

ZONING

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[HISTORY: Adopted by the Town Board of the Town of Barrington 9-8-1980 as L.L. No. 2-1980. Amendments noted where applicable.]

ARTICLE I
General Provisions

§ 1.1. Title.

This law shall be known as the "Town of Barrington, New York, Zoning Law."

§ 1.2. Enactment.

This law shall be a law regulating and restricting the location, construction, alteration and use of buildings and land in the Town of Barrington, Yates County, New York, pursuant to the zoning provisions of Article 16 of the Town Law of the State of New York.

§ 1.3. Purposes.

This law is designed to lessen congestion in the public roads and streets; to minimize risks from fire, flood, panic and other dangers; to promote health and general welfare; to provide for adequate light and air; to prevent overcrowding of the land; to avoid undue concentration of population and to facilitate the orderly planning for future transportation, water supply, sewage disposal, schools, parks and other requirements. This law is made with reasonable consideration of the character of the various districts and their peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the town.

§ 1.4. Applicability. [Amended 6-10-1985 by L.L. No. 1-1985]

These regulations shall apply to the construction, installation or alteration of any building, structure or appurtenant system, any change in use and any lot, plat, plot or parcel of land used, occupied or otherwise maintained as herein provided for the Town of Barrington. These regulations shall also apply to permanent docks, piers, wharves, boathouses or similar structures that extend from the point on the easterly side of the high waterline of Keuka Lake to a point on the westerly side of the high waterline of Keuka Lake.

ARTICLE II
Terminology

§ 2.1. Word usage.

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

- A. Words used in the present tense include the future tense.
- B. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.
- C. The word "shall" is always mandatory. The word "may" is permissive.

- D. A "building" or "structure" includes any part thereof. A building includes all other structures of every description, except fences and decorative or retaining walls. Structures covering a ground area less than sixteen (16) square feet are exempt from the requirements of this law. Stairways in the Lake Residential District constructed from the top of the bank to the beach area at lake front, which are thirty-six (36) inches or less in width, are also exempt from the requirements of this law. **[Amended 6-13-1989 by L.L. No. 3-1989]**
- E. The word "person" includes a corporation as well as an individual.
- F. The word "lot" includes the word "plot" or "parcel."

§ 2.2. Definitions.

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

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

ACCESSORY USE — A use customarily incidental and subordinate to the principal use of the building.

ALTERATION — As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities or the moving from one location or position to another.

APPEAL — A request for a review of the Local Administrator's interpretation of any provision of this law or a request for a variance. **[Added 5-11-1987 by L.L. No. 2-1987]**

AREA OF SHALLOW FLOODING — A designated AO or VO Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate and where velocity flow may be evident. **[Added 5-11-1987 by L.L. No. 2-1987]**

AREA OF SPECIAL FLOOD HAZARD — The land in the floodplain within a community subject to a one-percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-99, V, VO, VE or V1-30. It is also commonly referred to as the "base floodplain" or "one-hundred-year floodplain." **[Amended 5-11-1987 by L.L. No. 2-1987]**

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any given year. **[Amended 5-11-1987 by L.L. No. 2-1987]**

BASEMENT — That portion of a building having its floor subgrade (below ground level) on all sides. **[Added 5-11-1987 by L.L. No. 2-1987]**

BREAKAWAY WALL — A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system. **[Added 5-11-1987 by L.L. No. 2-1987]**

BUILDING — Any structure built for support, shelter or enclosure for occupancy or storage. [Added 5-11-1987 by L.L. No. 2-1987]

BUILDING HEIGHT — The vertical distance measured from the average finished grade along the wall of the building (or adjacent to the side of the structure) to the highest point of such building or structure, but not including chimneys or spires.

CELLAR — The same meaning as “basement.” [Added 5-11-1987 by L.L. No. 2-1987]

COASTAL HIGH HAZARD AREA — The area subject to high-velocity waters, including but not limited to hurricane wave wash. The area is designated on a FIRM as Zone V1-30, VE, VO or V. [Added 5-11-1987 by L.L. No. 2-1987]

DEVELOPMENT — Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations located within the area of special flood hazard. [Amended 5-11-1987 by L.L. No. 2-1987]

DWELLING — A building/structure providing complete housekeeping facilities designed or used as the living quarters for one (1) or more families. The term shall include mobile homes. [Amended 3-11-1-1996 by L.L. No. 1-1996]

DWELLING UNIT — A building/structure or portion thereof providing complete housekeeping facilities designed for one (1) family. [Amended 3-11-1996 by L.L. No. 1-1996]

ELEVATED BUILDING — A nonbasement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers) or shear walls. [Added 5-11-1987 by L.L. No. 2-1987]

ENFORCEMENT OFFICER — The duly-designated official responsible for enforcing this law as prescribed herein and as directed by the Town Board.

ESSENTIAL SERVICES — The erection, construction, alteration or maintenance by public utilities or the town or other governmental agencies of underground or overhead gas, electrical or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or the town or other government agencies or for the public health or safety or general welfare, but not including buildings. [Added 3-11-1996 by L.L. No. 1-1996]

EXISTING MOBILE HOME PARK OR MOBILE HOME SUBDIVISION — A parcel (or contiguous parcels) of land divided into two (2) or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this law.

EXPANSION OF AN EXISTING MOBILE HOME PARK OR MOBILE HOME SUBDIVISION — The preparation of additional sites by the construction of facilities for

servicing the lots on which the mobile homes are to be affixed (including the installation of utilities and either final site grading or pouring of concrete or the construction of streets).

FAMILY — One (1) or more persons occupying the premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding- or lodging house, club, fraternity or hotel. **[Added 3-11-1996 by L.L. No. 1-1996]**

FENCE — A natural or artificial barrier of shrubs, trees, wood, masonry, stone, metal wire or any other material manufactured for the construction of a fence, but specifically excluding any parts from a manufactured bus, auto parts and/or scrap material. **[Added 3-11-1996 by L.L. No. 1-1996]**

FLOOD or **FLOODING** **[Amended 5-11-1987 by L.L. No. 2-1987]** — 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.

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. **[Added 5-11-1987 by L.L. No. 2-1987]**

FLOOD HAZARD BOUNDARY MAP (FHBM) — An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation data is provided. **[Amended 5-11-1987 by L.L. No. 2-1987]**

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. **[Amended 5-11-1987 by L.L. No. 2-1987]**

FLOOD INSURANCE STUDY — The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood. **[Added 5-11-1987 by L.L. No. 2-1987]**

FLOODPLAIN or **FLOOD-PRONE AREAS** — A land area adjoining a river, stream, watercourse, ocean, bay or lake which is likely to be flooded.

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. **[Added 5-11-1987 by L.L. No. 2-1987]**

FLOODWAY — The same meaning as "regulatory floodway." **[Amended 5-11-1987 by L.L. No. 2-1987]**

FLOOR — The top surface of an enclosed area in a building (including basement), i.e., the top of slab in concrete slab construction or the top of wood flooring in wood frame construction. [Added 5-11-1987 by L.L. No. 2-1987]

FLOOR AREA — The aggregate sum of the gross horizontal areas of the several floors of the building, measured from the exterior walls.

FUNCTIONALLY DEPENDENT USE — A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding and ship repair. The term does not include long-term storage, manufacture, sales or service facilities. [Added 5-11-1987 by L.L. No. 2-1987]

HABITABLE FLOOR — Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation or a combination thereof. A floor used only for storage purposes is not a “habitable floor.”

HIGHEST ADJACENT GRADE — The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure. [Added 5-11-1987 by L.L. No. 2-1987]

HOME OCCUPATIONS — An accessory use of a service or commercial character conducted within a dwelling unit or accessory building by the residents thereof, which is clearly secondary to the use of the dwelling unit for living purposes and which is not detrimental to the residential character of the lot on which said “home occupation” is located or of the surrounding neighborhood. One (1) additional person, not a resident thereof, may be employed in such “home occupation.” “Home occupations” include but are not limited to dressmaking, tailoring, beauty parlors, barbershops, teaching carpentry, radio repair and real estate. A “home occupation” shall not be such as to produce offensive noise, traffic, smoke, dust, odor, heat, glare or electronic disturbance beyond the property it occupies.

LOT — A parcel of land separately recorded in the Yates County Clerk’s office or separately depicted on the Town Real Property Assessment Maps. Whenever two (2) or more principal buildings are located on a single lot, the area devoted to each principal building, together with its accessory buildings and uses, yards and open space, shall be considered as a separate “lot” for the purposes of this law. This is to be interpreted to mean that a lot large enough to meet the area, frontage and setback requirements of each dwelling unit may contain more than one (1) dwelling unit.

LOWEST FLOOR — The lowest level, including basement or cellar, of the lowest enclosed area. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement or cellar 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 law. [Added 5-11-1987 by L.L. No. 2-1987]

MANUFACTURED HOME — A structure, transportable in one (1) or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers and similar transportable structures placed on a site for one hundred eighty

(180) consecutive days or longer and intended to be improved property. [Added 5-11-1987 by L.L. No. 2-1987]

MEAN SEA LEVEL — For the 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. [Added 5-11-1987 by L.L. No. 2-1987]

MOBILE HOME — The same meaning as "manufactured home." [Amended 5-11-1987 by L.L. No. 2-1987]

NATIONAL GEODETIC VERTICAL DATUM (NGVD) — As corrected in 1929, a vertical control used as a reference for establishing elevations within the floodplain. [Added 5-11-1987 by L.L. No. 2-1987]

NEW CONSTRUCTION — Structures for which the start of construction commenced on or after the effective date of this law. [Added 5-11-1987 by L.L. No. 2-1987]

NEW MOBILE HOME PARK or MOBILE HOME SUBDIVISION — A parcel (or contiguous parcels) of land divided into two (2) or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads and the construction of streets) is completed on or after the effective date of this law.

NONCONFORMING USE — Any use of a building, other structure or tract of land, otherwise lawfully established, but which does not conform to the regulations of the district in which such use is located, either at the effective date of this law or as a result of subsequent amendments thereto.

PARKING, OFF-STREET — An area of at least two hundred (200) square feet with minimum dimensions of ten (10) feet and twenty (20) feet.

PRINCIPALLY ABOVE GROUND — That at least fifty-one percent (51%) of the actual cash value of the structure, excluding land value, is above ground. [Added 5-11-1987 by L.L. No. 2-1987]

ONE-HUNDRED-YEAR FLOOD — The same meaning as "base flood." [Added 5-11-1987 by L.L. No. 2-1987]

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 § 4.2313B. [Added 5-11-1987 by L.L. No. 2-1987]

RIGHT-OF-WAY (ROW) — The total public strip of land within which there is public control and common right of passage and within which all pavements and utility lines are located. All setbacks will be measured from the "right-of-way" or twenty-five (25) feet from the center line, plus setback specified. Exceptions to this will be along old Lake Road where the "ROW" shall be measured sixteen and one-half (16 1/2) feet from the highway center line and along New York State Route 54, which "ROW" shall be determined according to State Survey.

SAND DUNES — Naturally occurring accumulations of sand in ridges or mounds landward of the beach. [Added 5-11-1987 by L.L. No. 2-1987]

SETBACK — The shortest horizontal distance in feet from the street line or side/rear property line to the greatest extremities of principal building on a lot. For example, eaves and overhangs shall be considered the greatest extremities.

