Parking spaces. The number and dimensions of off-street parking spaces shall conform to the requirements of § 123-24A of these regulations. Parking spaces shall be located no closer than 10 feet from any access road and shall be sealed with a dust-free surface.
- (e) Interior access roads. All driveways or interior roadways shall be at least 50 feet wide, of which at least 30 feet shall be hard surfaced, well marked in the daytime and lighted at night and so located that each court unit is readily accessible.
- (f) Blocks. All mobile home court units shall be arranged in blocks of no more than 10 units wide and two units deep.
- (g) Recreation area. A usable area set aside exclusively for recreation shall be provided within the mobile home court and shall be equal in area to 200 square feet for each home court unit.
- (h) Drainage and grading. All lands used as a trailer court shall be well drained, of ample size and free from heavy or dense growth of brush or weeds. The land shall be properly graded to ensure proper drainage during and following rainfall and shall at all times be so drained as to be free from stagnant pools of water.
- (i) Signs.
 - [1] One freestanding, nonflashing, indirectly illuminated sign shall be permitted to identify the mobile home court.
 - [2] Such sign shall not be greater in area than 45 square feet.
 - [3] No part of any sign shall be higher than eight feet above curb level.
 - [4] Signs and other related structures shall be located at least 20 feet from any property line or street line.
- (j) (Reserved)
- (k) Tie-downs. Tie-downs shall be required of all mobile homes.

E. Mobile home court sanitary and utility facilities.

(1) Garbage disposal.

- (a) Each such mobile home court shall provide equipment sufficient to prevent littering of the grounds and premises with rubbish, garbage and refuse and shall provide a flytight storage building or buildings of a design approved by the Ulster County

Health Department, and at a convenient location, equipped with flytight metal depositories of sufficient size and number to contain all of the garbage and refuse that may accumulate between the removals from the premises.

- (b) Where separation and recycling of solid waste materials is required by either Town or county agencies, recycling bins of a design approved by said agencies shall be furnished and located conveniently throughout the mobile home court.
- (2) Electric, telephone and cable television service and connections. Each mobile home court shall provide weatherproof underground electric, telephone and, where available, cable television service connections and outlets. All electric installations shall be approved by electrical inspectors designated by the Town Board of the Town of Esopus and have a certificate issued by the same.
- (3) Other regulations. In addition to the foregoing, each mobile home court must comply with any applicable sections of the New York State Uniform Building and Fire Code and any applicable regulations of the State of New York or County of Ulster.

F. Management. It shall be the duty of the operator of any mobile home court to:

- (1) Maintain upon the premises of such court at all times during its operation an authorized agent of said operator charged with the responsibility of managing the mobile home court.
- (2) Provide for the collection of garbage and other waste material.
- (3) Prohibit the placing or storage of unsightly material or abandoned vehicles of any kind upon the premises occupied by the court.
- (4) Provide for the cleaning, painting, repairing and disinfecting of all buildings and structures situated within the court.
- (5) Take such other measures as shall be deemed necessary by the officers and board set forth herein to preserve the health, comfort and safety of all persons accommodated in the court and of the general public.
- (6) Prevent any animal from running at large within or outside the court.
- (7) Report to the Ulster County Department of Health all cases of communicable diseases or prospective cases of communicable diseases affecting any residents of the court.
- (8) Prevent the committing of any nuisance on the court premises and to report immediately to the proper authorities all acts of disorderly character committed by any person or persons inside of the court and, to that end, to maintain proper policing thereof.

G. General operating regulations.

- (1) Right of entry; inspection. The County Health Department and Town of Esopus Building Inspector shall have the right at any reasonable time to enter any mobile home court or other premises used for the parking or location of a trailer and shall have the right at all times to inspect all parts of said premises and to inspect the records required to be kept in any mobile home court.
- (2) Restrictions. Every mobile home court and individual mobile home shall comply with the within provisions of this chapter and the following rules and regulations:
 - (a) Cooking with gasoline stoves is prohibited.
 - (b) Rubber hose or other flexible tubing is prohibited for use of conveying fuel or gases to any heater or stove.
 - (c) Wood-burning or coal-burning stoves or fireplaces must meet the approval of the Fire Marshal.
 - (d) Vent pipes of heating appliances passing through a roof or side wall of trailers or mobile homes must have at least one inch of clearance and must be entirely surrounded by terra-cotta, asbestos or other approved type of thimble.
 - (e) No mobile home court shall burn rubbish and trash unless an approved type of incinerator is used and is located not less than 50 feet from any building, structure or mobile home, with the approval and under instruction of the Town Fire Marshal.
 - (f) Storage of Class 1 liquids (flash point below 100° F.) is prohibited.
 - (g) Storage of combustible material, such as hay, rags or junk, which may create a fire hazard is prohibited.
 - (h) Any connection to the Port Ewen Water District to supply a mobile home court must meet with the approval of the Water District Board of Commissioners.
- (3) Approval of location of units. The location and installation of all mobile home units and mobile home courts within the Town of Esopus shall meet with the approval of the Town Building Inspector, the Town Fire Marshal and the Ulster County Health Department.

- H. Waiver of provisions. Where any of the provisions of this section cannot be met due to unusual circumstances, the Zoning Board of Appeals may, at its discretion, waive any of the foregoing provisions of the section.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE IV, Regulations and
Standards Governing Use / § 123-15. Prohibited and restricted uses.**

§ 123-15. Prohibited and restricted uses.

A. Amusement parks and circuses.

- (1) Amusement parks, circuses and related activities, as defined in § 123-61 of this chapter, shall be permitted only for a temporary period of time and only by special license by the Town Board.
- (2) Application for a license shall be accompanied by a site plan.
- (3) A decision on the license by the Town Board shall be made only after the application and site plan are referred to and a report received from the Town Planning Board, in accordance with the procedures in § 123-51A and B of this chapter.

B. Junkyards, used motor vehicle parts (5015) and scrap and waste material (5093).

- (1) Junkyards, as defined in § 123-61 of this chapter, including scrap and waste dismantling yards which would be classified in SIC Industry Groups 5015 and 5093, are permitted only by a license issued by the Town Board.
- (2) Application for a license shall be accompanied by a site plan.
- (3) A decision on the junkyard license by the Town Board shall be made only after the application and site plan have been referred to and a report received from the Town Planning Board, in accordance with the procedures in § 123-51A and B of this chapter.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE IV, Regulations and
Standards Governing Use / § 123-16. Performance standards applicable in the LI
and HI Districts.**

§ 123-16. Performance standards applicable in the LI and HI Districts.

- A. Fire and explosion hazards. All activities involving and all storage of flammable and explosive materials shall be provided, at any point, with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire-suppression equipment and devices standard in the industry. Burning of waste materials in open fires is prohibited at any

point. The relevant provisions of state and local laws and regulations shall also apply.

- B. Vibration. No vibration shall be produced which transmitted through the ground and is discernible without the aid of instruments at or beyond the lot line.
- C. Noise. The maximum sound pressure level radiated by any use of a facility (other than transportation facilities) at the property line shall not exceed the values tolerable in a residential neighborhood, except by specific review and approval by the Planning Board.
- D. Smoke. No emission shall be permitted at any point, from any chimney or otherwise, of visible gray smoke of a shade equal to or darker than No. 2 on the Power's Micro-Ringelmann Chart, published by McGraw-Hill Publishing Company, Inc., and copyright 1954 (being a direct facsimile production of the standard Ringelmann Chart issued by the United States Bureau of Mines), except that visible gray smoke of a shade equal to No. 2 on said chart may be emitted for four minutes in any 30 minutes. These provisions applicable to visible gray smoke shall also apply to visible smoke of a different color but with an apparently equivalent opacity.
- E. Odors. No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable at the property line.
- F. Fly ash, dust, fumes, vapors, gases and other forms of air pollution. No emission shall be permitted which can cause any damage to health, animals, vegetation or other forms of property or which can cause any excessive soiling at any point on the property of others.
- G. Electromagnetic radiation. The following standards shall apply: It shall be unlawful to operate or cause to be operated any planned or intentional sources of electromagnetic radiation which do not comply with the current regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation, except that for all governmental communications facilities, governmental agencies and government owned plants, the regulations of the Interdepartment Radio Advisory Committee shall take precedence over the regulations of the Federal Communications Commission regarding such sources of electromagnetic radiation. Further, said operation in compliance with the Federal Communications Commission or the Interdepartment Radio Advisory Committee regulation shall be unlawful if such radiation causes an abnormal degradation in performance of other electromagnetic radiators or electromagnetic receptors of quality and proper design because of proximity, primary field, blanketing, re-radiation, harmonic content, modulation or energy conducted by power or telephone lines. The determination of abnormal degradation in performance and of quality and proper design shall be made in accordance with good engineering practices as defined in the latest principles and standards of the American Institute of Electrical Engineers, the Institute of Radio Engineers and the Electronic Industries Association.

- H. Radioactive radiation. No activities shall be permitted which emit dangerous radioactivity at any point beyond the property line. The handling of radioactive materials, the discharge of such materials into air and water and the disposal of radioactive wastes shall be in conformance with the regulations of the Nuclear Regulatory Commission, as amended, and all applicable regulations of the State of New York.
- I. Heat. For the purpose of this chapter, "heat" is defined as thermal energy of a radioactive, conductive or convective nature. Heat emitted at any or all points shall not at any time cause a temperature increase on any adjacent property in excess of 10° F, whether such change is in the air or the ground, in a natural stream or lake or in any structure on such adjacent property.
- J. No direct or sky-reflected glare. No glare shall be permitted, whether from floodlights or from high temperature processes, such as combustion or welding or otherwise.
- K. Liquid or solid wastes. No discharge shall be permitted at any point into any public sewer, private sewage disposal system or stream or into the ground, except in accord with standards approved by the State Departments of Health and Environmental Conservation, of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements. There shall be no accumulation of solid wastes conducive to the breeding of rodents, insects or other vermin.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE IV, Regulations and
Standards Governing Use / § 123-17. Route 9W Overlay District.**

§ 123-17. Route 9W Overlay District.

- A. Applicability. The Route 9W Overlay District is superimposed over nonresidential districts located along Route 9W. All provisions of the underlying districts regarding use, bulk and area shall remain in effect unless specifically superseded by the regulations of the overlay district. In addition, the following regulations shall also apply.
- B. Standards.
 - (1) New development in the LI District south of Cross Street shall maintain twenty-five-foot deep landscaped or natural buffer along the Route 9W frontage, except for driveways and one sign.
 - (2) Following enactment of this section, no new lot with a width of less than 100 feet shall be created via subdivision of an existing lot.
 - (3) The following uses shall not be permitted south of the northerly intersection of Ulster

Avenue and Route 9W, except upon approval of a conditional use permit by the Planning Board in accordance with §§ 123-46 and § 123-47 hereof:

- (a) Laundromats or dry cleaning establishments.
 - (b) Theaters, bowling alleys, billiard halls and other commercial recreation establishments.
 - (c) Wholesaling, storing and warehousing, including building contractors and building supply and lumber yards.
- (4) Side yards in the NC District shall be a minimum of 15 feet.
- (5) Parking lots for more than five vehicles adjacent to an existing residential structure shall be screened from such residence by a suitable fence or landscaping.
- (6) Uses in the NC District shall be limited to professional offices or personal service establishments unless the lot on which such use is proposed has a minimum frontage of 100 feet.
- C. Site plan review. In addition to the objectives for site plan review set forth in § 123-47, the Planning Board shall also consider the following objectives during its review of site plans in the Route 9W Overlay District:
- (1) That the scenic, rural character of Route 9W south of Cross Street is maintained by the appropriate use of landscaping and natural vegetation and the scale, design and location of structures and parking lots.
 - (2) That existing residences are protected from adverse effects due to commercial development by proper design and location of commercial structures, parking lots and service areas and establishment of landscaped buffers.
 - (3) That freestanding signs are designed and located so as to be compatible with the visual character of the area in which they are located and so as not to obstruct the vision of vehicles entering or exiting commercial uses.
 - (4) That the quality and quantity of groundwater supply outside the Port Ewen Water and Sewer District be protected from contamination.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE IV, Regulations and
Standards Governing Use / § 123-18. (Reserved)**

§ 123-18. (Reserved)

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE IV, Regulations and
Standards Governing Use / § 123-19. (Reserved)**

§ 123-19. (Reserved)

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE V, Area and Bulk
Regulations, Off-Street Parking**

ARTICLE V, Area and Bulk Regulations, Off-Street Parking

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE V, Area and Bulk
Regulations, Off-Street Parking / § 123-20. Schedule of District Area and Bulk
Regulations.**

§ 123-20. Schedule of District Area and Bulk Regulations.

Minimum Lot Requirements ²		Minimum Yard Requirements ²			Maximum Height	Maximum Coverage (% of site)
Area (square	Width	Depth	Front	Side	Rear	

District	Minimum Lot Requirements ²			Minimum Yard Requirements ²			Maximum Height (feet)	Maximum Coverage (% of site area)
	Area (square feet)	Width (feet)	Depth (feet)	Front (feet)	Side (feet)	Rear (feet)		
RF-1	200,000	300	500	75	50	100	35	5%
RF-2	100,000	200	300	50	30	75	35	10%
R-40	40,000	100	150	40	20	35	35	15%
R-12, served by:								
Central S and W ¹	12,500	100	100	30	15	30	35	20%
Central S or W ¹	25,000	100	100	30	15	30	35	17.5%
No S or W ¹	40,000	100	150	40	20	35	35	15%
NC ³	20,000	100	100	20	20	30	35	20%
BC ³	5,000	50	--	4	10	20	35	50%

District	Minimum Lot Requirements²			Minimum Yard Requirements²			Maximum Height (feet)	Maximum Coverage (% of site area)
	Area (square feet)	Width (feet)	Depth (feet)	Front (feet)	Side (feet)	Rear (feet)		
GC ³	40,000	150	150	40	20	50	35	20%
LI	2 acres	200	200	30	50	50	35	20%
HI	10 acres	500	500	100	100	100	50	20%
W	--	100	--	20	20	20	35	--
WR	--	100	--	20	20	20	15	--

NOTES:

¹ S = Sewer; W = Water.

² See § 123-21B, C, D, E and F for further regulations governing lot size, yards and similar requirements.

³ Lot area and dimensions for residences shall be as required in the R-12 District.

⁴ The front yard shall be the average setback of all structures within the same block front on the same side of the street.

Regulations, Off-Street Parking / § 123-21. Supplementary regulations on area and bulk.

§ 123-21. Supplementary regulations on area and bulk.

- A. Height exceptions. The height limitations of this chapter, as shown on the Area and Bulk Schedule, shall not apply to the following structures, subject to Subsection A(1) and (2) of this section: church spires, belfries, cupolas and domes not used for human occupancy; chimneys, ventilators, skylights, water tanks, bulkheads and other necessary mechanical appurtenances usually carried above the roof level; parapet walls or cornices, provided that they do not exceed the height limit by more than 10 feet; radio or television antennas accessory to a residential use, public utility transmission towers or cable.
- (1) No such structure shall, in its aggregate coverage, occupy more than 10% of the roof area on which it is located or 5% of the lot area, if freestanding.
 - (2) Any such proposed structure exceeding 50 feet in height shall be permitted only by special permit issued by the Planning Board.
 - (3) Where the lot has frontage on two or more streets or other public rights-of-way, the height limitation on a nonresidential building shall apply only as measured from the curb level along the street with the higher elevation above sea level.
- B. Transition requirements for district boundaries.
- (1) Where a lot in a GC or LI District abuts a lot in a residential district, there shall be provided a yard of at least 100 feet in width in the nonresidential district. In said yard, a strip at least 50 feet wide abutting the residential district shall be kept free of roadways, parking or storage of any materials or goods and shall be suitably landscaped.
 - (2) A lot in an HI District shall be surrounded on all sides which abut a lot in any other district by a yard of at least 150 feet in width, of which at least 100 feet adjacent to such other district shall be maintained as a landscaped buffer.
- C. Standards for yards and accessory buildings.
- (1) Corner lots.
 - (a) On a corner lot, each side which abuts a street shall be deemed a front lot line. Of the remaining yards, one shall be determined to be the required side yard and one the required rear yard, at the discretion of the owner.
 - (b) On a corner, no obstruction to vision more than two and one-half feet in height above street grade shall be erected, placed or maintained within the triangular area

formed by the intersecting street lines of such lot and a straight line joining points along such street lines 15 feet distant from their point of intersection.

- (2) Front yard measurement.
 - (a) The required front yard shall be measured from the abutting right-of-way or street line, except that, where such street right-of-way or street parcel is less than 50 feet in width, the required front yard shall be measured from a line 25 feet from and parallel to the center line of the abutting street parcel or right-of-way.
 - (b) No proposed one- or two-family dwelling shall be required to have a setback greater than the average setback of the two existing dwellings with the greatest setbacks within 200 feet on each side of the said proposed dwelling, on the same side of the street, within the same block and the same district.
- (3) Yards adjacent to waterways. Unless superseded elsewhere in this chapter, a principal structure shall be set back from the Hudson River, the Rondout Creek or any protected stream, lake or water body by a distance equal to twice the required front yard in the district in which it is located. However, in the W and WR Districts, buildings or structures whose function requires a location at or nearer the water's edge shall not be bound by any yard requirement.
- (4) Double frontage. For any through lot, fronting on parallel or abutting streets, both frontages shall comply with the front yard requirements of the district in which it is located.
- (5) Accessory buildings.
 - (a) An accessory building may be located in any required side or rear yard, provided that:
 - [1] Such building shall not exceed 15 feet in height.
 - [2] Such building shall be set back five feet from any lot line and shall not be located less than 10 feet from the principal building.
 - [3] All such buildings in the aggregate shall not occupy more than 30% of the area of the required rear or side yard.
 - (b) Accessory buildings constructed at the same time may be located in pairs or groups in the required rear or side yard along the common side lot line or rear lot line of contiguous lots.
 - (c) An accessory building on that portion of a lot not included in any required yard shall

conform to the height regulations for principal buildings.

- (d) No accessory building shall project nearer to the street on which the principal building fronts than such principal building. Should topographic conditions be such that practical difficulties would be caused by this requirement with respect to the location of garages, the Planning Board may authorize the erection of such garages nearer to the street upon a thorough analysis of the site and a finding that to place the garage further from the street than proposed would create practical difficulties for the property owner.
- (6) Recreational vehicles. Recreational vehicles may be stored on any occupied lot in any residence district, provided that such vehicles are not occupied and are not stored within any required front yard of such lot. The Zoning Enforcement Officer may grant permission to park a recreational vehicle in the required front yard upon a determination that the location of buildings on the site, topography or other physical limitations render other alternatives infeasible.
- (7) Encroachments in required yards. The space in any required yard shall be open and unobstructed except as follows:
 - (a) Window sills, bay windows, cornices, eaves and other similar architectural features shall be permitted to project no more than four feet.
 - (b) Fences or walls not over 6 1/2 feet in height may be erected anywhere on the lot, except within the sight triangle described in § 123-21C(1)(b). Fences or walls with a height in excess of 6 1/2 feet but less than 15 feet shall comply with the standards for accessory structures, and those in excess of 15 feet high shall conform to the requirements set forth herein for principal buildings.
 - (c) Paved areas, other than such as are needed for access to the lot, shall not project within five feet of a street line or one foot of a lot line.
 - (d) A roofed-over, but unenclosed, projection in the nature of an entry or portico, not more than eight feet wide and extending not more than six feet out from the front wall of the building shall be exempt from front yard requirements when the building otherwise complies with all other yard requirements.
 - (e) Open decks may extend into a required rear yard so long as no part of such deck is closer than 15 feet to a lot line. The deck surface shall be no more than three feet above the average grade of the land around its perimeter, and any sides or railings shall be no higher than four feet above the deck surface.
- (8) Waiver of yards. No side yard or rear yard shall be required in the LI, HI and W

Districts, where such yard abuts an operating railroad right-of-way.

- D. Flag lots. The creation of flag lots, as defined in § 123-61 of this chapter, is permitted in accordance with the standards listed below, in addition to the standards of Chapter 107, Subdivision of Land and other applicable regulations:
- (1) Minimum lot area. The minimum area of a flag lot shall be at least 1 1/2 times the required minimum lot area set forth in § 123-20 of this chapter. The area of an access strip portion of the flag lot shall not be counted towards meeting the minimum lot area requirements.
 - (2) Front yard setback. The required minimum front yard setback of a flag lot shall be measured not from the street line of the flag lot but from the interior front lot line.
 - (3) Other yards and setbacks. All other yards and building setbacks shall be determined as provided for in §§ 123-20 and 123-61 of this chapter.
 - (4) Access strip width. The minimum width of an access strip serving a flag lot shall be no less than 50 feet. The width of the access strip may not be reduced at any point along the entire length of the access strip.
 - (5) Access strip length. The maximum length of the access strip shall be no greater than twice the required lot depth of the district in which the flag lot is located, except where the Planning Board determines that such a restriction is impractical or unwarranted.
 - (6) Spacing. No flag lot shall be created that would adjoin another flag lot to create frontage and access onto the same street at adjacent locations, unless such arrangement is determined by the Planning Board to be unavoidable.
- E. Frontage and access.
- (1) Frontage. The minimum frontage of any lot may be less than the minimum width requirement of the district in which the lot is located, but in no case shall the frontage be less than either 1/2 of the minimum required lot width or 50 feet, whichever is greater.
 - (2) Access. No building permit shall be issued for the construction or alteration of any building upon a lot without access to a mapped street or highway as stipulated in § 280-a of the New York State Town Law.
 - (3) Open development. The Town Board may, by resolution, establish one or more open development areas within the town, as provided for in § 280-a of the New York State Town Law, wherein permits may be issued for the erection of structures to which access is given by right-of-way or easement, upon such conditions and subject to such limitations as may be prescribed by the Planning Board. The Town Board, before

establishing any such open development areas, shall refer the matter to the Planning Board for its advice and shall allow the Planning Board a reasonable time to report.

- (4) Access approvals. Any proposed new access points for a lot or any existing access for a lot for which a change of land use is contemplated shall be reviewed and approved by either the New York State Department of Transportation, the Ulster County Department of Public Works or the Esopus Town Highway Department.
- (5) Driveways. No driveway shall provide access to a lot located in another district to serve a use which is not permitted in the district in which the driveway is located.

F. Minimum area requirements for residential and nonresidential uses on the same lot (mixed use occupancy).

- (1) In the RF-1, RF-2, R-40 and R-12 Districts, where a residential use and a permitted nonresidential use, other than a home occupation, are located on the same lot, the required lot area shall be the sum of the minimum required lot area for each such use as set forth in the Area and Bulk Schedule of Regulations.
- (2) In the NC, GC, BC, R-12 and R-40 Districts, where a residential and a permitted nonresidential use are located in the same structure, the required lot area shall be the larger lot area required for either use as set forth in the Area and Bulk Schedule Regulations.
- (3) In the NC, GC and BC Districts, where a residential and a permitted nonresidential use are located in separate structures, the required lot area shall be the sum of the minimum required lot area for each use as set forth in the Area and Bulk Schedule of Regulations.

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GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE V, Area and Bulk
Regulations, Off-Street Parking / § 123-22. Average density development (cluster
subdivision).**

§ 123-22. Average density development (cluster subdivision).

- A. Authority of Planning Board. In accord with the authority granted pursuant to § 278 of the Town Law, the Planning Board may, upon request, vary the zoning requirements as to lot size, width and yard requirements in connection with a proposed subdivision plat, subject to the standards and procedures contained below. The Planning Board is further authorized to require such modifications where it finds that it will be in the public interest to preserve significant natural features (such as wetlands, woods, drainage ways, waterfalls, streams,

etc.) or important views or significant open spaces or recreation opportunities.

- B. Purposes. The purpose of modifications in accord with this section shall be to enable and encourage flexibility in design and development so as to promote the most appropriate use of land, to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open lands.
- C. Permitted uses. The permitted uses within a subdivision under this section shall be limited to those otherwise permitted in the zoning district in which it is located, including agricultural use and forest production.
- D. Development standards and controls. Except as specified herein, all development standards and controls otherwise applicable to residential subdivisions and uses shall also be applicable to a subdivision under this section.

(1) Number of lots or dwelling units.

- (a) The maximum permitted number of lots or dwelling units within an average density subdivision shall not exceed the number that would be achieved if the land were subdivided into lots conforming to the minimum lot size and density requirements applicable to the district in which the land is situated and all other applicable requirements. The maximum number of lots or dwelling units shall be determined as follows:

- [1] The gross site area shall be reduced by 5% where a five acre lot is required, 10% where a 2 1/2 acre lot is required and 12.5% where a one acre lot is required to reflect the area that would be required for streets in a conventional subdivision.
- [2] The area thus derived shall be further reduced by the area of any existing permanent easements which preclude development and 66% of the area of any designated state or federal wetland or one-hundred-year flood hazard area or slopes in excess of 20%
- [3] The resulting net area shall be divided by the minimum required lot area in the district to derive the number of lots or dwelling units permitted.

- (b) As an alternate to the above formula, the applicant may submit a subdivision plat meeting all requirements of this chapter, the Land Subdivision Regulations, the Ulster County Health Department and any other applicable local, county state or federal law or regulation that demonstrates that a greater number of lots could be achieved.

- (2) Average lot area.
 - (a) Under this section, lots may be reduced in area below the minimum lot size required in the district, provided that the average size of lots created in the subdivision is not less than the minimum required in the district.
 - (b) No lot shall have an area of less than one acre unless served by a central water and/or sewer system.
 - (c) Land in the subdivision may be set aside as permanent open space for common ownership and use by all lot owners in the subdivision, dedicated to and accepted by the Town or a land conservancy for use as permanent open space or recreation area or designated for permanent use for agricultural purposes or forest production. The area of such land may be included to determine the average lot size.
 - (3) Lot dimensions. All lots shall comply with the minimum requirements of the Area and Bulk Schedule for the R-40 District unless served by a central water and/or sewer system.
- E. Review critical. In acting on a proposed plan, the Planning Board shall give particular consideration to the following criteria.
- (1) That the proposed subdivision will not have a substantial or undue adverse effect upon adjacent property, the character of the neighborhood, traffic conditions, parking, utility facilities and other matters affecting the public health, safety and general welfare.
 - (2) That individual lots, buildings and streets are designed and situated to minimize alteration of the natural site features to be preserved.
 - (3) That any open space to be preserved includes irreplaceable natural features located in the tract (such as, but not limited to stream beds, significant stands of trees, individual trees of significant size and rock outcroppings) to the maximum extent feasible.
 - (4) That the proposed subdivision will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, water and sewer systems.
- F. Preservation of permanent open space. Land set aside as permanent open space shall be protected by legal arrangements which are determined by the Planning Board, with the advice of the Town Attorney, to be sufficient to assure its maintenance and preservation for whatever purpose it is intended. Covenants or other legal arrangements shall specify ownership of the open space; methods of maintenance; responsibility for maintenance; maintenance taxes and insurance; compulsory membership and compulsory assessment provisions; guaranties that any association formed to own and maintain open space will not

be dissolved without the consent of the Planning Board; and any other specifications deemed necessary by the Planning Board to ensure that such open spaces will remain undeveloped in perpetuity.

- G. Prohibition to subdivide. The final plat shall include notation that any lot created under the provisions of this section, including permanent open space, shall not be resubdivided.
- H. Required use of average density procedures. The Planning Board may require that a proposed subdivision plat be modified in accordance with the provisions of this section when it finds that one or more of the following conditions exist:
 - (1) The site contains a designated wetland.
 - (2) Any portion of the site is within the one-hundred-year flood hazard area.
 - (3) The site is within an agricultural district certified pursuant to the Agricultural and Markets Law or includes soils classified within Soil Groups 1 through 4 of the New York State Land Classification System or is being used for forest production in accord with § 480-a of the Real Property Tax Law.
 - (4) The site is located over a primary, principal or sole source aquifer.
- I. Procedures. Any residential development under the provisions of this section shall be subject to applicable procedures, standards and requirements of Chapter 107, Subdivision of Land, of the Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE V, Area and Bulk
Regulations, Off-Street Parking / § 123-23. (Reserved)**

§ 123-23. (Reserved)

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE V, Area and Bulk
Regulations, Off-Street Parking / § 123-24. Off-street parking and loading
standards.**

§ 123-24. Off-street parking and loading standards.

Off-street parking and loading spaces shall be provided at the time a new use is established through construction of a new building or alteration or conversion of an existing building, in

accord with the following standards and regulations:

A. Off-street parking.

- (1) Required parking spaces. Off-street parking spaces shall be provided as follows, except where specifically waived in § 123-24A(2)(g) below:

Type of use	Minimum Number of Parking Spaces
Residential and Related Uses	
One-family residences	2 for each dwelling detached unit
Row houses, two-family and multifamily residences	2 for each dwelling unit
Religious facilities	1 for every 5 seats
Places of public assembly, clubs and fraternal organizations and recreation facilities	1 for every 4 seats in the largest hall or meeting area or for every four members, whichever is greater
Cultural facilities	1 for every 500 square feet of gross floor area
Hospital	1 for every 2 beds
Convalescent home	1 for every 4 beds
Tourist home	1 for every 2 beds
Home occupation	1, plus 1 additional for any nonresident employee in addition to those spaces required for residential use
Day-care center or nursery school	1 per staff member plus 1 per classroom.

Commercial and Related Uses

Banks	3 for each teller or service window
Retail stores or service establishments	1 for each 200 square feet of gross floor area
Convenience stores	1 for each 150 square feet of gross floor area, plus 1 for every 2 seats for in-store food service
Professional or business offices	1 for each 250 square feet of gross floor area
Medical and dental offices	4 per doctor or dentist plus 1 for each additional employee
Restaurants and bars	1 for every 3 seats or 100 square feet of gross floor and bar area, whichever greater
Theaters and similar places of public assembly or recreation activity	1 for every 4 seats or participants or 100 square feet of gross floor area, whichever is greater
Undertakers	1 for each 3 seats provided under maximum occupancy
Hotel and motel	1 per guest room, plus 1 for every 3 employees

Heavy Commercial and Industrial Uses

Wholesale, storage and warehousing	1 for every 2,500 square feet of gross floor area
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Heavy Commercial and Industrial Uses

Light assembly, general industrial and similar uses	1 for each 400 square feet of gross floor area
Automotive sales and repair	1 for each 200 square feet of sales area and 1 for each 500 square feet of service area
Other industrial or heavy commercial uses	1 for each 500 square feet of of gross floor area

(2) Supplementary parking regulations.

- (a) Areas computed as parking spaces. Areas which may be computed as open or enclosed off-street parking spaces include any private garage, carport or other area available for parking, other than a street or a driveway. However, a driveway within a required front yard for a one-family or two-family residence may count as one parking space.
- (b) Size of spaces. Minimum parking stall width shall be nine feet, the minimum length shall be 18 feet.
- (c) Access. Unobstructed access to and from a street shall be provided. Such access shall consist of at least one ten-foot lane for parking areas with less than 20 spaces and at least two ten-foot lanes for parking areas with 20 spaces or more. No entrance or exit for any off-street parking area shall be located within 50 feet of any street intersection, except for one- and two-family residences.
- (d) Drainage and surfacing. All open parking areas shall be properly drained, and all such areas shall be provided with an approved dustless surface, except for parking spaces accessory to a one-family or two-family residence.
- (e) Joint facilities. Required parking spaces, open or enclosed, may be provided in spaces designed to serve jointly two or more establishments, whether or not located on the same lot, provided that the number of required spaces in such joint facilities shall be not less than the total required for all such establishments.
- (f) Ownership. Required accessory parking spaces, open or enclosed, shall be provided upon the same lot as the use to which they are accessory. However, upon approval by the Planning Board, such spaces may be provided on a separate site, provided that

all spaces are located within three-hundred-foot walking distance of the lot on which the use is located. In all cases, such parking spaces shall conform to the regulations of the district in which the parking spaces are located, and in no event shall such parking spaces be located in any residence district unless the uses to which the spaces are accessory are permitted in such residence district. Such off-site spaces shall be in the same ownership as the property to which they are accessory and shall be subject to deed restriction, approved by the Planning Board, binding the owner and his heirs and assigns to maintain the required number of spaces available, either throughout the existence of such use to which they are accessory or until such spaces are provided elsewhere.

- (g) Waiver of parking requirements. Off-street parking requirements may be waived, in part, in the following cases:
 - [1] Housing for the elderly. Where housing is designed specifically for and occupied by persons 62 years of age or older, required off-street parking may be reduced to one space for every two dwelling units.
 - [2] Joint use of spaces. In the case of two or more uses located on the same lot, the sum of the space required for all uses individually may be reduced to an amount no less than 125% of the largest number of spaces required by any single use, upon a determination by the Planning Board that such a reduced amount of parking space will be adequate to serve all uses on the lot due to their different character and hours of operation.
 - [3] Preexisting uses. Structures and uses in existence as of the effective date of this chapter shall not be subject to the parking requirements herein. However, if the parking spaces serving such structure or use are less than would be required by this chapter, they shall not be reduced; and, if the structure or use is expanded, additional parking spaces in the appropriate amount required in Subsection A(2)(a) above shall be provided to serve such expanded area.

- (h) Location of parking spaces.
 - [1] In any residential district, no open or enclosed parking area for five or more vehicles shall encroach on any required front yard. Parking areas may extend into a required side or rear yard to within 10 feet of a side or rear lot line.
 - [2] In Business and Industrial Districts, open parking areas shall not extend within 10 feet of a street or right-of-way line or within 15 feet of a property line in a residential district.

- (i) Screening and landscaping of parking areas.

- [1] Parking areas of five or more cars which are adjacent to or across the street from properties in a Residential District shall be screened from the view of such properties by a combination of walls, fences or hedges.
 - [2] All areas in a parking lot not required for parking space or access drives shall be suitably landscaped and maintained. A landscaping plan for parking areas shall be submitted for those uses requiring site plan review by the Planning Board.
- (j) Commercial vehicles. The following regulations shall apply only to commercial vehicles as defined in Subsection A(2)(j)[1] below:
- [1] The term "commercial vehicle" shall include any vehicle with a gross vehicle capacity of more than 15,000 pounds used to transport people, goods or materials as part of a business or service and shall include such equipment as bulldozers, backhoes, etc. The term "commercial vehicle" shall not apply to a pickup truck or van with a gross vehicle capacity of less than 15,000 pounds.
 - [2] Commercial vehicles may be parked regularly on a lot in any residence district subject to the following:
 - [a] The vehicle must be owned and/or regularly operated by a permanent resident of a residence located on the same or an adjacent lot.
 - [b] Any person who has been lawfully parking a commercial vehicle in a residence district prior to enactment of this law may continue to do so and may replace any such vehicle in the future. Any additional vehicles parked in a residence district following enactment of this chapter shall be subject to the condition in Subsection A(2)(j)[2][a] above.
 - [3] Farm vehicles are permitted as accessory to a farm use in any residence district and are not subject to the above requirements.
 - [4] This section shall not apply to the temporary or occasional parking of delivery or service vehicles in the course of performing their normal duties for a resident of the property.
 - [5] This section shall not be deemed to permit the operation or conduct of any commercial activity on a lot unless such activity has received all approvals required by this chapter.
- (k) General provisions. Commercial parking areas shall be reserved for the parking of vehicles for customer or employee use. There shall be no servicing or dismantling of automobiles or other vehicles, and no part of any parking lot shall be used for the sale, storage or abandonment of any articles or goods. This provision shall in no way

apply to any customary vehicle maintenance carried out by a resident at his or her residence.

B. Off-street loading.

(1) Required loading facilities. Off-street loading facilities shall be provided as follows:

Use	Minimum Number of Loading Berths
Undertaker	1 for each chapel
Hotels and motels	1 for each 25,000 square feet of gross floor area in excess of 10,000 square feet
Retail stores, service establishments, restaurants and other nonresidential uses not listed elsewhere	1 for the area between 5,000 15,000 square feet and 1 for each additional 25,000 square feet of gross floor area
Wholesale establishments	1 for each 10,000 square feet of gross area
Industrial and manufacturing uses	1 for the area between 5,000 and 10,000 square feet and 1 for each additional 25,000 square feet of gross floor area

(2) Location and dimensions of loading berths.

- (a) All off-street loading berths shall be located on the same lot as the use for which they are required.
- (b) Open off-street loading areas shall not encroach on any required front or side yard, off-street parking area or accessway.
- (c) No loading berth shall be located within 50 feet of a property line in a residential district or within 10 feet of any other property line.
- (d) Each loading berth shall be at least 35 feet long, 12 feet wide and 14 feet high (except that berths for undertakers may be 20 feet long, 10 feet wide and nine feet high).

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE V, Area and Bulk
Regulations, Off-Street Parking / § 123-25. (Reserved)**

§ 123-25. (Reserved)

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VI, Enforcement and
Administration**

ARTICLE VI, Enforcement and Administration

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VI, Enforcement and
Administration / § 123-26. Enforcement; penalties for offenses.**

§ 123-26. **Enforcement; penalties for offenses.**

- A. Enforcement officer. It shall be the duty of the Zoning Enforcement Officer, who shall be appointed by the Town Board, to enforce the provisions of this chapter and of all rules, conditions and requirements adopted or specified pursuant thereto. The Building Inspector shall serve as the Zoning Enforcement Officer unless a different person is otherwise designated by the Town Board.
- B. Powers and duties of the Zoning Enforcement Officer.
- (1) The Zoning Enforcement Officer or his duly authorized assistants shall have the right to enter any building or enter upon any land at any reasonable hour as necessary in the execution of his duties, provided that:
 - (a) The Zoning Enforcement Officer shall notify the owner and tenant 48 hours prior to conducting any inspection.
 - (b) The Zoning Enforcement Officer or his duly authorized assistants shall display identification signed by the Town Supervisor upon commencing an inspection.
 - (c) Inspections shall be commenced in the presence of the owner or his representative or tenant.

- (2) Upon determining that a violation of any provision of this chapter exists, the Zoning Enforcement Officer shall issue a written order for the proper remedying or compliance, within a reasonable period of time, of any condition found to be in violation thereof. In case of refusal of entry, the Zoning Enforcement Officer may obtain a warrant from a court of competent jurisdiction.
- (3) If an unlawful condition or use is found not to have been properly remedied or made to comply with the provisions of this chapter by the expiration of the reasonable time period granted by the Enforcement Officer, then the Enforcement Officer is empowered to immediately institute any appropriate action, charge or proceedings in the proper legal court for the prevention, cessation or discontinuance of any condition, use, occupancy or act in, on, of or around any building, structure or tract of land and for the prosecution of any owner, occupant or offender.
- (4) The Zoning Enforcement Officer shall maintain records, open to the public, of every complaint of a violation of the provisions of this chapter, as well as action taken as a result of such complaints.
- (5) The Zoning Enforcement Officer shall annually submit to the Town Board, for insertion in the Board minutes, a written report summarizing all complaints of violations and action taken as a result of such complaints.

C. Penalties for violations.

- (1) Violation of any provision or requirement of this chapter or violation of any statement, plan, application, permit or certificate approved under the provisions of this chapter shall be considered an offense punishable by a fine of not more than \$2,500 or imprisonment for a period not to exceed six months, or both.
- (2) Notice of continuing violation.
 - (a) If a violation continues after notification that such violation exists, it shall constitute a separate offense in accord with the following schedule:
 - [1] First notice: 30 days.
 - [2] Second notice: two weeks.
 - [3] Third notice: one week.
 - [4] Additional notices: one day.
 - (b) Such notice shall be written by the Zoning Enforcement Officer and shall be served by certified mail or by personal service.

- (3) The imposition of penalties herein prescribed shall not preclude the Town or any person from instituting appropriate legal action or proceeding to prevent an unlawful erection, construction, alteration, repair, conversion, maintenance or use or to restrain, correct or abate a violation or to prevent the illegal occupancy of a building, land or premises.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VI, Enforcement and
Administration / § 123-27. Building permits.**

§ 123-27. Building permits.

No building in any district shall be erected, reconstructed or restored or structurally altered without a building permit duly issued upon application to the Building Inspector, in accord with Chapter 56 of the Town Code. No such building permit shall be issued unless the proposed construction or use is in full conformity with all provisions of this chapter.