START OF CONSTRUCTION — The initiation, excluding planning and design, of any phase of a project or physical alteration of the property and shall include land preparation, such as clearing, grading and filling; installation of streets and/or walkways; excavation for a basement, footings, piers or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers and building materials. [Added 5-11-1987 by L.L. No. 2-1987]

STRUCTURE — A walled and roofed building, a manufactured home or a gas or liquid storage tank, that is principally above ground. [Added 5-11-1987 by L.L. No. 2-1987]

SUBSTANTIAL CONSTRUCTION — All footings have been installed or a foundation laid or poles erected. In the case of a mobile home, an approved well or septic system will be evidence of "substantial construction." [Added 9-14-1981 by L.L. No. 2-1981; amended 10-11-1982 by L.L. No. 1-1982]

SUBSTANTIAL IMPROVEMENT [Amended 5-11-1987 by L.L. No. 2-1987]:

- A. Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure, excluding land values, either:
 - (1) Before the improvement or repair is started; or
 - (2) If the structure has been damaged and is being restored, before the damage occurred.
- B. For the purposes of this definition, "substantial improvement" is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:
 - (1) Any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
 - (2) Any alteration of a structure or contributing structure listed on the National Register of Historic Places or State Inventory of Historic Places.

VARIANCE — A grant of relief from the requirements of this law which permits construction or use in a manner that would otherwise be prohibited by this law. [Amended 5-11-1987 by L.L. No. 2-1987]

YARD, FRONT — An open space between the front line of the principal building and the front line of the lot and extending the full width of the lot.

YARD, REAR — An open space between the rear line of the principal building and the rear line of the lot and extending the full width of the lot.

ARTICLE III
Enumeration of Districts

§ 3.1. Zoning districts.

The Town of Barrington establishes and is hereby divided in the following zoning districts:

| | |
|------|--|
| ARD | Agricultural/Residential District |
| LRD | Lake Residential District |
| HRD | Highway Residential District |
| PDD | Planned Development District |
| SFHD | Special Flood Hazard District |
| DWD | Dundee Wellhead District [Added 9-14-1998 by L.L. No. 2-1998] |

§ 3.2. Official Zoning Map.

The location and boundaries of the zoning districts established in § 3.1 are shown on the Official Zoning Map of the Town of Barrington,¹ which, together with everything shown thereon and all amendments thereto, are hereby adopted by reference and declared to be appurtenant parts of this law.

§ 3.3. Interpretation of districts boundaries.

In general, the district boundary lines are intended to follow existing lot lines, public highway center lines and the center lines of natural watercourses at mean water levels or are intended to be parallel to public highway center lines at such distances therefrom as are indicated on the Official Zoning Map.

ARTICLE IV
District Regulations

§ 4.1. Use schedule.

The attached district regulations shall be deemed to be part of this section and is referred to herein as the "Use Schedule A."²

§ 4.2. Land use regulations.

Land use regulations shall be as provided in this Article.

¹ Editor's Note: The Zoning Map is on file in the town offices.

² Editor's Note: Said Schedule is included at the end of this law.

§ 4.21. Agricultural/Residential District.

See Schedule A for district use standards.

§ 4.22. Lake Residential District. [Amended 3-11-1996 by L.L. No. 1-1996]

- A. No person, firm, company, corporation or other entity shall deed, grant, sell, give, permit or lease a right-of-way or an easement to the lake shore (except for "essential services") of less than sixty (60) feet of lake frontage for each dwelling unit served. (The Town of Milo Zoning Law also has the following additional sentence in this paragraph: The minimum required area for a dwelling unit in an LR District shall not include the area of any right-of-way or easement deeded, granted, sold permitted, conveyed, given or leased.)
- B. Any multiple-dwelling development or subdivision with LR District lake shore land used as a common recreation area or beach shall have a minimum of sixty (60) feet of lake frontage for each dwelling unit served.
- C. Joint or individual ownership of one (1) or more parcels of land in districts or municipalities adjacent to the LRD sharing ownership in an unoccupied and/or vacant LRD lot shall have a minimum of sixty (60) feet of lake frontage in the LR District for each dwelling unit of the adjacent district or municipality. No dwelling unit or other structure shall be permitted on such LR District lot.
- D. The use of an LRD lot by noncommercial organizations, groups, clubs and other similar entities is not included among the permitted uses as set forth in Schedule A, Zoning Schedule of Use Controls.³

§ 4.23. Highway Residential District.

- A. See Schedule A for district use standards.
- B. Within the Highway Residential District (HRD), no new construction, not including additions to existing structures, shall be granted a permit until a review by the Yates County Soil and Water Conservation District (YCSWCD) personnel has been performed. Such review shall give specific consideration to the impact of development on the natural drainagecourse of the area. If no action is taken by the YCSWCD within thirty (30) days, this requirement is waived. Failure to observe the recommendations of the YCSWCD shall not be grounds for denial of permit if all other district requirements are met. In all other districts, a review of the impact of a drainage area shall be undertaken, if so requested by the Zoning Board of Appeals as a requirement for a special permit or variance.

³ Editor's Note: Said Schedule is included at the end of this law.

§ 4.24. Planned Development District.

- A. A planned development district (PDD) shall be treated as an amendment to this Zoning Law. The PDD is designed to accommodate such large scale uses as will be of benefit to the community, but which could not have been anticipated at the time of adoption of this law.
- B. Where the planned development concept is deemed appropriate through the rezoning of land by the Town Board to a planned development district, the set of conventional land use activities and area specifications as set forth elsewhere in this law are hereby replaced by a review and approval process in which an approved development plan becomes the basis for land use controls in said planned development district.
- C. For administrative procedure in approving a PDD, see § 7.11 for further district regulations.

§ 4.25. Special Flood Hazard District. [Amended 5-11-1987 by L.L. No. 2-1987]

The following regulations shall apply in all SFHD districts, in addition to the regulations of the underlying zoning district. The SFHD shall be treated as an overlay district.

§ 4.251. Flood damage prevention findings.

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

§ 4.252. Purpose. [Added 3-11-1987 by L.L. No. 2-1987]

It is the purpose of these sections 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:

- A. To 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. To require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
- C. To control the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of flood waters.
- D. To control filling, grading, dredging and other development which may increase erosion or flood damages.

- E. To regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.
- F. To qualify for and maintain participation in the National Flood Insurance Program.

§ 4.253. Objectives. [Added 5-11-1987 by L.L. No. 2-1987]

The objectives of these sections are:

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

§ 4.254. Applicability of flood hazard areas. [Added 5-11-1987 by L.L. No. 2-1987]

This law shall apply to all areas of special flood hazards within the jurisdiction of Town of Barrington.

§ 4.255. Basis for establishing areas of special flood hazard. [Added 5-11-1987 by L.L. No. 2-1987; amended 6-13-1989 by L.L. No. 2-1989]

The areas of special flood hazard identified by the Federal Insurance Administration on its Flood Hazard Boundary Map (FHBM), or Flood Insurance Rate Map (FIRM) No. 360953C 01-10 dated March 9, 1984, is hereby adopted and declared to be a part of this law. The FHBM or FIRM is on file at the Barrington Town Clerk's office, 5133 Bath Road, Dundee, New York.

§ 4.256. Construal of provisions. [Added 5-11-1987 by L.L. No. 2-1987]

- A. This law is adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986, and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.
- B. In their interpretation and application, the provisions of this law shall be held to be minimum requirements, adopted for the promotion of the public health, safety and welfare.

Whenever the requirement of this law are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

§ 4.257. Penalties for offenses. [Added 5-11-1987 by L.L. No. 2-1987]

No structure shall hereafter be constructed, located, extended, converted or altered and no land shall be excavated or filled without full compliance with the terms of this law and any other applicable regulations. Any infraction of the provisions of §§ 4.25 through 4.2520 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 §§ 4.25 through 4.2520 or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than two hundred fifty dollars (\$250.) or imprisoned for not more than fifteen (15) days, or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Barrington from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of §§ 4.25 through 4.2520 for which the developer and/or owner has not applied for and received an approved variance under §§ 4.2519 and 4.2520 will be declared noncompliant and notification sent to the Federal Emergency Management Agency.

§ 4.258. Warning and disclaimer of liability. [Added 5-11-1987 by L.L. No. 2-1987]

The degree of flood protection required by this law 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 law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This law shall not create liability on the part of the Town of Barrington, any officer or employee thereof or the Federal Emergency Management Agency for any flood damages that result from reliance on this law or any administrative decision lawfully made thereunder.

§ 4.259. Designation of local administrator. [Added 5-11-1987 by L.L. No. 2-1987; amended 6-13-1989 by L.L. No. 3-1989]

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

§ 4.2510. Development permit. [Added 5-11-1987 by L.L. No. 2-1987]

A development permit shall be obtained before the start of construction or any other development within the area of special flood hazard as established in § 4.255. Application for a development permit shall be made on forms furnished by the local administrator and may include but not be limited to: plans, in duplicate, drawn to scale and showing the nature, location, dimensions and elevations of the area in question; existing or proposed structures, fill, storage of materials drainage facilities; and the location of the foregoing.

§ 4.2511. Application stage. [Added 5-11-1987 by L.L. No. 2-1987]

The following information is required where applicable:

- A. The elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures.
- B. Elevation in relation to sea level to which any nonresidential structure will be floodproofed.
- C. When required, a certificate from a licensed professional engineer or architect that the utility floodproofing will meet the criteria in § 4.2515C(1);
- D. A certificate from a licensed professional engineer or architect that the nonresidential floodproofed structure will meet the floodproofing criteria in § 4.2516B; and
- E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

§ 4.2512. Construction stage. [Added 5-11-1987 by L.L. No. 2-1987]

Upon placement of the latest floor or floodproofing by whatever means, it shall be the duty of the permit holder to submit to the the local administrator a certificate of the as-built elevation of the lowest floor or floodproofed elevation in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by the same. When floodproofing is utilized for a particular building, the floodproofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by the same. Any further work undertaken prior to submission and approval of the certificate 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.

§ 4.2513. Duties and responsibilities of local administrator.

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

- A. Permit application review. The local administrator shall:
 - (1) Review all development permit applications to determine that the requirements of this law have been satisfied.
 - (2) Review all development permit applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
 - (3) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this law, "adversely affects" means physical damage to adjacent properties. A hydraulic engineering study may be required of the applicant for this purpose.

- (a) If there is no adverse effect, then the permit shall be granted consistent with the provisions of this law.
 - (b) If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
 - (4) Review all development permits for compliance with the provisions of § 4.2515E, Encroachments.
- B. Use of other base flood and floodway data. When base flood elevation data has not been provided in accordance with § 4.255, Basis for establishing areas of special flood hazard, the local administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, including data developed pursuant to § 4.2515D(4) in order to administer § 4.2516, Specific standards and § 4.2518, Floodways.
- C. Information to be obtained and maintained. The local administrator shall:
 - (1) Obtain and record the actual elevation, in relation to mean sea level, of the lowest floor including basement or cellar of all new or substantially improved structures and whether or not the structure contains a basement or cellar.
 - (2) For all new or substantially improved floodproofed structures;
 - (a) Obtain and record the actual elevation, in relation to mean sea level, to which the structure has been floodproofed; and
 - (b) Maintain the floodproofing certifications required in §§ 4.2515 and 4.2516.
 - (3) Maintain for public inspection all records pertaining to the provisions of this local law including variances, when granted, and Certificates of Compliance.
- D. Alteration of watercourses. The local administrator shall:
 - (1) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, New York 10278.
 - (2) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- E. Interpretation of FHBM, FIRM or FBFM boundaries.
 - (1) The local administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of special flood hazard and actual field conditions.
 - (2) Base flood elevation data established pursuant to § 4.255 and/or § 4.2513B, when available, shall be used to accurately delineate the area of special flood hazards.
 - (3) The local administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

F. Stop-work orders.

- (1) All floodplain development found ongoing without an approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 4.257 of this law.
- (2) All floodplain development found noncompliant with the provisions of this law and/or the conditions of the approved permit shall be subject to the issuance of a stop-work order by the local administrator. Disregard of a stop-work order shall be subject to the penalties described in § 4.257 of this law.

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

§ 4.2514. Certificate of compliance. [Added 5-11-1987 by L.L. No. 2-1987]

- A. It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the local administrator stating that the building or land conforms to the requirements of either the development permit or the approved variance.
- B. All other development occurring within the area of special flood hazard will have upon completion a certificate of compliance issued by the local administrator.
- C. All certificates shall be based upon the inspections conducted subject to § 4.2513G and/or any certified elevations, hydraulic information, floodproofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

§ 4.2515. Flood hazard reduction standards. [Added 5-11-1987 by L.L. No. 2-1987]

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

A. Anchoring.

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

B. Construction materials and methods.

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

C. Utilities.

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

D. Subdivision proposals.

- (1) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (2) All subdivision proposals shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize flood damage.
- (3) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (4) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either fifty (50) lots or five (5) acres.

E. Encroachments.

- (1) All proposed development in riverine situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood-carrying capacity of the area of special flood hazards set forth in § 4.2513A (3), permit review. This may require the submission of additional technical data to assist in the determination.
- (2) In all areas of special flood hazard in which base flood elevation data is available pursuant to § 4.2513B or § 4.2515D4 and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one (1) foot at any point.
- (3) In all areas of the special flood hazard where floodway data is provided or available pursuant to § 4.2513B, the requirements of § 5.3, Floodways, shall apply.

§ 4.2516. Specific flood hazard reduction standards. [Added 5-11-1987 by L.L. No. 2-1987]

In all areas of special flood hazards where base flood elevation data has been provided as set forth in § 4.255, Basis for establishing areas of special flood hazard, and § 4.2513B, Use of other base flood data, the following standards are required:

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

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

B. Nonresidential construction.

- (1) New construction and substantial improvements of any commercial, industrial or other nonresidential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation or be floodproofed to the base flood level.
 - (a) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - [1] A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;
 - [2] The bottom of all such openings shall be no higher than one (1) foot above the lowest adjacent finished grade; and
 - [3] Openings may be equipped with louvers, valves, screens or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

- (b) If the structure is to be floodproofed:
- [1] A licensed professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - [2] A licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is floodproofed.
- (2) The local administrator shall maintain on record a copy of all such certificates noted in this section.

§ 4.2517. Construction standards for areas without base flood elevations. [Added 5-11-1987 by L.L. No. 2-1987]

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

§ 4.2518. Floodways. [Added 5-11-1987 by L.L. No. 2-1987]

Located within areas of special flood hazard are areas designated as floodways (see definition, § 2.2). The floodway is an extremely hazardous area due to high-velocity floodwaters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site as provided by § 4.2513B, all encroachments, including fill, new construction, substantial improvements and other development, are prohibited within the limits of the floodway unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

§ 4.2519. Flood hazard area appeals board. [Added 5-11-1987 by L.L. No. 2-1987]

- A. The Zoning Board of Appeals as established by Town of Barrington shall hear and decide appeals and requests for variances from the requirements of this law.
- B. The Zoning Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the local administrator in the enforcement or administration of this law.
- 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. **[Amended 6-13-1989 by L.L. No. 2-1989]** In passing upon such application, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this law 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; and
 - (12) The costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.
- E. Upon consideration of the factors of Subsection D and the purposes of this law, the Zoning Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this law.
- 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.

§ 4.2520. Conditions for variances. [Added 5-11-1987 by L.L. No. 2-1987]

- 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 § 4.2519D have been fully considered. As the lot size increases beyond one-half (1/2) acre, the technical justification required for issuing the variance increases.
- B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures and contributing structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this law.
- C. Variances may be issued by a community for new construction and substantial improvements and for other developments 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 threats to public safety.
- D. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. Variances shall only be issued upon receiving written justification:
 - (1) A showing of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- G. Any applicant to whom a variance is granted for a building with the lowest floor below the flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk.

§ 4.26. Dundee Wellhead District (DWD). [Added 9-14-1998 by L.L. No. 2-1998]

The Dundee Wellhead District (DWD) contains a well system which pumps water from a sole-source aquifer. These particular wells supply the majority of the municipal drinking water for the Village of Dundee, and it is therefore important to regulate uses in this district to protect health and life. The provisions of Section 4.261 (hereinbelow) will apply to this district in addition to the regulations of the underlying district. The DWD is an overlay district.

§ 4.261. Development permits. [Added 9-14-1998 by L.L. No. 2-1998]

- A. A development permit shall be required before the start of any excavation, construction or any other development within the Dundee Wellhead District. Application for the permit shall be made on application forms furnished by the Barrington Enforcement Officer, 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, and drainage facilities.
- B. No permit shall be granted until approvals are obtained from the Town of Barrington Zoning Board of Appeals and the Yates County Soil and Water Conservation District Office.

§ 4.3. Supplementary use regulations.

- A. Public properties. This law is not intended to restrict the construction or use of public buildings or lands or property supported in part or in whole by taxes on property in the Town of Barrington in the exercise of a governmental function.
- B. Public utilities. This law is not intended to restrict the construction or use of underground or overhead public utility distribution facilities or of other public utility structures operating under the laws of the State of New York, except as otherwise provided in this

(Cont'd on page 23)

law, and except that any such structures shall conform in character to the environment in which erected.

- C. Lot in different districts. If a lot is divided by a zoning district boundary:
- (1) The respective regulations shall apply to each portion of the lot so divided, unless a building or structure is erected which crosses the district boundary.
 - (2) In such cases, the Zoning Board of Appeals may establish requirements within the intent of this law, which represent a compromise between the requirements of the districts involved and which are approximately proportional to the area of the lot that lies within each different district. In no case shall such requirements be less restrictive than the regulations in the least restrictive district.
- D. Minimum dwelling size. No dwelling unit under five hundred (500) square feet shall be granted a permit. A mobile home ten by fifty (10 x 50) feet shall satisfy this requirement.
- E. Height exceptions. The height limitations of this law, as shown on the Use Schedule,⁴ shall not apply to the following structures: farm buildings and structures, church spires, belfries, cupolas, chimneys, ventilators, skylights, watertanks, bulk heads and other necessary mechanical appurtenances usually carried above roof level.

§ 4.4. Gasoline stations.

In any district where permitted, a gasoline station shall be subject to the following restrictions:

- A. No fuel pump shall be located closer than twenty (20) feet to any side lot line nor closer than twenty-five (25) feet to any street line or highway street line or highway right-of-way, measured from the edge of the fuel island.
- B. No access drive shall be within two hundred (200) feet of and on the same side of a street as a school, library, theater, church or other public gathering place, park, playground or fire station.
- C. All major repair work and servicing shall be done within a completely enclosed building.
- D. No apparent junk car may be stored on any gasoline station property for a period exceeding sixty (60) days. No more than two (2) such cars may be stored at any one (1) time.

§ 4.5. Excavations and soil mining.

- A. Any proposed excavations adversely affecting natural drainage or the structural safety of adjoining buildings or lands shall be prohibited. Excavations shall not create objectionable dust or noise, contribute to soil erosion or create any kind of noxious or injurious substance or condition nor cause public hazard.
- B. All commercial excavation and mining activity shall be by special permit authorized by the Town Board. Such special permit shall be renewed annually, subject to Town Board approval of an operating plan for said activity and a plan for reuse of the excavation area.

⁴ Editor's Note: Said Schedule is located at the end of this law.

A performance bond may be required by the Town Board. Any mining activity must have first been approved by the New York State Department of Environmental Conservation in accordance with the State Mined Land Reclamation Law, and proof of permit must be presented prior to local approval.

§ 4.6. Signs.

All signs hereafter constructed, erected or otherwise established, moved, altered or changed within the limits of the Town of Barrington shall comply with the following §§ 4.61 and 4.62.

§ 4.61. Outdoor advertising signs.

Outdoor advertising signs, both on- and off-premise, are permitted in all districts subject to the following restrictions:

- A. No signs will be allowed within any highway right-of-way (except state-approved signs where New York State Department of Transportation regulations are in effect).
- B. A sign shall not exceed one hundred fifty (150) square feet in size, except in LRD and HRD districts where a sign shall not exceed twenty (20) square feet. [Amended 6-10-1985 by L.L. No. 1-1985]
- C. Signs or colored lights that may be confused with or block the view of official signs or signals or obscure the driver's view are prohibited.

§ 4.62. Temporary signs.

Temporary signs erected for any purpose (agricultural produce sales, garage sales, real estate sales, etc.) shall comply with all requirements of § 4.61 and, in addition, shall be removed within ten (10) days after the termination of such event, sale, transaction, etc.

§ 4.7. Off-road parking.

In all districts, in connection with every manufacturing business, institutional, recreational, residential or other use, there shall be provided at the time any new building or structure is erected off-road parking spaces in accordance with the requirements set forth herein. Agricultural buildings, accessory structures, etc., which do not generate additional need for off-road parking are exempted from the requirements of this section.

- A. Each space shall have minimum dimensions of at least ten by twenty (10 x 20) feet.
- B. In all districts, except the LRD, each new dwelling unit shall have at least two (2) spaces. In the LRD each new dwelling unit shall have at least one (1) space.
- C. The Zoning Board of Appeals, in granting a special permit, shall take into consideration the requirements for off-road parking as a condition for granting such a permit.

§ 4.8. Mobile homes.**A. Regulations for all mobile homes. [Added 3-11-1996 by L.L. No. 1-1996]**

- (1) In districts where they are permitted, all mobile homes shall meet the minimum lot size and setback requirements for a residential use in said district. All mobile homes require a building permit.
- (2) Mobile home standards. All mobile homes installed in the Town of Barrington shall meet the following minimum requirements and have:
 - (a) No fewer than two (2) means of exit.
 - (b) Water and sewage facilities that meet state and local health standards.
 - (c) New York State certification and meet all New York State Uniform Fire Prevention and Building Code requirements.
 - (d) Installation of adequate skirting.

B. Mobile homes not in mobile home parks. Mobile homes not located in a mobile home park will be permitted in all districts except the Flood Hazard District, but only under the following conditions:

- (1) In all districts a mobile home located on a private lot owned by the owner of said mobile home will be permitted when:
 - (a) All of the area regulations for such districts, as listed in the Use Schedule,⁵ have been complied with.
 - (b) The mobile home is provided with a stand and support capable of containing the mobile home in a stable position and with anchors or tie-downs capable of securing the stability of the mobile home. All components of the anchoring and support system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.
 - (c) The mobile home is provided with skirts to screen the space between the mobile home and the ground. Such skirts shall be of a permanent material and shall provide a finished exterior appearance.
- (2) Special necessity. In AR districts the Zoning Board of Appeals may issue a special permit for one (1) or more mobile homes to be located on land not owned by the occupants of such mobile homes, provided that:
 - (a) All of the requirements set forth in this Subsection A are met, unless specifically waived by the Zoning Board of Appeals.
 - (b) Proof is presented to the Zoning Board of Appeals that special necessity exists by reason of:

⁵ Editor's Note: Said Schedule is located at the end of this law.