- A. Every application for a building permit shall be submitted on forms issued by the Building Inspector and shall contain the data and plans required and be accompanied by the fee established therefor by the Town Board.
- B. No building permit shall be issued for any building where the site development plan of such building is subject to approval by the Planning Board, except in conformity with the plans approved by said Board.
- C. No building permit shall be issued for a building to be used for any conditional use in any district where such use is allowed only by approval of the Planning Board unless and until such approval has been duly granted by the Planning Board.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VI, Enforcement and
Administration / § 123-28. Certificates of occupancy.**

§ 123-28. Certificates of occupancy.

- A. The following shall be unlawful until a certificate of occupancy shall have been applied for and issued by the Building Inspector in accord with Chapter 56 of the Town Code:
 - (1) Occupancy and use of a building erected, reconstructed, restored, structurally altered or moved or any change in use of an existing building.
 - (2) Occupancy, use or any change in the use of any land.

- (3) A change in use of a nonconforming use.
- B. No certificate of occupancy shall be issued for any conditional use of a building or of land requiring conditional use approval by the Planning Board or for any land or use requiring site development plan approval by the Planning Board unless and until such conditional use or site development plan approval has been duly granted by the Planning Board. Every certificate of occupancy for which conditional use or site development plan approval has been granted or in connection with which a variance has been granted by the Zoning Board of Appeals shall contain a detailed statement of any condition to which the same is subject.
- C. On a form furnished by the Building Inspector, application for a certificate of occupancy for a new building or for an existing building which has been altered shall be made after the erection of such building or part thereof has been completed in conformity with the provisions of this chapter and, in the case of a new building, shall be accompanied by an accurate plot plan or, if not available, by a survey proposed by a licensed land surveyor or engineer showing the location of all buildings as built. Such certificate shall be issued within 10 days after receipt of the properly completed application, but only provided that the application states that all requirements of all other applicable codes or ordinances in effect are complied with.
- D. If the proposed use is in conformity with the provisions of this chapter and of all other applicable codes and ordinances, a certificate of occupancy for the use of vacant land shall be issued by the Building Inspector within 10 days after receipt of a properly completed application. If a certificate of occupancy is denied, the Building Inspector shall state the reasons in writing to the applicant.
- E. In regard to those uses which are subject to the performance standards procedure, the following requirements shall also apply:
- (1) Any normal replacement or addition of equipment and machinery not affecting the operations or the degree or nature of dangerous and objectionable elements emitted shall not be considered a change of use.
 - (2) After occupancy, if there occur continuous or frequent, even though intermittent, violations of the performance standards and other provisions for a period of five days, without bona fide and immediate corrective work, the Building Inspector shall suspend or revoke the occupancy permit of the use, and the operation shall immediately cease until it is able to operate in accordance with these regulations, at which time the occupancy permit shall be reinstated.
 - (3) The Building Inspector shall investigate an alleged violation of the performance standards, and, if there are reasonable grounds to believe that a violation exists, he shall investigate the alleged violation and for such investigation may, with the approval of the

Town Board, employ qualified experts. A copy of said findings shall be forwarded to the Town Board. The services of any qualified experts employed by the Town to advise in establishing a violation shall be paid by the violator if it shall be determined that a violation is proved and otherwise by the town. No new certificate of occupancy shall be issued unless such charges have been paid to the town.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VI, Enforcement and
Administration / § 123-29. Fees and costs.**

§ 123-29. Fees and costs.

A. Statement of intent.

- (1) The Town of Esopus can incur significant expenses in the operation of the Town Board, Planning Board, the Zoning Board of Appeals and the office of the Building Inspector.
- (2) These expenses include, but are not limited to, administrative, legal and technical review costs, as follows:
 - (a) Administrative costs include, but are not limited to, processing applications, consultations among municipal officers and officials regarding the facts and circumstances of the application, the preparation of hearing notices, the publication of hearing notices, providing notice to other governmental agencies, the preparation of affidavits of posting and publication, the preparation and maintenance of official records regarding the application and municipal officials at public hearings, the processing of resolutions and determinations, filing fees and miscellaneous services and disbursements.
 - (b) Legal costs include, but are not limited to, application review, the review and analysis of applicable zoning law provisions, the review and analysis of applicable subdivision regulations, the preparation of hearing notices, attendance at meetings and public hearings, the preparation of resolutions and determinations, the preparations of SEQR determinations, the review of bonds for public improvements, the review of offers of dedication, the review of deeds and miscellaneous services disbursements.
 - (c) Technical review costs include the review of plans at various stages, the analysis of layout and public improvements, the preparation of reports, design analysis, the review of environmental assessments, inspection fees, the preparation of improvement costs estimates, the examination of property descriptions and

miscellaneous services and disbursements.

- (3) When these expenses are occasioned in connection with an appeal, application or petition made by an applicant to the Town or an instrumentality of the town, then it is proper and in the public interest for the applicant to bear the cost of these expenses.

B. Types of fees.

- (1) Applications and petitions. A fee shall accompany any application or petition to the following Town agencies and officials listed below. Such application fee shall be in accord with a fee schedule adopted, and as may be subsequently amended, by resolution of the Town Board. Said schedule shall be maintained by the Town Clerk.

- (a) Planning Board. Fees are established for the following Planning Board matters:

- [1] Subdivision of land applications.
- [2] Site plan applications.
- [3] Conditional use permit applications.

- (b) Town Board. Fees are established for the following Town Board matters:

- [1] Petitions to amend the Zoning Regulations.
- [2] Petitions to amend the Zoning Map.
- [3] Licenses to operate mobile home courts, dumps and/or circuses.
- [4] Approval of a temporary mobile home.

- (c) Zoning Board of Appeals. Fees are established for the following Zoning Board of Appeals matters:

- [1] Area variance applications.
- [2] Use variance applications.
- [3] Requests for interpretation of the Zoning Law.

- (d) Building Inspector. Fees are established for the following activities of the Building Inspector:

- [1] Building permit applications.
- [2] Certificate of occupancy applications.

- [3] Sign permit applications.
- (2) Additional fees for certain planning and zoning reviews. For certain applications the Planning Board, Town Board and Zoning Board of Appeals will require professional expert resources in order to make final determinations on said applications. The costs of these professional resources shall be borne by the applicant. The standards and criteria for imposition of such additional fees, and the manner in which such fees are to be paid, shall be in accord with Chapter 71 of the Town of Esopus Code (L.L. No. 3-1991), A Local Law to Compensate the Town of Esopus for the Cost of Certain Planning and Zoning Reviews, and any amendments thereto.
- (3) Environmental impact statement review. In the event that the proposed action has been determined by a Town agency acting as lead agency to have a potential significant effect upon the environment, as provided for in § 617 of the New York Code of Rules and Regulations (SEQR), and an environmental impact statement must then be prepared and submitted, the applicant shall pay the reasonable fees, disbursements and/or cost incurred by professional experts in the course of review of said environmental impact statement.
- C. Reacquaintance fees. Whenever an extension is necessary to prevent an approval from lapsing, as specified in this law, or becoming otherwise void, the first such request for an extension shall be processed at no charge, and the second and each subsequent request for an extension shall be processed only upon prior payment of the fees established by resolution by the Town Board.
- D. Abatement not to be granted. No abatement of fees shall be granted as a result of an applicant's seeking more than one approval or submitting more than one application in connection with a particular project.
- E. Amendments to approved plans to be deemed new applications. Whenever an application is submitted to amend an approved plan or permit, it shall be deemed a new application, and the fees specified pursuant to this section shall apply.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VII, Nonconforming
Uses, Buildings and Lots**

ARTICLE VII, Nonconforming Uses, Buildings and Lots

GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VII, Nonconforming Uses, Buildings and Lots / § 123-30. Applicability; nonconforming uses.

§ 123-30. Applicability; nonconforming uses.

- A. The following provisions shall apply to all buildings and uses existing on the effective date of this chapter which do not conform to the requirements set forth in this chapter and to all buildings and uses that become nonconforming by reason of any subsequent amendment to this chapter.
- B. Continuation of nonconforming uses. Any nonconforming use of buildings or open land may be continued indefinitely but shall not be:
 - (1) Enlarged, altered, extended, reconstructed or restored (except as provided in this subsection or as provided in § 123-33) or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this chapter, nor shall any external evidence of such use be increased by any means whatsoever.
 - (2) Moved to another location where such use would be nonconforming.
 - (3) Changed to another nonconforming use without approval by the Zoning Board of Appeals and then only to a use which, in the opinion of the Board of Appeals, is of a similar nature or one which is more in character with surrounding conforming uses than the existing use.
- C. Discontinuance and reestablishment of nonconforming uses.
 - (1) Any building or land used for or occupied by a nonconforming use which is discontinued and changed to or replaced by a conforming use shall not thereafter be used for or occupied by a nonconforming use.
 - (2) Any nonconforming use of land and/or of buildings with less than 200 square feet of floor area, which is discontinued for a period of more than one year, shall thereafter be replaced only by a use which conforms to the regulations of the district in which the land is located.
 - (3) Any nonconforming use occupying a building with a floor area of more than 200 square feet, which is discontinued for a period of more than five years, shall thereafter be replaced only by a use permitted in the district in which the building is located; except that, upon approval of a conditional use permit by the Planning Board in accord with the provisions of § 123-46, the building may be used for a similar or more restricted use. The Board shall consider, in addition to the criteria set forth in § 123-46, the size, condition and adaptability of the building to other uses in arriving at its decision

- (4) A building housing a nonconforming use which sustains damage or destruction by any cause may be repaired or reconstructed, so long as the nonconforming use is not increased or expanded, if all necessary building permits are obtained within two years and reconstruction is fully completed within four years. If discontinued for longer than four years, the use shall thereafter be replaced only by a use permitted in the district in which the property is located or changed to another nonconforming use as provided in Subsection C(3) above.
- (5) If the discontinuance or reconstruction referred to in Subsection C(3) or (4) above is the result of or is prolonged by legal proceedings involving the property, its tenants or its owners, the reestablishment period shall be extended until two years after the date of settlement or final determination of all legal proceedings.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VII, Nonconforming
Uses, Buildings and Lots / § 123-31. Nonconforming buildings.**

§ 123-31. Nonconforming buildings.

- A. Buildings and structures which are only nonconforming in bulk may be altered, moved, reconstructed or enlarged, provided that such change does not extend beyond that part of the existing structure which causes the nonconformity or create any new, nonconforming bulk in such building and does not violate any other provisions of this chapter.
- B. A building which is nonconforming in terms of bulk or setback, which sustains damage or destruction by any cause may be repaired or reconstructed, so long as the nonconformity is not increased or expanded, if all necessary building permits are obtained within two years of such damage or destruction. If such reconstruction has not been fully completed within four years, the provisions of § 123-30C above shall apply. In the case of an undersized lot, the provisions of § 123-34 below shall apply.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VII, Nonconforming
Uses, Buildings and Lots / § 123-32. Maintenance and repairs.**

§ 123-32. Maintenance and repairs.

Notwithstanding any of the above regulations, nothing in this section shall be deemed to prevent normal maintenance and repair of any use or building or the carrying out upon the issuance of a building permit of major structural alterations or demolitions necessary in the interest of public

safety.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VII, Nonconforming
Uses, Buildings and Lots / § 123-33. Enlargement of floor area.**

§ 123-33. Enlargement of floor area.

All nonconforming uses are permitted enlargement up to 100% of the floor area of existing buildings if such enlargement conforms to all bulk, area and parking requirements. The base building area for determining the increase shall be the nonconforming building area that existed on April 12, 1971 (the date of adoption of the original Zoning Ordinance of the Town of Esopus by the Town Board), or the date of adoption of any subsequent amendment which created the nonconformity.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VII, Nonconforming
Uses, Buildings and Lots / § 123-34. Existing undersized lots.**

§ 123-34. Existing undersized lots.

Nothing contained in this chapter shall prohibit development of any lot for which a map was filed or a deed recorded prior to the original adoption of this chapter (April 12, 1971) whose area and/or width are less than the specified minimum lot requirements of the law for the district in which it is located, and no variance shall be required, provided that:

- A. Such lot has an area of at least 7,500 square feet and a minimum width of 75 feet.
- B. Such lot may not be used for more than one dwelling unit.
- C. Such use satisfies all applicable requirements of the Town of Esopus and the Ulster County Health Department for potable water supply and sewage disposal facilities.
- D. All other bulk and yard requirements for that district are complied with to the maximum extent feasible.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VII, Nonconforming
Uses, Buildings and Lots / § 123-35. Reduction in lot area.**

§ 123-35. Reduction in lot area.

No lot shall be reduced in area so that it creates a nonconforming bulk or use in violation of any regulations contained in this chapter.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VII, Nonconforming
Uses, Buildings and Lots / § 123-36. Exemption of lots on approved subdivision
plats.**

§ 123-36. Exemption of lots on approved subdivision plats.

Any lot in a subdivision whose plat has been approved by the Town of Esopus Planning Board and property filed in the Office of the Ulster County Clerk prior to the passage of this chapter and whose area and/or width are less than the specified minimum lot requirements of this chapter for the district in which it is located shall be considered as complying with such minimum lot requirements.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VII, Nonconforming
Uses, Buildings and Lots / § 123-37. (Reserved)**

§ 123-37. (Reserved)

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VII, Nonconforming
Uses, Buildings and Lots / § 123-38. (Reserved)**

§ 123-38. (Reserved)

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VIII, Board of Appeals**

ARTICLE VIII, Board of Appeals

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VIII, Board of Appeals
/ § 123-39. Establishment; appointments; organization.**

§ 123-39. Establishment; appointments; organization.

- A. Pursuant to the provisions of § 267 of New York State Town Law, the Town Board has appointed a Board of Appeals and shall designate its Chairman. No member of the Board of Appeals shall be a member of the Town Board or the Planning Board. Members of the Board of Appeals may receive compensation for their services as provided by the Town Board.
- B. A vacancy occurring for reason other than by expiration of a term shall be filled by the Town Board by appointment for the unexpired term only.
- C. The Board of Appeals shall have the power to make, adopt and promulgate such written rules of procedure, bylaws and forms as it may deem necessary for the proper execution of its duties and to secure the intent of this chapter. Such rules, bylaws and forms shall not be in conflict with nor have the effect of waiving any provision of this chapter or any other law of the Town of Esopus.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VIII, Board of Appeals
/ § 123-40. Powers and duties.**

§ 123-40. Powers and duties.

- A. The Board of Appeals is governed by and shall act in strict accordance with the procedures specified by Town law, this chapter and its own duly adopted rules, bylaws and forms. Upon proper request made in the form and manner prescribed by the Board and accompanied by a fee in accord with a schedule adopted by the Town Board, the Zoning Board of Appeals shall perform the following functions:
 - (1) Hear and decide any question properly brought before it involving the interpretation of any provision of this chapter.
 - (2) Hear and decide appeals from any decision, determination, act or failure to act of the Enforcement Officer and all matters properly referred to it by the Building Inspector.
 - (3) Hear and decide applications for variances to provisions of this chapter in accordance with § 123-44.

- B. In exercising the above-mentioned powers and duties, the Board of Appeals may, in conformity with Town Law, reverse, affirm or modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as ought to be made in the case referred to it. To that end, the Board shall have all the powers of the Enforcement Officer from whom the appeal is made. The concurring vote of a majority of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Enforcement Officer or to decide in favor of the applicant any matter upon which such Board is required to pass.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VIII, Board of Appeals
/ § 123-41. Public hearings.**

§ 123-41. Public hearings.

The Board of Appeals, on due notice, shall hold a public hearing on every appeal and application for a variance referred to said Board or upon which it is required to pass under this chapter.

A. Notice.

- (1) Notice of each public hearing shall be published in a newspaper of general circulation in the Town of Esopus at least five days prior to such hearing. In addition, the Board of Appeals shall cause a notice of such hearing and an explanation of any change sought to be sent to the owners of all property adjacent to or directly across any street or right-of-way from the subject property. Such notices shall be sent to the last known address as shown on the most recent Town tax records and mailed at least five days prior to such public hearing.
- (2) At least five days before such hearing, the Board of Appeals shall mail notices thereof to the regional state park commission having jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal; and to the county, metropolitan or regional planning agency, if the property affected by such appeal is within 500 feet any of the features specified in Article X, § 123-51, as required by § 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of the matter under consideration, as defined in § 239-m, Subdivision 1, of the General Municipal Law.
- (3) The designated official for hearing notices for counties shall be the Clerk of the County Legislature. For cities, towns and villages, the designated official shall be the clerk of the municipality. In the case of state parks or parkways, the designated office shall be the Palisades Interstate Park Commission.

- B. Findings and conclusions. Within 62 days after such public hearing and after considering the application, the Board of Appeals shall either grant or deny the request or appeal and make a written report on the findings and conclusions concerning the subject matter of such hearing, including the reasons for the grant or denial of the relief sought. The time within which the Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board. Such decision shall be filed in the office of the Town Clerk within five business days after the day such decision is rendered, and a copy thereof shall be mailed to the applicant.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VIII, Board of Appeals
/ § 123-42. Interpretation of provisions.**

§ 123-42. Interpretation of provisions.

The Board of Appeals shall, upon proper request, interpret any provision of this chapter about which there is uncertainty, lack of understanding or misunderstanding, ambiguity or disagreement, and shall determine the exact location of any zoning district boundary about which there may be uncertainty or disagreement.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VIII, Board of Appeals
/ § 123-43. Appeals.**

§ 123-43. Appeals.

- A. Any person allegedly aggrieved by a decision, determination, act or refusal to act of the Enforcement Officer may, within 60 days of such decision, determination, act or failure to act, file an appeal with the Board of Appeals. Such request shall clearly state the decision, determination, act or failure to act of the Enforcement Officer from which the appeal is taken.
- B. Any appeal from a decision of the Enforcement Officer, properly filed with the Board of Appeals, shall stay all proceedings in furtherance of the action appealed from, unless the Enforcement Officer certifies to the Board of Appeals that, by reason of facts stated in the certification, a stay would, in his opinion, cause imminent peril to life and property.
- C. The Board of Appeals shall have the power to grant a restraining order to stay all proceedings in furtherance of the action appealed from, over any action by the Enforcement Officer from whom the appeal is taken, upon notice to the Enforcement Officer and on due

cause shown.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE VIII, Board of Appeals
/ § 123-44. Variances.**

§ 123-44. Variances.

Where strict application of any of the requirements of this chapter would result in practical difficulty or unnecessary hardship that would deprive the owner of the reasonable use of his land or building, but in no other case, the Board of Appeals shall have the power, in passing upon appeals, to grant a variance to any of the regulations or provisions of this Zoning Law relating to the area, bulk, construction or alteration of building or structures, or the use of land and buildings, so that the spirit of this chapter shall be observed; public health, safety and welfare secured; and substantial justice done. Application for such variance shall clearly state the specific provisions of this chapter from which a variance is sought, the special circumstances which allegedly justify such variance and the interpretation or ruling which is desired.

- A. Criteria for granting variances. A variance to the provisions of this chapter shall be granted by the Board of Appeals only as set forth below:
- (1) Use variance. No such use variance shall be granted by the Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
 - (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
 - (b) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood.
 - (c) The requested use variance, if granted, will not alter the essential character of the neighborhood.
 - (d) The alleged hardship has not been self-created.
 - (2) Area variance. Prior to granting permission to waive the dimensional requirements applying to a parcel of land, the Board of Appeals shall consider the benefit to the applicant as weighed against the detriment to the health, safety and welfare of the neighborhood or community. The Board shall consider:

- (a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the grant of the variance.
 - (b) Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
 - (c) Whether the requested variance is substantial.
 - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
 - (e) Whether the alleged difficulty was self-created (which consideration shall be relevant, but not necessarily preclude the granting of the area variance).
- (3) For reasons fully set forth in the findings, the granting of the variance by the Board of Appeals shall be the minimum variance necessary.
- B. Conditions and compliance with law. In granting any variance, the Board of Appeals may prescribe any conditions that it deems to be necessary or desirable. The granting of a variance to any provisions of this chapter shall not obviate the necessity of complying in every other respect with the other provisions of this chapter.
- (1) All the provisions of this chapter relating to the Board of Appeals shall be strictly construed. Said Board, as a body of limited jurisdiction, shall act in full conformity with all provisions of law and of this chapter and in strict compliance with all limitations contained therein.
 - (2) Unless construction is commenced and diligently pursued within 12 months of the date of the granting of a variance, such variance shall become null and void.
 - (3) If an area variance has been granted for the purpose of subdivision and creation of a lot of nonconforming area, application for such subdivision must be made to the Planning Board within 12 months of the date the variance was granted, otherwise such variance shall become null and void.
 - (4) The granting of a variance shall not obviate the requirement that site plan approval be obtained from the Planning Board if such approval would normally be required.
- C. Referrals.
- (1) Referral to the Town Planning Board. At least 30 days before the date of a public hearing held in connection with any application for a variance submitted to the Board of Appeals, the Board of Appeals shall transmit to the Planning Board a copy of said application and shall request that the Planning Board submit to the Board of Appeals its

advisory opinion on said application prior to the date of said hearing. Should the Planning Board fail to submit such report within the stipulated time, the Board of Appeals may proceed to make a determination.

- (2) Referral to Ulster County Planning Board. Any application for a variance involving real property lying within 500 feet of any of the features listed under Article X, § 123-51, shall be referred to the Ulster County Planning Board prior to final action in accord with §§ 239-1 and 239-m of the General Municipal Law. The Board of Appeals shall not take action on the application until it has received comment from the Ulster County Planning Board or until 30 days has elapsed.

D. When the Board of Appeals finds the zoning classification of a particular property to be conducive to the deprivation of the reasonable use of the land or buildings and where said Board finds the same condition to apply generally to other land or buildings in the same neighborhood or zoning district, the Board of Appeals shall call this condition to the attention of the Town Board.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE IX, Planning Board**

ARTICLE IX, Planning Board

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE IX, Planning Board /
§ 123-45. Powers and duties.**

§ 123-45. Powers and duties.

- A. In addition to those other powers and duties assigned to it by law, the Planning Board is hereby empowered to perform the following functions:
- (1) Issue conditional permits for those uses specifically listed as requiring such a permit in the Use Schedule^{EN(75)} in accord with the provisions of § 123-46 below.
 - (2) Review the site development plan for those uses requiring such review in accord with § 123-47 below.
 - (3) Review and submit advisory opinions concerning applications for variances and amendments to the Zoning Regulations, as required by this chapter.

- B. All resolutions or official actions of the Planning Board shall require the concurring vote of a majority of the entire Board.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE IX, Planning Board /
§ 123-46. Conditional use permits.**

§ 123-46. Conditional use permits.

Pursuant to an application, either directly or through the Building Inspector, the Planning Board is hereby authorized to issue a conditional permit only for a use specifically listed as requiring such permit in the district in which it is proposed, subject to the following regulations and procedures:

- A. Application. Each application for a conditional use permit shall be submitted in the number of copies and form prescribed by the Board, accompanied by a fee in accord with a schedule adopted by the Town Board and shall include the following data:
- (1) Site plan. Each application for conditional use permit shall be accompanied by a site plan and shall also constitute simultaneous application for site plan approval, in accord with § 123-47. The site plan must show those elements listed in § 123-47D which are relevant to the proposal and which would not cause an unusual hardship for the applicant to obtain, as determined by the Planning Board in the presubmission conference.
 - (2) Supporting documents.
 - (a) A project narrative report that describes or outlines the existing conditions of the site and the proposed development shall be submitted to supplement the sketch plan and location map. This information should include existing data on land characteristics, available community facilities and utilities and data as to the number of dwelling units, amount of commercial floor area, number of employees, drainage and traffic assessments, protective covenants, easements and proposed utilities and improvements.
 - (b) The applicant shall also file a short environmental assessment form (short EAF) with the sketch plan, unless the Planning Board requests that a full environmental assessment form be submitted.
 - (3) Fees and costs. Each application for a conditional use permit shall be accompanied by all relevant fees, as specified in § 123-29, to cover all review costs, including, but not

limited to, those engineering, environmental, planning and legal analyses and filing.

B. Procedure.

- (1) Presubmission conference. Prior to submission of an application for a proposed conditionally permitted use, the applicant or authorized representative shall meet in person with the Planning Board. The purpose of such conference shall be to discuss the proposed use or development in order to determine the scope and type of data, in the form of site plans and reports, to be submitted to the Planning Board in order for said Board to determine conformity with the provisions and intent of this chapter.
- (2) Submission of application. Within six months following the presubmission conference, the special use permit application and related information, including, but not limited to, site plans, environmental assessment and impacts statements and technical studies, shall be submitted to the Building Inspector, in triplicate, at least 15 days prior to the Planning Board meeting at which approval is requested. If an application is not submitted within the six-month period, another presubmission conference may be required.
- (3) Public hearing. The Planning Board shall schedule a public hearing to be held within 62 days of receipt of a complete application for a conditional use permit.
- (4) Hearing notice. Notice of the public hearing shall be published once in the official newspaper of the town, at least 10 days prior to the date of such hearing. In addition, the Planning Board shall cause a notice of such hearing and an explanation of the proposal to be mailed to the owners of all property adjacent to or directly across any street or right-of-way from the subject property. Such notices shall be sent to the owner's last known address as shown on the most recent Town Tax Assessment records and mailed by certified mail, return receipt requested, at least 20 days prior to such public hearing.
- (5) Referral to County Planning Board. Any application for a conditional use permit involving real property lying within 500 feet of any of the features listed under Article X, § 123-51, shall be referred to the Ulster County Planning Board prior to final action in accord with §§ 239-l and 239-m of the General Municipal Law. The Planning Board shall not make a decision until it has received comment from the Ulster County Planning Board or until 30 days have elapsed.

C. Decision and findings.

- (1) Criteria for decisions. The Planning Board shall only approve the issuance of a conditional use permit if it finds that the following criteria have been met:
 - (a) That any specific standards set forth for the proposed use in § 123-13 have been satisfied and that the objectives for site plan review set forth in § 123-47 have been

achieved.

- (b) That all proposed structures, equipment or material shall be readily accessible for fire and police protection and shall be adequately served by sewage disposal and water supply facilities and recreation facilities.
 - (c) That the proposed use is of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
 - (d) That important natural features and sensitive environmental resources are protected to the maximum extent feasible and have been adequately addressed in accord with the State Environmental Quality Review (SEQR) Act.
 - (e) That, in addition to the above, in the case of any use located in or directly adjacent to a residential district:
 - [1] The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous inconvenient or incongruous with said residential district or conflict with the normal traffic of the neighborhood.
 - [2] The location and height of buildings, the location, nature and height of walls and fences and the nature and extent of screening and landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or diminish the value thereof.
 - (f) That all proposed means of stormwater management, erosion and sediment control and site disturbance have been taken, and that the applicant's plan for same has been designed in accordance with the provisions of Chapter 106 of this Code and with the approval of the Town's Stormwater Management Officer. If an SWPPP is not required, the subdivision plan will include global positioning system (GPS) reference data for stormwater outfalls and permanent structures built in accordance with the New York State Stormwater Management Design Manual. [Added 11-15-2007 by L.L. No. 9-2007]
- (2) Findings and conclusions.
- (a) Within 62 days after the public hearing, unless the time has been extended by mutual

consent of the applicant and the Planning Board, the Planning Board shall review its decision as to whether to issue the conditional use permit and shall make a written report setting forth its findings and conclusions and the basis for its decision.

- (b) The decision of the Board shall be filed with the Town Clerk within five days and a copy thereof mailed to the applicant.

D. Additional conditions.

- (1) When issuing a conditional use permit, the Planning Board may attach such conditions and safeguards as it deems necessary to further the intent of these regulations and to protect the public interest.
- (2) Any use for which a conditional use permit may be granted shall be deemed to be a conforming use in the district in which such use is located, provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE IX, Planning Board /
§ 123-47. Site plan approval.**

§ 123-47. Site plan approval.

In all cases where this chapter requires approval of site development plans by the Planning Board, no building permit shall be issued by the Building Inspector except upon authorization of and in conformity with the plans approved by the Planning Board.

A. Effect of site development plan approval.

- (1) No building permit shall be issued for any structure covered by this section until an approved site development plan or approved amendment of any such plan has been secured by the applicant from the Planning Board and presented to the Building Inspector.
- (2) No certificate of occupancy will be issued for any structure or use of land covered by this section unless the structure is completed or the land is developed or used in accordance with an approved site development plan or approved amendment of any such plan.
- (3) Prior to final action, the Planning Board shall refer any matters involving any of the areas or features specified in Article X, § 123-51, to the Ulster County Planning Board

in accordance with § 239-m of the General Municipal Law.

- (4) Site plan approval shall not be required for the change of use or ownership of a permitted use to another permitted use in the district which has the same parking requirements as the original use.

B. Objectives. In considering and acting upon site development plans, the Planning Board shall take into consideration the public health, safety and welfare, the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular and may prescribe appropriate conditions and safeguards as may be required in order that the result of its action may, to the maximum extent possible, further the expressed intent of this chapter and the accomplishment of the following objectives in particular.

- (1) That proposed traffic accesses and ways are adequate but not excessive in number, adequate in width, grade, alignment and visibility, not located too near street corners or other places of public assembly and conform to similar safety considerations.
- (2) That adequate off-street parking and loading spaces are provided to prevent parking in public streets of vehicles of any persons connected with or visiting the use and that the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots.
- (3) That all parking and service areas are reasonably screened at all seasons of the year from the view of adjacent residential lots and streets and that the general landscaping of the site is in character with that generally prevailing in the neighborhood.
- (4) That all existing trees, wooded areas, watercourses and other natural features shall be retained to the maximum extent possible consistent with the development plan.
- (5) That all outdoor lighting is of such nature and so arranged as to preclude the diffusion of glare onto adjoining properties and streets.
- (6) That all drainage systems and the internal water and sewer systems are adequate and that all connections to Town systems are in accordance with Town standards.
- (7) That the site plan and building design accommodate the needs of the handicapped and are in conformance with state standards for construction concerning the handicapped.
- (8) That the site plan and building design consider the conservation of energy.

C. Procedure.

- (1) Presubmission conference. Prior to the submission of a site development plan, the applicant or authorized representative shall meet in person with the Planning Board. The purpose of such conference shall be to discuss proposed uses or development in order to

determine which of the site development plan elements listed in § 123-47D shall be submitted to the Planning Board in order for said Board to determine conformity with the provisions and intent of this chapter.

- (2) Within six months following the presubmission conference, the site development plan and any related information shall be submitted to the Building Inspector, in triplicate, at least 15 days prior to the Planning Board meeting at which approval is requested. If a site plan is not submitted within the six-month period, another presubmission conference may be required.
 - (3) The Building Inspector shall certify on each site development plan or amendment whether or not the plan meets the requirements of all Zoning Law provisions, other than those of this section, regarding site development plan approval.
 - (4) The Building Inspector shall retain one copy and transmit two copies of the certified site development plan to the Secretary of the Planning Board at least seven days prior to the Planning Board meeting at which approval is requested.
 - (5) The Planning Board may hold a public hearing on the site plan if it determines that the matter is of wide public interest. If such a hearing is held, the provisions relating to public notice as required in § 123-46B(3) and (4) for a conditional use permit shall be followed.
 - (6) The Planning Board shall act to approve or disapprove any such site development plan within 62 days after the public hearing or, if no hearing is held, within 62 days of the official submission date, unless the time has been extended by mutual consent of the applicant and the Planning Board. Failure to act within 45 days shall be deemed approval. Conditional approval or disapproval by the Planning Board shall include written findings upon any site development plan element found contrary to the provisions or intent of this chapter. In reviewing the application, the Planning Board may secure the advice or assistance of one or more expert consultants qualified to advise as to whether a proposed use will conform to the requirements of this chapter.
 - (7) Amendments to a site development plan shall be acted upon in the same manner as the approval of the original site plan.
 - (8) The Planning Board may require the posting of such performance guaranties as it deems necessary as a condition of site plan approval to ensure that site improvements, such as roadways, parking areas, drainage facilities, utility systems and landscaping, are satisfactorily completed in accord with approved plans.
- D. Site development plan elements. The applicant shall cause a site development plan map to be prepared by a civil engineer, surveyor, land planner, architect or other competent person. Site

development plan elements shall include those listed below which are appropriate to the proposed development or use, as determined by the Planning Board in the presubmission conference.

- (1) Legal data.
 - (a) Lot, block and section number of the property, taken from the latest tax records.
 - (b) The name and address of the owner of record.
 - (c) Name and address of the person, firm or organization preparing the map.
 - (d) Date, North point and written graphic scale.
 - (e) Sufficient description or information to define precisely the boundaries of the property. All distances shall be in feet and tenths of a foot. All angles shall be given to the nearest 10 seconds or closer. The error of closure shall not exceed one in 10,000.
 - (f) The locations, names and existing widths of adjacent streets and curblines.
 - (g) The locations and owners of all adjoining lands as shown on the latest tax records.
 - (h) Location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjoining the property.
 - (i) A complete outline of existing deed restrictions or covenants applying to the property.
 - (j) Existing zoning.
- (2) Natural features.
 - (a) Existing contours with intervals of five feet or less, based on a reference system satisfactory to the Board.
 - (b) Approximate boundaries of any areas subject to flooding or stormwater overflows.
 - (c) Location of existing watercourses, marshes, protected state and federal wetlands, wooded areas, orchards and vineyards, rock outcrops and other significant existing features.
- (3) Existing structures and utilities.
 - (a) Location of uses and outline of structures drawn to scale on and within 100 feet of the lot line.

- (b) Paved areas, sidewalks and vehicular accesses between site and public streets.
 - (c) Locations, dimensions, grades and flow direction of existing sewers, culverts and waterlines, as well as other underground and aboveground utilities within and adjacent to the property.
- (4) Proposed development.
- (a) The location of proposed buildings or structural improvements.
 - (b) The location and design of all uses not requiring structures, such as off-street parking and loading areas.
 - (c) The location, direction, power and time of use for any proposed outdoor lighting or public address systems.
 - (d) The location and plans for any outdoor signs.
 - (e) The location and arrangement of proposed means of access and egress, including sidewalks, driveways or other paved areas; profiles indicating grading; and cross sections showing width of roadway, location and width of sidewalks and location and size of water and sewer lines.
 - (f) Any proposed grading, screening and other landscaping, including types and locations of proposed street trees.
 - (g) The location of all proposed waterlines, valves and hydrants and all sewer lines or alternate means of water supply and sewage disposal and treatment.
 - (h) An outline of any proposed deed restrictions or covenants.
 - (i) Any contemplated public improvements on or adjoining the property.
 - (j) If the site development plan only indicates a first stage, a supplementary plan shall indicate ultimate development.
- E. Time limit on validity of approval. Approval of a site plan by the Planning Board shall be valid for a period of one year from the date thereof for the purpose of obtaining a building permit. Failure to secure a building permit for at least the first stage of development during this period shall cause the site plan to become null and void. Upon application, the Planning Board may extend the time limit on the validity of the approval to not more than two years from the date of original approval.

§ 123-48. Advisory opinions.

§ 123-48. Advisory opinions.

The Planning Board shall review all applications for variances submitted to the Board of Appeals and all proposed amendments to the text or map of this Zoning Law being considered by the Town Board referred to it in accord with the provisions of this chapter. The Board shall have 30 days prior to the public hearing in which to prepare and submit its advisory opinion. Failure to submit an opinion within 30 days shall not prevent determination and action on the proposed variance or amendment by the appropriate Board.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE X, Amendments**

ARTICLE X, Amendments

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE X, Amendments / §
123-49. Authority to amend.**

§ 123-49. Authority to amend.

- A. The Town Board may, from time to time, amend, supplement or repeal, in whole or in part, this chapter, including the Zoning Map, in accord with the procedures set forth in §§ 123-50 and 123-51 below. Such amendment shall be adopted by majority vote of the Town Board, except as specified in §§ 123-49B and 123-51B, and may be initiated in the following ways:
- (1) By the Town Board on its own motion.
 - (2) On the recommendation of the Planning Board or the Zoning Board of Appeals.
 - (3) By the filing of a petition by Town taxpayers or residents, on a form prescribed by the Town Clerk, describing such proposed amendment, accompanied by a fee in accord with a schedule established by the Town Board.
- B. If a duly signed and acknowledged protest against a proposed amendment to this chapter is submitted to the Town Board by any one of the following, it shall not become effective except by a favorable vote of 3/4 of the members of the Board.

- (1) The owners of 20% or more of the area of the land included in such proposed change; or
- (2) The owners of 20% or more of the land immediately adjacent to such proposed change, extending 100 feet therefrom; or
- (3) The owners of 20% or more of the land directly opposite such proposed change, extending 100 feet from the street frontage of such opposite land.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE X, Amendments / §
123-50. Procedures.**

§ 123-50. Procedures.

- A. Public hearing. No change in the text or zoning district boundary of this chapter shall become effective until a public hearing is held in relation thereto at which the general public shall have an opportunity to be heard.
- B. Newspaper notice of hearing. At least 10 days prior to the date of each such public hearing, a notice of the time and place shall appear in the official newspaper of the town. Such notice shall describe the area, boundaries, regulations or requirements that such proposed change involves.
- C. Referrals. All proposed changes to these Zoning Regulations or Map shall be referred to the appropriate body as set forth in § 123-51.
- D. Publication and posting. Every amendment to this Zoning Law, including any map incorporated therein, adopted in accordance with the Town Law shall be entered in the minutes of the Town Board, and a copy or summaries thereof, exclusive of any map incorporated therein, shall be published once in a newspaper of general circulation in the town. In addition, a copy of such Law or amendment, together with a copy of any map incorporated therein, shall be posted conspicuously at or near the office of the Town Clerk in accordance with Town Law. Affidavits of the publication and posting thereof shall be filed with the Town Clerk.
- E. Effective date. An amendment or change in this chapter shall take effect 10 days following publication and posting in accordance with § 123-50D and filing of the local law with the Secretary of State in accord with Article 3 of the Municipal Home Rule Law.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE X, Amendments / §**

123-51. Referrals.

§ 123-51. Referrals.

A. Referral to the Planning Board.

- (1) Procedure. All proposed amendments originated by petition or motion of the Town Board shall be referred to the Town of Esopus Planning Board 30 days prior to the required public hearing for a report and recommendations thereon. If the Planning Board shall not have made its final report thereon prior to the public hearing, the Town Board may proceed to final action.
- (2) Planning Board report. In preparing a report on a proposed amendment, the Planning Board shall consider the following:
 - (a) Whether such change is consistent with the objectives and purposes of the district(s) to be affected.
 - (b) The nature and location of uses and buildings to be affected and the manner in which they will be affected.
 - (c) Whether uses permitted by the proposed change will be appropriate in the affected area(s).
 - (d) The effect of the change on existing or proposed public facilities and services, such as schools, streets, utilities, etc.

B. Referral to the County Planning Board.

- (1) Matters to be referred. Any change in the district classification of or the regulations applying to real property lying within a distance of 500 feet of the following shall be referred to the Ulster County Planning Board prior to final action in accord with §§ 239-1 and 239-m of the General Municipal Law. No final action shall be taken within 30 days of such referral unless a response is received sooner.
 - (a) The boundary of any other municipality.
 - (b) The boundary of any existing or proposed county or state park or other recreation area.
 - (c) The right-of-way of any existing or proposed county road or state highway, parkway or other controlled access highway.
 - (d) The existing or proposed right-of-way of any stream or drainage channel owned by

the county for which the county has established channel lines.

- (e) The existing or proposed boundary of any county or state owned land on which a public building or institution is located.
- (2) County Planning Board recommendations. If the Ulster County Planning Board fails to report its recommendations within 30 days after receipt of a full statement of such referred material, the Town Board shall construe such inaction as approval of the proposed zoning action and may act without such a report.
- (3) Effect of negative report. If the Ulster County Planning Board disapproves the proposed amendment or recommends modification thereof, the proposed amendment shall not become effective except by a vote of a majority plus one of all members of the Town Board and after the adoption of a resolution fully setting forth the reasons for such action.

C. Referral to adjacent municipalities.

- (1) At least 10 days prior to the date of the public hearings, written notice of any proposed change or amendment affecting property within 500 feet of the boundary of any adjacent city, Town or village shall be transmitted to the Town or village clerk of that city, Town or village.
- (2) The designated official for hearing notices for counties shall be the Clerk of the County Legislature. For cities, towns and villages, the designated official shall be the clerk of the municipality. In the case of state parks or parkways, the designated office shall be the Palisades Interstate Park Commission.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE XI, Planned Unit
Development**

ARTICLE XI, Planned Unit Development

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE XI, Planned Unit
Development / § 123-52. Intent and objectives.**

§ 123-52. Intent and objectives.