- [1] An employer-employee relationship between the owner of a farming operation and his tenant where said operation of a farming operation and his tenant desire to have the employee reside on such farm; or
 - [2] A relationship by blood or marriage between the landowner and the mobile home occupant.
- (c) Such special permit shall expire twenty-four (24) months from the date of issuance but may be renewed by the Zoning Board of Appeals.
- (3) Interim dwelling. In any district the Zoning Board of Appeals may issue a special permit for a mobile home not located in a mobile home park when such mobile home is to be used as an interim dwelling during the construction of a permanent residence or in the event that a permanent residence has been destroyed or damaged or other similar hardship conditions. In such cases said mobile home shall be removed within eighteen (18) months from the date of issuance of the special permit. An extension may be granted by the Zoning Board of Appeals.
 - (4) For special permits issued under Subsections B and C above, the minimum size requirements of § 4.3D are waived.
- C. Mobile home parks. New mobile home parks will be permitted in all districts except SFHD. A mobile home park shall be considered a PDD.
- (1) Renewal of permits. The Enforcement Officer shall renew a mobile home park permit every one (1) year from the date of issuance. If the mobile home park has not been constructed in accordance with approved plans and all conditions attached hereto or if a violation of this law shall be found or if any unapproved change shall have taken place, the permit will not be renewed until said mobile home park has been brought into compliance. In such case the Enforcement Officer shall serve an order upon the holder of the permit in accordance with the provisions of Article VI of this law. The fee for renewal shall be fixed at two dollars (\$2.) per mobile home located in the park.
 - (2) Environmental requirements.
 - (a) Density and lot size. The density of development in a mobile home park shall not exceed four and zero-tenths (4.0) units per gross acre. Generally, mobile home lots shall have a minimum area of six thousand (6,000) square feet and a minimum width of fifty-five (55) feet.
 - (b) Separation. Mobile home units may be positioned in a variety of ways within a park, provided that a separation of at least thirty (30) feet is maintained between units. A drawing proposed layout of mobile home units shall be prepared.
 - (c) Setback. No mobile home shall be located less than twenty-five (25) feet from the pavement edge of a private street or fifteen (15) feet from the right-of-way of any public street within the mobile home park. A minimum of twenty-five (25) feet shall be maintained between mobile home units and all property lines, except that at least fifty (50) feet shall be maintained between all units and any property line abutting an existing public road or highway.

- (d) Road layout and construction. A drawing of the proposed park road layout, including connections to be made to adjacent existing roads or highways, shall be included in all mobile home park plans. Straight, uniform, gridiron road patterns should be avoided unless they can be relieved by mobile home clustering, landscaping and an interesting open space system. All roads within a mobile home park shall be at least twenty (20) feet wide and constructed in a manner acceptable to the Town Highway Superintendent.
- (e) Parking. Two (2) off-street parking spaces shall be provided for each mobile home site. Such spaces may be located on the individual lot or grouped to serve two (2) or more mobile home sites. Supplemental parking area shall be provided for the storage or temporary parking of travel trailers, campers, boats, snowmobiles and similar auxiliary vehicles.
- (f) Mobile home sales area. The display and sale of mobile homes shall be permitted only if the sales area is landscaped and provided with a hard, dust-free surface for the off-street parking of at least six (6) cars and no more than eight (8) units are displayed at any one (1) time. No display unit shall be located less than fifteen (15) feet from a public right-of-way.
- (g) Open space areas and landscaping. A variety of open spaces shall be provided so as to be usable by and easily accessible to all park residents. Such open space shall be provided on the basis of five hundred (500) square feet for each mobile home unit, with a total minimum requirement of twelve thousand (12,000) square feet. Part or all of such open space shall be in the form of developed recreation areas located in such a way and of adequate size and shape as to be usable for active recreation purposes.
- (h) Mobile home stand. Each mobile home site shall be provided with a stand which will give a firm base and adequate support for the mobile home. Such stand shall have a dimension approximating the width and length of the home and any expansions or extensions thereto. Well-anchored tie-downs shall be provided on each corner of the stand.
- (i) Patios. Each mobile home site shall be provided with a concrete patio with a minimum width of ten (10) feet and a total area of at least two hundred (200) square feet.
- (j) Unit installation. The mobile home shall be completely skirted within ninety (90) days of occupancy. Materials used for skirting shall provide a finished exterior appearance.
- (k) Water supply. When a public water supply is not available, an approved private supply and system shall be established. Private systems shall provide one hundred fifty (150) gallons per unit per day and be adequate to supply at least six (6) gallons per minute at a pressure of twenty (20) pounds per square inch to each mobile home stand. Water connections shall follow details of the Mobile Home Manufacturers' Association.
- (l) Sewage disposal. When public sewage disposal is not available, an approved private system shall be established. The design and construction of all

components of such system shall be subject to the inspection and approval of the appropriate health department or local official.

- (m) Solid waste disposal. Provisions shall be made and approved for the storage, collection, and disposal of solid waste in a manner that will cause no health hazards, rodent harborage, insect breeding areas, fire hazards or air pollution. Storage for solid waste containers shall be screened from public view.
 - (n) Electricity and telephone. The distribution system for electrical and telephone service shall be installed underground and shall comply with the requirements of the utility and telephone company.
 - (o) Fuel systems. All mobile home parks shall be provided with facilities for the safe storage of necessary fuels. All systems shall be installed and maintained in accordance with applicable codes and regulations governing such systems.
 - (p) Mail service. Mailbox locations shall provide safe and easy access for the pick up and delivery of mail. Mailboxes grouped for cluster delivery will not occur on the public right-of-way.
- (3) Park operation, maintenance and inspections.
- (a) Occupancy restrictions. No space shall be rented in any mobile home park for the placement and use of a mobile home for residential purposes, except for periods in excess of sixty (60) days. No mobile home manufactured after January 15, 1974, shall be admitted to any park, unless it bears the seal issued by the State of New York and required by the State Code for Construction and Installation of Mobile Homes.⁶
 - (b) Responsibilities of park operator.
 - [1] The person to whom a permit for a mobile home park is issued shall be responsible for operation of the park in compliance with this law and shall provide adequate supervision to maintain the park, its common grounds, streets, facilities and equipment in good repair and in a clean and sanitary condition.
 - [2] The park operator shall maintain a register containing the names of all occupants and the make, year and seal serial number, if any, of each mobile home. Such register shall be available to any authorized person inspecting the park.
 - (c) Responsibility of park occupants. The park occupant shall be responsible for the maintenance of his mobile home and any appurtenances thereto and shall keep all yard space on his site in a neat and sanitary condition.
 - (d) Inspection. It shall be the duty of the Enforcement Officer to make necessary inspections required every year for renewal of mobile home park permits. Such inspection shall be carried out at reasonable times, after prior notice to the park operator, and in emergencies, whenever necessary to protect the public interest.

⁶ Editor's Note: See the New York State Uniform Fire Prevention and Building Construction Code.

§ 4.9. Camping accommodations. [Added 6-10-1985 by L.L. No. 1-1985; amended 6-13-1989 by L.L. No. 3-1989]

Recreational vehicles, mobile homes [less than fifty (50) feet in length], self propelled campers, pop-up campers, camper trailers, tents [more than one hundred twenty (120) square feet] and other property (hereinafter collectively referred to as a "unit") which can be placed on a lot and used for camping and sleeping will be permitted for part-time seasonal use as follows:

- A. A unit shall be allowed on a lot in LRD and HRD districts, without a permit, for a maximum of four (4) days. The property owner may apply in advance for a permit to allow said unit to remain on said lot for an additional ten (10) consecutive days.
- B. A unit shall be allowed on a lot in an ARD district for thirty (30) days without a permit. The property owner must obtain a building permit to allow a unit to be used on a lot in an ARD district for longer than thirty (30) days.
- C. On a lot of record in an ARD district, one (1) unit will be allowed. If the lot has a dwelling, the unit must be separated from the dwelling and any accessory buildings by a distance of no less than five hundred (500) feet.
- D. No more than two (2) permits shall be granted on a lot in LRD and HRD districts during the year.
- E. This law applies to a respective lot and not to a respective unit.
- F. The uses permitted herein in LRD and HRD districts shall not extend to septic connections.
- G. A unit must comply with New York State Department of Health regulations regarding waste treatment and disposal.
- H. This section does not apply to any unit which has common ownership with the lot on which it is situated and which is in storage and not being used in any manner.
- I. The term "year" as referred to hereinabove is intended to refer to the normal calendar year, i.e., commencing on January 1 and terminating December 31.
- J. All other regulations of the Town of Barrington Zoning Laws and other applicable regulations shall apply.

§ 4.10. Landings, decks and patios. [Added 6-13-1989 by L.L. No. 3-1989]

A landing, also know as a "deck" and/or "patio," (associated with a stairway from the top of the bank to the beach area) not exceeding fifty (50) square feet in area may be constructed in an LRD district at the lakefront within four (4) feet of the mean high waterline of Keuka Lake. This landing shall not be roofed, nor shall it have railings exceeding thirty-six (36) inches in height. The provisions of § 4.25 of Article IV of this law shall apply.

§ 4.11. Accessory buildings and uses. [Added 3-11-1996 by L.L. No. 1-1996]

- A. Accessory buildings not attached to principal buildings shall comply with the following requirements:

- (1) No accessory building shall exceed twenty (20) feet in total height, except agriculture structures.
 - (2) No accessory building may be used for habitable space.
- B. Accessory buildings attached to a principal building shall comply with the same requirements as the principal building involved.
- C. Accessory uses (except fences) not enclosed in a building shall comply with the setback requirements for a building in the district in which the accessory use is located.

§ 4.12. Fences. [Added 3-11-1996 by L.L. No. 1-1996]

- A. All fences shall be located within the established lot area (excluding the highway right-of-way) of the property concerned, with clearance provided for proper maintenance.
- B. No fence shall be erected or placed at or near an intersection of any road or street in such a manner as to cause a traffic hazard.
- C. The most finished or decorative side of any fence which is placed, erected or constructed on a lot shall face outward from said lot toward the adjoining lot(s).
- D. Fences which are located in a front or corner yard shall not exceed six (6) feet in height, unless a different height restriction is imposed pursuant to a special use permit. In any event a fence shall not exceed ten (10) feet in height.
- E. Fences which are located in a side or rear yard shall not exceed six (6) feet in height, unless a different height restriction is imposed pursuant to a special use permit. In any event a fence shall not exceed ten (10) feet in height.

§ 4.13. Junkyards. [Added 11-5-1992 by L.L. No. 2-1992]

- A. General provisions.
- (1) Authority. This section is adopted pursuant to the authority granted the town in § 10 of the Municipal Home Rule Law and in § 130, Subdivision 15, of Town Law.
 - (2) Title. This section shall be known as the "Town of Barrington Junk Storage Law."
 - (3) Purpose. By adoption of this section, the Town of Barrington declares its intent to regulate and control the storage or keeping of junk and to regulate junkyards, whether operated for commercial profit or otherwise. The Town Board hereby declares that a clean, wholesome and attractive environment is of vital importance to the continued general welfare of its citizens and that junk and junkyards can constitute a hazard to property and persons and can be a public nuisance. Such materials may be highly flammable and sometimes explosive. Junk and particularly junked vehicles can constitute attractive nuisances to children and certain adults. The presence of junk and junkyards is unsightly and tends to detract from the value of surrounding properties unless properly screened from view.