A. Intent.

- (1) The regulations and procedures in this section have been developed because it is not always possible to determine in advance the exact location, type, standards and mixture of all uses which may benefit the Town and its residents. This is particularly true of large uses which are planned and developed as a unit, which are self-contained and which occupy sites of sufficient size to provide adequate separation from adjacent uses and properties. Therefore, it is the primary objective of this article to provide procedures so that the Town may consider whether specific development proposals, which meet the general standards established herein, conform to the objectives of the Master Plan for the town, will benefit the general welfare of the community and could not be equally as well located in another zoning district already designated on the Zoning Map for the proposed use.
- (2) This article recognizes that, while the standard zoning function (use and bulk) and the subdivision function (platting and design) are appropriate for the regulation of land use in areas that are already substantially developed, these controls may restrict and inhibit the flexible techniques of land development contained in the planned unit development (PUD) concept. Further, it is recognized that a rigid set of bulk and use specifications would frustrate the application of this concept. Thus, where PUD techniques are deemed appropriate through the rezoning of land to a planned unit development district by the Town Board, the area and bulk requirements specified elsewhere in this chapter are hereby replaced by an approval process in which the approved plan becomes the basis for continuing land use controls.

B. Objectives. In order to carry out the intent of this article, a PUD shall achieve the following objectives.

- (1) A maximum choice in the types of environment, occupancy, tenure, types of housing, lot sizes and community facilities available to existing and potential Town residents at all economic levels.
- (2) More flexibility in the location and design of large scale nonresidential uses which are compatible in primarily residential areas.
- (3) The preservation of trees, outstanding natural topography and geologic features and prevention of soil erosion.
- (4) A creative use of land and related physical development which allows an orderly transition between lands of differing characteristics.
- (5) An efficient use of land resulting in smaller networks of utilities n streets than would otherwise develop.

- (6) A development pattern in harmony with the objectives of the Town of Esopus Comprehensive Plan.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE XI, Planned Unit
Development / § 123-53. General requirements for planned unit development.**

§ 123-53. General requirements for planned unit development.

- A. Minimum area. The minimum area required for a Planned Unit Development District shall be 25 contiguous acres.
- B. Ownership. The tract of land for a PUD must be owned, leased or controlled by a single person, partnership or a corporation. Any approvals or conditions imposed shall be binding on all future owners or tenants as well.
- C. Location of PUD districts. The PUD District shall be restricted to those areas of the Town which can be served by approved sewer and water systems.
- D. Permitted uses. All uses within an area designated as a PUD District shall be governed by the provisions of this section and the plans, standards and conditions specifically approved for the project concerned. Permitted uses may include any one or a combination of the following:
 - (1) Residential uses. Residences may be of any type or combination of types, including single-family homes, townhouses or multifamily residences. A variety of building types, styles and design is encouraged so as to create a balanced community.
 - (2) Nonresidential uses. Nonresidential uses may be permitted in combination with residential uses. Consideration shall be given to the location, scale and setting of the project in determining the appropriateness of such uses and their location and design within the PUD.
 - (3) Customary accessory or associated uses. Accessory uses, such as private garages, storage places, recreational and community activities, churches and schools, shall also be permitted as appropriate to the PUD.
- E. Intensity of land use.
 - (1) Density. Because land is used more efficiently in a PUD, environmental quality can often be preserved with a greater number of dwelling units per gross site area than is usually permitted in traditionally zoned districts. The Town Board shall determine in each case the appropriate land use intensity and/or dwelling unit densities for individual

projects. The determination of land use intensity ratings or dwelling unit densities shall be completely documented, including all facts, opinions and judgments justifying the selection of the rating or density.

- (2) Size of initial development stage. The initial stage of any PUD approved under these regulations shall create a viable development unit by itself in terms of site planning elements, infrastructure design and financial resources.

F. Common property and open space.

- (1) Common property. Common property in a PUD is a parcel or parcels of land, together with the improvements thereon, the use and enjoyment of which is shared by the owners and occupants of the individual building sites. Common property may be either in public or private ownership. When common property exists in private ownership, satisfactory arrangements must be made for the improvement, operation and maintenance of such common property and facilities, including private streets, drives, service and parking areas and recreational and open space areas.

- (2) Open space.

- (a) At least 20% of the gross site area in a PUD shall be set aside as open space and shall remain and be maintained open in perpetuity. Open space does not include roads, parking areas, other paved areas, utility rights-of-way, drainage channels or any other open areas with a dimension of less than 200 feet at its smallest dimension. No more than 1/4 of such open space may comprise land under water. Such open space shall not be disposed of for any future development.
- (b) The ownership of open space land created as part of a PUD shall be approved by the Town Board upon the advice of the Town Attorney. The Town Board shall retain the right to review and approve the articles of incorporation and charter of any ownership entity and to require whatever conditions it shall deem necessary to ensure that the intent and purpose of this chapter are carried out.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE XI, Planned Unit
Development / § 123-54. Application procedure and approval process.**

§ 123-54. Application procedure and approval process.

- A. General. Whenever any Planned Unit Development (PUD) is proposed, before any permit for the erection of a permanent building in such Planned Unit Development shall be granted and before any subdivision plan of any part thereof may be filed in the Office of the County

Clerk, the developer or his authorized agent shall apply for and secure approval of such PUD in accordance with the following procedures set forth below.

B. Application to the Planning Board for sketch plan approval.

- (1) Prior to submission to the Town Board, an application for PUD rezoning shall be referred to the Planning Board so that it may review the proposal and advise the Town Board. In order to establish basic design principals prior to final design, the developer shall submit a sketch plan of his proposal to the Planning Board. The sketch plan shall be to scale and shall clearly show the following information:
 - (a) The location and distribution of the various uses and their areas in acres.
 - (b) The layout of the interior roadway system and all existing and proposed rights-of-way and easements, whether public or private; the location and general design of parking and loading areas; access and egress locations.
 - (c) The location, height and use of all buildings, plus a calculation of the residential density in dwelling units per gross acre (total area including interior roadways) for each use type and for each subarea or section. The projected cost, sales price and rent levels shall be described.
 - (d) The location, function and size of recreation and open space systems and buffer areas.
 - (e) The overall drainage system; watercourses; wetlands; wooded areas; fences, walls, rock outcroppings, flood hazard areas and similar physical features.
 - (f) A topographic map showing contour intervals of not more than five feet of elevation, along with an overlay outlining areas where grades exceed 15%, and portions of the site having a moderate to high susceptibility to erosion or a moderate to high susceptibility to flooding and ponding.
 - (g) Location and preliminary design of sewage disposal and water supply systems.
 - (h) General description of the impact of the project on community facilities, such as schools, fire protection services and cultural facilities, if any, and an indication of how these impacts are proposed to be accommodated; and
 - (i) A location map showing uses, ownership and general physical features of adjacent lands within 2,500 feet of the site and analysis of the impact on water supply, sewage disposal and surface drainage of such properties.
- (2) In addition, the following documentation shall accompany the sketch plan:

- (a) A general statement as to how common open space is to be owned and maintained.
 - (b) If the development is to be staged, a general indication of how the staging is to proceed. Whether or not the development is to be staged, the sketch plan shall show the intended total project.
 - (c) Evidence of any sort in the applicant's own behalf to demonstrate his competence to carry out the plan and his awareness of the scope of such a project, both physical and financial.
- C. Planning Board review. The Planning Board shall review the sketch plan and its related documents and shall render either a favorable report to the Town Board or an unfavorable report to the applicant within 90 days of receipt of all necessary application materials. The Planning Board may, at its option, hold a public hearing prior to its action.
- (1) A favorable report shall be based on the following findings, which shall be included as part of the report:
 - (a) The proposal is consistent with the goals and policies contained in the Town's Master Plan and Local Waterfront Revitalization Program.
 - (b) The proposal meets the intent and objectives of Planned Unit Development.
 - (c) The proposal satisfies the general requirements of § 123-53.
 - (d) The proposal is conceptually sound in that it meets local and area-wide needs and it conforms to accepted design principals in the proposed roadway and pedestrian system, land use configuration, open space system, drainage system and scale of the elements, both absolutely and to one another.
 - (e) There are adequate services and utilities available or proposed to be made available in the construction of the development.
 - (2) An unfavorable report shall state clearly the reasons therefor and, if appropriate, point out to the applicant what modifications might be considered in order to receive a favorable report. The applicant may appeal an unfavorable report to the Town Board. The Board may, upon a vote of a majority plus one additional vote, proceed to hold a public hearing on its own initiative.
- D. Application to the Town Board.
- (1) Upon receipt of a favorable report from the Planning Board, the Town Board shall initiate the procedures for the purpose of considering designation of a PUD District for the applicant's plan in accordance with the procedures established under § 123-50 of this

Zoning Law.

- (2) Prior to holding a public hearing, the Town Board shall render a determination of environmental significance in accord with the procedures of the State Environmental Quality Review (SEQR) Act. If such a determination requires that a draft environmental impact statement (DEIS) be submitted and circulated, said DEIS shall be prepared in accord with the standards and procedures of the State Environmental Quality Review (SEQR) Act (6 NYCRR Part 617). All procedures under SEQR shall be completed prior to the Town Board's action on the application.
- (3) The Town Board shall refer the application to the County Planning Board for its analysis and recommendations, pursuant to the provisions of § 239-m of the General Municipal Law and § 123-51 hereof.

E. Action by the Town Board.

- (1) The Town Board may grant approval of the application and designate the PUD District, as requested, upon a finding that the objectives set forth in § 123-52 will be achieved and that, based on review of potential environmental effects, the proposal minimizes or avoids adverse environmental impacts to the maximum extent practicable.
- (2) The Town Board shall disapprove the application if it finds that, in its opinion, the objectives of § 123-52 will not be achieved or that adverse environmental impacts are not minimized or avoided to the maximum extent practicable.
- (3) If the Town Board grants the application for a PUD District, the Zoning Map shall be so notated. The Town Board may, if it feels it necessary in order to fully protect the public health, safety and welfare of the community, attach to its zoning resolution any additional conditions or requirements upon which the approval shall be contingent. Such requirements may include, but are not confined to, visual and acoustical screening, land use mixes, order of construction and/or occupancy, circulation systems, both vehicular and pedestrian, availability of sites within the area for necessary public services, protection of natural and/or historic sites, other such physical or social demands, provision of satisfactory surety to guarantee that essential public and private utilities and facilities are completed in accord with the approved plan and time limits for various phases of development. The Town Board shall state at this time its findings with respect to the land use intensity or dwelling unit density as called for in § 123-53E above.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE XI, Planned Unit
Development / § 123-55. Site plan approval process for Town Board designated
District.**

§ 123-55. Site plan approval process for Town Board designated District.

- A. Application to the Planning Board. Application for site plan approval shall be submitted to the Planning Board and shall be accompanied by the following information prepared by a licensed engineer, architect and/or landscape architect:
 - (1) An area map showing the applicant's entire holding, that portion of the applicant's property under consideration and all properties, subdivision, streets and easements within 500 feet of the applicant's property.
 - (2) A site plan including all information required under § 123-47.
- B. County Planning Board review. Upon receipt of the application for site plan approval, the Planning Board shall refer said application to the County Planning Board for its report in accord with § 239-m of the General Municipal Law.
- C. Review considerations. The Planning Board shall consider the following factors during its review of the site plan:
 - (1) Adequacy and arrangement of traffic access and circulation, including intersection design, road widths, channelization structures and traffic controls.
 - (2) Adequacy and arrangement of pedestrian access and circulation, including separation of pedestrian from vehicular traffic, control of intersections with vehicular traffic and pedestrian convenience.
 - (3) Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - (4) Location, arrangement, size and design of buildings, lighting and signs.
 - (5) Relationship of the various uses to one another and their relative scale.
 - (6) Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or a noise deterring buffer between adjacent uses and adjoining lands.
 - (7) Adequacy and distribution of usable open space for playgrounds and informal recreation.
 - (8) Adequacy of stormwater, water supply and sanitary waste disposal facilities, including impact on adjacent properties and systems.
 - (9) Adequacy of structures, roadways and landscaping areas with moderate to high susceptibility to flooding, ponding and/or erosion.
 - (10) Protection of adjacent properties against glare, unsightliness or other objectionable

features.

- (11) Overall environmental impact.
- (12) Conformance with other specific charges of the Town Board which may have been stated in the zoning resolution.

D. Planning Board action.

- (1) The Planning Board shall set a public hearing date within 60 days of receipt of a complete application. It shall render a decision within 90 days of the hearing and notify the applicant and the Town Board of its decision.
- (2) The Planning Board's decision may include recommendations as to desirable revisions to be incorporated in the site plan, which shall be considered a condition of approval. Such recommendations shall be limited, however, to siting and dimensional details within general use areas and shall not significantly alter the sketch plan as it was approved in the zoning proceedings.
- (3) If the site plan is disapproved, the Planning Board's statement shall contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the site plan and resubmission of the site plan to the Planning Board after it has been revised or redesigned.
- (4) No modification of existing storm channels, filling of lands with a moderate to high susceptibility to flooding, grading or removal of vegetation in areas with moderate to high susceptibility to erosion or excavation for and construction of site improvements shall begin until the developer has received site plan approval. Failure to comply shall be construed as a violation of the Zoning Law.

E. Request for changes in sketch plan. If, during site plan development, it becomes apparent that certain elements of the sketch plan, as it has been approved by the Town Board, are unfeasible and in need of significant modification, the applicant shall then present his solution to the Planning Board. The Planning Board shall then determine whether or not the modified plan is still in keeping with the intent of the zoning resolution. If a negative decision is reached, the site plan shall be considered as disapproved. The developer may then, if he wishes, produce another site plan in conformance with the approved sketch plan. If an affirmative decision is reached, the Planning Board shall so notify the Town Board, stating all of the particulars of the matter and its reasons for finding that the project should be continued as modified. Site plan approval may then be given only with the consent of the Town Board.

F. Staging. If an applicant wishes to stage his development, and he has so indicated as per § 123-54B(2)(b), then he may submit only those stages he wishes to develop for site plan

approval in accordance with his staging plan. Any plan which requires more than 24 months to be completed shall be required to be staged and a staging plan must be developed. It is the intent of this regulation that individual stages of the PUD will have an integrity of uses in their own right so that, if for any reason, the entire PUD would not be completed, those portions of the PUD already constructed will be an asset to the community by themselves. Staging plans must take account of this objective, and developers proposing individual stages that deviate significantly from the overall character of the PUD should present convincing evidence that such a stage is indeed in keeping with this section.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE XI, Planned Unit
Development / § 123-56. Additional regulations.**

§ 123-56. Additional regulations.

- A. Regulation after initial construction and occupancy. For the purpose of regulating development and use of property after initial construction and occupancy, any changes other than use changes shall be processed as a special permit request to the Planning Board. Use changes shall also be in the form of a request for special permit except that Town Board approval shall be required. It shall be noted, however, that properties lying in Planned Unit Development Districts are unique and shall be so considered by the Planning Board or Town Board when evaluating these requests; and maintenance of the intent and function of the planned unit shall be of primary importance.
- B. Site plan review and subdivision approval. Site plan review under the provisions of this article shall suffice for Planning Board review of subdivisions under Chapter 107, Subdivision of Land, subject to the following conditions:
 - (1) The developer shall prepare sets of subdivision plans suitable for filing with the Office of the Ulster County Clerk in addition to those drawings required above.
 - (2) The developer shall plat the entire development as a subdivision; however, PUDs being developed in stages may be platted and filed in the same stages.
 - (3) Final site plan approval shall constitute final plat approval under Chapter 107, Subdivision of Land; and provisions of § 276 of the Town Law requiring that the plat be filed with the Ulster County Clerk within 60 days of approval shall apply.
- C. Performance guaranties. As a condition of final approval of a request for PUD zoning, the Town Board may require the posting of such performance guaranties as it deems necessary to insure the installation of necessary improvements. Said performance guaranty shall be for a period to be determined by the Town Board. The amount of the performance guaranty may

be reduced by the Town as portions of the required improvements have been completed.

- D. Fees. Fees for applications for PUD Districting and site plan approval shall be in accord with a schedule for fees adopted by the Town Board as set forth in § 123-29. Such fees shall be based on the size and complexity of the proposed development and shall be sufficient to cover costs of all required reviews, including those related to the review of environmental impacts, and the retention of professional assistance, if necessary.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE XI, Planned Unit
Development / § 123-57. (Reserved)**

§ 123-57. (Reserved)

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE XI, Planned Unit
Development / § 123-58. (Reserved)**

§ 123-58. (Reserved)

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE XI, Planned Unit
Development / § 123-59. (Reserved)**

§ 123-59. (Reserved)

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE XII, Definitions**

ARTICLE XII, Definitions

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE XII, Definitions / §
123-60. Use and interpretation of words.**

§ 123-60. Use and interpretation of words.

- A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings.
- B. Words used in the present tense shall include the future tense.
- C. Words used in the singular number shall include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.
- D. The word "shall" is always mandatory. The word "may" is permissive.
- E. "Building" or "structure" includes any part thereof.
- F. The word "lot" includes also the word "plot" or "parcel."
- G. The word "person" includes a corporation, a copartnership, a cooperative, a firm and any other agency of voluntary action as well as an individual.
- H. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE XII, Definitions / §
123-61. Terms defined.**

§ 123-61. Terms defined.

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

ACCESS -- A way or means of approach to provide physical entrance to a property, as defined in § 280-a of New York State Town Law.

ACCESSORY APARTMENT -- A second dwelling unit within a principal residential structure or accessory structure in which the dwelling unit conforms to the location, bulk, floor area and other standards established in these regulations.

ACCESSORY BUILDING -- A structure detached from the principal building on the same lot and customarily incidental and subordinate to the principal building or use.

ACCESSORY USE -- A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with such

principal use.

ACCESS STRIP (also **FLAGPOLE STRIP** or **FLAG LOT STRIP**) -- A portion of a flag lot that provides frontage and access onto a street, having less than the minimum required lot width for a distance between the street line and a point in the flag lot where the minimum lot width is attained.

ALTERATION -- As applied to a building or structure, a change or rearrangement in the nonstructural parts or in the exit facilities or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

ALTERATION, STRUCTURAL -- Any change in either the supporting members of a building, such as bearing walls, columns, beams and girders, or in the dimensions or configurations of the roof or exterior walls.

AMUSEMENT PARK -- See "circus."

APPLICANT -- Any person, firm, corporation, partnership or association, fiduciary, trust or other legal entity who, having an interest in land, either as owner, co-owner, lessee or authorized representative of the owner, shall, either directly or indirectly, propose development, use and/or sale of any property, who applies for approval of a site plan, conditional use permit, variance or change in the zoning regulations whether for himself, herself or itself or for the other parties.

ATTIC -- That part of a building which is immediately below and wholly or partly within the roof framing. An attic with a finished floor shall be counted as one-half story in determining the permissible number of stories.

AUTOMOBILE REPAIR -- General repair, rebuilding or reconditioning of engines, motor vehicles or trailers, such as collision service, body repair and frame straightening; painting and upholstering; vehicle steam cleaning; and undercoating.

AUTOMOBILE SERVICE OR GASOLINE STATION -- Any building, land area or other premises used or intended to be used for the retail dispensing or sale of automobile and related fuels, including, but not limited to, gasoline, diesel fuel and kerosene, which activity may be accompanied by accessory uses, such as sales of lubricants, tires, accessories or supplies, minor repairing of automobiles or a single-bay auto wash; provided, however, that automobile wrecking, major repairing of automobiles, parking or storing automobiles for hire and operation of more than one towing vehicle shall not be deemed permissible accessory uses of an automobile service station. Sales of automobile fuels, as an accessory use to a convenience store, is subject to the standards in these regulations.

AUTOMOBILE WRECKING -- The dismantling or disassembling of motor vehicles or trailers or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles

or their parts.

BAIT, TACKLE, GUN AND AMMUNITION SHOPS, RETAIL -- Establishments primarily engaged in the retail sale of outdoor hunting and fishing equipment, including, but not limited to, ammunition, firearms, fishing supplies, including live bait, and other hunting equipment.

BASEMENT -- A story in a building, the structural ceiling level of which is four feet or more above the average level of finished grade where such grade abuts that exterior wall of such building which fronts on any street, and the floor level of which is below finished grade at any point on the periphery of the building.