- (4) Prior existing junkyard law. This section shall replace and supersede the prior existing Junkyard Law of the Town of Barrington, as well as the provisions in the zoning laws of the Town of Barrington in regard to junkyards.

B. Definitions. For the purpose of this section, the following words and phrases shall have the meanings ascribed to them in this section:

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

JUNK:

- (1) Any manufactured good, appliance, fixture, furniture, machinery, motor vehicle, recreational vehicle, trailer or similar object which is abandoned, demolished, discarded, dismantled or so worn, deteriorated or in such a condition as to be generally unusable in its existing state. This definition shall include but shall not be limited to scrap metal, scrap material, waste bottles, cans, paper, rubble, boxes, crates, rags, used construction materials, motor vehicle parts and used tires.
- (2) The outdoor storage or deposit of any of the following shall constitute "junk:"
- (a) Two (2) or more junk motor vehicles.
 - (b) One (1) or more junk mobile homes.
 - (c) Two (2) or more abandoned or inoperable appliances, including but not limited to washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions.
 - (d) Two (2) or more abandoned or irreparably damaged pieces of indoor furniture, including but not limited to sofas, lounge chairs, mattresses, bed frames, desks, tables, chairs and chests of drawers.
 - (e) Any combination of the above or parts of the above that total two (2) or more items.

JUNK MOBILE HOME — A structure, transportable in one (1) or more sections, built on a permanent chassis and designed to be used as a dwelling unit, which is currently not inhabited and is no longer habitable under the New York State Uniform Fire Prevention and Building Code. This includes but is not limited to mobile homes, travel trailers and campers.

JUNK STORAGE AREA — The areas of any parcel of land or water used or intended to be used for the placement, storage or deposit of junk.

JUNK VEHICLES — Two (2) or more unregistered, old, secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, or used parts or waste materials from motor vehicles which, taken together, equal in bulk two (2) or more such vehicles. A vehicle is considered "junked" when it meets all of the following conditions:

- (1) It is unlicensed.
- (2) It is either abandoned, wrecked, stored, discarded, dismantled, or partly dismantled.
- (3) It is not in any condition for legal use upon the public highways.

- (4) It is in such condition as to cost more to repair to operating condition than its reasonable market value at the time before such repair.

JUNKYARD — The outdoor storage or deposit of any of the following:

- (1) Five (5) or more junk motor vehicles.
- (2) Two (2) or more junk mobile homes.
- (3) Five (5) or more junk appliances.
- (4) Five (5) or more pieces of junk furniture.
- (5) Any combination of the above that total (5) items.
- (6) Any other items that fall within the definition of “junk” as defined hereinabove.

MOTOR VEHICLE — All vehicles propelled or drawn by power other than muscular power originally intended for use on public highways.

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

- C. Junk regulations. No junk shall be located so as to be visible from public roads or from adjacent property owners. No junk shall be burned or buried.

- D. Junkyard regulations.

- (1) Location and size.

- (a) No junk storage area shall be located within:

- [1] Three hundred (300) feet of any adjoining property line;
- [2] Five hundred (500) feet of any public park, church, educational facility, nursing home, public building or other place of public gathering;
- [3] One hundred fifty (150) feet of any stream, lake, pond, wetland or other body of water; or
- [4] Five hundred (500) feet from the right-of-way of any public highway.

- (b) A junkyard shall not encompass more than three (3) acres.

- (2) Fencing. There must be erected and maintained a fence no less than four (4) feet high enclosing the entire junkyard and a locking gate, adequate to prohibit the entrance of children and others into the area of the activity or business, and to contain within such fence the materials dealt with by the operator of the junkyard.
- (3) Screening. Where a junkyard is or would be visible from a public highway or neighboring properties, it shall be totally screened from view by a wooden fence. Topography or other natural conditions which result in an effective screening may be acceptable.
- (4) Burning. No junkyard items shall be burned.
- (5) Burying. No junkyard items shall be buried in the area.

- (6) Approved junkyard items. No junkyard items shall be stored in any junk storage area other than those items specified on a junkyard permit approved as a special use permit by the Zoning Board of Appeals pursuant to this section and the zoning laws of the Town of Barrington.
- (7) Vehicle dismantling area. All removal of or taking apart of any part or parts of vehicles containing hazardous or potentially hazardous substances, (such as but not limited to oil, gasoline, acid and antifreeze) must be conducted over a nonpermeable floor which will prevent spilling, draining or leaking onto the ground and will comply with any and all codes, laws and regulations. The design of the floor shall be approved by the Code Enforcement Officer. The area shall also provide for the safe collection, storage and timely removal of all hazardous or potentially hazardous substances.
- (8) Vehicle storage. The storage of vehicles and parts shall be done in such a manner that no hazardous or potentially hazardous substances can spill, drain, or leak onto the ground. There shall be no stacking of vehicles.
- (9) Compliance with Vehicle and Traffic Law. The operator of the junkyard and others connected with its operation must comply with § 415-a of the New York State Vehicle and Traffic Law should the proposed junkyard operation include any of the operations that are referred to in said statute.
- (10) Termination and cleanup. Should the junkyard cease operation (for any reason), all items of junk must be removed from the site within one hundred eighty (180) days.

E. Junkyard permit.

- (1) Permit required.
 - (a) No person shall establish or maintain a junkyard within the Town of Barrington unless a permit has first been issued for such junkyard pursuant to this section.
 - (b) No person owning, having any right to or any interest in any real property within the Town of Barrington shall license, rent, lease or otherwise permit the use of such real property or any part thereof for a junkyard unless a permit has been issued for such junkyard pursuant to this section.
 - (c) All permits shall be issued for a period of one (1) year, after which time a renewal shall be required.
- (2) Temporary permit for prior existing junkyard. Any person maintaining a junkyard prior to the effective date of this section within the Town of Barrington shall apply for a permit within sixty (60) days of the adoption of this section. If the junk storage area does not meet the requirements of Subsection D herein, a temporary permit shall be granted for a period not to exceed one (1) year, during which time the junk storage area shall be arranged to comply with said requirements. If at the end of such period, the junk storage area has not been arranged to comply with said requirements, such person shall cease and desist from maintaining a junkyard, and all junk shall be removed from the premises.

F. Application procedure.

- (1) Application. The applicant for a junkyard permit shall obtain application forms from the Zoning Officer or other designated municipal official. The completed forms, along with one (1) copy of the proposed site plan, and the appropriate fees shall be returned to the Zoning Officer or other designated municipal official. The Zoning Officer or other designated municipal official shall forward the application materials to the Zoning Board of Appeals.
- (2) Site plan contents. The site plan shall be drawn to scale or indicating all dimensions and show:
 - (a) All existing and proposed structures, including fences;
 - (b) All property lines, including the names of owners of adjacent property;
 - (c) All streams, lakes, wetlands, floodplains and other water bodies;
 - (d) All wells and sanitary facilities;
 - (e) All roads and easements;
 - (f) All existing and proposed junk storage areas; and
 - (g) All existing and proposed accessways and parking and loading areas.
- (3) Environmental impact statement. An environmental assessment form (EAF) shall be completed and submitted with all applications pursuant to the provisions of the State Environmental Quality Review Act, 6 NYCRR Part 617. If the EAF indicates that the proposed activity may have significant environmental consequences, the Zoning Board of Appeals shall require that a draft environmental impact statement (DEIS) be submitted with the application. The application shall not be considered complete until the DEIS has been accepted by the Zoning Board of Appeals.
- (4) Application fee. The fee for a junkyard permit as required in this section shall be set from time to time by resolution of the Town Board.
- (5) Zoning Board of Appeals action. The Zoning Board of Appeals shall act on the application for a junkyard special use permit in accordance with procedures set forth in the Town of Barrington Zoning Law.

G. General considerations.

- (1) Aesthetic considerations. In granting or denying a permit, the Zoning Board of Appeals shall take the following aesthetic factors into consideration:
 - (a) The type of road servicing the junkyard or from which the junkyard can be seen.
 - (b) Natural or artificial barriers protecting the junkyard from view.
 - (c) Proximity of the site to established residential or recreational areas or main access routes thereto.
- (2) Location considerations. In granting or denying a permit, the Zoning Board of Appeals shall take the following location factors into consideration:

- (a) The nature and development of surrounding property, such as the proximity of public parks, churches, educational facilities, nursing homes, public buildings or places of public gathering.
- (b) Whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy noise, odors or smoke or of other causes.
- (c) The proximity of streams, lakes, wetlands, floodplains, groundwater supplies and public water supplies.
- (d) Local drainage patterns.
- (e) Long range comprehensive plans for the town.
- (f) Proximity of the site to established residential or recreational areas.
- (g) Availability of other suitable sites for the junkyard.

H. Administration and enforcement.

(1) Code Enforcement Officer.

- (a) The Code Enforcement Officer shall, upon request of the Town Board, make inspections of the premises of any junkyard for which applications for a permit has been made or any other existing junkyard within the town and shall report to the Town Board on the conditions of such junkyard.
- (b) The Code Enforcement Officer shall make periodic inspections of the town to ensure that all existing junkyards have permits and that the requirements of this section are met. Any observed violations shall be reported to the Town Board.
- (c) The Code Enforcement Officer shall not enter the premises of any private property without the consent of the owner. It shall be the responsibility of the applicant to arrange for all required inspections of the premises prior to permit issuance or renewal.

(2) Penalties for offenses.

- (a) A violation of any section of this section shall constitute a violation as defined in the Penal Law of the State of New York and shall be punishable by a fine not exceeding two hundred fifty dollars (\$250.) or by a sentence of imprisonment not exceeding fifteen (15) days, or by both such fine and imprisonment.
- (b) In addition to the above-provided penalties, the town may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any article of this section.

ARTICLE V
Nonconforming Buildings, Uses and Activities

§ 5.1. Continuation of existing uses.

The lawful use or bulk of any building, land use or activity in existence on the effective date of this law may continue, although not in conformity with this law, except as otherwise provided in this Article.

§ 5.2. Maintenance and repair.

Normal maintenance and repair of a nonconforming building, including the restoration of a building declared unsafe by proper authority to a safe condition and the repair of a building damaged by fire or other cause, shall not require the approval of the Enforcement Officer as long as the degree or extent of nonconformity is not increased or exceeded, nor no new nonconformity is created.

§ 5.3. Reconstruction and restoration.

If a nonconforming building or land use activity or part thereof has been destroyed or damaged by any means, it may be rebuilt or restored within five (5) years as a nonconforming building or use only if reconstructed or restored with the same or less floor area, height and cubic content and with the same or an improved general site layout as that of the original structure. Zoning Board of Appeals approval of reconstruction or restoration plans shall be required only when the degree or extent of nonconformity is increased, and the Board may impose conditions on such approval if such conditions would improve an otherwise bad situation and bring the nonconforming use or activity more in conformity with the regulations for the district in which it is located.

§ 5.4. Changes to nonconforming uses.

A nonconforming use may be changed to another nonconforming use only by special permit granted by the Zoning Board of Appeals. A nonconforming use may be changed to a conforming use but shall not thereafter revert to a nonconforming use.

§ 5.5. Abandonment or discontinuance.

Abandonment or discontinuance of any nonconforming use for a period of twelve (12) consecutive months shall terminate such nonconforming use of the building and premises. No existing nonconforming use shall be considered in conformance with the provisions of this law for the area in which such building or premises is located. The date of abandonment or discontinuance of a nonconforming use shall be determined by the Enforcement Officer, and notification of such action shall be made, in writing, to the property owner not less than six (6) months prior to the termination date, with a copy to the Town Clerk. Extension of the termination date of such nonconforming use for an additional six (6) months may be granted by the Zoning Board of Appeals after a public hearing.

§ 5.6. Commercial, industrial and related uses.

Although no special districts or regulations are specified for such uses, commercial, industrial and related activities/uses shall continue to be permitted uses where they are now in existence. However, any new construction to or expansion of an existing commercial, industrial or related activity/use, except home occupations, requires a special permit issued by the Zoning Board of Appeals and shall comply with Article VI of this law.

§ 5.7. Expansion of nonconforming uses.

- A. The expansion of any nonconforming use shall be prohibited, except in the case of a special permit being issued by the Zoning Board of Appeals.
- B. In the case of additions or expansions to a nonconforming structure which are in compliance with both area and use requirements of any zoning district, this section shall not apply.

ARTICLE VI**Administration and Enforcement; Appeals****§ 6.1. Enforcement officer.**

This law shall be enforced by the Enforcement Officer, who shall be appointed annually by the Town Board. No building permit or certificate of occupancy shall be issued by him except where all the provisions of this law have been complied with.

§ 6.11. Entry and inspection.

After requesting permission of the owner, the Enforcement Officer shall have the right to enter upon, examine and inspect or cause to be entered, examined and inspected any building or property at any reasonable time for the purpose of carrying out duties and to determine compliance with the provisions of this law. Request for permission to inspect will normally be made verbally, but in case such a request is refused, the request will then be granted within one week of date of delivery or date of mailing of the request, at a time of owner's convenience, or the matter will be handled in accordance with due process of law. Inspection of the interior of a building will normally be required only when the owner has indicated a change of use or where there is good cause to believe a change of use is being accomplished. A written report of each such examination and inspection shall be prepared on any appropriate form and kept on file by the Enforcement Officer.

§ 6.12. Service of notice of violation.

Whenever in the opinion of the Enforcement Officer after proper examination and inspection there appears to exist a violation of any provision of this law or of any rule or regulation adopted pursuant thereto, he shall serve a written notice of violation upon the appropriate form. Fourteen days after notification, this shall be considered a violation and subject to appropriate penalties.

§ 6.13. Contents of notice of violation.

Such notice of violation shall inform the recipient of:

- A. The nature and details of such violation.
- B. The recommended remedial action which, if taken, will effect compliance with the provisions of this law and with rules and regulations adopted pursuant thereto.
- C. The date of compliance by which the violation must be remedied or removed.

§ 6.14. Extension of date of compliance.

The Enforcement Officer may extend the date of compliance specified in a notice of violation after written application, if, in his opinion, there is reasonable evidence of intent to comply and that reasonable conditions exist which prevent compliance by the specified date.

§ 6.15. Emergency action to abate violations.

If, in the opinion of the Enforcement Officer, a violation exists which requires immediate action to avoid a direct hazard or imminent danger to the health, safety or welfare of occupants of a building or to other persons, he may order such violation immediately remedied or may take direct action on his own initiative to abate the hazard or danger. Any costs incurred by such action shall be paid for by the owner, occupant or person responsible for the violation. The Enforcement Officer shall keep on file an affidavit stating with fairness and accuracy the items of expense and date of execution of action taken, and he is furthermore authorized to institute a lawsuit, if necessary, against the person liable for such expense or place a lien against his property, in order to recover the costs.

§ 6.16. Certificate of compliance.

On reinspection following the expiration of the date of compliance as specified in the notice of violation, if the violation has been remedied or removed in accordance with the specified remedial action and there is no longer a violation of any provision of the law, then a certificate of zoning compliance shall be issued by the Enforcement Officer.

§ 6.17. Penalties for offenses. [Amended 9-14-1981 by L.L. No. 2-1981; 10-11-1982 by L.L. No. 1-1982; 6-10-1985 by L.L. No. 1-1985]

- A. If, after notice of a violation of this law, any person who shall continue to willfully violate or cause to be violated or assist in the violation of an provisions of this law, shall be subject to conviction of a violation as defined in the Penal Law of the State of New York and shall be subject to a fine of not less than \$50 nor more than \$250 or by a sentence of imprisonment not exceeding 15 days, or by both such fine and imprisonment. Each week that such violation continues shall constitute a separate offense.
- B. The term "person," as used in this section shall include any owner, occupant, mortgagee, tenant, vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agents or

any other person, firm or corporation directly or indirectly in control of a building, property or part thereof.

§ 6.18. Building permits.

- A. No building or structure on site shall be erected or altered until a permit therefor has been issued by the Enforcement Officer. No dredging, commercial excavating or drilling (except water wells) shall take place until a permit therefor has been issued by the Enforcement Officer.
- B. No modifications to any existing building or structure shall be made that will infringe on the requirements of the District Regulations Schedule³ pertaining to maximum percentage of lot occupied, minimum floor area, maximum height of principal buildings and structures already nonconforming in this regard until a permit has been issued by the Enforcement Officer. No certificate of occupancy shall be granted for a building or structure modified as above without a written order of the Zoning Board of Appeals.
- C. Ordinary maintenance to a conforming or existing nonconforming building or structure or improvements to the same which do not result in infringement under the category of Subsection B above shall not require the approval of the Enforcement Officer.
- D. There shall be submitted with all applications for new building permits two copies of a layout or plot plan drawn to approximate scale showing the actual dimensions of the lot to be built upon, the exact size and location of the lot and building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this law.
- E. Modifications to existing buildings and structures which would result in infringement to this law as noted in Subsection B above must be handled as a variance and shall be accompanied by two copies of a layout or hand-drawn sketch approximately to scale showing clearly the degree to which the modifications will violate the terms of this law.
- F. All applicants must conform to regulations in Schedule A.⁴
- G. All applications for a building permit to the Enforcement Officer shall be acted upon by the Enforcement Officer within 30 days from the date of written request. [Amended 6-13-1989 by L.L. No. 3-1989]
- H. A building permit shall expire two years after the date issued by the Enforcement Officer, unless substantial construction has begun. [Added 9-14-1981 by L.L. No. 2-1981; amended 10-11-1982 by L.L. No. 1-1982; 6-13-1989 by L.L. No. 3-1989]
- I. No more than one building or structure will be allowed on each separate building permit. [Added 9-14-1981 by L.L. No. 2-1981; amended 10-11-1982 by L.L. No. 1-1982]

³ Editor's Note: Said Schedule is located at the end of this law.

⁴ Editor's Note: Said Schedule is located at the end of this law.

§ 6.19. Certificate of occupancy.

- A. No dwelling shall be used or occupied until a certificate of occupancy has been issued by the Enforcement Officer stating that applicable provisions of this law have been met.
- B. No dwelling, structure or use permitted by reason of special permit or variance issued by the Zoning Board of Appeals shall be used or occupied until a certificate of occupancy has been issued by the Enforcement Officer stating that all requirements of the special permit or variance have been met.
- C. Failure to require a certificate of occupancy in all other cases shall not be construed as certification that all requirements of this law have been met.
- D. Where a certificate of occupancy is not required, the Enforcement Officer may issue one upon request stating that all applicable requirements of this law have been met.
- E. An application for a building permit, special permit or variance shall also be considered as an application for a certificate of occupancy with no additional fee.

§ 6.2. Fees. [Amended 9-14-1981 by L.L. No. 2-1981; 10-11-1982 by L.L. No. 1-1982; 6-10-1985 by L.L. No. 1-1985; 5-10-2000 by L.L. No. 1-2000]

A schedule of fees for all building permits and approval applications as required in this law shall be set from time to time by resolution of the Town Board.

§ 6.3. Health department requirements.

No building permit or certificate of occupancy issued under the provisions of this Article shall become or remain valid unless the holder thereof has complied with the applicable rules and regulations of the Watershed Inspector.

(Cont'd on page 41)

§ 6.4. Zoning Board of Appeals.

- A. Appointment and organization. The Chairman and four (4) additional members shall be appointed by the Town Board. The Zoning Board of Appeals shall choose its Vice Chairman who shall preside in the absence of the Chairman. The Zoning Board of Appeals shall appoint a Secretary and shall prescribe rules for the conduct of its affairs.
- B. Terms. After the initial appointments for terms as specified in § 267 of Town Law, all terms shall be for five (5) years, with the term of one (1) Board member expiring each year. If a vacancy shall occur otherwise than by expiration of term, it shall be filled by appointment by the Town Board for the unexpired term.
- C. Rules of procedure. The Zoning 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 law. Such rules, bylaws and forms shall not be in conflict with, nor have the effect of waiving any provisions of this law or any other laws of the Town of Barrington.
- D. Staff. The Zoning Board of Appeals may employ such clerical or other staff assistants as may be necessary and prescribe their duties, provided that it shall not at any time incur expense beyond the amount of the appropriation made and then available for that purpose.
- E. Meetings. All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman. All meetings shall be open to the public. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member on every question, and shall keep records of all official actions. Every order, requirement, decision or determination of the Zoning Board of Appeals shall immediately be filed in the office of the Town Clerk and shall be a public record.
- F. Authority.
- (1) The Zoning Board of Appeals is governed by and shall act in strict accordance with procedures specified by the Town Law, this law and its own duly adopted rules, bylaws and forms and shall perform the following functions:
 - (a) Decide any questions properly brought before it involving the interpretation of any provision of this law. [Amended 6-10-1985 by L.L. No. 1-1985]
 - (b) 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 Enforcement Officer.
 - (c) Grant variances to provisions of this law in accordance with §§ 6.43 and 6.45.
 - (d) Issue permits for special uses in accordance with § 6.6 and other applicable provisions of this law.
 - (2) The Chairman of the Zoning Board of Appeals, and in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses at meetings and hearings.

§ 6.41.⁹ Appeals.

- A. Any person allegedly aggrieved by a decision, determination, act or refusal to act of the Enforcement Officer may file an appeal with the Zoning Board of Appeals.
- B. The Zoning Board of Appeals may reverse, affirm, wholly or partly, or may modify any order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as in its opinion ought to be made in any case referred to it, and to that end shall have all the powers of the Enforcement Officer from whom the appeal is taken.
- C. The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official or to decide in favor of the applicant any matter upon which it is required to pass under the Town of Barrington Zoning Law or to effect any variation in such Zoning Laws. [Amended 6-10-1985 by L.L. No. 1-1985]

§ 6.42. Interpretation.

The Zoning Board of Appeals, upon request, shall interpret any provision of this law 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.

§ 6.43. Use variances.

- A. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this law, the Zoning Board of Appeals shall have the power to grant a variance in the application of any of the use regulations or provisions of this law in such a way that the spirit of the law shall be observed and maintained, public health, safety and welfare secured and substantial justice done.
- B. A variance of the use provisions of this law shall be granted by the Zoning Board of Appeals only if or whenever it finds:
 - (1) That there are unique circumstances or conditions, described in the findings of the Zoning Board of Appeals, applying to such land or buildings and not applying generally to land or buildings in the neighborhood, that said circumstances or conditions are such that strict application of the provision of this law would deprive the applicant of the reasonable use of such land or buildings and that the land in question cannot yield a reasonable return if used only for an activity which is permitted on said land;
 - (2) That, for reasons set forth in the findings of the Zoning Board of Appeals, the granting of the variance as granted by said Board is the minimum variance that will accomplish this purpose; and

⁹ Editor's Note: Sections 6.41 through 6.45 were originally numbered 6.47 through 6.492. They were editorially redesignated to fit in the reprinted organizational scheme.