BEDROOM -- A private room planned and intended for sleeping, separable from other rooms by a door, and accessible to a bathroom without crossing another bedroom.

BED-AND-BREAKFAST ESTABLISHMENT/INN -- An establishment providing transient housing accommodations (less than one week in length) for not more than 12 persons, which provides food and/or drink only to persons occupying the transient quarters.

BILLBOARD -- A sign or structure, where the area of one face exceeds 24 square feet, which directs attention to an idea, product, business activity, service or entertainment which is conducted, sold or offered at a location other than the premises on which such sign is located.

BOARDINGHOUSE -- A private dwelling in which at least three but not more than six rooms are offered for rent and table board is furnished only to roomers and in which no transients are accommodated. A rooming house or a furnished room house shall be deemed a boardinghouse.

BUILDING -- Any structure which is permanently affixed to the land, has one or more floors and a roof and is intended for the shelter, housing or enclosure of persons, animals or equipment or goods.

BUILDING, ACCESSORY -- See "accessory building."

BUILDING AREA -- The total square footage of interior floor areas measured on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces and steps.

BUILDING, COMPLETELY ENCLOSED -- A building separated on all sides from adjacent open space or other buildings by fixed interior walls or party walls, pierced only by windows and doors, and covered by a permanent roof.

BUILDING, DETACHED -- A building entirely surrounded by open space on the same lot.

BUILDING, PRINCIPAL -- A building in which is conducted the principal use of the lot on which said building is located.

BUILDING, SEMIDETACHED -- A building attached by a party wall to another building, normally of the same type on another lot, but having one side yard.

BUILDING INSPECTOR -- The person duly designated as being responsible for administration and enforcement of the building construction regulations of the Town of Esopus, New York, or his duly authorized representative.

BUILDING LINE -- A line parallel to the street line and set back therefrom a distance equal to the required front yard in the zoning district in which a lot is located.

BULK -- A term used to describe the size, volume, area and shape of buildings and structures and the physical relationship of their exterior walls or their location to lot lines, other buildings and structures or other walls of the same building and all open spaces required in connection with a building, other structure or tract of land.

CARNIVAL -- See "circus."

CELLAR -- Any space in a building, the structural ceiling level of which is less than four feet above the average finished grade where such grade abuts that exterior wall of such building which fronts on any street. A cellar shall not be considered in determining the permissible number of stories.

CHURCH -- See "house of worship."

CIRCUS -- A type of public entertainment, featuring indoor and outdoor exhibits, rides and games and similar entertainment and amusement devices, that is established on a site for a temporary or transient period of time.

COMMERCIAL COMMUNICATIONS TOWER -- A structure, including one or more antennas, that is intended for transmitting and/or receiving radio, television, telephone and/or microwave communications, but excluding those structures used either for fire, police or other dispatch communications or exclusively for private radio and television reception and private telephone, citizen's band and amateur radio communications.

CONDITIONAL PERMIT USE -- A use of property that is basically appropriate to a given zoning district, but which may be incompatible in some locations within the district and therefore is not permitted by right everywhere within such district. A conditional permit use, therefore, is one which is allowable only when specified facts and conditions are found to exist.

CONFERENCE CENTER -- A facility which is used for conferences, seminars or similar purposes and which provides housing, food service, meeting spaces, educational and recreational facilities as well as ancillary facilities for 20 or more guests.

COUNTRY GENERAL STORE -- See "convenience food store."

CONVENIENCE FOOD STORE -- An establishment primarily engaged in the retail sale of canned foods, dry goods, fresh fruit and vegetables, dairy products, baked goods, fresh or prepared meats, fresh or prepared foods, such as sandwiches and coffee, for either on-site or off-site consumption, and also engaged in the sale of minor amounts of automotive, household, health and stationery supplies, having under 3,000 square feet in gross floor area and having a capacity for any in-store seating of no more than eight persons. The term "convenience food store" includes similar establishments known variously as "convenience store," "corner market," "country general store," "delicatessen," "mom-and-pop store" and "quick-stop store." Such establishment may also engage in retail sale of automotive fuels as an accessory use, but may not engage in automotive repair or servicing.

COVERAGE -- The lot area or percentage of lot area covered by all principal and accessory buildings and structures.

CURB LEVEL -- The established elevation of the street grade at the point that is opposite the center of the wall nearest to and facing the street line.

DRIVEWAY -- A private roadway providing access for vehicles to a parking space, garage, dwelling or other structure on one lot.

DUMP -- See "junkyards."

DWELLING -- A building designed or used principally as the living quarters for one or more families (see "residences").

DWELLING, APARTMENT -- A one-family dwelling unit in a building containing at least two such units in which each unit may be located over, under or to the side of another unit and in which each dwelling unit has at least one access to the outside, either directly or via a common hallway.

DWELLING, MULTIFAMILY -- A building containing three or more dwelling units, including attached townhouse dwellings.

DWELLING, ONE-FAMILY -- A detached building containing only one dwelling unit.

DWELLING, TOWNHOUSE (also ROW DWELLING) -- A one-family dwelling in a row of at least two such units in which each unit has its own front and rear access to the outside, no unit is located over another unit and each unit is separated from any other unit by one or more common fire-resistant wall.

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

DWELLING UNIT -- A building or entirely self-contained portion thereof designed for occupancy by only one family (including any domestic staff employed on the premises) and

having complete cooking, sanitary and sleeping facilities for the exclusive use of the occupants of the dwelling unit. A boardinghouse, convalescent home, dormitory, fraternity or sorority house, hotel, inn, lodging or rooming house, nursing or other similar home or other similar structure shall not be deemed to constitute a dwelling unit.

EASEMENT -- Permanent authorization by a property owner for the use by another person and for a specified purpose of any designated part of his property.

ENVIRONMENTAL ASSESSMENT FORM (EAF) -- A form used by the Planning Board, Town Board and the Zoning Board of Appeals to assist in it determining the environmental significant of a proposed site plan, conditionally permitted use, variance or zoning change. A properly completed EAF should contain information to describe the proposed site plan, conditionally permitted use, variance or zoning change, the environmental setting and the potential impact of the proposed development upon the environment. There are two types of Environmental Assessment Forms:

- A. **FULL EAF** -- This is a detailed EAF that must be used by the Planning Board, Town Board or Zoning Board of Appeals to determine the environmental significance of a proposed development that meets or exceeds the thresholds for a Type 1 Action as established in the State Environmental Quality Review (SEQR) procedures. The Planning Board, Town Board or Zoning Board of Appeals may also require submission of a full EAF for a proposed development that is classified as an "unlisted action" as established in the State Environmental Quality Review (SEQR) procedures, but poses possible environmental impacts that the Board may consider to be possibly significant or potentially adverse.
- B. **SHORT EAF** -- This is a simplified EAF that may be used by the Planning Board, Town Board or Zoning Board of Appeals to determine the environmental significance or nonsignificance of an unlisted action.

ENVIRONMENTAL IMPACT STATEMENT (EIS) -- A report containing the description of a proposed development or rezoning, its environmental setting, potential environmental impacts, ways to minimize the impacts and reasonable alternatives. It serves as a public disclosure of the record used by the Planning Board, Town Board or Zoning Board of Appeals in its environmental decisionmaking. There are two stages in an Environmental Impact Statement:

- A. **DRAFT EIS** -- This is a preliminary statement that is used for public review and comment.
- B. **FINAL EIS** -- This is the completed document consisting of the draft EIS, plus any revision, public comments and lead agency responses to the substantive comments.

EQUIPMENT AND MATERIALS STORAGE YARD -- An area used for the open, unenclosed, storage of construction equipment and vehicles, utility and office trailers, construction, building and home garden materials, usually conducted as an accessory to the

following primary business uses and services: contracting, building trades, equipment sales and rental, building and construction supply sales, home and garden supply sales and similar businesses, whether such yard is located on the same site or on a different site as the primary use.

FINISHED GRADE -- The elevation at which the finished surface of the surrounding lot intersects the walls or supports of a building or other structure. If the line of intersection is not horizontal, the finished grade in computing height of buildings and other structures or for other purposes, shall be the average elevation of all finished grade elevations around the periphery of the building.

FLOOR AREA, GROSS

- A. The aggregate sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or from the center line of walls separating two buildings. In particular, the gross floor area of a building or buildings, shall include:
- (1) Basement spaces.
 - (2) Floor space used for mechanical equipment, with structural headroom of six feet six inches or more.
 - (3) Attic spaces (whether or not a floor has actually been laid) providing structural headroom of six feet six inches or more.
 - (4) Interior balconies and mezzanines.
 - (5) Enclosed porches.
- B. However, the "gross floor area" of a building shall not include:
- (1) Cellar spaces, except that cellar spaces used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.
 - (2) Accessory water tanks and cooling towers.
 - (3) Uncovered steps; exterior fire escapes.
 - (4) Terraces, breezeways, open porches and outside balconies.
 - (5) Accessory off-street parking spaces.
 - (6) Accessory off-street loading berths.
 - (7) Elevator shafts and stairwells at each floor.

FLOOR AREA, LIVABLE -- All spaces within the exterior walls of a dwelling unit, exclusive of garages, breezeways, unheated porches, cellars, heater rooms and basements having a window area of less than 10% of the square foot area of the room. Usable floor area shall be deemed to include all spaces not otherwise excluded above, such as principal rooms, utility rooms, bathrooms, all closets and hallways opening directly into any rooms within the dwelling unit and all attic space having a clear height of at least six feet from finished floor level to pitch of room rafter with a clear height of seven feet from finished floor level to ceiling level over 50% of the area of such attic space.

FLOOR AREA RATIO -- The gross floor area in square feet of all buildings on a lot divided by the area of such lot in square feet.

FORESTRY -- The operation of timber tracts, tree farms, forest nurseries, the gathering of forest products or the performance of related activities such as reforestation.

FRONTAGE -- The measurement of the street line of the lot.

GASOLINE SERVICE STATION -- See "automobile service station."

HEIGHT OF BUILDING -- The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof for flat and mansard roofs and to the mean height between eave and ridge for other types of roofs.

HIGH-DENSITY CONFINING SHELTER -- The confinement or housing area for numbers of domestic animals or fowl larger than prescribed densities of two domestic animals or 24 fowls per acre.

HOTEL -- A building or any part thereof which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances and may contain one or more common dining rooms, drinking places and entertainment facilities.

HOME OCCUPATION -- An activity carried out for gain by a resident in or on the property on which he resides, which is clearly incidental and secondary to the primary use of the premises for residential purposes and is in conformance with the standards of these regulations.

HOUSE OF WORSHIP -- A building or structure or groups of buildings or structures which, by design and construction, are primarily intended for conducting of organized religious services and accessory uses associated therewith.

IMPERVIOUS SURFACE -- Any material or combination of materials that reduces and/or prevents the absorption of stormwater into the ground. Such surfaces include roofs, sidewalks, streets and parking areas. A material shall be considered to be impervious if it has a percolation rate of 120 minutes per inch.

IMPROVEMENT -- Any man-made, immovable item which becomes part of, is placed upon or is affixed to real estate, including, but not limited to, the creation of new streets, building sites, public walkways, parks and recreation areas, water supply and waste disposal facilities.

JUNKYARD -- A facility meeting the definition set forth in § 136, Subdivision 2, of the General Municipal Law.

KENNEL, COMMERCIAL -- An establishment in which more than six dogs or other domestic animals are housed, groomed, bred, boarded, trained or sold.

KENNEL, VETERINARY -- An establishment accessory to an animal hospital or veterinarian's office in which more than six dogs or other domestic animals are housed, boarded and/or given medical treatment.

LOGGING -- The removal of timber from a lot in quantities greater than 20 standard cords of wood, 2,000 cubic feet or 10,000 board feet, as measured by the international one-fourth-inch log rule, within any given calendar year.

LOT -- A defined portion or parcel of land considered as a unit, devoted to a specific use or occupied by a building or a group of buildings that are united by a common interest, use or ownership and the customary accessories and open spaces belonging to the same.

LOT AREA -- The total horizontal area included within the lot lines.

LOT, CORNER -- A lot situated at the junction of and adjacent to two or more intersecting streets when the interior angle of intersection does not exceed 135°.

LOT COVERAGE -- See "coverage."

LOT DEPTH -- The minimum distance from the street line of a lot to the rear lot line of such lot.

LOT, FLAG -- A lot fronting on a public or private road or street which does not meet the lot width requirements of the district in which the lot is located at the rear of the required front yard but which widens or extends to a point where the distance between the side lot lines is equal to or greater than the required lot width.

LOT FRONTAGE -- The length of the front lot line measured at the street line.

LOT, LANDLOCKED -- A parcel of land, in separate ownership from any other adjacent property, having no frontage and no access onto the street system.

LOT LINE -- The lines bounding a lot as defined herein.

LOT LINE, INTERIOR FRONT -- A lot line of an irregular or flag lot that is not coincident with, but approximately parallel to, the street line of a lot, the length of which equals or exceeds

the minimum lot width requirements and from which the required front yard setback is measured.

LOT LINE, REAR -- The lot line generally opposite to the street line. If the rear lot line is less than 10 feet in length or if the lot comes to a point in the rear, the "rear lot line" shall be deemed to be a line parallel to the front lot line not less than 10 feet long lying farthest from the front lot line.

LOT OF RECORD -- A lot which is recorded in the office of the Ulster County Clerk.

LOT, THROUGH -- A lot which faces on two streets at opposite ends of the lot and which is not a corner lot.

LOT WIDTH -- The width of a lot measured parallel to the lot frontage at the rear of the required front yard.

MAIN FLOOR -- The largest area found by the projection of a horizontal plane through the livable floor spaces which is enclosed by the exterior walls of the buildings.

MANUFACTURING -- Any process whereby the nature, size or shape of articles or raw materials are chemically or physically changed, or where articles are assembled or packaged.

MARINA -- A facility for storing, servicing, berthing and securing pleasure boats.

MASTER PLAN -- See "town development plan."

MINING -- A facility meeting the definitions of "mining" set forth in § 23-2705 of the New York State Environmental Conservation Law other than the quantity of material to be removed.

MOBILE HOME (also TRAILER) -- A portable, factory-made dwelling unit, built on its own chassis, designed to be transported on its own wheels or those of another vehicle and intended, when connected to all required utility systems, to be suitable for year-round occupancy. The term "mobile home" shall not be construed to include a modular home or a recreational vehicle.

MOBILE HOME COURT (ALSO TRAILER COURT) -- A parcel of land under single or common ownership and management on which two or more mobile homes are occupied or intended to be occupied as residences.

MOBILE HOME COURT UNIT -- The lot or space in any mobile home court which shall be assigned to or be used and occupied by a mobile home.

MODULAR HOME -- A dwelling unit consisting of two or more major segments constructed off-site, which complies with the New York State Uniform Fire Prevention and Building Code and is designed to be transported to a site for permanent assembly and anchoring to a permanent foundation and to become a fixed part of the real estate.

MOTEL -- A building or group of buildings containing individual living and sleeping accommodations primarily consisting of one bedroom and bath units, each of which is provided with a separate exterior entrance and a parking space, and is offered principally for transient occupancy by motor vehicle travelers at any time of the year. The term "motel" includes, but is not limited to, every type of similar establishment known variously as an "auto court," "motor hotel," "motor court," "motor inn," "motor lodge," "tourist court," "tourist cabins" or "roadside hotel."

MUNICIPAL SEWER AND MUNICIPAL WATER -- Sewage disposal and water supply systems approved by the Town Board and operated by the Town of Esopus.

NONCONFORMING BULK -- That part of a building, other structure or tract of land which does not conform to one or more of the applicable bulk regulations of this chapter, either following its effective date or as a result of subsequent amendments thereto.

NONCONFORMING USE -- Any use of a building, other structure or tract of land, which was lawful prior to the adoption or amendment of this Zoning Law, which does not conform to the use regulations for the district in which such use is located, either as a result of this chapter or as a result of subsequent amendments thereto.

NURSERY -- An establishment where woody or herbaceous plants are grown for sale, including a structure for the sale of such merchandise.

NURSERY SCHOOL or PRESCHOOL -- An establishment licensed by the New York State Department of Education providing or designed to provide daytime care or instruction by an individual, association, corporation, institution or agency, whether or not for compensation or reward, for seven or more children from the age of two to five years, inclusive, away from their homes for more than 2 1/2, but fewer than 10, hours per day.

OFFICE AND OFFICE BUILDINGS -- A building or one or more rooms in a building used for conducting the affairs of a business, trade profession, service, industry or government that may include ancillary services for office workers, such as a restaurant, coffee shop, newspaper or candy stand, but does not include facilities for manufacturing, equipment storage maintenance or repair and from which generally retail sales and services to customers are limited as an accessory use.

OFFICIAL MAP -- The map established pursuant to § 270 of the New York State Town Law, showing streets, highways, parks and drainage, both existing and proposed, and additions thereto resulting from approval of subdivision plats by the Planning Board and the subsequent filing of such approved plats.

OPEN SPACE, USABLE -- An unenclosed portion of the ground of a lot which is not devoted to driveways or parking spaces, which is free of structures of any kind, of which not more than

25% is roofed for shelter purposes only, and which is available and accessible to all occupants of the building or buildings on said lot for purposes of outdoor recreation.

PARKING LOT -- An off-street area or structure for the storage of three or more operating vehicles.

PERFORMANCE GUARANTY -- The security which may be accepted by the municipality in lieu of the requirement that certain improvements be made and maintained before the Planning Board gives final approval to a site plan. This security may take the form of a letter of credit, cash deposit or other form of financial surety that is satisfactory to and approved by the Town Board.

PLANNING BOARD -- The Planning Board of the Town of Esopus.

PLOT PLAN -- A map indicating the layout of a group of lots or plots of ground.

PREMISES -- A lot, together with all the buildings and uses thereon.

PUBLIC UTILITY STRUCTURE -- Facilities, including, but not limited to, telephone exchange buildings, electric substations and generating plants, water towers and treatment plants, gas metering stations, sewer pumping stations and treatment plants and all other similar structures necessary for providing a service by a government or a regulated public utility.

RECREATIONAL VEHICLE -- A vehicular-type portable structure, without permanent foundation, which can be towed, hauled or driven and is primarily designed as temporary living accommodation for recreational camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

RELIGIOUS COMMUNITY -- A property or site occupied and utilized by a group of individuals who constitute or are members of a religious organization (SIC Industry Group 866) on which exist structures and other facilities that are utilized in the furtherance of religious activities. Such uses and structures may include, but are not necessarily limited to, multifamily dwellings, convent or monastery dwellings, meeting halls, houses of worship, schools and other educational facilities, such as hospitals, rest homes, youth homes and economic activities relating to the religious use, such as printing and manufacturing.

RESIDENCE -- A building or any part of a building which contains living and sleeping accommodations for permanent occupancy. "Residence" therefore includes all one-family and two-family houses, row houses, mobile homes, apartment houses, boarding, rooming, fraternity and sorority houses, monasteries, rectories and convents. However, "residence" shall not include the following:

A. Transient accommodations, such as hotels, motels and camp grounds; or

B. That part of a building containing both residences and other uses which is used for any nonresidential uses, except accessory uses for residences.

RESORT HOTEL -- A facility for transient guests with complete dining accommodations and recreation facilities.

RESTAURANT, FAST-FOOD -- An establishment where food and/or beverages are sold in a form ready for consumption, often via a service window in an exterior wall, and where, by design or packaging techniques, all or a significant portion of the consumption can or does take place outside the confines of the building, often in a motor vehicle on the site.

RESTAURANT, STANDARD -- An establishment where food and beverages are prepared, served and intended to be consumed primarily within the principal building and where such food and beverages are not primarily packaged for removal by the customer.

RIDING STABLE -- Any establishment where horses are kept for riding, driving or stabling for compensation.

RIGHT-OF-WAY -- A strip of land, acquired by reservation, dedication, purchase, prescription or condemnation, used or intended to be used to afford legal access to abutting property. See also "street."

RIGHT-OF-WAY LINE -- The dividing line between a lot and the adjacent right-of-way.

ROADSIDE FARM STAND -- An establishment, usually a booth or stall, which is accessory to a farm, primarily engaged in the retail sale of produce and farm products to the general public and which is open no more than eight months in any calendar year.

ROOMING HOUSE -- See "boardinghouse."

ROW HOUSE -- A building consisting of a series of one-family attached residential dwelling units having common party walls between each dwelling unit; also "townhouse."