- (3) That the granting of the variance will be in harmony with the general purpose and intent of this law and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

C. In passing upon variances in special flood hazard areas, the Zoning Board of Appeals shall consider all technical evaluations, all relevant factors and standards and the provisions of § 4.2519D. [Amended 5-11-1987 by L.L. No. 2-1987]

§ 6.44. Referral of use variances.

All appeals for use variances shall be referred to the Planning Board. No decision shall be made by the Zoning Board of Appeals until such Planning Board review has been completed and a report issued. If the Planning Board fails to issue a report within thirty (30) days, the Zoning Board of Appeals shall assume that a favorable report has been issued.

§ 6.45. Area variance criteria.

Where there are practical difficulties or special conditions which make regulations governing lot size, yard size, building height and all other regulations not specifically related to use of land or building unreasonable or impossible to comply with, the Zoning Board of Appeals shall have the power to vary or modify these regulations as long as the spirit of the regulation to be altered is observed. In granting an area variance the Zoning Board of Appeals shall find all of the following:

- A. There is no practical way for the applicant to accomplish his intended objective by serving the area regulations specified in this law.
- B. The variance requested will not be unduly detrimental to adjoining properties.

§ 6.5. Area variance conditions, fees.

- A. Financial gain. A use or area variance shall not be granted solely for the reasons of additional financial gain on the part of the owner or occupant of the land or building involved.
- B. Conditions. In granting any variance, the Zoning Board of Appeals may prescribe any conditions that it deems to be necessary or desirable.
- C. Compliance required. The granting of a variance to any provisions of this law shall not prevent the necessity of complying in every other respect with the other provisions of this law.
- D. Fees. Each application to the Zoning Board of Appeals for a variance shall be accompanied by a fee of twenty-five dollars (\$25.).

§ 6.6. Special permits.

On referral by the Enforcement Officer after application has been made to him for a building permit, or on direct application, the Zoning Board of Appeals is hereby authorized to issue a special permit for any use for which this law required the obtaining of such permits from the Zoning Board of Appeals, subject to applicable regulations of this law.

A. Standards applicable to all special permits.

- (1) The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to the proposed use and the location of the site with respect to existing or future public highways giving access to it shall be such that it will be in harmony with the orderly development of the district, and the location, nature and height of buildings, walls and fences will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
- (2) Operations in connection with any special use shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations or flashing lights than would be the operations of any permitted use.

B. Referral to Planning Board. At least thirty (30) days before the date of public hearing held in connection with any application for a special permit submitted to the Zoning Board of Appeals, said Board shall transmit to the Planning Board a copy of said application and shall request that the Planning Board submit to the Zoning Board of Appeals its advisory opinion on said application. The Planning Board shall submit a report of such advisory opinion prior to the date of said public hearing. The failure of the Planning Board to submit such report shall be interpreted as a favorable opinion for the granting of the special permit applied for.**C. Renewal; extension.** The Zoning Board of Appeals may require, as a condition to the issuance of any special permit, that it be periodically renewed or may issue any special permit for a specific time period, subject to adequate guarantees that the use covered will be terminated at the end of the period specified or such extension thereof as may be granted by said Board. Any such renewal or extension shall be subject to the same procedure and requirements as specified herein for the original issuance of the special permit involved.**D. Submission of plans.** Each application for a special permit shall be accompanied by a proposed plan at an appropriate scale showing the size and placement of the lot, the design and location of the proposed facilities (including driveways, parking spaces, screens and fences) and existing and proposed contour lines. The location of the subject lot and all streets within a radius of one thousand (1,000) feet shall also be shown.**E. Fees.** Each original application to the Zoning Board of Appeals for a special permit shall be accompanied by a fee of five dollars (\$5.).**§ 6.7. Appeal procedure.**

All appeals and applications made to the Zoning Board of Appeals shall be in writing on forms prescribed by said Board and shall clearly set forth the interpretation that is claimed, the use for

which the special permit is needed or the details that are claimed, the use for which the special permit is needed or the details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.

§ 6.71. Public hearing.

- A. The Zoning Board of Appeals shall, after at least a five-day notice, hold a public hearing on every appeal or application for a variance or for a special permit referred or taken to said Board or upon which it is required to pass, in accordance with this law and the Town Law. The Zoning Board of Appeals shall have published a notice of each such hearing in a newspaper of general circulation in the Town of Barrington at least five (5) days prior to such hearing.
- B. A public hearing will be held within sixty (60) days of the date that the Enforcement Officer receives an appeal or an application for a variance or a special permit. **[Amended 3-13-1989 by L.L. No. 3-1989]**

§ 6.8. Notices for hearing; decision.

- A. A copy of the notice shall be mailed to the parties to the proceeding. If the property lies within five hundred (500) feet of a state park or parkway, notice must also go to the Regional State Park Commission or agency having jurisdiction.
- B. Before taking final action on certain appeals for a variance or special permit, the Zoning Board of Appeals shall refer such matters to the Barrington Planning Board for report and recommendation in accordance with the provisions of §§ 239-1 and 239-m of General Municipal Law.
- C. Findings and conclusions. Within sixty (60) days after the final public hearing, the Zoning Board of Appeals shall either grant or deny the variance or special permit and shall make written findings of fact and conclusions concerning the subject matter of such hearing, including the reasons for the granting or denial of the relief sought.
- D. Reporting and filing of decisions, permits, and variances. Every official and final decision of the Zoning Board of Appeals shall be a written resolution, each of which shall contain a full record of its findings in the particular case, and each of which shall be filed in the office of the Town Clerk, together with all pertinent documents. The Zoning Board of Appeals shall notify the Town Board and the Planning Board, in writing, of each special permit and variance issued or granted under provisions of this law.
- E. Rehearing and reversal. Upon motion initiated by any member and adopted by unanimous vote of members present, but not less than a majority of all members, the Zoning Board of Appeals may vote to give notice and hold one (1) rehearing to review any order, decision or determination previously made. After such rehearing, the Board, upon the concurring vote of all members present and provided that it shall then appear that the rights vested prior thereto in persons acting in good faith in reliance upon the order, decision or determination reviewed will not be subject to prejudice thereby, may reverse, modify or annul its original order, decision or determination.

§ 6.9. Amendments.

- A. Amendments by Town Board. The Town Board from time to time on its own motion or on petition by taxpayers or on recommendations of the Planning Board after public notice and hearing as prescribed by the Town Law, may amend, supplement, modify or repeal in whole or in part this law or the boundary of any district established by this law.
- B. Advisory report by Planning Board.
- (1) Any such proposed change in text or zoning district boundary shall first be referred to the Planning Board which shall submit a written report to the Town Board prior to public hearing thereon by the Town Board. The Planning Board shall favorably recommend adoption of an amendment or change in this law or in a district boundary only if such change does not conflict with the general purposes, goals and intent of this law.
 - (2) The Planning Board shall submit to the Town Board its advisory report within thirty (30) days after receiving notice from the Town Clerk of the proposed change. The failure to make such report within thirty (30) days shall be deemed to be a favorable recommendation.

ARTICLE VII
Public Notice and Hearings

§ 7.1. Public hearing for amendments.

No such change in text or zoning district boundary of this law shall become effective until after a public hearing is held in relation thereto at which the general public shall have an opportunity to be heard.

- A. Newspaper notice of hearing. At least five (5) days prior to the date of such public hearing, a notice of the time and place shall appear in a paper of general circulation. Such notice shall describe the area, boundaries, regulations or requirements that such proposed change involves.
- B. Written notice of change or amendment. At least five (5) days prior to the date of said public hearing, written notice of such proposed change or amendment affecting property within five hundred (500) feet of the boundaries of any adjoining town or village shall be given. The town or village shall have the right to appear and to be heard at such public hearing with respect to any such proposed change or amendment. Written notice shall also be sent to any applicable agency as required in § 264 of the Town Law.
- C. Referral to County Planning Agency. Before taking final action on certain proposed amendments to this law, the Zoning Board of Appeals shall refer such matters to the Yates County Planning Board for report and recommendation in accordance with the provisions of §§ 239-1 and m of General Municipal Law.
- D. Publication and posting. Every zoning law and every amendment to a 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 thereof (exclusive of any map incorporated therein) shall be published once in a newspaper published in the county in

which such town may be located, having circulation in such town, as the Board of the town may designate. In addition, a copy of such law or amendment, whether with a copy of any map incorporated therein, shall be posted on the signboard maintained by the Town Clerk pursuant to the Town Law. Affidavits of the publication and posting thereof shall be filed with the Town Clerk. Such law shall take effect ten (10) days after such publication and posting, but such law or amendment shall take effect from the date of service as against a person served personally with a copy hereof certified by the Town Clerk under the corporate seal of the town and showing the date of its passage and entry in the minutes.

E. Change of zoning in subdivision approval.

(1) In approving subdivision plots which require modifications in the zoning regulations, the Planning Board may make such zoning changes only after these have been disclosed at the public hearing required by the Land Subdivision Rules and Regulations for the town.

(2) Changes made pursuant to this section are at the discretion of the Planning Board and must be made in accordance with the provision of § 278 of Article 16 of Town Law.

F. Fees. Every petition for a change or amendment to this law shall be accompanied by a fee of five dollars (\$5.) to help defray the cost of such technical studies or professional assistance as may be necessary in connection therewith.

§ 7.11. Planned unit development districts.¹⁰

A. Preliminary proposal. Any applicant wishing approval for planned development district shall submit his request to the Town Board in the form of a preliminary proposal which shall include:

(1) A sketch plan showing existing and proposed land use and the approximate location of proposed buildings, existing topographic characteristics, approximate location of existing and proposed streets and easements and existing land uses immediately adjacent to the proposed PDD.

(2) A written explanation of the character and purpose of the planned development, including the type and density of any housing proposed, open space to be provided, the water and sewage disposal system proposed, a general statement of proposed financing and an indication of the expected timetable for development.

B. Developer's conference. Upon receipt of the preliminary proposal, the Town Board shall forward it to the Planning Board for approval or disapproval. Within forty-five (45) days after receipt of the preliminary proposal from the Town Board, the Planning Board shall schedule a conference with the applicant to review the proposed planned development. If said proposal seems to be in accordance with overall planning objectives for the area, the Planning Board and applicant shall jointly consider the conditions and specifications under which the proposal will be approved. After such conference if the applicant wishes to proceed with the planned development, he shall submit to the Planning Board a written statement of intent to comply with the conditions and specifications as established. If

¹⁰ Editor's Note: This section was editorially redesignated from § 7.17 to § 7.11 to fit the reprinted organizational scheme.

agreement on conditions cannot be reached, the Planning Board may, at that time, recommend to the Town Board that the proposal not be approved. Such recommendation shall include detailed explanation of the basis for the Planning Board's decision.

- C. Planning Board recommendation. Upon receipt of the applicant's statement of his intention to comply with the established conditions, the Planning Board shall, within thirty (30) days, forward to the Town Board its recommendation to modify the Zoning Law and establish the PDD. Such Planning Board report shall include the recommended conditions and covenants which the applicant shall observe in the planned development, the applicant's statement of intent to comply with said conditions and covenants and a recommendation on the type and amount of performance guaranty which the developer should provide.
- D. Conditional approval. Within forty-five (45) days after receipt of the Planning Board's recommendation to approve or disapprove the proposed PDD, the Town Board shall hold a public hearing on the proposal. Within ten (10) days after such public hearing, the Town Board shall approve conditionally or disapprove the proposed PDD. When conditional approval is granted, the location of the PDD shall be noted on the Zoning Map.¹¹ Conditional approval shall automatically become final upon acceptance of the final development plan by the Planning Board. In the event that the Town Board wishes to act contrary to the recommendation of the Planning Board, such action shall be made only by a majority, plus one (1) vote.
- E. Final development plan.
 - (1) Upon receiving conditional approval by the Town Board, the applicant shall prepare a final development plan for submission to the Planning Board. Such submission shall satisfy all the conditions imposed by the Town Board and shall include:
 - (a) Drawings showing the final location of any streets and plot lines, the location of all nonresidential buildings, all land use activities, areas to be conveyed, dedicated or reserved for parks or open space and a landscaping and tree planting plan.
 - (b) Drawings of approved systems for sewage disposal, water supply and stormwater drainage.
 - (c) Written statements, including any staging of construction being considered, a timetable for beginning and completing construction of each stage and proof of any performance guaranty which may be required by the Town Board.
 - (d) Any additional drawings or statements which may be required by the Planning Board in making its determination that the proposed development will meet all the conditions to which it is subject.
 - (2) Written approval of a final development plan by the Planning Board shall be filed with the Town Board and the Enforcement Officer. This shall constitute authorization for the applicant to proceed with the planned development.

¹¹ Editor's Note: The Zoning Map is on file in the town offices.

- F. Changes. Minor changes may be made in an approved final development plan only upon approval of the Planning Board. Major changes, such as increased density or reduction of open space, are subject to Town Board review and approval.
- G. Certificate of occupancy. Upon completion of a PDD, or any stage of it, a certificate of occupancy shall be required in accordance with § 1.4 of this law for that portion which has been completed.

§ 7.2. Development guidelines for planned development districts.

In reviewing proposals for Planned Development Districts, the Planning Board will be guided generally by the following standards and may impose additional conditions as well:

- A. The proposed district should be at least three (3) acres in area and the overall density of any residential area should be no more than three (3) dwelling units per gross acre.
- B. At least thirty percent (30%) of the gross area of the district should be devoted to open space and recreation areas.
- C. Proposed nonresidential uses shall be appropriate in size and suitably located and shall not create any detrimental influences inside or outside the boundaries thereof.
- D. Approved utility support systems (water, sewers and electricity) shall be required. Electrical distribution and telephone lines shall be put underground.
- E. An approved storm drainage system shall be provided which will not be detrimental to the surrounding area.
- F. All provisions of this law affecting signs and off-street parking shall be complied with.
- G. Development in such districts shall be protected by such reasonable and appropriate safety measures, devices, screening or yards as may be required by the Planning Board in order to avoid or minimize any adverse effects on the development itself or on the surrounding area.

§ 7.21. Subdivisions in planned development districts.

If part of a planned development proposal involves the subdivision of land into smaller parcels for sale to individual owners, the site plan review required for the PDD shall suffice for Planning Board review under the town's Subdivision Regulations. In such cases the developer shall prepare a subdivision plat suitable for filing with the Yates County Clerk in addition to the required PDD drawings. Final site plan approval required by § 7.11E shall constitute final plat approval under the Town Subdivision Regulations, and the plat shall be filed with the County Clerk in the manner prescribed by said Town Subdivision Regulations.

ARTICLE VIII
Miscellaneous Provisions

§ 8.1. Compliance required.

All applicable buildings shall hereafter be used, occupied, constructed, located, relocated or enlarged and all applicable land shall be used or occupied only in compliance with the provisions of this law.

§ 8.2. Construal of provisions.

Whenever any other lawful statute, ordinance, regulation, easement, private agreement, covenant, deed restriction or other legal relationship, public or private, imposes controls which are inconsistent with any provision of this law, then those provisions which are the more restrictive or impose higher standards shall take precedence.

§ 8.3. Prior permits for nonconforming property.

If by reason of an amended or supplementary provision of this law, a nonconforming property is created for which a building permit, certificate of occupancy, variance or special permit was issued prior to the effective date of such amended or supplementary provision, then the aforementioned permit, certificate, variance, or special permit shall become null and void unless one (1) of the following conditions is met:

- A. All footings have been installed; or
- B. Substantial construction or progress in accordance with required conditions has been made and is continuing as of the effective date of such amended or supplementary provisions.

§ 8.4. Additional remedies.

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or if any building, structure or land is used in violation of this law or of any regulation adopted pursuant thereto, any appropriate action or proceeding, whether by legal process or otherwise, may be instituted or taken in addition to other remedies provided by law to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such property.

§ 8.5. Severability.

If any part or provision of this law is adjudged invalid or unconstitutional by any court of competent jurisdiction, such judgment shall be confined in its effect to the part, provision or application directly involved and shall not affect or impair the validity of the remainder of this law.

§ 8.6. When effective.

This law, together with the appurtenant official Zoning Map, shall take effect five (5) days after having been filed with the Secretary of State.

§ 8.7. Repealer.

Upon the effective date of this law, the Building Permit Ordinance, July 1975, and Local Law Number 1-1976 are hereby repealed.

**DISPOSITION
LIST**

DISPOSITION LIST

The following is a chronological listing of legislation of the Town of Barrington included in this Zoning Code. Information regarding legislation which is not included in the Zoning Code nor on this list is available from the office of the Town Clerk. The last legislation included with the original publication of the Zoning Code was L.L. No. 1-1996, adopted 3-11-1996.

| Local Law Number | Adoption Date | Subject | Disposition |
|-------------------------|----------------------|---|----------------------|
| 2-1980 | 9-8-1980 | Zoning | Zoning Code |
| 2-1981 | 9-14-1981 | Terminology amendment; administration and enforcement, appeals amendment | Arts. II and VI |
| 1-1982 | 10-11-1982 | Terminology amendment; administration and enforcement, appeals amendment | Arts. II and VI |
| 1-1985 | 6-10-1985 | General provisions amendment; district regulations amendment; administration and enforcement, appeals amendment | Arts. I, IV, and VI |
| 2-1987 | 5-11-1987 | Flood damage prevention | Arts. II and IV |
| 2-1989 | 6-13-1989 | Flood damage prevention amendment | Art. IV |
| 3-1989 | 6-13-1989 | Terminology amendment; district regulations amendment; administration and enforcement, appeals amendment | Arts. II, IV, and VI |
| 2-1992 | 11-5-1992 | Junkyards | Art. IV |
| 1-1996 | 3-11-1996 | Terminology amendment; district regulations amendment | Arts. II and IV |
| 2-1998 | 9-14-1998 | Dundee Wellhead District | Arts. III, and IV |
| 1-2000 | 5-10-2000 | Permit fees | Art. VI |

Town of Barrington Schedule of Use Controls

| District | Permitted Uses | Special Uses |
|---|---|---|
| Special Flood Hazard District (SFHD) | Off-street parking areas; lawns; gardens and play areas, open space preservation for historic scientific, recreation and scenic sites; boat houses, but not intensive commercial recreation uses (e.g., campgrounds, etc.); home occupations. Any use, purpose or activity of a building, dwelling unit, structure, lot, land or part thereof pertaining to any residential uses (i.e., single-family dwellings); agricultural and open space uses (i.e., crop farming, golf courses, playground, boathouses, etc.), municipal buildings, schools, libraries, churches and museums. | Buildings associated with the permitted uses, except for dwellings, kennels, dairies; circuses, carnival and other transient amusement enterprises; railroads, streets, bridges, utility transmission lines; pipelines, country clubs, open storage, such as parking areas, material storage, excavation and other similar uses as determined by the Town Board; open lagoons for waste disposal are prohibited. Essential services, roadside stands, hotels, motels, resorts, outdoor storage areas, light commercial uses, gasoline/service stations and repair garages, extraction of sand and gravel and public swimming pools. |
| Agricultural Residential District (ARD) | Any use, purpose or activity of a building, dwelling unit, structure, lot, land or part thereof pertaining to any residential use (i.e., single- and multiple family dwellings, mobile homes, etc.); any agricultural or open space uses (i.e., crop farming, golf courses, playgrounds, etc.); any noncommercial or nonindustrial uses, such as municipal buildings, schools, libraries, etc.; home occupations. | Campgrounds, mobile home park, junkyards; any business, commercial or industrial uses (i.e., retail stores, banks, restaurants and machine shops). |
| Lake Residential District (LRD) | Any use, purpose or activity of a building, dwelling unit, structure, lot, land or part thereof pertaining to any residential uses (i.e., single-family and multiple family dwellings and mobile homes); any agricultural or open space uses, such as crop farming, golf courses, playgrounds, etc.; other uses, such as municipal buildings, schools, libraries, etc.; boathouses; home occupations. | Buildings associated with the permitted uses, except for dwellings, kennels, dairies; circuses, carnival and other transient amusement enterprises; railroads, streets, bridges, utility transmission lines, pipe lines; country clubs, open storage, such as parking areas, material storage, excavation and other similar uses are determined by the Town Board; open lagoons for waste disposal are prohibited. Essential services, roadside stands, hotels, motels, resorts, outdoor storage areas, light home occupations, light commercial uses, gasoline/service stations and repair garages, extraction of sand and gravel, public swimming pools and mobile home park. |
| Highway Residential District (HRD) | Any use, purpose or activity of a building, dwelling unit, structure, lot, land or part thereof pertaining to any residential uses (i.e., single-family and multiple family dwellings and mobile homes); any agricultural or open space uses, such as crop farming, golf courses, playgrounds, etc.; other uses, such as municipal buildings, schools, libraries, etc.; boathouses; home occupations. | Campgrounds; mobile home park. Essential services, roadside stands, hotels, motels, resorts, outdoor storage areas, light commercial uses, gasoline/service stations and repair garages, extraction of sand and gravel and public swimming pools. |

**Town of Barrington
Schedule A
District Regulations**

| District | Minimum Area per Dwelling Unit (acres) | Minimum Lot Width (feet) | Minimum Lot Depth (feet) | Minimum Front Yard (feet) | Minimum Side Yard (feet) | Minimum Rear Yard (feet) | Minimum Height (feet) |
|--|--|--------------------------|--------------------------|----------------------------------|--------------------------|--------------------------|-----------------------|
| LRD ³ With lake frontage | -- | 60 | -- | 25 ² /20 ¹ | 8 | 8 | 35 |
| LRD without lake frontage | -- | 150 | 150 | 20 ¹ | 8 | 8 | 35 |
| AR | 1 | 150 ⁴ | 150 ⁴ | 40 ¹ | 25 | 10 | 35 |
| HRD | 2 | 200 | 200 | 50 ¹ | 25 | 50 | 35 |
| FHD | An overlay district; any development must abide by district standards plus supplementary regulations of the flood hazard district. | | | | | | |
| PDD | An overlay district; development must be approved by the Planning Board (§§ 7.11 through 7.21). | | | | | | |

- A. There shall be only one (1) dwelling unit per lot plus accessory buildings.
- B. Lots of record as of the effective date of this law shall be exempt from lot size requirements.

NOTES:

1. Footage from the road right-of-way.
2. Footage from the high-water mark of the lake or the bank of a stream.
3. In a lake residential district, any lot abutting the lake will be at least sixty (60) feet wide. Those lots without lake frontage will be at least one hundred fifty (150) feet wide.
4. [Amended 10-11-1982 by L.L. No. 1-1982]