SENIOR CITIZEN HOUSING -- A building or group of buildings, whether detached or connected, containing dwellings that are designed and operated for occupancy by persons who are elderly or disabled as defined under applicable state or federal programs designed for such persons or at least 55 years of age if no such program is applicable. Such housing may include common areas in multifamily dwellings owned and managed by a single management entity, together with normal and customary ancillary facilities or services for use by other persons.
[Added 11-17-2005 by L.L. No. 1-2005]

SETBACK -- The distance in feet from the street line to the principal building on a lot.

SIC MANUAL -- The Standard Industrial Classification Manual, published by the Executive Office of the President, Office of Management and Budget, which classifies establishments by

their field of economic activity.

SITE PLAN -- A plan that indicates the proposed development and uses of land or structures.

SKILLED NURSING HOME or CONVALESCENT HOME -- A facility operated for the purpose of providing lodging, board and nursing care to sick, invalid, infirm, disabled or convalescent persons for remuneration.

STATE ENVIRONMENTAL QUALITY REVIEW (SEQR) -- Those rules, regulations and procedures set forth in Title 6, NYCRR (New York Code of Rules and Regulations), Part 617 which implement Article 8 of the New York State Environmental Conservation Law, where Article 8 establishes the requirement for environmental review of actions approved, funded or directly undertaken by state or local government.

STREET -- A street which is one of the following: an existing Town highway, county road or state highway or street; a street shown on an approved subdivision final plat; a street shown on a map filed with the County Clerk (in accordance with § 280-a of the New York State Town Law) prior to Planning Board authorization to review subdivision; or a street shown on the Town Official Map

STREET LINE -- The dividing line between a lot and a street, which forms the front lot line and frontage of a lot abutting a street, and is defined by the right-of-way or parcel of land containing a street.

STREET, PRIVATE -- A street that serves two or more lots which is not under the jurisdiction or intended to be dedicated to the Town or other government agency and is maintained by agreement amongst the owners of all lots having frontage on and having a right to access to such street.

STREET WIDTH -- The width of the right-of-way or the distance between property, street parcel or takings lines on opposite sides of a street.

STRUCTURE -- A static construction of building materials, including buildings, mobile homes, stadia, platforms, towers, sheds, storage bins, antennas and other receivers, swimming pools and the like.

SUBDIVISION REGULATIONS -- The officially adopted local law or ordinance governing the division of land into two or more parcels, specifically Chapter 107 of the Town of Esopus Code.

SUMMER COTTAGE COLONY (also BUNGALOW COLONY, TOURIST CABINS OR COTTAGES) -- A group of two or more detached buildings on a single lot, each building with its own dwelling unit with a separate entrance and its own parking space, designed for seasonal occupancy and not more than one of which is used for the purpose of all-year-round residence, which premises does not contain a public lobby or dining rooms serving guests. The term

"summer cottage colony" includes bungalow or cabin colonies, tourist cabins or tourist courts, but does not include a mobile home park, trailer camp, boardinghouse, hotel, motel, tourist home or bed-and-breakfast establishment.

SWIMMING POOL -- An outdoor water pool which is intended to be used for swimming or bathing. An outdoor water pool shall, for the purposes of this chapter, be construed to mean any swimming pool, tank, depression or excavation in any material, dike or berm constructed, erected, excavated or maintained, which will cause the retention of water to a greater depth than 18 inches or having a plane surface area of water greater than 100 square feet, and includes in-ground as well as aboveground swimming pools.

TOURIST HOME -- A building containing individual living and sleeping accommodations, each of which is accessible through interior hallways and is offered for rental use by transient guests.

TOWN -- The Town of Esopus, Ulster County, New York.

TOWN ATTORNEY -- The person duly designated as attorney of the Town on a permanent or consultant basis, and who is admitted to the bar in the State of New York.

TOWN BOARD -- The Town Board of the Town of Esopus.

TOWN CLERK -- The Town Clerk of the Town of Esopus.

TOWN DEVELOPMENT PLAN -- A comprehensive master plan for the development of the Town prepared by the Planning Board, or a committee appointed by the Town Board, pursuant to § 272-a of the New York State Town Law, which indicates the general location 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.

TOWN ENGINEER -- The person duly designated as engineer of the Town on a permanent or consultant basis and licensed as a professional engineer by the State of New York.

TOWN PLANNER -- The person duly designated as planner of the Town on a permanent or consultant basis.

TOWN SUPERINTENDENT OF HIGHWAYS -- The duly elected Superintendent of Highways of the Town of Esopus.

TRAILER -- See "mobile home."

TRAILER COURT -- See "mobile home park."

TRAILER, PRIVATE UTILITY -- A vehicle not capable of self-propulsion, designed or used

primarily for the transportation or storage of materials, equipment or personal effects, not exceeding one ton in capacity.

TRANSITIONAL SERVICE FACILITY -- An authorized and licensed residence operated by a public or private agency, duly authorized and licensed by the State Division of Youth, State Department of Social Services, State Department of Mental Health, State Board of Social Welfare, State Department of Correctional Services or any other state agency having authority to license and approve said facility, which residence houses individuals being cared for by the agency and deemed by the agency to be capable of living and functioning in the community and which provides continuous professional guidance.

USE -- This term is employed in referring to:

- A. The purpose for which any buildings, other structures or land may be arranged, designed, intended, maintained or occupied; or
- B. Any occupation, business activity or operation conducted (or intended to be conducted) in a building or other structure or on land.

WATER BODY -- Any natural or artificial collection of water, such as a pond, lake or reservoir, whether permanent or temporary.

WATERCOURSE -- Any natural or artificial stream, river, creek, kill, brook, ditch, channel, canal conduit, drain, waterway, gully or ravine in which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed and banks.

WETLANDS, DESIGNATED STATE -- All freshwater wetlands as identified and/or mapped by the New York State Department of Environmental Conservation pursuant to Article 24 of the Environmental Conservation Law, as may be amended from time to time.

YARD, FRONT -- An open, unoccupied space extending across the full width of the lot between the front lot line and a line drawn parallel thereto at the closest building.

YARD, REAR -- An open, unoccupied space extending across the full width of the lot between the rear lot line and a line drawn parallel thereto at the closest building.

YARD, REQUIRED -- That portion of the open area of a lot extending open and unobstructed from the ground upward, along a lot line, for a depth or width as specified by the bulk regulations of the district in which the lot is located. No part of such yard shall be included as part of a yard or other open space similarly required for buildings on another lot.

YARD, SIDE -- An open, unoccupied space between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a street line shall be deemed a side line.

ZONING -- The act of regulating the use of land and the size of and location of buildings on the land. Such regulations are designed to assure the health, safety and general welfare of a community.

ZONING ENFORCEMENT OFFICER (ZEO) -- The person duly designated as being responsible for the enforcement of the zoning regulations of the Town of Esopus, New York or his duly authorized representative.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE XIII, Adult Use and
Entertainment Establishments [Added 7-16-1998 by L.L. No. 3-1998]**

**ARTICLE XIII, Adult Use and Entertainment Establishments [Added 7-16-1998 by
L.L. No. 3-1998]**

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE XIII, Adult Use and
Entertainment Establishments [Added 7-16-1998 by L.L. No. 3-1998] / § 123-62.
Legislative intent.**

§ 123-62. Legislative intent.

It is the purpose of this article to regulate the creation, opening, commencement and/or operation of adult use and entertainment establishments, as herein defined, in order to achieve the following:

- A. Preserve the character and the quality of life in the Town of Esopus's neighborhoods and business areas.
- B. Control such documented harmful and adverse secondary effects of adult uses on the surrounding areas as: decreased property values; attraction of transients; parking and traffic problems; increased loss of business for surrounding non-adult business; and deterioration of neighborhoods.
- C. Restrict minors' access to adult uses.
- D. Maintain the general welfare and safety for the Town of Esopus's residents.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II

GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE XIII, Adult Use and Entertainment Establishments [Added 7-16-1998 by L.L. No. 3-1998] / § 123-63. Restrictions on location and operation.

§ 123-63. Restrictions on location and operation.

- A. Adult uses are defined as any use which provides products or services or any combination thereof, which appeal exclusively to the adult market for entertainment purposes, including but not limited to nude dancing, "strip clubs" and other similar uses. These restrictions shall not apply to any existing uses or to the sale of adult products that are ancillary to any other permitted use.
- B. The following restrictions shall apply to the siting of an adult use establishment in the Town of Esopus:
 - (1) No adult use establishment shall be allowed within a one-thousand-foot radius of another existing adult use establishment whether within the Town of Esopus or any neighboring community. The one-thousand-foot radius shall be measured in a straight line from the nearest point of the wall of the portion of the building in which an adult use business is conducted to the nearest point on the property of the area in question.
 - (2) No adult use establishment shall be located within a one-thousand-foot radius of a residential district or a preexisting school, library, civic or youth-oriented center, a designated historic preservation site or district, park, playgrounds, place of worship, as well as any areas designated as scenic under New York State Law. The one-thousand-foot radius shall be measured in a straight line from the nearest point of the wall of the portion of the building in which an adult use business is conducted to the nearest point on the property of the area in question.
 - (3) Sign regulations.
 - (a) Advertisements, displays or other promotional materials shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks or walkways or other areas, public or semi-public, and such displays shall be considered signs.
 - (b) Not more than one business wall sign shall be permitted for an adult use, and such sign shall be permitted only on the front facade.
 - (c) Sign messages shall be generic in nature, shall not contain material classified as advertising, and shall only identify the business which is being conducted.
 - (4) Curfew. It shall be unlawful for any person maintaining or operating any adult use establishment to operate said establishment between the hours of 4:00 a.m. and 8:00

a.m. Monday through Saturday, and between the hours 4:00 a.m. and 12:00 midnight on Sunday.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE XIII, Adult Use and
Entertainment Establishments [Added 7-16-1998 by L.L. No. 3-1998] / § 123-64.
Conflict with other laws.**

§ 123-64. Conflict with other laws.

All local laws and regulations inconsistent or in conflict with this article are hereby amended to the extent of such conflict or inconsistency.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE XIII, Adult Use and
Entertainment Establishments [Added 7-16-1998 by L.L. No. 3-1998] / § 123-65.
Definitions.**

§ 123-65. Definitions.

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

ADULT ARCADE -- Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still- or motion-picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE or ADULT VIDEO STORE

A. A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, videocassettes or video reproductions, slides or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
- (2) Instruments, devices or paraphernalia which are primarily intended, labeled, designed, advertised or promoted for use in connection with specified sexual activities.

B. A commercial establishment may have other principal business purposes that do not involve

the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas. For purposes of this definition, "principal business purposes" shall mean 25% or more of any of the following:

- (1) The number of different titles or kinds of such merchandise;
- (2) The number of copies or pieces of such merchandise;
- (3) The amount of floor space devoted to the sale and/or display of such merchandise; or
- (4) The amount of advertising which is devoted to such merchandise, either in print or broadcast media.

ADULT CABARET -- A nightclub, bar, restaurant or similar commercial establishment which regularly features:

- A. Persons who appear in a state of nudity; or
- B. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- C. Films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT MOTEL -- A hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions.

ADULT MOTION-PICTURE THEATER -- A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

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

ADULT USE AND ENTERTAINMENT ESTABLISHMENTS -- A public or private

establishment, or any part thereof, which presents any of the following entertainments, exhibitions or services: topless and/or bottomless dancers; strippers; topless waitressing, busing or service; topless hair care or massages; service or entertainment where the servers or entertainers wear pasties or G-strings or both; adult arcade; adult bookstore or adult video stores; adult cabarets, adult motels, adult motion-picture theaters; adult theaters; escort agencies; nude model studios and sexual encounter centers. Adult use and entertainment establishments customarily exclude minors by reason of age.

ESCORT -- A person who, for a fee, tip or other consideration, agrees or offers to act as a date for another person; for consideration, agrees or offers to privately model lingerie for another person; for consideration, agrees or offers to privately perform a striptease for another person; or, for consideration but without a license granted by the State of New York, agrees or offers to provide a massage for another person.

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

NUDE MODEL STUDIO -- Any place where a person who appears in a state of nudity or displays specified anatomical areas is regularly provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration, other than as a part of a course of instruction offered by an educational institution established pursuant to the laws of the State of New York.

NUDITY or a STATE OF NUDITY -- The appearance of specified anatomical areas.

PERSON -- An individual, proprietorship, partnership, corporation, association or other legal entity.

SEMI-NUDE -- A state of dress in which clothing covers no more than the specified anatomical areas, as well as portions of the body covered by supporting straps or devices.

SEXUAL ENCOUNTER CENTER -- A business or commercial enterprise that, as one of its primary business purposes, offers, for any form of consideration, activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

SPECIFIED ANATOMICAL AREAS

- A. Unless completely and opaquely covered, human genitals, pubic region, buttocks or breasts below a point immediately below the areola; and
- B. Even if completely and opaquely covered, male genitals in a discernibly turgid state.

SPECIFIED SEXUAL ACTIVITIES -- Includes any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or breasts;
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
- C. Masturbation, actual or simulated; or
- D. Excretory functions.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE XIII, Adult Use and Entertainment Establishments [Added 7-16-1998 by L.L. No. 3-1998] / § 123-66. Waiver.

§ 123-66. Waiver.

Should the enforcement of this article result in undue hardship or practical difficulties, the Town Board, in its sole discretion, may waive or vary any provision of this article consistent with the purposes and objective of this article and the Town Zoning Law and public health, welfare and safety of the community.

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II GENERAL LEGISLATION / Chapter 123, ZONING / ARTICLE XIII, Adult Use and Entertainment Establishments [Added 7-16-1998 by L.L. No. 3-1998] / § 123-67. Penalties for offenses.

§ 123-67. Penalties for offenses.

- A. Any person, firm, corporation or entity found to be violating any provisions of this article shall be served with a written notice by the Commissioner of Public Works or his designee, stating the nature of the violation and providing for immediate correction thereof. Such notice shall be served by one of the following methods:
 - (1) By personal service;
 - (2) By certified mail, return receipt requested, addressed to his or their last known address as shown on the latest completed assessment roll of the Town of Esopus; or
 - (3) By posting of such notice in a conspicuous place upon the premises affected, and a copy

thereof mailed, addressed to his or their last known address as shown on the latest completed assessment roll of the Town of Esopus.

- B. Any person, firm, corporation or entity who shall violate any portion of this article shall be guilty of a violation and, upon conviction thereof, shall be fined in an amount not to exceed \$500 for each violation. The continuation of a violation of the provisions of this article shall constitute, for each day the violation is continued, a separate and distinct offense hereunder.
- C. The owner and/or any occupant and/or any tenant and/or general agent of a building, premises or part thereof, where such a violation has been committed or does exist, shall be guilty of such an offense.
- D. Any person, firm, corporation or entity violating any of the provisions of this article shall become liable to the Town for any expense or loss or damage occasioned the Town by reason of such violation.
- E. The imposition of penalties herein prescribed shall not preclude the Town or any person from instituting appropriate legal action or proceedings to prevent a violation of this article, or to restrain or enjoin the use or occupancy of a building, premises, or part thereof in violation of this article.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / PART II
GENERAL LEGISLATION / Chapter 123, ZONING / Schedule of Permitted Uses**

Schedule of Permitted Uses

[Amended 11-17-2005 by L.L. No. 1-2005]

The following symbols in the Use Schedule have the indicated meanings within the district under which it is listed.

- ◆ Designates a use permitted by right.
- Designates a use also permitted by right. However, site plan approval is required by the Planning Board in accord with § 123-47.
- ◇ Designates a use permitted only upon the issuance of a conditional use permit by the Planning Board in accord with § 123-46.
- A Designates a use permitted by right only in the Mobile Home Overlay District.
- T Designates a use permitted only by special license from the Town Board.

Districts												
Use	RF-1	RF-2	R-40	R-12	NC	BC	GC	LI	HI	W	WR	Supplementary Regulations
A. Residential												
One-family dwelling	◆	◆	◆	◆	◆	◆	◆					
Two-family dwelling			◇	◇	◆	◇						§ 123-13A
Multifamily: apartments	◇			◇								§ 123-13B and R
Multifamily: townhouses*	◇	◇		◇	◇	◇						§ 123-13B and S
Accessory apartments*	◇	◇	◇	◇	◇	◇	◇					§ 123-13D
Mobile home*				A								§ 123-14B(2)
Mobile home court*				AT								§ 123-14C
Mixed use occupancy of same lot or structure	◇	◇	◇	◇	◇	◇	◇					§123-21F
Private household services (88)	◆	◆	◆	◆	◆	◆	◆					
Senior citizen housing	◇		◇	◇			◇					
B. Agriculture, extractive and building trades												
Agriculture crops (01)	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	§ 123-11C
Agriculture, livestock (02): Livestock (021) and dairy (024) farms	◆	◆	◆				◆	◆	◆			§ 123-11C
Poultry farms (025)			◇									
Animal specialties (027): Commercial kennels (breeding)	◇	◇	◇									§ 123-13C
Other animal specialties	◇	◇	◇									

Agricultural services (07): Soil preparation (071, crop (072) and farm labor and management (076) services			◇		■	■	■	■	■			
Veterinary (074) and animal (075) services: Animal hospitals (0742)			◇		◇	◇	◇	◇				
Animal shelters, commercial kennels (boarding) (0752)	◇	◇	◇				◇					§123-13C
Animal grooming, training					■	■	■					
All other animal services	◇	◇	◇									
Landscape and horticulture services (078): Landscape planning (0781)						■	■					
Lawn and garden (0782) and ornamental shrub and tree services (0783)							■	■				
Forestry (08): Timber tracts (081) Forest nurseries (082)	◆	◆	◆									
Commercial fishing, hunting and trapping (09): Commercial fishing (091)			◇							■	■	

Town of Esopus, N.Y.

Schedule of Permitted Uses (Cont'd)

Districts												
Use	RF-1	RF-2	R-40	R-12	NC	BC	GC	LI	HI	W	WR	Supplementary Regulations
Fish hatcheries and preserves (092) and commercial hunting, trapping and game propagation (097)	◇	◇	◇							■	■	
Nonmetallic, nonfuel mining (14): Under 1,000 tons of material per year			◇						◇			§ 123-13U
1,000 tons or more per year									◇			§ 123-13U
Building trades and contractors (15, 16, 17): General and business offices						■	■	■	■			
Workshops and equipment storage yards							■	■	■			
C. Manufacturing Manufacturing of food and kindred products (20): Meat products (201): Accessory to agricultural live-stock use N/I poultry processing	◇	◇	◇					◇	◇			
Poultry processing (215)			◇									
Separate from agriculture live-stock use									◇			
Beverages (208): Wineries, accessory to vineyard (2084)	◇	◇	◇				■	■				

Town of Esopus, N.Y.

Schedule of Permitted Uses (Cont'd)

Districts													Supplementary Regulations	
Use	RF-1	RF-2	R-40	R-12	NC	BC	GC	LI	HI	W	WR			
Transportation equipment (37): Ship and boat building yards													◇	§ 123-13T
All other transportation equipment										■				
Measuring, analyzing and controlling instruments; photographic, medical and optical goods, watches and clocks (38), and miscellaneous manufacturing industries (39)								■	■					
D. Transportation and utilities Railroad transportation (40)	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆	◆			
Local and suburban transit and interurban highway passenger transportation (41): Taxi, bus and limousine terminals and depots					■	■	■	■	■					
Vehicle garages							■	■	■					
Motor freight transportation and warehousing (42)							■	■	■					
United States Postal Service (43): Local delivery stations	◆	◆	◆	◆	◆	◆	◆	◆	◆					
Other postal activities							■	■						
Water transportation (44): Water transportation of passengers (448)											■	■		
Marinas and boat repair (4493)	◇										◇	◇	§ 123-13T	
All other water transportation										■				

Pipelines, except natural gas (46)												
Transportation services (47):												
Arrangement of passenger transportation (472)					■	■	■	■				
Other transportation services							■	■				
Communications (48):												
Commercial communications towers*			◇				◇	◇	◇			
Telephone offices, radio and television broadcasting studios, cable television offices and studios						■	■	■	■			
Electric, gas and sanitary services (49), except (4922 only)	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	◇	

Town of Esopus, N.Y.

Schedule of Permitted Uses (Cont'd)

Districts												
Use	RF-1	RF-2	R-40	R-12	NC	BC	GC	LI	HI	W	WR	Supplementary Regulations
E. Wholesale and retail trade Wholesale trade, durable (50) and nondurable (51) goods: Used motor vehicle parts (5015) and scrap and waste materials (5093)										T		§ 123-15B
All other wholesale trade							■	■				
Building materials, hardware, garden supply and mobile home dealers (52): Lumber and other building materials (521), retail nurseries, lawn and garden supply stores (526) and mobile home dealers (527)							■	■				
Paint, glass and wallpaper stores (523) and hardware stores (524)					◇	■	■	■				
General merchandise stores (53)					◇	■	■	■				
Food stores (54): Convenience stores*					■	■	■	■				
All other food stores						■	■					
Automotive dealers and gasoline service stations (55): Auto and home supply (553)						■	■	■				
Board dealers (555)							■	■		■		

Retail sale of fuel (554)					◇	◇	◇	◇	◇	◇		§ 123-13H
All other automotive retail use							■	■				
Apparel and accessory (56) and home furnishing and equipment stores (57)						■	■					
Eating and drinking places (581)	◇		◇		◇	■	■	◇		◇		
Drinking places (582)					◇	■	■	◇		◇		
Miscellaneous retail (59): Used merchandise, including antiques (593), bookstores (5942) and gift shops (5947)						■	■	■				
Fuel dealers (598)							■	■				§ 123-13G
All other miscellaneous retail					◇	■	■					
F. Financial, Insurance and Real Estate Services Depository institutions (60), non-depository credit institutions (61), security and commodity brokers, dealers, exchanges and services (62), insurance carriers (63) and insurance agents (64)							■	■	■			
Real estate (65): Cemeteries (6553)	◇	◇	◇	◇	◇	◇	◇	◇	◇			§ 123-13I
All other real estate services					■	■	■	■				
Holding and other investment offices (67)						■	■	■				

Town of Esopus, N.Y.

Schedule of Permitted Uses (Cont'd)

Districts													Supplementary Regulations
Use	RF-1	RF-2	R-40	R-12	NC	BC	GC	LI	HI	W	WR		
G. Professional, Personal and Business Services and Public Administration Lodging places (70): Hotels and motels (7011)	◇		◇			◇	◇						§ 123-13K and R
Resort hotels, summer cottage colonies (7011), and children's camps (7032)	◇	◇	◇				◇						§§ 123-13K, L, M and R
Bed and breakfast inns (7011)	◇	◇	◇		◇	◇	◇			◇			§ 123-13K
Personal services (72): Laundry, cleaning and garment services (721): Coin-operated laundries and dry-cleaning (7215)						■	■	■					
Alteration and garment repair					■	■	■						
All other laundry, cleaning and garment services							■	■					
Photographic studios (722), beauty shops (723), barbershops (724), shoe repair and shoeshining (725), funeral service (726) and miscellaneous personal services (729)					■	■	■	■					

Town of Esopus, N.Y.

Schedule of Permitted Uses (Cont'd)

Districts												
Use	RF-1	RF-2	R-40	R-12	NC	BC	GC	LI	HI	W	WR	Supplementary Regulations
Boating clubs and docks										◇	◇	
Country clubs	◇	◇	◇				■			◇		
Clubhouses and meeting halls	◇	◇	◇		■	■	■					
Amusement park (7996), carnival and circus (7999) operation			T				T	T				
Amusement and recreation services, not elsewhere classified (7999)						◇	◇			◇	◇	
Health services (80): Medical offices (801, 802, 803 and 804)					◇	■	■					
Nursing and personal care facilities (805), hospitals (806), miscellaneous health and allied services (809)	◇		◇		◇	◇	◇					§ 123-130
Medical and dental laboratories (807)							■	■				
Legal services (81)					■	■	■					
Educational services (82)	◇	◇	◇	◇	◇	◇	◇					§ 123-130
Social services services (83): Individual and family social services (832), child day-care services (835)			◇	◇	◇	◇	◇					§ 123-130

*Town of Esopus
PC/CodeBook for Windows*

Job training and vocational rehabilitation centers (833)						◇	◇	◇												§ 123-13O
Residential care (836)	◇	◇	◇	◇	◇	◇	◇													§ 123-13O
Social services not elsewhere classified (839)						■	■	■												
Museums, art galleries and botanical and zoological gardens (84)	◇	◇	◇				■	■												
Membership organizations (86): Civic, social and fraternal associations (864)						■	■	■												
Religious organizations (866): House of worship	◇	◇	◇	◇		■	■	■												§ 123-13P
Religious communities	◇	◇	◇	◇	◇	◇	◇													§ 123-13Q
All other membership organizations						■	■	■												
Engineering, accounting, research management and related services (87): Research, development and testing services (873)											■	■								
All other engineering, accounting, management and related services							■	■	■											
Services not elsewhere classified (89)							■	■	■											
Public administration (91, 92, 93, 94, 95, 96)	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	

Town of Esopus, N.Y.

Schedule of Permitted Uses (Cont'd)

Use	Districts											Supplementary Regulations	
	RF-1	RF-2	R-40	R-12	NC	BC	GC	LI	HI	W	WR		
H. Miscellaneous													
Home occupations	◆	◆	◆	◆	◆	◆	◆						§ 123-11B
Riding stables	◆	◆	◆				◇						§ 123-11C
Accessory apartments conversion of existing residential buildings	◇	◇	◇	◇	◇	◇	◇						§ 123-13D
Craft manufacturing					■	■	■						§ 123-11D
Roadside farm stands	◆		◆		◆	◆	◆						§ 123-11E
Office accessory to any manufacturing, wholesale or retail trade or service use, conducted on a separate lot from the principal use					■	■	■	■	■				
Equipment and material storage yards and storage buildings accessory to any contracting, building trade, manufacturing, wholesale or retail trade or service use, conducted on a separate lot from the principal use							■	■	■				

CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 / DISPOSITION LIST

DISPOSITION LIST

The following is a chronological listing of legislation of the Town of Esopus adopted since the republication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code

material (NCM).] Information regarding legislation which is not included in the Code nor on this list is available from the office of the Town Clerk. The last legislation reviewed for the republication of the Code was L.L. No. 4-1998, adopted 7-16-1998.

**CODE OF THE TOWN OF ESOPUS NEW YORK, v15 Updated 04-01-2009 /
DISPOSITION LIST / § DL-1. Disposition of legislation.**

§ DL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition
L.L. No. 1-1999	4-15-1999	Building construction amendment	Ch. 56
L.L. No. 2-1999	4-15-1999	Building construction amendment	Ch. 56
L.L. No. 3-1999	11-18-1999	Dogs and other animals: dogs amendment	Ch. 68, Art. II
L.L. No. 1-2000	4-20-2000	Industrial sewer use amendment	NCM; see Ch. 104, Art. II
L.L. No. 1-2003	2-20-2003	Subdivision of land repealer	Ch. 107 (history only)
L.L. No. 2-2003	3-20-2003	Subdivision of land	Ch. 107
L.L. No. 1-2004	5-20-2004	Highways: notification of defects repealer	Ch. 88 (footnote only)
L.L. No. 2-2004	5-20-2004	Highways: notification of defects	Ch. 88
Res.	2-17-2005	Fees amendment	Ch. 76, Art. II
Res.	4-21-2005	Blasting amendment (fees); building construction amendment (fees)	Chs. 54; 56
L.L. No. 1-2005	11-17-2005	Zoning amendment	Ch. 123
Res.	1-19-2006	Fees amendment	Ch. 76, Art. II

Enactment	Adoption Date	Subject	Disposition
Res.	10-19-2006	Recreation Commission	Ch. 39
L.L. No. 1-2007	1-18-2007	Zoning Map amendment	NCM
L.L. No. 2-2007	3-15-2007	Building construction amendment	Ch. 56
L.L. No. 3-2007	9-20-2007	Environmental Board amendment	Ch. 9
L.L. No. 4-2007	11-15-2007	Stormwater management and erosion and sediment control	Ch. 106
L.L. No. 5-2007	11-15-2007	Building construction amendment	Ch. 56
L.L. No. 6-2007	11-15-2007	Excavations in public highways amendment	Ch. 74
L.L. No. 7-2007	11-15-2007	Highways amendment	Ch. 88
L.L. No. 8-2007	11-15-2007	Subdivision of land amendment	Ch. 107
L.L. No. 9-2007	11-15-2007	Zoning amendment	Ch. 123
L.L. No. 10-2007	12-20-2007	Storm sewers: illicit discharges, activities and connections	Ch. 105, Art. I
L.L. No. 1-2008	4-17-2008	Public sanitary sewers	Ch. 104, Art. III
L.L. No. 2-2008	7-17-2008	Dogs and other animals: dog license fees	Ch. 68, Art. III
Res.	8-20-2008	Fees amendment	Ch. 76, Art. II
L.L. No. 3-2008	9-18-2008	Appearance tickets amendment	Ch. 50
L.L. No. 4-2008	9-18-2008	Streets and sidewalks: sidewalk maintenance	Ch. 103, Art. I
Res.	12-18-2008	Personnel policies -- Employee Handbook amendment	Ch. 32

Enactment	Adoption Date	Subject	Disposition
Res.	12-18-2008	Building construction amendment	Ch. 56
Res.	12-18-2008	Fees amendment	Ch. 76, Art. II

Endnotes

1 (Popup - Popup)

Editor's Note: A resolution to redesignate the Environmental Commission as the "Town of Esopus Environmental Board" was adopted 12-14-1977.

2 (Popup - Popup)

Editor's Note: Former Subsection B, which provided that at least one, but no more than two, members of the Environmental Board shall be between the ages of 16 and 21, was repealed 12-10-1986 by L.L. No. 8-1986.

3 (Popup - Popup)

Editor's Note: Former § 92 of the Public Officers Law was renumbered as § 97 by Chapter 933 of the Laws of 1977. Said § 97 was subsequently renumbered as § 102 by Chapter 652 of the Laws of 1983.

4 (Popup - Popup)

Editor's Note: Former § 94 of the Public Officers Law was renumbered as § 99 by Chapter 933 of the Laws of 1977. Said § 99 was subsequently renumbered as § 104 by Chapter 652 of the Laws of 1983.

5 (Popup - Popup)

Editor's Note: This local law was approved at a referendum held 11-2-1965.

6 (Popup - Popup)

Editor's Note: This local law also repealed former Article II, Deputy Superintendent of Highways, adopted 3-10-1982.

7 (Popup - Popup)

Editor's Note: This local law was approved at a referendum held 11-2-1965.

8 (Popup - Popup)

Editor's Note: Former Ch. 32, Personnel Policies, adopted 9-13-1978, was repealed 4-16-1998 by L.L. No. 1-1998.

9 (Popup - Popup)

Editor's Note: The message was composed by Raymond Rice, the Town Supervisor at the time

this local law was adopted.

10 (Popup - Popup)

Editor's Note: See Ch. 123, Zoning.

11 (Popup - Popup)

Editor's Note: A Planning Board of seven members was first established 11-13-1963 by resolution of the Town Board.

12 (Popup - Popup)

Editor's Note: Chapters 578, 579 and 580 of the Laws of 1974 were repealed by Chapter 933 of the Laws of 1977; see § 84 et seq. of the Public Officers Law.

13 (Popup - Popup)

Editor's Note: Chapter 578 of the Laws of 1974 was repealed by Chapter 933 of the Laws of 1977; see § 84 et seq. of the Public Officers Law.

14 (Popup - Popup)

Editor's Note: See § 8-0101 et seq. of the Environmental Conservation Law.

15 (Popup - Popup)

Editor's Note: See Ch. 43, Waterfront Advisory Board.

16 (Popup - Popup)

Editor's Note: Hayes v Cohoes, 2 NY 159 (1848).

17 (Popup - Popup)

Editor's Note: Spano v Perini, 25 NY2d 11, 15.

18 (Popup - Popup)

Editor's Note: Spano, Supra, Page 18.

19 (Popup - Popup)

Editor's Note: Spano, Supra, Page 18.

20 (Popup - Popup)

Editor's Note: Former Ch. 56, Building Construction, adopted 12-30-1959, as amended, was

repealed 9-12-1990 by L.L. No. 7-1990.

21 (Popup - Popup)

Editor's Note: Former Subsection A(2), regarding permits for work costing over \$1,000,000, was repealed 3-15-2007 by L.L. No. 2-2007.

22 (Popup - Popup)

Editor's Note: Former § 56-12A(6), regarding issuance of certificates and costs, was repealed 4-21-2005.

23 (Popup - Popup)

Editor's Note: Former Subsection B(2), regarding nonprofit organizations, was repealed 3-15-2007 by L.L. No. 2-2007.

24 (Popup - Popup)

Editor's Note: Article 18 of the Executive Law concerning the State Building Construction Code was repealed by L. 1981, c. 707. For current provisions, see § 382 of new Art. 18 of the Executive Law, added by L. 1981, c. 707, concerning the New York State Uniform Fire Prevention and Building Code.

25 (Popup - Popup)

Editor's Note: Former Ch. 59, Unsafe Buildings, adopted 2-28-1973 by L.L. No. 2-1973, amended 6-12-1980 by L.L. No. 14-1980, was repealed 12-29-1980 by L.L. No. 22-1980.

26 (Popup - Popup)

Editor's Note: Former § 59-3, Unsafe building prohibited; inspection; notice, was repealed 9-12-1990 by L.L. No. 9-1990.

27 (Popup - Popup)

Editor's Note: Original Section 3, concerning the destruction of property, which immediately followed this section, was repealed 4-16-1981 by L.L. No. 1-1981.

28 (Popup - Popup)

Editor's Note: Former Article 7 of the Agriculture and Markets Law, pertaining to dogs, was repealed by Chapter 220 of the Laws of 1978, which chapter enacted a new Article 7. For current provisions pertaining to the power of a municipality to enact legislation regulating dogs, see § 124 of the Agriculture and Markets Law.

29 (Popup - Popup)

Editor's Note: Former § 68-19, Dangerous animals, as amended, was repealed 9-12-1990 by L.L. No. 5-1990.

30 (Popup - Popup)

Editor's Note: Former Subsection E, which provided provisions for dogs not redeemed by owners, as amended 4-16-1981 by L.L. No. 2-1981, was repealed 8-14-1985 by L.L. No. 4-1985.

31 (Popup - Popup)

Editor's Note: See also § 76-2C(2).

32 (Popup - Popup)

Editor's Note: Former Subsection A, regarding fees, was repealed 7-8-1992 by L.L. No. 3-1992.

33 (Popup - Popup)

Editor's Note: Former Subsection B(4), regarding maintenance of the escrow fund, was repealed 7-8-1992 by L.L. No. 3-1992.

34 (Popup - Popup)

Editor's Note: Former Chapter 74, Excavations, adopted 6-12-1980 by L.L. No. 10-1980, was repealed 3-9-1988 by L.L. No. 3-1988.

35 (Popup - Popup)

Editor's Note: This resolution also superseded former Article II, Copies of Documents, adopted 12-13-1991.

36 (Popup - Popup)

Editor's Note: See Ch. 56, Building Construction, § 56-12.

37 (Popup - Popup)

Editor's Note: See Ch. 71, Compensation for Planning and Zoning Review Costs.

38 (Popup - Popup)

Editor's Note: See Ch. 71, Compensation for Planning and Zoning Review Costs, for escrow establishment.

39 (Popup - Popup)

Editor's Note: This resolution also stated an effective date of 1-1-2009.

40 (Popup - Popup)

Editor's Note: Former § 77-1, Administration and enforcement, was repealed 9-12-1990 by L.L. No. 11-1990.

41 (Popup - Popup)

Editor's Note: Now the New York State Uniform Fire Prevention and Building Code.

42 (Popup - Popup)

Editor's Note: Now the New York State Uniform Fire Prevention and Building Code.

43 (Popup - Popup)

Editor's Note: Now the New York State Uniform Fire Prevention and Building Code.

44 (Popup - Popup)

Editor's Note: Former Article 18-A of the Executive Law, comprised of §§ 390 through 399, which constituted the State Building Conservation and Fire Prevention Code, was repealed by L. 1981, c. 707, § 12. For current provisions, see Article 18 of the Executive Law.

45 (Popup - Popup)

Editor's Note: Former Ch. 80, Flood Damage Prevention, adopted 4-8-1987 by L.L. No. 4-1987, was repealed 11-8-1995 by L.L. No. 3-1995.

46 (Popup - Popup)

Editor's Note: No charge at this time (usually in cost of building permit); the application fee will be set by resolution of the Town Board.

47 (Popup - Popup)

Editor's Note: This local law was approved at a referendum held 11-4-1980.

48 (Popup - Popup)

Editor's Note: A fee schedule attached to this local law provided for a number of additional fees. A copy of this schedule is on file in the office of the Town Clerk, where it may be examined during regular business hours.

49 (Popup - Popup)

Editor's Note: The former notification of defects provisions, adopted 12-28-1995 by L.L. No.

9-1985, included in the Code as §§ 88-1 through 88-3, were repealed 5-20-2004 by L.L. No. 1-2004.

50 (Popup - Popup)

Editor's Note: See the Typical Section at the end of this chapter.

51 (Popup - Popup)

Editor's Note: Former § 92-8, Deposit of materials from outside of town prohibited, was repealed 5-12-1993 by L.L. No. 3-1993.

52 (Popup - Popup)

Editor's Note: Former Subsection A, which provided that residency is required to deposit, was repealed 5-12-1993 by L.L. No. 5-1993.

53 (Popup - Popup)

Editor's Note: This resolution also provided that its provisions shall apply to both refuse collectors and individuals.

54 (Popup - Popup)

Editor's Note: Former § 98-18, Alcoholic beverages, was repealed 5-20-1991 by L.L. No. 1-1991. For current provisions see Article II of this chapter.

55 (Popup - Popup)

Editor's Note: See also § 76-2C(5).

56 (Popup - Popup)

Editor's Note: Former Subsection A, which listed as exempt an honorably discharged person injured while in the military services of the United States who procured a license from the Ulster County Clerk pursuant to § 32 of the General Business Law, was repealed 9-11-1991 by L.L. No. 4-1991.

57 (Popup - Popup)

Editor's Note: See also § 76-2B(2).

58 (Popup - Popup)

Editor's Note: Former Subsection E(1), which set forth sewer user charges and estimated first-year operations and maintenance cost, was repealed 6-23-1982 by L.L. No. 4-1982.

59 (Popup - Popup)

Editor's Note: Said Schedule is on file in the Town Offices.

60 (Popup - Popup)

Editor's Note: See Ch. 43, Waterfront Advisory Board.

61 (Popup - Popup)

Editor's Note: See Ch. 123, Zoning.

62 (Popup - Popup)

Editor's Note: Said Flow Chart is included at the end of this chapter.

63 (Popup - Popup)

Editor's Note: Former § 109-1, Grant of partial exemption, as amended, was repealed 12-30-1993 by L.L. No. 9-1993.

64 (Popup - Popup)

Editor's Note: See § 458-a of the Real Property Tax Law.

65 (Popup - Popup)

Editor's Note: Former Art. II, Removal of Vehicles; Winter Parking, adopted 8-20-1980 by L.L. No. 20-1980, was repealed 7-13-1994 by L.L. No. 1-1994.

66 (Popup - Popup)

Editor's Note: Former Subsection C, which pertained to water meters that fail to register the correct quantity of water delivered, was repealed 3-4-1984 by L.L. No. 1-1984.

67 (Popup - Popup)

Editor's Note: See also § 76-2B(1).

68 (Popup - Popup)

Editor's Note: The original last paragraph of this section, concerning proration of bills, was repealed 7-9-1975.

69 (Popup - Popup)

Editor's Note: This local law also provided that former Subsection F be relettered to Subsection G.

70 (Popup - Popup)

Editor's Note: The Schedule of District Use Regulations is included at the end of this chapter.

71 (Popup - Popup)

Editor's Note: See § 123-20, Schedule of District Area and Bulk Regulations.

72 (Popup - Popup)

Editor's Note: See Article V, Area and Bulk Regulations; Off-street Parking.

73 (Popup - Popup)

Editor's Note: See § 23-2701 of the Environmental Conservation Law.

74 (Popup - Popup)

Editor's Note: See Ch. 56, Building Construction, and Ch. 77, Fire Prevention.

75 (Popup - Popup)

Editor's Note: See § 123-10.